

SOLID WASTE FLOW CONTROL
ORDINANCE OF THE TOWN CHINA, MAINE
September 5th, 2013



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SECTION I AUTHORITY

This ordinance shall be known as the “Solid Waste Flow Control Ordinance of the Town of China, Maine.” This ordinance is enacted pursuant to the authority granted in Title 30-A M.R.S.A. Section 3009 and 3352, Title 38 Sections 1304-b

SECTION II PURPOSE

The Municipality has a statutory obligation to provide a solid waste disposal and recycling facility for domestic and commercial waste generated within the Municipality and is authorized to provide such a facility for industrial waste pursuant to Title 38 M.R.S.A. Sec.1305, sub-sec. 1.

Municipal solid waste contains valuable recoverable resources, including energy, which if recovered reduce the cost of solid waste disposal. Because energy 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 useful lives. Consequently, a municipality that wants to utilize an energy recovery facility for processing solid waste generally must agree to provide a facility with a steady supply of solid waste for a relatively long period.

The Municipality must exercise its legal authority to control the disposal of solid waste generated within its borders to insure delivery of a steady waste to the energy recovery facility designated herein. The Municipality finds that use of an energy recovery facility to process acceptable solid waste is an environmentally sound and economically viable solution to the solid waste disposal problem and thereby protects the public health, welfare and safety of the citizens of the Municipality.

This Ordinance is designed to control solid waste material in the municipality by establishing limitation, prohibiting certain acts causing solid waste disposal problems and providing for fines for violations of the provisions of this Ordinance.

SECTION III HAZARDOUS WASTE

NO hazardous waste shall be delivered to the Facility. Disposal of Hazardous waste will be Illegal dumping and enforceable by Law. The Facility will, in accordance to DEP regulation, manage these materials in accordance to its Hazardous waste exclusion plan.

Hazardous Waste will be defined and regulated under state and federal statute and regulated under Maine Department of Environmental Protection rules.

SECTION IV UNACCEPTABLE WASTE

The following types of waste shall not be accepted at the Facility.

1. Liquid waste or sludge, including septage.
2. Abandoned, junked vehicles.
3. Hazardous waste that is, waste with inherent properties that make it dangerous to manage by ordinary means, including but not limited to chemicals, explosives, pathological wastes, radioactive waste, toxic waste, and other wastes defined as hazardous by the State of Maine or the Resource Conservation Act of 1976, as amended or other federal, state or local laws, regulations, orders or other actions promulgated or taken with respect thereto.
4. Dead animals or portion thereof.
5. Water treatment residues.
6. Tannery sludge.
7. Asbestos.
8. Large tree stumps or 12 inches in diameter.
9. Car batteries.

SECTION V ON-SITE STORAGE AND DISPOSAL REQUIREMENTS

Storage shall be the responsibility of all owners or primary occupants of dwelling, commercial and industrial facilities. Storage shall be in closed containers or by other similar methods to preclude odors, rain, rodents, insects, etc. from becoming a nuisance.

SECTION VI DEFINITIONS

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

Acceptable Waste: All ordinary household, municipal, institutional, commercial and industrial waste which consist primarily of combustible matter.

Attendant: Any person employed by the Municipality to supervise and operate the Solid Waste Facility.

Collection Facility: A building, container or designated area of the transfer station in which acceptable waste is deposited and temporarily stored for transshipment to the energy recovery facility.

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

Facility: The Town of China Solid Waste Disposal and Recycling Facility. The facility may consist of more than one site and more than one system of Solid Waste Management.

Hazardous Waste: Any waste which federal and/or state government have determined to be hazardous in composition.

Hot Loads: Shall include solid waste that are on fire, smoldering, or are potentially flammable.

Landscape Refuse: Leaves, garden stubble, lawn raking, weeds and other materials that can be composted and reused as a soil conditioner.

Municipality: The Town of China, Maine.

Person: Shall include individuals, partnerships, corporations, and agents of any of them.

Storable Waste: Solid waste of the type presently received at the Facility, but which may be stored at the Facility, including the following:

1. Demolition or construction debris from building and roadway projects or locations;
2. Small tree stumps, brush. Branches, yard wastes;
3. Waste oil;
4. Discarded "White goods" including but not limited to refrigerators, freezers, stoves and washing machines.

Unacceptable Waste: All solid waste of the type municipalities are required by Title 38 M.R.S.A. Sec. 1305, as amended, to regulate, which specifically exclude industrial and sewage treatment plan sludge, and solid and liquid waste of the type presently prohibited for disposal at the Facility, as defined under the China Solid Waste ordinance.

SECTION VII DESIGNATION

In accordance with provisions of Title 38 M.R.S.A. Sec. 1304-B, the Municipality hereby designates the Penobscot Energy Recovery Company (PERC) facility located in Orrington, Maine, as the energy recovery facility and disposal facility for acceptable waste.

The Municipality also designates the Municipality owned and operated transfer station in China, off the Alder Park Road, whose operation shall be conducted in accordance with the rules and regulations of the Maine Department of Environmental Protection and this ordinance, as the temporary disposal facility for acceptable waste.

The Municipality further reserves that they may designate an alternative disposal facility for a specified time for acceptable waste, should circumstances require it, upon a majority vote of the Municipal Officers.

SECTION VIII REGULATED ACTIVITY

The accumulation, collection, transportation and disposal of acceptable wastes, storable waste and unacceptable wastes generated within the Municipality shall be regulated in the following manner.

All acceptable wastes generated within the Municipality may be deposited at the Facility or directly at the energy recovery facility.

All storable wastes may be deposited at the Facility in accordance with the provisions of the solid waste ordinance.

