

Article II Solid Waste Disposal Ordinance

[Adopted eff. 9/18/68 under R.S. 1965, T. 30, Sec. 2151; repealed and replaced in its entirety eff. 6/21/78; Revised eff. 1/8/86; 11/11/94; and 12/10/03 and 07/08/2009]

Sec.11-2-1. Purpose. The purpose of this ordinance is to protect the health, safety and general well-being of the citizens of the town; enhance and maintain the quality of the environment; conserve natural resources; prevent water and air pollution; gain management control over solid waste; and enable the reclamation of natural resources, including energy, from solid wastes by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste generated in the Town of Cape Elizabeth.

Sec. 11-2-2. Definitions. For the purposes of this ordinance, the following words and phrases shall have the meanings ascribed to them in this section.

- (a) *Acceptable waste* shall mean ordinary household, municipal, institutional, commercial and industrial solid waste including, but not limited to, the following:
- (1) Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, and automobile or small vehicle tires, to the extent that **ecomaine** determines that the air emission criteria and standards applicable to and at the **ecomaine** disposal facility are not violated; and
 - (2) Processible portions of commercial and industrial solid waste; and
 - (3) Wood and lumber, tree limbs, branches, ties, logs and trees, if no more than four and one-half (4 1/2) feet long and twelve (12) inches in diameter; leaves; twigs; grass; and plant cuttings; and
 - (4) Residential recyclable materials and commercial recyclable materials.
- (b) ~~*Town Council* shall mean the Cape Elizabeth Town Council.~~

(Renumber upon approval)

- (c) *Commercial recyclable materials* means that portion of commercial solid waste which consists of recyclable materials.
- (d) *Commercial hauler* means any person or entity hauling or depositing material under this article for a fee.
- (d) *Commercial solid waste* means solid waste generated by a sole proprietorship, partnership, professional association, corporation or other business organization, provided that commercial solid waste shall not include residential solid waste, or

solid waste generated by a municipal or quasi-municipal organization or by a state-approved school administration.

- (e) *Construction and demolition debris* shall mean solid waste consisting of one or more of the following materials resulting from construction, remodeling, repair, and demolition of structures:
 - (1) Inert fill;
 - (2) Land clearing debris;
 - (3) Asphalt;
 - (4) Masonry;
 - (5) Wall board;
 - (6) Pipes; and
 - (7) Metal conduits.
- (f) *Disposal* shall mean the discharge, deposit, dumping or placing of any solid waste into or on any land.
- (g) *ecomaine* shall mean **ecomaine**, a non-capital stock, non-profit corporation created pursuant to Title 30-A, Chapter 115 and Title 13-B, and Title 38, Section 1304-B(5) of the Maine Revised Statutes, or any successor thereto or assignee thereof.
- (h) *ecomaine disposal facility* shall mean any land or structure or combination of land area and structures, including dumps, waste to energy plants, landfills, transfer stations and recycling containers owned or operated by or under a contract with **ecomaine**, and/or any other site designated by **ecomaine** for storing, salvaging, reducing, incinerating, reclaiming or disposing of acceptable waste pursuant to the waste handling agreement and amendments thereto entered into between the Town of Cape Elizabeth and **ecomaine**.
- (i) *Hazardous waste* shall mean a waste substance or material in any physical state, designated as hazardous by the terms of the waste handling agreement between the Town of Cape Elizabeth and **ecomaine** and/or as defined by the Maine Department of Environmental Protection.
- (j) *Municipal disposal facility* shall mean any land or structure or combination of land area and structures owned or operated by, or under contract with the Town of Cape Elizabeth, including the Cape Elizabeth Recycling Center on Dennison

Drive in Cape Elizabeth and the Riverside Land Reclamation Facility in Portland, Maine for disposal of acceptable waste.

