



TOWN OF FALMOUTH

ORDINANCE NO 146-2017

An Ordinance Amending the Code of Ordinances Regarding Solid Waste

Be it ordained by the Town Council of the Town of Falmouth, Maine in Town Council assembled, that the Falmouth Code of Ordinances be amended to read as follows:

PART II CODE OF ORDINANCES CH. II-13 SOLID WASTE

Sec. 13-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

Acceptable waste shall mean ordinary household, municipal, institutional, commercial and industrial solid waste including, without limitation, the following:

1. Garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, refrigerators, washing machines, bicycles, baby carriages and automobile or small vehicle tires;
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 (4½) feet long and eight (8) inches in diameter, and leaves, twigs, grass and plant cuttings; and
4. Recyclable materials.

Acceptable waste shall not include hazardous waste, as defined in 38 M.R.S.A. § 1303-B and this section, demolition debris as defined in this section and special waste as defined in this section.

Class I residential waste shall be defined as acceptable waste generated by a residential unit as defined in this ordinance.

Class II residential waste shall be defined as acceptable waste generated by condominium and apartment complexes containing more than three (3) dwelling units.

Commercial recyclable materials shall be defined as that portion of commercial solid waste which consists of recyclable materials.

Commercial waste shall be defined as solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing, non-processing activities. Commercial waste does not include household, process, industrial or special wastes.

Construction and demolition debris (CDD) shall be defined as solid waste resulting from construction, remodeling, repair, and demolition of structures. It includes but is not limited to: building materials, discarded furniture, asphalt, wall board, pipes, and metal conduits. It excludes: partially filled containers of glues, tars, solvents, resins, paints, or caulking compounds; friable asbestos; and other special wastes.

Designated waste hauler shall mean a waste hauler or waste company that the town has entered into a contract with for the purposes of collecting household waste from residential units.

Disposal shall mean the discharge, deposit, dumping or placing of any solid waste into or on any land or body of water, or the incineration of any solid waste.

Disposal facilities shall mean any land or structure or combination of land area and land structures, including dumps, recycling centers, and transfer stations used for storing, salvaging, reducing, incinerating or disposing of solid wastes pursuant to the waste handling agreement and amendments thereto entered into between the town and Ecomaine, including any transfer station or similar facility which may be constructed by the town in connection with the use of the disposal facilities.

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.

Hazardous waste shall mean a waste substance or material, in any physical state, designated as hazardous by the Board under 38 M.R.S.A. §1319-O. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or a part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

Recyclable materials shall be defined as materials that would otherwise be disposed of or processed as waste or the mechanized separation of waste, other than through combustion, and the creation and recovery of reusable materials other than as a fuel for the generation of electricity. This may include, without limitation, newspapers, magazines, paperboard, paper products, cardboard, plastics, metal, foil, glass, aluminum, waste oil, mixed paper, batteries, white goods and other materials deemed recyclable by the town.

Residential unit shall be defined as a structure within the town containing not more than three (3) dwelling units.

Resource recovery shall mean the recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purpose.

Solid waste shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including but not limited to rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material, and landscape refuse, but does not include hazardous waste, biomedical waste,

septic tank sludge, or agricultural wastes. The fact that a solid waste, or constituent of the waste, may have value, be beneficially used, have other use, or be sold or exchanged, does not exclude it from this definition.

Special wastes shall be defined as any solid waste generated by sources other than household and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, that may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. Special waste includes, but is not limited to:

- (1) Ash;
- (2) Industrial and industrial process waste;
- (3) Sludge and dewatered septage;
- (4) Debris from nonhazardous chemical spills and cleanup of those spills;
- (5) Contaminated soils and dredge materials;
- (6) Asbestos and asbestos-containing waste;
- (7) Sand blast grit and non-liquid paint waste;
- (8) High and low pH waste;
- (9) Spent filter media residue; and
- (10) Shredder residue.

