

TOWN OF KENNEBUNKPORT

SOLID WASTE ORDINANCE

1.1 TITLE

This ordinance shall be known and may be cited as “Kennebunkport Solid Waste Ordinance” and referred to herein as “this Ordinance”.

1.2 PURPOSE

The purposes of this Ordinance are to protect the health, safety and general well-being of the citizens of Kennebunkport, enhance and maintain the quality of the environment, conserve natural resources and prevent water and air pollution by providing for a comprehensive, rational and effective means of regulating the transportation and disposal of solid waste in and for the Town of Kennebunkport and its residents in accordance with the provisions of Title 38 M.R.S.A. 1304-B as amended.

1.3 DEFINITIONS

- a. Acceptable Waste: Wastes to be acceptable for transport to the Facility shall include all Acceptable Waste, as that term is defined in a certain Waste Handling Agreement (the “Agreement”) dated December 27, 2012 and any amendments thereto between the Town of Kennebunkport and the Company.

Notwithstanding the above limitations, Acceptable Waste shall include Specially Permitted Waste, and shall include lobster shells and bodies, and fish scales, bones, and heads, and other similar waste normally associated with small scale fishing and lobstering operations or restaurants provided that entire truck loads of fish or lobster waste, may be excluded from the definition of Acceptable Waste at the Company’s sole option and that the Facility is not a substitute for a rendering facility for fish processing wastes.

- b. Agreement: The Waste Handling Agreement dated December 27, 2012 between the Town of Kennebunkport and Pine Tree Waste, Inc. and Casella Waste Systems, Inc.
- c. Approved Disposal Facility or Site: The appropriate disposal site for each type of waste such as, by way of example only, Town of Kennebunk Sea Road Transfer Station for demolition debris, Company’s transfer station within the City of Westbrook, Maine or the Company’s alternate or ancillary licensed facilities. The Town Manager shall determine the appropriate disposal site(s) for the various types of waste.
- d. Company: The two companies that, in addition to the Town, are parties to the Agreement; Pine Tree Waste, Inc. and Casella Waste Systems, Inc.

- e. Delivery Hours: Those hours established by the Selectmen in compliance with the Agreement that acceptable wastes may be delivered to the Facility.
- f. Disposal: 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.
- g. Disposal Facilities: Any land or structure or combination of land area and structures, including dumps and transfer stations used for storing, salvaging, reducing, incinerating or disposing of Acceptable Waste pursuant to the Agreement, including any transfer station or similar facility which may be constructed by the Town in connection with the use of the Disposal Facilities.
- h. Facility: The Company's transfer facility within the City of Westbrook, Maine, together with any ancillary facilities which are now or may hereafter be owned by Company or any affiliate of Company.
- i. Hauler: Any entity or person licensed by the Selectmen to collect and haul solid waste in the Town.
- j. Hazardous Waste: All hazardous waste, as that term is defined in the Agreement, including but not limited to any waste which by reason of its composition, characteristics or other inherent properties is dangerous to handle by ordinary means, or which may present a substantial endangerment to health or safety, or which presents a reasonable possibility of adversely affecting the operation of the disposal facilities. "Hazardous Waste" shall also mean Waste which is defined as harmful, toxic, dangerous or hazardous at any time pursuant to (i) the Solid Waste Disposal Act, 42 U.S.C. 6901 et seq., as amended; and (ii) the Maine Hazardous Waste Septage and Solid Waste Act, 38 M.R.S.A. 1301 et seq., as amended; and (iii) any other Federal, State, county or local codes, statutes or laws; and (iv) any regulations, orders or other actions promulgated or taken with respect to the items listed in (i) through (iii) above, provided, however, that any such materials which are later determined not to be harmful, toxic, dangerous or hazardous by any governmental agency or unit having appropriate jurisdiction shall not be considered "Hazardous Waste" unless a contrary determination has been or is made by any other governmental agency or unit having appropriate jurisdiction.
- k. Resource Recovery: 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 purposes.
- l. Selectmen: The Board of Selectmen of the Town of Kennebunkport.
- m. Solid Waste: Waste, as that term is defined in 38 M.R.S.A. Section 1303-C(29), including, without limitation, useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include sludges from air or water pollution control facilities, septic tank sludge or agricultural wastes.

