

CHAPTER 306

SOLID WASTE ORDINANCE

Town of Yarmouth, Maine

Repealed & Replaced: 4/21/94

Recodified: 1/15/98

Amended: 1/19/06

Amended: 8/16/12

Amended: 4/25/19 – to be effective 1/1/2020*

*The Town Council shall review these changes & associated fees in Ch. 401 by 10/31/19

SOLID WASTE ORDINANCE

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SOLID WASTE ORDINANCE

ARTICLE I

A. TITLE

This ordinance shall be known and may be cited as the Solid Waste Ordinance of the Town of Yarmouth.

B. PURPOSES

The purposes of this Ordinance are to protect the health, safety and general well-being of the citizens of Yarmouth, enhance the quality and character of life in the Town, enhance and maintain the quality of the environment, conserve natural resources and prevent land, water and air pollution by providing for a comprehensive, rational and effective means of regulating the collection, processing, transportation, and disposal of solid waste in the Town of Yarmouth in accordance with 38 M.R.S.A. §§ 1304-B, 1305, and 1310-U, as amended.

C. DEFINITIONS

The definitions set forth in 38 M.R.S.A. § 1303-C apply to this ordinance and are incorporated herein by reference, unless redefined in this Section. Any word or term not otherwise defined shall have its ordinary meaning. As used in this Ordinance, the following terms shall have the following meanings.

Acceptable Waste at ecomaine

Solid Waste which ecomaine will accept for disposal at its incinerator or other disposal facilities, as defined in agreements between ecomaine and the Town of Yarmouth.

Acceptable Waste at Yarmouth Recycling Center

Solid waste which the Town of Yarmouth will accept at the Recycling Center, including but not limited to: resource recovery materials, construction and demolition debris, and lumber, logs and trees, tree limbs, branches, twigs, and yard wastes, as the Town Manager may designate.

Commercial Waste

Any waste which is not residential waste, including, without limitation, waste generated by industrial facilities, manufacturing facilities, retail or wholesale business, office facilities, service stations, auto body shops, junkyards, hotels, motels, bed and breakfast inns, nursing homes, churches, marinas, and boat yards.

Contractor/Temporary Hauler

Any person, such as a building contractor, construction company, developer, or landscaper, who generates, collects or transports waste resulting from a specific job or project of limited duration, but is not a waste hauler.

Designated Disposal Facility

The ECOMAINE waste-to-energy incinerator located in Portland, Maine, or such other facility as the Town Manager may designate.

Infectious Waste

Those wastes so defined by the Solid Waste Management Regulations promulgated by the Department of Environmental Protection pursuant to 39 M.R.S.A. § 1304.

Pay-As-You-Throw (PAYT)

A system of municipal services and revenues that requires residential waste generators to place residential waste in a specially marked and printed official trash disposal bag before it is collected by a waste hauler or deposited at the Transfer Station for shipping to the Designated Disposal Facility (or alternatively, stick-on labels to attach to commercially available trash bags. The municipality charges a fee for the official bags (or stickers) which generate revenue to partially or wholly offset the municipal costs associated with solid waste management and disposal. The fee for bags shall be established under Chapter 401 of the Yarmouth Town Code (Fees and Permits Ordinance)

Person

Any person, firm, association, partnership, corporation, organization, institution, or any other legal entity.

Regional Waste Systems, Inc. (ECOMAINE)

Regional Waste Systems, Inc., a non-capital stock, non-profit corporation created pursuant to Title 30, Chapter 203 and Title 13, Chapter 81 of Maine Revised Statutes, or any successor thereto or assignee thereof.

Residential Waste

Ordinary domestic household waste generated by occupants of single family and/or multifamily residences, apartments (up to 10 units), and condominiums. Residential Waste also includes solid waste generated by the government, including the public school system, of the Town of Yarmouth. Residential waste excludes unacceptable wastes as defined in agreements between ECOMAINE and the Town of Yarmouth.

Waste Hauler

Any person engaged in the business of collecting, transporting or transferring solid waste generated by or collected from any other person.