- (k) ~~Municipality or Town shall mean the Town of Cape Elizabeth, Maine.~~
- (l) *Person* shall mean any natural person, corporation, partnership, sole proprietorship, professional association or other legal entity.
- (m) *Public solid waste disposal facility or disposal facility* shall mean any land or structure or combination of land area and structures, including transfer stations, used for storing, salvaging, reducing, incinerating, reclaiming or disposing of solid wastes; this term shall include the **ecomaine** disposal facility and municipal disposal facility.
- (n) *Recyclable materials* shall mean solid waste which has useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes, including: leaf and yard wastes, wood wastes, newspapers; magazines; paperboard; paper products; cardboard; plastics; metal; foil; and glass.
- (o) *Residential recyclable materials* means that portion of residential solid waste which consists of recyclable materials.
- (p) *Residential solid waste* means household waste, residential refuse, or solid waste generated in a residence.
- (q) *Solid waste* shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, scrap materials, junk, refuse, and inert fill material and landscape refuse, but shall not include septage tank sludge nor agricultural or hazardous wastes; it shall include acceptable waste, unacceptable waste and construction and demolition debris as defined herein.
- (r) *Unacceptable waste* shall mean solid waste which is not acceptable waste and includes, but is not limited to, sewage and its derivatives, non-wood construction and demolition debris, products containing asbestos, asphalt, light bulbs, junk vehicles, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and hazardous waste, including hazardous chemicals.

Sec 11-2-3. Designation. In accordance with the provisions of Title 38 M.R.S.A. §1304-B, the Town hereby designates ~~the ecomaine disposal facilities facility in Portland, Maine~~, the Cape Elizabeth Recycling Center on Dennison Drive in Cape Elizabeth, Maine and the Riverside Land Reclamation Facility in Portland, Maine as its public solid waste disposal facilities for the purposes cited in this ordinance. The disposal by any person, including any person licensed as a waste hauler in accordance with this

ordinance, of any acceptable waste, except commercial recyclable materials, generated within the municipality at any place other than at these designated facilities is prohibited; provided, however, the owner of any lot, or any other person with the permission of the lot owner, may dispose of inert substances such as earth, rocks, concrete or similar material at such lot for fill purposes only, subject to state or local land use regulations.

Sec 11-2-4. Governing body.

- (a) The ~~Cape Elizabeth Town Council~~ town council shall establish any necessary rules and regulations governing the availability and use of its public solid waste disposal facilities on Dennison Drive and for its recycling program.
- (b) The operation of the municipal disposal facilities shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

Sec. 11-2-5. Restrictions.

- (a) No person shall permanently dispose of solid waste of any kind upon any land within the corporate limits of the ~~Town~~ unless such land has been designated by the Town as a public solid waste disposal facility.
- (b) Certain materials may be excluded by regulation from that solid waste which may be deposited at a public solid waste disposal facility. These excluded materials may include junk automobile bodies and similar bulky waste which may require special processing prior to any disposal; burning materials or materials containing hot or live coals; hazardous wastes; and other materials which the ~~Town~~ town deems necessary to exclude. Hazardous wastes shall be handled in accordance with 38 M.R.S.A. § 1319-0.
- (c) Except for licensed disposal of hazardous or infectious wastes, it shall be unlawful for any person to burn or incinerate any solid waste within the Town other than leaves or brush with a proper permit.

Sec 11-2-6. Authorized disposal facility users.

- (a) The availability and use of municipal disposal facilities shall be limited to residents of the Town and to those residents of any other municipality which may, by mutual agreement, be authorized to use the designated municipal disposal facilities. Non-resident Cape Elizabeth property owners and their agents may dispose of materials generated within Cape Elizabeth in accordance with procedures established by the Director of Public Works.
- (b) As a means of user control, the attendant of the municipal disposal facilities or an approved agent of the town shall:

- (1) Authenticate a user's right to use the facility;
 - (2) Affix permit stickers only onto vehicles registered in the Municipality.
- (c) Any vehicle equipped with mechanized compaction equipment carrying items destined for the compactor unit shall not be allowed to use the Recycling Center. Vehicles not requiring a Commercial Driver's License (CDL), as defined by M.R.S.A. shall be permitted access to, or use of the Recycling Center. Vehicles requiring a Commercial Driver's License (CDL), as defined by M.R.S.A. shall not be allowed access to the Recycling Center, unless otherwise approved by the Director of Public Works.
- (d) Any site clearing for a new development shall as much as possible result in all wood wastes and stumps being recycled. No ~~wood wastes or stumps from new developments~~ shall be deposited at the municipal facility on Dennison Drive in Cape Elizabeth. A "new development" is any development covered by an ~~active performance guarantee~~.

