

#C-1-b

TOWN OF HAMPDEN
SOLID WASTE FLOW CONTROL ORDINANCE

TITLE SOLID WASTE FLOW CONTROL ORDINANCE:

THE TOWN OF HAMPDEN HEREBY ORDAINS: This ordinance shall be known as the Solid Waste Flow Control Ordinance for the Town of Hampden.

ENABLING LEGISLATION:

This Ordinance is enacted pursuant to the authority granted in 30 M.R.S.A. Sec. 1917 and 38 M.R.S.A. Sec. 1304-B.

PURPOSE:

The municipality has a statutory obligation to provide a solid waste disposal facility for domestic and commercial waste generated within the municipality and is authorized to provide such a facility for industrial waste and sewage treatment plant sludge, pursuant to 38 M.R.S.A. Sec. 1305, Subsec. 1. Municipal solid waste contains valuable recoverable resources, including energy, which if recovered, reduce the cost of solid waste disposal. Because energy recovery technology is complex, most energy recovery facilities have high capital costs and long payback periods. To remain cost effective and operate efficiently during their useful lives, energy recovery facilities require a guaranteed steady supply of waste during their entire useful life. Consequently, a municipality that wants to utilize an energy recovery facility for processing municipal solid wastes, generally must agree to provide the facility with a steady supply of solid waste for a relatively long period of time.

The municipality must exercise its legal authority to control the collection, transportation, delivery and disposal of solid waste generated within its borders to ensure delivery of a steady supply of waste to the energy recovery facility designated herein.

DEFINITION:

All terms not specifically defined herein shall have their ordinary meaning; words used in the present tense include the future and plural includes the singular.

A - Disposal Facility: The facilities designated by the municipality as the storage and/or disposal sites for Unacceptable Wastes.

B - Energy Recovery Facility: The facility designated herein which processes and recovers energy and/or useful materials from acceptable waste generated in the municipality.

C - Acceptable Wastes: All solid waste which the Energy Recovery Facility will accept at its facility, including the following materials, by way of example and not limitation, which are acceptable for transfer disposal: garbage, cold ashes, rubbish, metal, plastic and glass containers, boxes, rags, clothing and other textiles, broken kitchenware, small wooden furniture, mattresses, wood doors, wooden crates, similar waste material ordinarily accumulated in and around the house (excluding body waste and bulky wastes), bagged or containerized grass clippings, weeds, garden plants, shrubs, leaves, branches, limbs, and brush not exceeding forty (40) pounds per container,

bundled cuttings from woody vegetation, such as branches and brush if tied in bundles with no dimension greater than five (5) feet; and cardboard boxes or crates provided that they shall be broken down. The Hampden Town Council encourages property owners to consider and pursue the concept of maintaining home compost sites.

D - Unacceptable Waste: All solid waste which the Energy Recovery Facility will not accept at its facility. The Municipality will provide a disposal facility for the following unacceptable wastes:

1. Demolition or construction debris from all construction projects in the Town of Hampden, including but not limited to such materials as earth, plaster, mortar, bricks, building blocks, roofing materials, or trees no more than six (6) inches in diameter and four (4) feet in length.

2. White goods, including discarded stoves, washers, dryers, and refrigerators, which shall be assessed a disposal fee of \$5.00 per item.

E - Collection Facility: A building or container or designated area in which acceptable waste is deposited and temporarily stored for trans-shipment to the Energy Recovery Facility.

F - Municipality: The Town of Hampden.

DESIGNATION: In accordance with the provisions of 38 M.R.S.A. Sec. 1304-B, the municipality hereby designates the Penobscot Energy Recovery Company facility located in Orrington, Maine as

the Energy Recovery Facility and disposal facility for Acceptable Waste.

The Town further reserves the right to designate an alternate disposal facility for a specified time period for Acceptable Waste should circumstance require it, upon a majority vote of the municipal officers.

REGULATED ACTIVITY: The accumulation, collection, transportation, delivery and disposal of Acceptable Waste and Unacceptable Waste generated within the municipality shall be regulated in the following manner:

A. All Acceptable Wastes generated within the municipality shall be deposited at the Energy Recovery Facility.

B. All Unacceptable Waste generated within the municipality shall be deposited only at a suitable disposal facility which is designed for the express purpose of handling said Unacceptable Waste.

