

# TOWN OF LAURENS

## Local Law No. 1 of the Year 1999

### A Local Law entitled "Town of Laurens Regulations for the Storage, Disposal and Land Application of Septage, Sewage and/or Sludge Wastes, their Derivatives and/or By-Products"

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#### Section I. Title and Authority for Enactment.

This Act shall be entitled and known as "Town of Laurens Regulations for the Storage, Disposal and Land Application of Septage, Sewage and/or Sludge Wastes, Derivatives and By-Products", and is hereby enacted by the Town Board of the Town of Laurens pursuant to Town Law Sec. 130 (6), (15) and (19).

#### Section II. Purpose and Application of Regulations.

The purpose of this Local Law is to protect the health, welfare and safety of the residents of the Town of Laurens; to maintain the quality of the soil, water and air resources of the Town of Laurens; to provide standards and procedures for the regulation, review, monitoring and enforcement of standards and procedures for the storage, disposal and land application of septage, sewage and /or sludge wastes, their derivatives and/or by-products; and to provide notice and opportunity for public input with respect thereto; and to provide for and ensure adequate remedy for any public harm or damage that may occur as the result of the storage, disposal or land application of septage, sewage and /or sludge wastes, their derivatives and/or by-products in the Town of Laurens.

As of the effective date of this Act, it shall be unlawful to store, dispose of, or apply to the land any material covered by these regulations within the Town of Laurens, except in compliance hereof.

#### Section III. Definitions and Abbreviations.

For the purposes of this Local Law, the following definitions and abbreviations are included herein:

Applicant – A generator seeking to store, dispose of or apply to the land septage, sewage and/or sludge wastes, their derivatives and/or by-products in the Town of Laurens pursuant to the provisions hereof.

CEO – The Code Enforcement Officer of the Town of Laurens.

DEC – The New York State Department of Environmental Conservation.

DEC Rules – The Rules and Regulations contained in 6 NYCRR, Part 360, Solid Waste Management Facilities, and Part 364, Waste Transporter Permits as promulgated and existing as of the date hereof, and as may hereafter be enacted and/or amended.

Dispose or Disposal – The discharge, deposit, injection, dumping, spilling, spreading, leaking or placing of any septage, sewage and/or sludge wastes, their derivatives and/or by-products into or on any land or water.

DOH – The New York State Department of Health.

DOH Standards – The DOH Rules and Regulations setting forth standards for drinking water quality as promulgated and existing as of the date hereof and as may hereafter be enacted and/or amended.

Dusk – That time of day (local time) commencing when the upper limit of the sun's disc descends below the earth's horizon.

Generator – A producer and/or handler of septage, sewage and/or sludge wastes, their derivatives and/or by-products.

Land Application – The discharge, deposit, injection, dumping, spilling, spreading, leaking or placing of any septage, sewage and/or sludge wastes, their derivatives and/or by-products into or on any land or water situate in the Town of Laurens

Permit – A certificate issued by the Town Clerk upon review and approval of an application prepared and submitted pursuant to the provisions hereof by the Town Planning Board.

Permittee – An applicant for a permit hereunder whose application has been reviewed and approved by the Town Planning Board pursuant to the provisions hereof.

Septage – the contents of a septic tank, cesspool or other individual sewage treatment facility, or, in the case of planned communities or developments and/or mobile home parks, the contents of any central or pooled septic tank(s), cesspool(s) or sewage treatment facility, which receives domestic sewage wastes, their derivatives and/or by-products.

SEQRA – NYS Environmental Quality Review Act.

Site Plan – A conceptual map or rendering, together with any and all additional and supplemental data or information, of the particular property upon which an applicant hereunder seeks approval for

a permit to dispose of or store septage, sewage and/or sludge wastes, their derivatives and/or by-products, required by law to be presented to the Town Planning Board.

Skull and Cross Bones – A sign or symbol shown and depicted in accordance with New York State Department of Transportation Chart 10, Hazardous Materials Marking, Labeling and Placarding Guide, Class 6 (Poison-packing Group 1 & 2).

Sludge – Any solid, semisolid or liquid waste generated or deposited from a sewage treatment plant or facility, or the derivative and/or by-product thereof.

Soil Amendment – Any material that will add to the quality of soil for the purpose of growing crops.

SRS – Septage, Residues and Sludges

Storage – The holding or containment of any septage, sewage and/or sludge, or their derivatives and/or by-products, such that it does not constitute the disposal of such materials.

Storage Facility – Any structure, pit, lagoon or area where septage, sewage and/or sludge, their derivatives and/or by-products are stockpiled for more than fourteen (14) consecutive days.