Sec. 11-2-7. Resource recovery.

- (a) The municipality may require solid waste and recyclable materials to be separated into such categories as may be established by regulation or governed by signage at municipal disposal facilities. Solid waste and recyclable materials may be disposed of only in such manner and at such sites and locations as designated.
- (b) No recyclable materials may be placed in the hopper at the transfer station at the Cape Elizabeth Recycling Center.

Sec. 11-2-8. Property rights. Any solid waste and recyclable materials deposited within the designated public solid waste disposal facilities or into any recyclable bin on ~~Town town~~ town property shall become the property of the Town of Cape Elizabeth or **ecomaine**. No one shall salvage, remove, or carry off any such deposited solid waste or recyclable materials without prior approval of the Town. Material placed in a municipally designated "swap shop" may be ~~salvaged and~~ removed without prior approval of the ~~Town town~~ . The Director of Public Works may limit usage of the "swap shop" to 15 minutes per day and may establish other usage rules for the "swap shop" so that the structure is accessible for local residents.

Sec. 11-2-9. Permit required. No person shall collect or transport solid waste, including but not limited to garbage and recyclables, generated within the Town without obtaining a refuse ~~hauler~~ permit from the municipality and paying the required fee. Any commercial hauler shall obtain a commercial hauler permit upon such terms and conditions established by the town council. Such permits shall be subject to the terms and requirements set forth in this article.

Sec. 11-2-10. Application for refuse hauler permit. In order to acquire a ~~refuse hauler~~ permit for the collection or disposal of solid waste within the ~~Town town~~, the applicant shall submit to the Town such information as the ~~Town Council~~ Director of Public Works deems necessary, together with the required fees. Fees for obtaining a ~~refuse hauler~~ permits for the collection or transport of solid waste generated within the ~~Town town~~ shall be established by order of the ~~Town Council~~ town council.

Sec. 11-2-11. Term of permit. A ~~refuse~~ Commercial hauler permit issued under this article shall be for the calendar year and other permits shall be for such duration as determined by the Director of Public Works.

Sec. 11-2-12. Exemptions. ~~The permit and fee provisions of this article shall not apply to a person or business that hauls solid waste generated solely by such person or business unless specified in Rules and Regulations approved by the Town Council.~~

Sec. 11-2-13. Violations. Any failure to comply with the requirements of this Article shall be considered a violation. In addition to the penalty provisions set forth in this article, the ~~Town Council~~ Director of Public Works may suspend a refuse hauler permit for up to thirty (30) days for a first violation of this Ordinance and for up to sixty (60) days for a second violation. Any such suspension is appealable to the town manager who after hearing may alter the suspension in any manner but may not extend the suspension period. The ~~Town Council~~ town council upon referral of the town manager may suspend or revoke a refuse hauler permit for any period of time for any subsequent violation of this article or may revoke the permit for up to 12 months except that any person or entity placing unauthorized hazardous wastes within the town may be suspended permanently from use of the town's municipal disposal facilities. the remainder of the calendar year. ~~The Town Council may deny a refuse hauler permit to any person who has received two (2) or more suspensions during the prior fiscal year or whose permit was revoked during the prior calendar year.~~ Prior to taking any action on a potential suspension or revocation of a refuse hauler permit, the ~~Town Council~~ town council shall notify any person or business to whom the permit was issued and shall hold a hearing.

Sec 11-2-14. Penalties. Any person who violates any provision of this Ordinance commits a civil violation, punishable by a civil penalty of not less than \$200 and not more than three thousand dollars (\$3000.00) for each violation. Fines shall be recovered upon complaint made by the municipality. Each day upon which a violation continues shall be considered a separate violation. The municipality shall be entitled to recover its attorney's fees and court costs in any action in which the court finds that a violation has occurred. In addition to penalties, the municipality may seek injunctive relief to prevent the continuance of an ongoing or recurring violation.