ARTICLE II

A. HIERARCHY

The Town solid waste management policy is to plan for and implement an integrated solid waste management program to encourage responsible and innovative solid

waste solutions based on a management hierarchy. Pursuant to 38 M.R.S.A. § 2101, the solid waste management priorities are:

1. Reduction of waste generated at the source, including the weight, volume, and toxicity of the waste;
2. Reuse of waste;
3. Recycling of waste (reprocessing of waste and creation of a new, usable material other than fuel);
4. Composting of biodegradable waste;
5. Waste processing that reduces the volume of waste needing disposal and yields energy recovery for productive use, including incineration and waste-to-energy technology; and
6. Land disposal of waste.

B. IMPLEMENTATION

1. Management of solid waste shall be guided by the hierarchy identified in Section II of this Ordinance.
2. It shall be the duty of the Town Manager to enforce the provisions of this Ordinance.
3. The Recycling Committee shall monitor the effectiveness of implementation of this Ordinance, and shall report its observations and recommendations to the Town Council at least once a year.
4. If any Section, subsection, sentence or part of the Ordinance is for any reason held to be invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE III

A. SEPARATION OF WASTES

Pursuant to 39 M.R.S.A. § 1304 – B (2)(A), the Town of Yarmouth 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 by the Town Manager.

B. WASTE DISPOSAL LIMITED

Pursuant to 39 M.R.S.A. § 1304-B (2) (B), no person shall dispose of waste or refuse of any kind upon any land within the corporate limits of the Town of Yarmouth

unless such land has been designated by the Town Council as a solid waste management or disposal facility, and unless such disposal has been licensed or authorized pursuant to applicable law as require by law. However, this section shall not limit any person from composting of yard waste within the property on which such yard waste is generated, or as otherwise provided in Section III.H of this Ordinance.

C. DESIGNATION OF RECYCLING CENTER

The Town designates the Yarmouth Recycling Center on East Main Street as its solid waste management facility. The Town Manager shall establish written rules governing the availability and operation of the Recycling Center, including days and hours of operation, reasonable fees, inspection of materials, and other matters pertaining to the day-to-day operation of the facility. The operation of the facility shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

D. DESIGNATION OF DISPOSAL FACILITY

The Town designates the ECOMAINE waste-to-energy incineration facility in Portland, Maine, and any other ECOMAINE facility designated in writing by the Town Manager, as its solid waste disposal facility. Unless expressly authorized in writing by the Town Manager, the disposal of any solid waste generated within the Town of Yarmouth by any person at any place other than at this designated disposal facility or approved transfer station is prohibited, except as may be exempted in Section III.G. of this Ordinance. 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 for fill purposes only, subject to state and local land use regulations.

E. FACILITY USERS

The availability and use of the Recycling Center and Solid Waste Disposal Facility shall be limited to residents or property owners in the Town of Yarmouth, and to those residents of any other municipality which may, by mutual agreement, be authorized by the Town Manager to use the facility, and to other persons authorized in writing by the Town Manager. As a means of user control, the Town may distribute vehicle permits to authorized users which shall be affixed to user vehicle(s). Failure to exhibit such permit shall result in denial of use of the facility. A fee for such vehicle permit shall be required annually in accordance with Chapter 401.

All residential waste deposited at the Recycling Center and Solid Waste Disposal Facility must be secured within an official PAYT trash disposal bag. No person shall deposit or leave at the Recycling Center or Solid Waste Disposal Facility any loose residential waste or waste not contained within an official Town of Yarmouth PAYT bag.

1. This requirement for placement of residential waste in an official Town of Yarmouth PATY bag shall not be deemed to apply to yard and leaf waste, demolition debris, food waste for composting, bulky goods such as furniture, appliances, tires, and other waste materials which the Town of Yarmouth provides a separate disposal area and may charge a special fee for disposal thereof.
2. This requirement for placement of residential waste in an official Town of Yarmouth PAYT bag shall not be deemed to apply to recyclable materials such as, but not limited to newspapers, cardboard, paperboard, cans, bottles, plastic bottles and jugs, dry waste paper (e.g. junk mail and packaging), and similar materials approved for disposal as unsorted recyclable household waste.
3. This requirement for placement of residential waste in an official Town of Yarmouth PAYT bag shall not be deemed to apply to other special materials accepted for disposal or potentially reusable/salvageable materials placed at designated locations at the facility including such items and materials as used motor oil, cold wood ash, reusable books, toys and sporting equipment household and yard furniture, small appliances etc. Provided, however, designated agents of the Town of Yarmouth may reject any such materials or require their disposal in an Official Town of Yarmouth PAYT bag or disposal in the demolition and bulky waste area of such materials are not reasonably suited for re-use or salvage.

