

LOCAL LAW NO. 3  
of 1989

BOARD OF LEGISLATORS OF THE COUNTY OF  
FRANKLIN PERTAINING TO THE SOLID WASTE  
MANAGEMENT LAW OF THE COUNTY OF FRANKLIN

Be it enacted by the Board of Legislators of the County of Franklin as follows:

ARTICLE I

PURPOSE

1. The County of Franklin finds that facilities for solid waste collection, receiving, transportation, storage, processing, disposal, incineration, baling, hauling, resource recovery, composting, compacting, recycling, source separation and land disposal and any other facilities used for the reduction or conversion of solid waste are potentially dangerous to both the County citizenry and to their surrounding natural environment.

2. It is the duty and intent of the County Legislature to protect the inhabitants of the County of Franklin through an exercise of its police powers by regulating the siting and operation of all such facilities and by requiring consideration of safety and health factors to insure the continued well-being of the County citizenry and to insure that the environment will not be adversely affected in the siting and operation of any such facilities.

ARTICLE II

DEFINITIONS

1. Unless indicated herein or unless the context shall otherwise require, the terms and words used in this local law shall have the same meaning as set forth in Article 27 of the New York Environmental Conservation Law and regulations promulgated by the New York State Department of Environmental Conservation thereunder.

2. The following terms and words shall be defined as follows:

A. "COUNTY" shall mean the County of Franklin.

B. "DEC" shall mean New York State Department of Environmental Conservation.

C. "FACILITY" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for the collection, receiving, transporting, storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including but not limited to collection and hauling systems, recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, sanitary landfills, plants and facilities for compacting, composting or pyrolyzation of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment, source separation equipment and disposal equipment as defined in subdivisions four and five of section 51-0903 of the New York State Environmental Conservation Law.

D. "LANDFILL" shall mean any disposal area for solid waste in or upon the ground including facilities for the land disposal of ash residue of solid waste incineration, resource recovery or pyrolyzation.

E. "LEGISLATURE" shall mean the County Legislature.

F. "OPERATION PERMIT" shall mean that permit issued by the Legislature which allows a person to operate a facility within the County.

G. "PERSON" shall mean any individual, partnership, firm, association, business, industry, enterprise, public or private corporation, the state, a political subdivision of the state, government agency, municipality, estate, trust or any other legal entity whatsoever.

H. "SITING PERMIT" shall mean that permit, issued by the Legislature which allows a person to acquire, construct or modify a facility within the County.

I. "SOLID WASTE" shall mean all materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including, but not limited to, garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage, and other highly diluted water-carried materials or substances and those in gaseous form, source, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list of satisfies the characteristics of hazardous waste promulgated by the commissioner of Environmental Conservation pursuant to section 27-0903 of the New York Environmental Conservation Law.

### ARTICLE III

#### COORDINATION WITH OTHER LAWS

All relevant sections of Article 27 of the New York State Environmental Conservation Law and Titles 6 and 7 of the New York Codes, Rules and Regulations, Parts 360 and as it is amended from time to time, are deemed to be included within and as part of this local law, and any violation thereof shall be considered to constitute a violation of this local law.

### ARTICLE IV

#### PERMIT REQUIREMENTS

1. No person shall operate a facility without an operation permit issued by the Legislature pursuant to the provisions of this local law. Prior to the commencement of operation of or, in the case of any existing facility, within six (6) months after the effective date of this local law, an operation permit shall be required. The terms or period of any such permit shall be determined by the Legislature but shall be no less than one (1) year nor more than five (5) years.

2. No person shall acquire, construct, modify or expand a facility without a siting permit issued by the Legislature pursuant to the provisions of this local law. The term or period of any such permit shall be determined by the Legislature but shall be no less than one (1) year nor more than five (5) years.

3. No operation or siting permit issued pursuant to the provisions of this local law shall be transferable to any other person unless the original permit clearly provides otherwise.