Unacceptable waste shall be defined as solid waste which is not acceptable waste and includes, without limitation, sewage and its derivatives, construction and demolition debris, products containing asbestos, asphalt, 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. 13-2. Purpose.

The purposes of this chapter are 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 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 in accordance with the provisions of 38 M.R.S.A. § 1304-B.

Sec. 13-3. Administration.

- a. The town council may establish a system for the collection and disposal of acceptable waste and may adopt such rules and regulations and adopt within the town such schedule of charges for such collection service as may be appropriate which are on file in the town clerk's office.
- b. The town council shall establish the rules and regulations governing the availability and use of the disposal facilities. The operation of the disposal facilities shall conform to all pertinent

regulations and directives of all local, county, state or federal agencies which may have jurisdiction.

- c. It shall be the duty of the director of public works to enforce the provisions of this chapter.

Sec. 13-4. Penalty.

- a. Residents who violate any of the provisions of this chapter shall be punished by a fine of not more than one hundred dollars (\$100.00) plus costs and attorney's fees for each violation, which fine shall be recovered upon complaint to the use of the town.. Each day upon which a violation continues shall be considered a separate violation.
- b. Commercial waste-hauling companies that violate any of the provisions of this chapter shall be punished by a fine of not more than two hundred fifty dollars (\$250.00) plus costs and attorney's fees, for each violation, which fine shall be recovered upon complaint to the use of the town. Each day upon which a violation continues shall be considered a separate violation.

Sec. 13-5. Solid waste disposal facilities.

In accordance with the provisions of 38 M.R.S.A. § 1304-B, the town hereby designates the Ecomaine disposal facility, Portland, Maine and its mini-transfer station and recycling center located at Woods Road, Falmouth, as the exclusive facilities for disposal of solid wastes generated within the boundaries of the town. The disposal by any person, including any person licensed as a waste hauler in accordance with this ordinance, of any acceptable waste generated within the town at any place other than at these disposal facilities is prohibited; provided however, the owner of any lot, or any other person with the permission of the lot owner, may deposit or dump inert substances such as earth, rocks, concrete or similar material for fill purposes only, subject to state or local land use regulations.

(Ord. of 9-26-88(1), § 4)

Sec. 13-6. Restrictions and fees for disposal.

- a. No person shall permanently dispose of waste or refuse of any kind upon any land within the corporate limits of the town unless such land has been designated by the town council as a solid waste disposal facility. Nothing in this subsection shall prohibit any person from composting vegetable and plant materials on his/her property for noncommercial use.
- b. Certain materials may be excluded by regulation from those refuse materials which may be deposited at a solid waste disposal facility. These excluded materials may include wood, trees, tree limbs, branches, ties, logs, leaves, twigs, grass, plant cuttings, stumps, junk automobile bodies and bulky waste which may require special processing prior to disposal.
- c. Except for licensed disposal of hazardous, special, or infectious wastes, it shall be unlawful for any person, to burn or incinerate any solid waste within the town other than wood, trees, tree limbs, branches, ties, logs, leaves, twigs, grass and plant cuttings.

Sec. 13-7. Authorized disposal facility users.

- a. The availability and use of the portions of the disposal facilities located within the town shall be limited to residents of the town and their contractors and agents for the sole purpose of disposing of solid waste generated within the town, and to those residents of any other municipality which may, by written agreement, be authorized to use such portions of the disposal facilities.

- b. For certain materials, authorized users must purchase, in advance, a disposal ticket for the amount of waste to be disposed of. This disposal ticket must be presented at the time of use of the solid waste disposal facilities. Failure to exhibit such disposal ticket shall result in the denial of use of the facilities. The Town shall reserve the right to develop an alternative to the disposal ticket system for purposes of payment for services and disposal.
- c. Availability and use of the recycling facilities is for residents of the town. The purchase of an annual permit, in the form of a window sticker, will permit the use of the recycling facilities.

Sec. 13-8. Residential disposal.