F. PROPERTY RIGHTS

Any solid waste deposited within the Recycling Center or Solid Waste Disposal Facility and not removed from the site shall become the property of the Town of Yarmouth or ECOMAINE, pursuant to the terms of the Waste Handling Agreement and Demolition Materials Handling Agreement. No one shall salvage, remove, or carry off any such deposited solid waste without prior approval of the Town Manager. This shall not be construed to conflict with provisions of Article III.E.3., above.

G. CERTAIN MATERIALS EXEMPT

1. The Town Manager shall establish written rules governing the exclusion of certain materials from those refuse materials which must be deposited at a solid waste management or disposal facility pursuant to Section III.B of this Ordinance. These materials include:
 - a. Pursuant to 38 M.R.S.A. §1304-B(2)(C), certain materials may be designated by the Town Manager as recyclable, which materials may be placed at satellite facilities or as otherwise directed by the Town Manager.

- b. Certain other materials may be designated by the Town Manager, such as junk automobile bodies and similar bulky waste which may require special processing prior to disposal, tree and tree trunks and limbs, burning materials or materials containing hot or live coals, hazardous wastes, and other materials which the Town deems necessary to exclude.

H. YARD WASTE AS COMPOST MATERIAL

Pursuant to 38 M.R.S.A. §1304-B (2) (D), yard wastes as designated compost material. If not part of a farm operation as defined in 17 M.R.S.A. §2805(1)(B), or if not composted on the lot(s) on which generated, yard wastes shall be taken to the Recycling Center for Composting, or otherwise handled in a manner approved by the Town Manager. Backyard Composting is encouraged. Composting activities shall conform to all pertinent regulations or directives of all local, county, state or federal agencies which may have jurisdiction.

I. WASTE BURNING RESTRICTED

Except for waste facilities licensed by the Maine Department of Environmental Protection, it shall be unlawful for any person to start, kindle, fuel, cause or allow the open burning or incineration of any solid waste within the Town other than trees, tree limbs, leaves and other wood waste. No solid waste shall be burned or incinerated within the Town without appropriate Town permits.

ARTICLE IV

A. LICENSED DISPOSAL RESTRICTED

All acceptable waste generated or collected in the Town of Yarmouth shall be delivered to the designated Recycling Center or Solid Waste Disposal Facility. No person other than a waste hauler licensed pursuant to Section V.A of this Ordinance may dispose of solid waste generated or collected in the Town of Yarmouth at the Solid Waste Disposal Facility. All construction and demolition debris, tree stumps, yard wastes, lots, trees, tree limbs, branches, brush and twigs, and landscape waste shall be delivered to the Recycling Center or such alternative site as the Town Manager may designate.

All residential waste generated, collected and transported by any individual or commercial waste hauler licensed pursuant to Section V.A of this Ordinance must be contained within an official Town of Yarmouth PAYT bag.

In the event that any licensed commercial waste hauler or any individual shall deliver to the Designated Disposal Facility any material purporting to be residential solid waste generated and collected in the Town of Yarmouth shall be deemed to be commercial waste (and not residential waste) if such material is loose, or not secured within an official Town of Yarmouth PAYT bag. Reasonable exception may be made for residential waste which shall have become loose or dislodged from an official Town of Yarmouth PAYT bag during the collection, compaction, transport or "tipping" process. A willful, negligent, or fraudulent attempts to deliver commercial

waste or waste not generated in Yarmouth as Yarmouth residential waste shall be deemed a violation of this ordinance and additionally subject to the provisions of Section VI.B. of this ordinance.

1. The Town Manager may authorize special exceptions for good reason including but not limited to clean-up after festivals, collection from town-owned buildings and grounds or municipal operations, parades, or community celebrations, disaster response, and clean-up, or circumstances where public health or safety would be best promoted by a limited exception.

B. WASTE TO BE SEGREGATED

Residential waste must be kept separate from commercial waste at all times during collection, transportation, and delivery to the designated disposal facility.

Residential waste generated or collected outside the Town of Yarmouth must at all times be separated from waste generated or collected in the Town of Yarmouth, and accounted for as directed by the Town Manager.

C. LOADS TO BE SECURED

No person may operate on any public way within the Town of Yarmouth a vehicle containing solid waste unless the vehicle's load is covered or otherwise secured or confined to prevent any portion of the load from falling or spilling out of the vehicle.