All unacceptable wastes, including hazardous wastes, generated within the Municipality shall be deposited only at the suitable waste disposal facility which is designated for the express purpose of handling said unacceptable waste, or remediated by licensed and insured hazardous waste companies.

SECTION IX SOLID WASTE DISPOSAL CONTROL STANDARDS AND REGULATIONS

The Municipal officers are hereby granted authority to establish fees and other control measures in accordance with managing solid waste disposal as required to satisfy the needs of the Municipality. They shall include, but not be limited to, changes in the operating hours of the Facility, permitting, transportation and collection and disposal fees. Policy shall become effective thirty (30) days following adoption by the Municipal Officers. The current Ordinances shall be prominently displayed at the facility, be available at no cost and on file in the Municipal Offices.

SECTION X ADMINISTRATION

This ordinance shall be administered by the Municipal Officers. Their power and duties are as follows:

To review any alleged violation of this Ordinance, and to impose appropriate penalties therefore after notice and hearing as required by this ordinance.

To institute necessary proceedings, either legal or equitable, to enforce this Ordinance.

The Waste Disposal Agent shall be the Town Manager who shall have the following responsibilities:

1. Oversee the day-to-day operation of the solid waste disposal facility including the transfer stations demolition site and the recycling center.
2. To supervise the personnel at the site, who are all Town of China employees.

SECTION XI PERMITS AND STICKERS

The Facility is operated for the benefit of the resident, nonresident taxpayer and commercial establishments of the Town of China. Requests from other persons for access to the Facility may be approved at the discretion of the Municipal Officers. Admission to the Facility shall only be by sticker which shall be displayed on the vehicle in order to gain access. Stickers may be revoked by the Municipal Officers, following notice and hearing, for violation of this Ordinance or rules and regulations adopted pursuant thereto. Stickers shall not be transferrable.

All stickers shall expire after the date on the sticker unless revoked or suspended sooner in accordance with the provisions of this ordinance.

In the event that the Municipal Officers deny a sticker application they shall notify the applicant, in writing, and shall state the reason for the denial. The applicant may request a hearing in accordance with the procedures in Section XVII.

SECTION XII SUSPENSION OR REVOCATION

Any sticker issued may be suspended or revoked by order of the Municipal Officers after benefit of a hearing in accordance with the procedures in Section XVII, for the following causes:

- a. Violation of this Ordinance.
- b. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of the Ordinance.

SECTION XIII HEARINGS

Anyone denied a sticker or is suspended or revoked pursuant to Section XVI, shall be entitled to a hearing before the Municipal Officers if such a request is made, in writing, within thirty (30) days of the denial, suspension or revocation.

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

The applicant shall be notified, in writing, as to the date, time and place of the hearing at least ten (10) days prior to the hearing date. The applicant has the right to be represented by counsel, to offer evidence and to cross-examine the witnesses. These hearings shall be open to the public.

A determination shall be made by the Municipal Officers within ten (10) days after the conclusion of the hearing, and notice of the decision shall be served upon the applicant by certified mail, return receipt requested.

The Municipal Officers' final determination relative to the denial, suspension or revocation shall take effect as provided in the notice, but no later than ten (10) days after the date on which such notice has been mailed to the applicant, and shall be conclusive.

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 decisions may be appealed as provided in this Ordinance.

Any controversy or claim arising out of or relating to the Municipal Officers determination shall be directly reviewable by Superior Court pursuant to the Maine Rules of Civil Procedure, Rule 80b.

SECTION XIV ENFORCEMENT

All provisions of the Ordinance are enforceable by duly authorized police officers and the Municipal Officers.

Any person who violates any provision of this Ordinance is subject to arrest and, if convicted, to punishment as provided in Section XV.

Whenever the Municipal Officers determine that there has been a violation by virtue of noncompliance, they shall give notice of such violation to the person(s) responsible by personal service or by certified mail, return receipt requested. The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires. The citation may contain an outline of remedial action which, if taken, will effect compliance. The citation shall state that unless corrections are made within the allotted time, the violator is subject to prosecution and/or to permit or license revocation or suspension pursuant to the provisions of this ordinance.

SECTION XV PENALTIES

Criminal penalties: Any person who violates this Ordinance shall be guilty of a Class E crime for each violation.

Civil penalties: Any person, firm or corporation who violates this Ordinance shall be subject to a Civil Penalty, payable to the municipality, of not more than \$500.00 for each violation. Each day of violation shall be considered a separate violation. Such person, firm or corporation shall also be liable for court costs and reasonable attorney fees incurred by the Municipality.

After hours violation: Any person, firm or corporation who violates this Ordinance by dumping after the hours of operation shall be subject to a civil penalty, payable to the Municipality, of not more than \$200.00 for each violation.

SECTION XVI VARIANCES

The Municipal Officers may, on written application, grant a variance from a specific provision of this Ordinance in a specific case subject to appropriate conditions where such variance is in harmony with the general purpose and intent of this Ordinance and that agreement between the Municipality and the energy recovery facility.

SECTION XVII CONFLICT AND SEVERABILITY

The provisions of this Ordinance shall supersede all other local laws, ordinances, resolution, rule or regulations contrary thereto, or in conflict therewith.

The provisions of this Ordinance shall be severable and if any phase, clause, sentence or provision or the application thereof to any person or circumstance shall be held invalid, the remainder of this Ordinance and the application thereof shall not be affected thereby.

SECTION XVIII 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.

SECTION XIX EFFECTIVE DATE

This Ordinance shall become effective and be in force, from the date for adoption, Month/Day/Year. ____ / ____ / ____