

Regulating the Disposal of Solid Waste

Town of Berkshire

LOCAL LAW REGULATING THE DISPOSAL OF SOLID WASTE

Approved Feb. 13, 2001

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◆ SECTION 1: INTENT

By adoption of this Local Law, the Town of Berkshire declares its intent to regulate and control the storage and keeping of solid waste. The Town Board hereby declares that a clean, wholesome, attractive environment is of vital importance to the continued (a) general welfare of its citizens, and that solid waste, garbage and refuse can constitute (b) a hazard to property and persons and can be (c) a public nuisance. The presence of solid waste, garbage and refuse tends to detract from the value of surrounding properties.

Solid waste, garbage and refuse stored on public or private property:

- A. Constitute a hazard to property and persons in the neighborhood and the Town of Berkshire.**
- B. Tend to depreciate not only the property on which they reside but also those properties in the neighborhood and the Town of Berkshire generally.**
- C. Tend to be breeding grounds for rodents and insects and promote uncontrolled growth of weeds.**

Accordingly, such accumulation of solid waste, garbage and refuse is hereby regulated as follows:

◆ SECTION 2: DEFINITIONS

As used in this Local Law, the following terms and phrases shall have the following meanings respectively:

"Solid Waste" - 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, construction and demolition debris, bulk items, and hazardous materials (see following definition of hazardous materials).

"Refuse" - All discardable items and substances other than garbage, whether or not combustible, consisting of, but not limited to: paper, metal, glass, plastic, and other synthetic products.

"Garbage" - All waste vegetable (not being composted), animal, or other matter, liquid or solid, likely to ferment or decompose, produce noxious odors or become injurious to public health.

"Construction and Demolition Debris" - Any scrap lumber (excluding materials being used for heating or hobbies), metal, plaster, roofing and siding material or other debris of a similar nature which accumulates or is incidental to the construction, renovation, or removal of structures, public works or other projects.

"Bulk Items" - Any accumulation of items including, but not limited to household appliances, furniture, bedding, or furnishings; tires; large metal objects. This excludes items being used in legitimate, ongoing business ventures.

"Hazardous Materials" - Materials that are toxic or poisonous, corrosive, radioactive, biologically infectious, explosive, or flammable (i.e., antifreeze, motor oil, gasoline, automotive batteries, etc.).

"Person" - Any person, firm, partnership, association, corporation or organization of any kind or other legal entity.

"Resident" - Persons having their domicile or place of business within the limits of the Town of Berkshire.

"Farm Operation:" - Per Agriculture and Markets Law Section 301(11) "...the land and on-farm buildings, equipment, and practices which contribute to the production, preparation and marketing of crops, livestock, and livestock products as a commercial enterprise".

◆ SECTION 3: DUMPING AND STORAGE

(1) **Fountains Lakes and Streams.** No person shall throw or deposit solid waste in or near any lake, pond, stream or any other body of water.

(2) No person shall throw, deposit, or place or cause to be thrown, deposited, or placed, any solid waste in or upon any street, sidewalk, roadway or other public place or any public or private property or into or alongside any roadway within the Town of Berkshire.

(3) No person shall accumulate or cause to accumulate solid waste on his property that depreciates his or surrounding properties (in particular along contiguous property lines, constitutes a hazard (lubricants, old gas tanks, etc.) that negatively impact public health or endanger the aquifer.

(4) No provision of this Local Law shall be deemed to prohibit any person from disposing of solid waste on the property where the solid waste is produced provided that such disposal shall not create a danger to the public health, safety, and welfare or create degradation.

(5) Accumulation should not be in violation, if it is part of a reasonable construction or clean up plan.

◆ SECTION 4: ENFORCEMENT OFFICER

The Town Board hereby appoints the Code Enforcement Officer as the enforcement officer for this law. His duties shall include the inspection, from time to time, of private residences and public grounds having accumulations of solid waste; investigation of alleged accumulations of solid waste; the filing of complaints with respect to violations of this Local Law and such other duties relevant to this Local Law, as the Town Board may deem necessary.

The Enforcement Officer shall have the power to issue an appearance ticket pursuant to section 150.20 of the Criminal Procedure Law, to serve a Summons, to serve and issue any Orders or process in the administration of the provisions of this Local Law. In addition, any police officer or inspector authorized by the municipality to assist in enforcement of this Local Law may serve any process, including an appearance ticket, a uniform appearance ticket and simplified information related to any proceeding either criminal or civil in nature undertaken in the enforcement of the provisions of this Local Law.

◆ SECTION 5: ENFORCEMENT PROCEDURE

Day 1 - A notice to remedy shall be sent to the property owner allowing them 30 days to correct a solid waste local law violation. Written notice shall be specific to property owner and violation will be explained.

Day 31 - Court Appearance ticket

◆ SECTION 6: CLEAN UP OF PRIVATE PREMISES BY TOWN:

(a) Action upon non-compliance after court appearance. Upon the failure, neglect or refusal of any person so notified to dispose properly of said solid waste as the process specifies in Section 5, the enforcement officer or his duly designated agent will bring to the attention of the Berkshire Town Board for further action.

◆ SECTION 7: PENALTIES

(a) Any person who shall violate any part of the Local Law shall be guilty of an offense and upon conviction may be punishable as set forth in Attachment A to this Local Law. Such conviction shall constitute fines, if any, by the Town Board. Each day's failure to

comply with the provisions of this Local Law shall constitute a separate offense. In addition, the Town Board may enforce this Local Law by injunction.

◆ SECTION 8: REQUEST FOR VARIANCE:

Request for a variance from the standards set forth in this Local Law shall be made to the Town Board in writing and shall contain the reason(s) for requesting the variance, including any pertinent facts in a specific section of this Local Law.

Where the Town Board finds that due to special circumstances of the particular case a waiver of certain requirements as stated in Section 8 is justified, then a variance may be granted. No variance shall be granted, however, unless the Town Board finds and records in its minutes that: a) granting the variance would be keeping with the intent and spirit of this Local Law and is in the best interests of the community or b) there are special circumstances involved in the particular case or c) denying the variance would result in undue hardship to the applicant, provided that such hardship has not been self-imposed or (d) the variance is the minimum necessary to accomplish the purpose.

◆ SECTION 9: INVALID SEGMENT

Should any section or provision of this Local Law contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Local Law as a whole or any part thereof—other than the part declared to be invalid.

◆ SECTION 10: EXEMPTIONS

- (1) Law should not be applied to conditions that are not hazardous and/or do not depreciate others property values and/or do not affect public health or do not endanger the aquifer.
- (2) Exclude from application of the local law, agricultural nutrient/waste management practices, including the spreading, storing and/or composting of sewage sludge, septic waste, manure and products derived therefrom, when conducted on farms in support of the farm operations with a county adopted, State certified agricultural district.
- (3) Exclude from application of the local law, food processing waste, both recognizable and non-recognizable, sludge, septic waste, composted sludge and products derived therefrom, having beneficial uses as fertilizer for crop production.

◆ SECTION 11: EFFECTIVE DATE

This Local Law shall take effect upon filing with the State of New York.

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Attachment A:

Section 7 Penalties:

The fine for first conviction against this local law is \$100.

Each subsequent conviction will double the fine from the latest previous conviction.

Failure to correct a violation may constitute the following action by the Town of Berkshire:

A certified letter will be sent stating that a private contractor will be hired to remove the solid waste on a specific day. Said notice will further indicate that the property owner will be billed for the service rendered. If the payment for the bill is not paid by the violator within 30 days, a lien will be affixed to the property, and the amount thereof will be added to the owner's Town of Berkshire real property tax.