- a. Unless collection services are provided at town expense, all residents of the town who produce Class I residential waste, as defined in Sec. 13-1 shall individually contract with the town's designated waste hauler for the purposes of removing household waste from the curb of a public or private road. In lieu of using collection services, residents may individually dispose of such waste at designated town facilities.
- b. All residents of the town who produce Class II residential waste as defined in Sec. 13-1 or commercial waste as defined in Sec. 13-1 shall contract with a waste hauler for waste collection and disposal or shall individually dispose of waste at the appropriate town designated disposal facilities.
- c. The town council may establish by order the methods that residents utilize for solid waste collection and disposal. The council may levy such taxes and fees as are necessary to institute and continue such programs.

Sec. 13-9. Waste segregation.

- a. Residential waste shall be kept separate from commercial waste at all times during collection, transportation and delivery to the designated disposal facilities. Waste generated or collected outside of the town shall at all times be kept separate from waste generated or collected in the town.
- b. Residents who rake, collect, and bag leaves shall dispose of said leaves in a separate manner and method than the disposal of solid waste or household trash.

Sec. 13-10. Resource recovery.

For the purposes of resource recovery, the town council may require solid waste to be separated into such categories as may be established by town regulation and disposed of only in such manner and at such sites and locations as designated.

Sec. 13-11. Property rights

Any solid waste deposited within the disposal facilities shall become the property of the town or ecomaine. No one shall salvage, remove or carry off any such deposited solid waste without prior approval of the town.

Sec. 13-12. Schedules of charges for disposal.

The town council may establish by order schedules of waste disposal charges to be charged for the use of the disposal facilities or any portion of the disposal facilities located within the town, which schedules

may include different waste disposal charges for residents of the town, businesses located within the town and commercial refuse collectors collecting solid waste within the town and may include different schedules for disposal of different kinds of solid waste. All fees collected shall be for the use of the town and are on file in the town clerk's office.

Sec. 13-13. Waste Hauler Licensing

Sec. 13-13.1 License Required

No person engaged in the business of solid waste hauling shall collect or transport solid waste generated within the town without obtaining a license from the town and paying the required licensing fee. Such licenses shall be issued by the public works director for the calendar year and shall be subject to the terms and requirements set forth in this section.

Sec. 13-13.2 Application for license.

In order to acquire a license for the collection of solid waste within the town, the applicant shall submit to the town such information as the town deems necessary, together with the required fees. Fees for obtaining a waste hauler license shall be established by order of the town council.

Sec. 13-13.3 Exemptions.

This license and fee provisions of this chapter shall not apply to a person or business that hauls solid waste generated exclusively by the person or business

Sec. 13-13.4. Violations.

Any failure to comply with the requirements of this chapter shall be considered a violation. In addition to the penalty provisions set forth in Sec. 13.4, the town may suspend a solid waste hauling license for up to thirty (30) days for a first violation of these provision of this chapter and may suspend a solid waste hauling license for up to 60 days for a second violation. The town may suspend a solid waste hauling license for any period of time for any subsequent violation or may revoke the license for the remainder of the year. The town may deny a license to any person who received two (2) or more suspensions during prior years or whose license was revoked during the prior year.

The town shall notify a licensee of any violation that could result in a suspension or revocation and shall hold a hearing prior to taking any action on a potential suspension or revocation.

Sec. 13-13.5. Penalties.

Notwithstanding the provisions of Sec. 13-4 of this chapter, any person violating the provisions of Sec. 13-13 of this chapter shall be subject to a fine of at least two hundred fifty dollars (\$250.00) but not more than two thousand five hundred dollars (\$2500.00) for each violation. Fines shall be recovered upon complaint made by the town. Each day upon which a violation continues shall be considered a separate violation. The town shall be entitled to recover its attorney's fees and to court costs in any action in which the court finds that a violation has occurred. In addition to penalties, the town may seek injunctive relief to prevent the continuance of an ongoing or recurring violation.

Attest: _____

Ellen Planer

Town Clerk

May 22, 2017