ARTICLE V

PERMIT APPLICATION PROCEDURES

1. Existing facilities.

A. The operator of any facility which is operative as of the effective date of this local law shall submit an application for an operation permit within six (6) months after the effective date of this local law. A complete application for existing facilities which is timely submitted shall be deemed an operation permit until such application is acted upon. If a submitted application is deemed incomplete by the Legislature, the subject applicant shall be notified of such defect and shall be given an additional period of thirty (30) days to complete the application. Failure to do so within such thirty (30) day extension period shall result in an automatic denial of the application. In addition to the application content requirements hereinafter enumerated, all applications submitted under this subsection shall also include:

i.) A detailed report describing the plan of operation and a contingency plan setting forth in detail a proposal for corrective or remedial action to be taken in the event of equipment breakdowns, ground, surface water or air contamination resulting from the facility's operation, fires and/or spills.

ii.) A reasonable demonstration that the facility has satisfied all applicable standards of operation as enumerated in the Environmental Conservation Law of the State of New York and regulations thereunder, by demonstrating specific means for meeting such standards, unless:

(a) A reasonable schedule of specified remedial action, with interim and final attainment dates, for achieving compliance with the dictates of Part 360 NYCRR, as applicable, is submitted to the Legislature within thirty (30) days of notification by the Legislature that such a schedule is essential, and provided further that such schedule is approved by the Legislature; or

(b) A variance has been granted pursuant to Article IX of this local law.

2. Proposed facilities and modification to existing facilities.

A. Any person who proposes to acquire or construct a facility or who proposes to expand or modify any existing solid waste management facility shall submit a complete application for a siting permit to the Legislature not less than one hundred twenty (120) days in advance of the date on which it is proposed to commence such siting or construction, modification or expansion. No such modification, acquisition or construction shall take place without prior Legislature approval.

B. The following acts are deemed to be modifications which require siting permits:

i.) Expansion of a facility by acquisition, by purchase, lease or otherwise of additional land which was not the subject of or included in any application submitted under this local law.

ii.) Increase in the total quantity of solid waste collected, received, transported, stored, processed, disposed or otherwise reduced or converted at or by such facility during any calendar quarter by fifty (50%) percent or more over the comparable calendar quarter of the preceding year, except where such increase is not in excess of the approved design capacity of such facility

for such time period; or any change in the type, kind or quantity of industrial waste previously approved.

iii.) Movement of a facility to a portion of property already owned, leased or otherwise held by the operator thereof which was not the subject of or included in any application submitted under this local law.

iv.) Expansion of a facility by the installation of additional processing equipment which increases the approved design capacity of the facility or which changes the facility process.

C. In addition to the application content requirements hereinafter enumerated in Article VII, all applications submitted under this subsection shall also include the following:

i.) Detailed plan and specifications of the facility.

ii.) A contingency plan setting forth in detail a proposal for corrective or remedial action to be taken in the event of equipment breakdown, ground, surface water or air contamination attributable to the facility's operation, fires, spills and releases of waste materials.

iii.) Compliance with all local laws and or ordinances, and the Environmental Conservation Law of the State of New York.

#### ARTICLE VI

##### LEGISLATURE ACTION

1. Within ninety (90) days following receipt of a completed application or such longer period, as may be agreed upon in writing by the Legislature and the applicant, the Legislature, after a public hearing, shall either approve the application and issue the appropriate permit or disapprove the application. If any application is disapproved, the Legislature shall notify the applicant of such decision. The Legislature may refer the application to the County of Franklin Solid Waste Management Authority or the Franklin County Solid Waste Commission for review. If any application is so referred, the Legislature shall be allowed an additional ninety (90) days for action thereon. In conjunction with the consideration of any permit called for under this local law, the Legislature shall contemporaneously conduct any proceeding required by Article 8 of the Environmental Conservation Law. Any time periods set forth herein will be automatically extended if additional time is required to comply with the New York State Environmental Quality Review Act.

2. In determining the feasibility of issuing an operation or siting permit, the Legislature shall consider the following criteria:

A. Existing facilities: A siting and/or operation permit shall be issued for a facility in operation as of the effective date of this local law only if it has been demonstrated that said facility has complied with the standards of operation as set forth in the Environmental Conservation Law and Part 360 NYCRR and this local law and all local laws and ordinances; otherwise, such permit shall be denied and the facility shall thereafter accept no new wastes but shall have ninety (90) days to cease operations and one hundred twenty (120) days to complete restorative measures.