EXEMPTED WASTE: The following categories of waste shall be exempted from regulation by this Ordinance:

A. Materials from manufacturing, processing or packaging operations which are segregated from solid waste and salvaged for alternate use or reuse by the generator or sold to third parties.

B. Glass, metal or other non-combustible materials which are separated from Acceptable Wastes by the generator as part of a recycling program approved by municipal officers.

C. Cardboard, paper, or other combustible materials which are separated from Acceptable Waste by the generator as part of a

recycling program approved by the municipal officers, provided that any such recycling program shall not reduce the BTU content of Acceptable Waste below the BTU level acceptable to the Energy Recovery Facility.

FLOW CONTROL: All acceptable solid waste, unless exempted above, generated within the municipality shall be disposed of at the Energy Recovery Facility. It shall be the responsibility of the license holders under this Ordinance to ensure that the Town of Hampden is given credit by the Energy Recovery Facility for all acceptable waste collected within the Town of Hampden and delivered to the Energy Recovery Facility. Acceptable solid waste collected by a licensee shall not be co-mingled in a vehicle with any other solid waste collected in any other municipality. Provided, however, that the Town Manager may authorize such co-mingling if the licensee provides an adequate mechanism, in the opinion of the Town Manager, to ensure proper credit for Hampden's acceptable waste at the Energy Recovery Facility.

ADMINISTRATION: This Ordinance shall be administered by the Town Manager, or his or her duly authorized representative.

The powers and duties of the Town Manager, or his or her duly authorized representative, are as follows:

- A. To enforce the provisions of this ordinance.
- B. To cause the initiation of any necessary or appropriate proceedings, either legal or equitable, to enforce this ordinance.

C. To consider all license applications and to grant or deny each application within thirty (30) days after receipt of a completed application at the municipal offices or within such other time as may be mutually agreeable to the Town Manager and the applicant.

The responsibilities of the Town Council are as follows:

A. To adopt such rules and regulations as may be reasonably necessary or appropriate to enforce the ordinance.

LICENSING:

A. No person, firm, corporation, or other entity shall accumulate, collect, store, transport or dispose of Acceptable Waste or Unacceptable Waste generated within the municipality without obtaining a license from the Town Manager, except that a person, firm, corporation or other entity that accumulates, collects, stores, transports or disposes of less than one-quarter ton per month of its own waste shall not be required by this section to obtain such a license.

B. Any person, firm, corporation, or other entity required by this ordinance to obtain a license shall make application to the Town Manager, providing the information required. Each application shall be accompanied by a non-refundable application fee of \$10.00.

C. The application shall contain all information required by the Town Manager for an adequate review thereof, including but not limited to a description of the activity engaged in, e.g. , collection, transport, storage, or disposal of Acceptable and/or

Unacceptable Waste, types and amount of waste handled in each service area, a description of the facility operated and used, and an inventory of equipment, including a description of the make, model, and year of each vehicle used for collection or transportation of solid waste. All information provided shall be revised annually upon application for license renewal. If the Town Manager determines that the application is incomplete, he or she shall notify the applicant in writing of the specific information necessary to complete it. The Town Manager shall be informed immediately in writing of any changes in or additions to equipment, including vehicles.

D. Licenses shall not be transferable. In the event of an emergency or vehicle breakdown, a licensee may be issued a special license by the Town Manager for a satisfactory replacement vehicle, upon furnishing all information required for a licensed vehicle.

E. All licenses shall expire one (1) year from the date of issue unless otherwise stated on the license, or unless revoked or suspended sooner in accordance with the provisions of this ordinance.

F. The annual license fee shall be \$25.00 for each vehicle.

G. In the consideration of a license application, the Town Manager shall review the following:

1. The age, state of repair, and the sufficiency of any equipment for its intended purpose, and the financial and technical capabilities of the applicant.

2. The burden shall be on the applicant to demonstrate that its proposal satisfies the above criteria.

3. In the granting of a license, the Town Manager shall have the authority to impose such conditions thereon as it deems reasonably necessary or appropriate to ensure compliance with the intent of this ordinance.

4. In the event the Town Manager denies a license application, he/she shall notify the applicant in writing and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures as set forth in the HEARINGS section.

SUSPENSION OR REVOCATION:

A. Any license issued may be suspended or revoked by order of the Town Manager, for the following causes:

1. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this ordinance.
2. Violation of any license condition(s).
3. Falsehoods, misrepresentations or omissions in the license application.