D. WASTE TO BE COVERED

Any waste left by the curbside for collection by a waste hauler licensed pursuant to Section V.A of this Ordinance must be securely package.

E. NOISE NUISANCE

No Commercial Waste Hauler shall collect waste from any property or establishment between the hours of 10:00 PM and 5:00 AM on any day of the week except as follows:

1. No Commercial Waste Hauler shall collect waste between the hours of 10:00 PM and 4:30 AM on any day of the week from any property or establishment located on and along Route One in the areas designated as "Commercial I, II and III" and in any "Industrial Zone" established pursuant Chapter 701 and the official zoning map of the Town of Yarmouth, or in areas designated as CD4 or CD4-C pursuant to Chapter 703 of the Yarmouth Town Code.
2. The Town Manager may authorize exceptions for good reason including but not limited to clean-up after festivals, parades or community celebrations, disaster response, and clean-up, or circumstances where public health or safety would be best promoted by a limited exception.

ARTICLE V

A. WASTE HAULERS LICENSING

1. License Required

No person shall engage in business as a waste hauler in the Town of Yarmouth without possessing a valid license from the Town pursuant to this Ordinance.

2. Licensing Authority

The Town Council of the Town of Yarmouth shall be licensing authority under this Ordinance. The Council may delegate to the Town Manager its authority to issue renewal licenses and to suspend licenses temporarily pending Town Council action under Section VI.B.3 of this Ordinance.

3. Term of License

Each license issued pursuant to this Ordinance shall expire on December 31 of each year, unless earlier revoked by the Town Council pursuant to Section VI.B.3 of this Ordinance. Initial licenses issued pursuant to this Ordinance after September 1 of any year shall expire on December 31 of the following year.

4. Transitional provision

Licenses issued pursuant to the Yarmouth Solid Waste Disposal Ordinance valid on the effective date of this Chapter shall expire on December 31 of the year following the effective date of this Chapter. This transitional provision shall expire on December 31 of the year following the effective date of this Chapter.

5. License Fees

The fees for licenses issued pursuant to this Ordinance shall be \$100 per year for waste haulers who collect, transport or deliver solid waste to the designated disposal facility.

6. Accountability

All persons licensed pursuant to this Ordinance shall account for waste collected in the Town of Yarmouth and disposed on its behalf as directed by the Town Manager.

7. ECOMAINE Rules

Failure to observe or comply with applicable state, local or Federal rules, ordinances and statutes may be cause for refusal or revocation of a license issued pursuant to this section.

ARTICLE VI

A. INSPECTIONS

The Town Manager or his/her designee shall have the right to inspect the contents of any solid waste container at any time.

B. VIOLATIONS

1. Any person violating any provision of this Ordinance shall be considered to have committed a civil violation, punishable by a fine of not more than \$250 for the first violation, not more than \$500 plus costs for the second offense, and not more than \$1000 plus costs for the third offense and each separate violation of the same nature thereafter, which fines shall be recovered on complaint to the use of the Town. Each day a violation continues shall constitute a separate violation. Any license granted hereunder may be revoked upon violation of this Ordinance.
2. Any person violating any provision of this Ordinance shall be considered to have committed a violation of land use criteria and shall be subject to penalties as set forth in 30-M.R.S.A. §4452.
3. The Town Council may, after notice and hearing, revoke any license issued pursuant to Section V.A of this Ordinance upon finding that the licensed person has violated any provision of this Ordinance, Unless the licensed person demonstrates to the Council's satisfaction that measures have been taken or procedures implemented which will prevent the violation or violations from recurring and pays to the Town of Yarmouth penalties under Section VI.B.1 above for the violations which have occurred.
4. The Town Manager or his/her designee shall enforce the provisions of this Ordinance. The Town Manager shall notify the Town Council of violations of this Ordinance. Upon authorization of the Council, the Town Manager may institute necessary legal or equitable proceedings in the name of the Town of Yarmouth to enforce the provisions of the Ordinance.
5. The Town Manager may deny entry and use of the Recycling Center, for a period not to exceed two years, by any person found in violation of this Ordinance.

ARTICLE VII EFFECTIVE DATE OF PAYT

These amendments to Chapter 306 adopted this the 25th day of April, 2019 shall come into full force and effect as of January 1, 2020 unless the Town Council shall vote on or before December 31, 2019 to set another date.