B. Proposed facilities: An operation and/or siting permit shall be issued for a proposed facility only if the proposed

acquisition, construction and/or operation thereof is demonstrated to be in accordance with the terms of a DEC issued construction and operating permit and certification of the proposed construction has been submitted in accordance with the dictates of the Environmental Conservation Law and regulations promulgated thereunder and the criteria set forth in this local law.

C. When determining the feasibility of issuing a siting permit for a proposed facility, or the proposed modification of an existing facility, the Legislature shall not issue said permit unless the submitted engineering data and construction plans have been approved by the County Engineer, Building Inspector, or the County's Consulting Engineers or, in lieu thereof, by the County of Franklin Solid Waste Management Authority and after the Legislature and the applicant have complied with the dictates of the Environmental Quality Review Act of the State of New York.

D. The denial of a permit based solely upon an applicant's plans to receive, or to transport to the county solid waste generated outside of the County shall not be unreasonable.

3. The Legislature shall hold a public hearing concerning the proposal and the hearing shall be scheduled within sixty (60) days of the receipt of a completed application.

4. The Legislature shall, by resolution, promulgate rules and regulations in furtherance of this local law including, without limitation, rules and regulations relating to the siting and operation of facilities.

#### ARTICLE VII

##### PERMIT APPLICATION CONTENTS

1. All applications for a permit for the siting, construction, modification, expansion or operation of a facility shall include an application to the Legislature upon a form prescribed by the Legislature.

2. All applications shall be accompanied by any other data the Legislature reasonably requires to determine the feasibility of issuance or denial of a permit and such information as may be required by the New York State Environmental Quality Review Act.

3. All applications shall contain the following:

A. Engineering plans, reports and specifications prepared by a person or firm registered to practice professional engineering in New York State.

B. The location of all affected property boundaries certified by a person or firm legally qualified to practice land surveying in New York State.

C. A proposed detailed program for estimate of the closure of the facility, to be implemented when use of the facility or the useful life of the facility permanently terminates.

D. An enumerated list of wastes to be received, treated or disposed of, the quantities of such wastes to be received, their places or origin, method of transportation to be utilized for their shipment to the facility and the proposed method for their recycling or disposal. The applicant shall identify all highways to be used for access to the facility.

E. A proposed program for the monitoring of all activities of the facility by personnel of the County or persons

authorized by the County whereby such personnel or persons shall be allowed access to the facility at regular stated times and any other time deemed necessary by the Legislature.

F. All methods and actions to be utilized are to satisfy the dictates of all applicable standards of operations, as

enumerated by 6 NYCRR 360, as applicable, and herein.

G. All applications shall include a statement as to the intended source of all solid waste to be collected, received or treated by the facility and a certification as to whether or not any solid waste generated outside of the County is to be received, or transported to the County, by the proposed facility.

H. All applications shall be accompanied by evidence of authority to sign the application and shall be signed as follows:

i.) Corporation: By a duly authorized principal executive officer of at least the level of vice president, accompanied by a certified copy of the authorizing corporate resolution.

ii.) Partnership: By a general partner.

iii.) Sole Proprietorship: By the proprietor.

I. Applications shall be sworn to by or on behalf of the applicant in respect to all statements of fact therein or shall bear an executed statement by or on behalf of the applicant, pursuant to the New York State Penal Law Section 210.45, to the effect that false statements made therein are made under penalty of perjury.

J. Each permit application shall be accompanied by and application fee of Five Hundred (\$500.00) Dollars to defray the cost of review thereof and the County reserves the right to request additional monies to defray expenses in complying with the Environmental Quality Review Act and regulations promulgated thereunder.

K. Each applicant shall demonstrate that the facility will not have an adverse impact upon the environment of the County, local fire protection, local sewer, water and public utilities, local traffic conditions, local land use and planning.