- n. Specially Permitted Waste: Unacceptable Waste which shall be deemed acceptable waste by special permit issued by the Selectmen subject to such restrictions and limitations as may be contained in such permit and in the Agreement. Any fee for delivery of Specially Permitted Waste will be established by Selectmen in said permit.
- o. Tipping Fee: The payments required to be made by the Town to the Company under the Agreement for transferring, diverting or processing Acceptable Waste received at the Facility or which would otherwise have been received at the Facility.
- p. Town: The Town of Kennebunkport.
- q. Unacceptable Waste: All waste defined as Unacceptable Waste in the Agreement, including, without limitation the following:
 - 1. Demolition or construction debris from building and roadway projects or locations.
 - 2. Liquid wastes or sludges.
 - 3. Abandoned or junk vehicles, trailers, agricultural equipment and boats and parts thereof.
 - 4. Hazardous waste (as defined herein).
 - 5. 5 Dead animals or portions thereof or other pathological wastes.
 - 6. Water treatment residues or by-products of any kind.
 - 7. Tree Stumps.
 - 8. Tannery sludge and sewer sludge of any kind.
 - 9. Waste oil or solvents.
 - 10. "White goods" such as freezers, refrigerators, washing machines, or parts thereof.
 - 11. Tires.
 - 12. Automotive batteries.
 - 13. Pesticides and other organic fluids.
 - 14. Firearms, ammunition and explosives.
 - 15. Other wastes which in the reasonable judgement of the Company (a) could reasonably be expected to cause jam-ups, slowdowns, stoppages, failures or damage to the Disposal Facility; or (b) could reasonably be expected to cause adverse consequences to the Disposal Facility or its operations, because of excessive moisture, high noncombustible content of other similar reasons.
 - 16. Any waste deemed unacceptable for processing at the Disposal Facility by federal, State or local law, regulation, rule or order.

ARTICLE II. MUNICIPAL SOLID WASTE DISPOSAL FACILITIES

Designation

In accordance with the provisions of Title 38 M.R.S.A. 1304-B and effective on the commencement date of the Agreement, the Town hereby designates the Disposal Facilities as the

exclusive facilities for disposal of Acceptable Wastes generated within the boundaries of the Town. Subsequent to the commencement date of the Agreement, the disposal of any waste generated within the Town by any person at any place other than at the Approved Disposal Facilities is prohibited, provided however, that 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 federal, state or local land use regulations.

ARTICLE III. ADMINISTRATION AND REGULATION

Governing Body

3.1 The Selectmen shall establish by the authority of this Ordinance, such Rules and Regulations as they deem necessary or convenient to carry out the purposes of this Ordinance including rules and regulations governing the availability and use of the disposal and transportation facilities for disposal of solid wastes generated within the Town and governing the operation and licensing of waste disposal vehicles.

3.2 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.

ARTICLE IV. RESTRICTIONS AND FEES FOR DISPOSAL

Restriction

4.1 No person, firm or corporation shall permanently dispose of any Acceptable Waste into or upon any water or land within the corporate limits of the Town, unless such area has been designated by the Selectmen as a part of the Disposal Facilities under this Ordinance.

4.2 Certain solid wastes may be excluded by order of the Selectmen from those Acceptable Wastes which must be deposited at the Disposal Facilities. These excluded materials may include wood, trees, tree limbs, branches, logs, leaves, twigs, grass and plant cuttings.

4.3 Except for licensed disposal of hazardous or infectious wastes, it shall be unlawful for any person, firm or corporation to burn or incinerate any solid waste within the Town other than wood, trees, tree limbs, branches, logs, leaves, twigs, grass and plant cuttings.

4.4 Any wastes that are Unacceptable Wastes but that are deemed acceptable by the Company may be collected and delivered to the Disposal Facility as Specially Permitted Waste, by special permit issued by the Selectmen. Any additional tipping fee or administrative charge deemed appropriate by the Selectmen for disposal of Unacceptable Waste pursuant to a special permit shall be charged to and become the sole responsibility of the hauler.

ARTICLE V. RULES AND REGULATIONS

5.1 Disposal Facility Users

The availability and use of the Disposal Facilities as determined by the Selectmen by rules and regulations 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 with the Town, be authorized to use such Disposal Facilities.

5.2 Resource Recovery

For the purpose of resource recovery, the Town may require solid waste to be separated into such categories as may be established by order of the Selectmen.

5.3 Removal of Acceptable Waste Prohibited

Once any Acceptable Waste is deposited or picked up at curbside, no one shall salvage, remove, or carry off any such waste or engage in any other resource recovery without prior approval of the Town.

5.4 Municipal Collection and Delivery

The Selectmen may establish a system for the collection and delivery of solid waste and may adopt such rules and regulations and adopt such schedule of charges for such collection and transportation services as may be appropriate.

ARTICLE VI. FINES AND PENALTIES

Whoever violates any of the provisions of this Ordinance or rules and regulations established by the Selectmen under this Ordinance shall be punished by a fine of not more than one thousand dollars (\$1,000.00) plus costs, which fine shall be recovered on complaint for the use of the Town. Each load of waste or each day of violation shall be considered a separate violation and subjected to the punishment fine. Any other costs incurred or caused as a result of the violation will be charged to the violator and recovered by the Town.

ARTICLE VII. MISCELLANEOUS

7.1 The Selectmen 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 as determined by the Selectmen by rules and regulations, which schedules shall be posted and published. Such 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.

7.2 It shall be the duty of the Selectmen to enforce the provisions of this Ordinance and the Selectmen may authorize a representative(s) to do so.

7.3 All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, effective on the commencement date of the Agreement.

7.4 If any section, subsection, sentence or part of the ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

7.5 This Ordinance shall not limit in any way recourse imposed by other governmental agencies or courts for solid waste or hazardous waste violations.

Adopted March 18, 1986. Amended March 26, 1994, June 12, 2004 and June 11, 2013.