HEARINGS:

A. Anyone denied a license, or whose license is suspended or revoked, shall be entitled to a hearing before the Town Council, if such request is made in writing to the Town Manager within thirty (30) days of the denial, suspension or revocation. Said written request shall contain a statement of

the reason(s) why the applicant or licensee believes the Town Manager's action was improper.

B. Such hearings shall be held within thirty (30) days after receipt of the written request for a hearing.

C. The licensee or applicant shall be notified, in writing, as to the time and place of the hearing at least ten (10) days prior to the hearing date. The applicant or licensee has the right to be represented by Counsel at their own expense, to offer evidence and to cross-examine witnesses.

D. A determination shall be made by the Town Council within ten (10) days after conclusion of the hearings, and notice of the decision shall be served upon the applicant or licensee by certified mail, return receipt requested.

E. The Town Council's final determination relative to the denial, suspension or revocation of a license, and the period of suspension or revocations, shall take effect ten (10) days after the applicant receives notification by certified mail, return receipt requested. Notice of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof, together with a statement that such decision may be appealed as provided in this ordinance.

F. Any controversy or claim arising out of or relating to the Town Council's determination shall be directly reviewable by Superior Court pursuant to M.R. Civ. P., Rule 80B.

ENFORCEMENT:

A. All provisions of this ordinance shall be enforced by

the Town Manager or his or her duly authorized representative.

B. Whenever the duly authorized enforcement agent determines that there has been a violation of this ordinance, he or she shall give written notice of such violation to the person(s) responsible by personal service or by certified mail, return receipt requested.

1. The notice shall include a statement of the alleged violations and shall allow reasonable time for the performance of any act it requires.

2. The notice may contain an order for remedial action which, if taken, will effect compliance.

3. The notice shall state that unless corrections are made within the allotted time, the violator is subject to legal enforcement action and/or license revocation or suspension pursuant to the provisions of this ordinance.

PENALTIES:

Civil penalties: Any person, firm, corporation, or other entity who violates this ordinance shall be subject to a civil penalty of not less than \$100.00 nor more than \$500.00 for each violation, which shall inure to the benefit of the Town of Hampden. Each day that a violation occurs or continues shall be considered a separate violation.

VARIANCES:

A variance may be granted from a specific provision of this ordinance in the same manner as any other variance of the

municipality, subject to the contractual obligations outlined in the contract between the municipality and the Energy Recovery Facility.

CONFLICT AND SEVERABILITY:

A. The provisions of this ordinance shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary thereto, or in conflict therewith.

B. The provisions of this ordinance shall be severable and if any phrase, clause, sentence or provision, or the application thereof shall be held invalid, the remainder of this ordinance and the application thereof shall not be affected thereby.

AMENDMENT:

This ordinance may be amended in the same manner as any other ordinance of the municipality, subject to the contractual obligations outlined in the contract between the municipality and the Energy Recovery Facility.

EFFECTIVE DATE:

This ordinance shall become effective in 30 days, except that in the event that the Energy Recovery Facility designated herein is not open for the acceptance of wastes by said date, the Town Council may designate an alternate site for the disposal of wastes hereunder. In such event, regulated activity shall become effective on the date that the Energy Recovery Facility begins commercial operations, provided the municipality provides notice of commencement in the manner required for publication of ordinances. Any person, firm, corporation, or other entity

required to obtain a license hereunder shall have thirty (30) days from the date of adoption of this ordinance to secure such license.

Adopted: 6-6-88



Town of HAMPDEN

HAMPDEN, MAINE 04444
TEL. (207) 862-3034

SOLID WASTE TRANSPORT LICENSE

License Number: _____

In accordance with the Laws and Ordinances of the Town of Hampden the applicant,

_____ is hereby granted the license to collect and transport solid waste within the limits of the Town of Hampden to be disposed of at the:

- Penobscot Energy Recovery Facility
- Sawyer Environmental Recovery Facility
- Hampden Landfill
- Other

LICENSE DATA:

Name: _____

Address: _____

Telephone Number: _____

Number of Vehicles Used: _____

Vehicle Serial Numbers: _____

Other ID Number: _____

Volume of Each Vehicle: _____

Prior Violations: _____

FEE PAID: _____ DATE: _____

ISSUED BY TOWN CLERK: _____