#### ARTICLE VIII

##### BONDS AND INSURANCE

1. As a condition of the issuance of any permit, the Legislature may request the following bonds or insurance issued by a bonding, surety or insurance company acceptable to and in an amount set by the Legislature:

A. Performance Bond - to insure the proper performance of the work and siting of the facility pursuant to the details of the application, the dictates of this local law and any other local or State law.

B. Restoration Bond - to insure that all restoration work is completed pursuant to the plan submitted with the application, the dictates of this local law and any other local law or ordinance.

C. Penalty Bond - to insure that all fines and penalties levied and judgments secured pursuant to this local law are promptly tendered and satisfied.

D. Proof of Liability Insurance - covering injuries to person and property. The County reserves the right to require that it be named insured on any policy required hereunder.

2. The terms and conditions of all such bonds shall be clearly set forth in detail on the permit, including the amounts of such bonds and insurance.

#### ARTICLE IX

##### VARIANCES

1. The Legislature, upon written application from any person who is subject to the dictates of this local law, may, in its discretion, grant a variance from one (1) or more specific provisions of this local law only if said applicant:

A. Identifies the specific provisions from which a variance is sought;

B. Demonstrates that compliance would, on the basis of conditions unique and peculiar to the applicant's particular situation, tend to impose a substantial, financial, technological or safety burden on the applicant or the public; and

C. Demonstrates that the proposed activity which is the basis of the requested variance will have no significant adverse impact on the health, safety, welfare and natural resources of the County and will be consistent with the purpose of this Local Law, the provisions of the New York State Environmental Conservation Law, and any rules and regulations promulgated thereunder.

2. In granting a variance, the Legislature may impose specific conditions to insure that the subject activity will have no adverse impact on the health, safety, welfare and natural resources of the County.

#### ARTICLE X

##### REISSUANCE OF PERMITS

1. Any permit holder who intends to continue construction or operation beyond the period of time covered in such original permit must file for reissuance of such permit at least thirty (30) days prior to its expiration. Filing for reissuance shall be made by the permit holder on forms prescribed by resolution of the Legislature and available from the County Clerk, or if no such forms are prescribed, then on the same form as was previously filed. The provisions of this local law relative to submittal and processing of initial applications shall apply to reissuance applications under this section to the extent indicated by the Legislature.

2. Upon review of a request for reissuance, the Legislature shall determine whether the application is in compliance with or has substantially complied with all terms, conditions and requirements of the expiring permit and of this local law when:

A. The Legislature after a public hearing determines in the affirmative the permit may be reissued.

B. The Legislature determines in the negative or if other circumstances exist which indicate non-compliance with any provisions of this local law or original permit, the Legislature shall take appropriate action to secure compliance, including but not limited to a denial of reissuance.

#### ARTICLE XI

LOCAL LAW NO. 5  
OF 1990

AMENDING LOCAL LAW NO. 2 OF 1989  
BOARD OF LEGISLATORS OF THE COUNTY OF FRANKLIN  
SOLID WASTE MANAGEMENT LAW OF THE COUNTY OF FRANKLIN

Be it enacted by the Board of Legislators of the County of Franklin as follows:

SECTION 1.

Local Law No. 2 of 1989 created the Solid Waste Management Law of the County of Franklin. The purpose of this Local Law is to amend that Local Law to revise Article XII.

SECTION 2.

Article XII of Local Law No. 2 of 1989 of the County of Franklin is hereby amended to read in its entirety as follows:

**ARTICLE XII - PROHIBITED ACTIVITIES**

1) No solid waste generated outside of the County shall be transported upon the road, streets and highways within the County or collected, received, transported, stored, processed, disposed, incinerated, hauled, bailed, composted, compacted, recovered, separated, land filled, or otherwise reduced or converted by any person or at any facility within the county. For purposes of this article, solid waste generated in the Town of Piercefield, St. Lawrence County, New York, shall be deemed to be generated inside Franklin County.

2) Notwithstanding the foregoing, upon application to the Legislature, the Legislature may waive the provisions of the foregoing section upon a finding of such action would be in the best interest of the safety, health and continued well-being of the County citizenry and their surrounding natural environment.

SECTION 3.

This Local Law shall take effect immediately as provided by law.