Wetlands – Lands and submerged lands supporting aquatic or semi-aquatic vegetation; containing the remnants of any vegetation that is not aquatic or semi-aquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six feet (6'), and that such conditions can be expected to persist indefinitely barring human intervention; lands and water substantially enclosed by aquatic or semi-aquatic vegetation; and the waters overlying the above-described areas and the lands underlying the above-described waters

#### Section IV. Permit Application.

1. No person(s), business or corporation shall dispose of any septage, sewage and/or sludge, their derivatives and/or by-products, nor construct or maintain a facility for the storage of any such materials within the Town of Laurens, without first preparing and filing an application therefor with the Town Planning Board, obtaining the approval therefor by the Town planning Board after review and public hearing as provided herein, and obtaining a permit therefor from the Town Clerk.
2. The Town Clerk shall collect a fee upon the application for any such permit, the amount of which shall be determined by resolution of the Town Board from time to time. In addition, the applicant and/or generator shall pay all actual and necessary costs and expenses incurred by the Town in the discharge and administration of its duties hereunder. The applicant and/or generator shall pay such costs and expenses within thirty (30) days from the date they are presented by the Town and shall be non-refundable. All expenses and costs pertaining to preliminary site testing as required hereunder shall be paid in full prior to the issuance of any permit hereunder.
3. Each application for a disposal, storage or septage application permit hereunder shall specify the following:
  - a. All parcels, by owner and tax parcel number, upon which disposal or storage shall occur. A survey map prepared by a licensed surveyor shall accompany any such application showing

- the location of any and all wells and/or springs, residences, bodies of water, wetlands, fences, areas to be utilized for landspreading, if any, decontamination station, and engineering test locations.
- b. The type of product constituting, derived from, or which is a by-product of, septage, sewage and/or sludge to be disposed of and the specific parcel(s) upon which such disposal or storage shall occur.
  - c. The pH of the soil on each parcel of land on which disposal is contemplated. At least one (1) current certified soil analysis report from a licensed and/or qualified laboratory stating the pH of the soil on each parcel of land on which disposal is contemplated shall accompany the permit application.
  - d. The rate of application of each type of material, the number of times application shall occur annually, the specific times of each application shall occur, and the manner of application (including type of equipment used) of each material.
  - e. That the applicant, or any party engaging in the disposal or storage of material pursuant to such permit, agrees to comply with the provisions of this local law, as well as any other applicable town, county, state or federal laws or regulations, as well as any product use guidelines established by the producer of any substance used in connection with the storage, disposal and/or land application of septage, sewage and/or sludge, their derivatives or by-products. Such compliance shall include, but not necessarily be limited to, site investigation in accordance with Soil and Site Appraisal Standards, Individual Residential Wastewater Treatment Systems Design Handbook, NYS Department of Health (1996), as the same may hereafter be amended or revised. Site investigation shall be done by a licensed or certified soil scientist, engineer or hydrogeologist qualified in the field of wastewater management. The applicant shall notify the CEO as to the date, time and place of all tests to be conducted in accordance thereunder, and the CEO shall be present during the conduct thereof. Such tests shall include, but not necessarily be limited to, deep test pits, soil percolation tests, impermeable layers, high water marks and soils. A complete set of such tests shall be conducted on each acre of land on which such materials shall be disposed of, stored or applied, the location of pits shall be central to each acre so utilized, and shall be marked on a survey map accompanying the results of such tests, and shall be submitted to the Planning Board. In addition, the applicant shall submit a copy of any and all information required by the DEC under Part 360, Solid Waste Management Facilities, and Part 364, Waste Transporter Permits, including a copy of any application to the DEC filed thereunder, correspondence between the applicant and the DEC with respect thereto, a copy of the applicant's priority pollutant and heavy metals test results for the last six (6) years prior to the date of such application, if applicable, and a baseline soil test.
  - f. That the applicant is the owner in fee of all parcels upon which the storage, disposal or land application of septage, sewage or sludge shall occur. If the applicant is not the owner, the owner must sign the application and consent thereto.
  - g. The source of any and all septage, sewage and/or sludge materials to be stored, disposed of, or applied to the land, including, if applicable, company name, address and telephone number.
  - h. Each applicant for a permit shall execute a document in a form suitable for recording in the Office of the County Clerk specifying each parcel of land upon which septage, sewage and/or sludge, their derivatives and/or by-products are to be stored, disposed of or applied to, and stating that detailed information with respect thereto is on file and available for public inspection at the Office of the Town Clerk of the Town of Laurens.

4. The Planning Board shall review the application and make a determination as to its completeness within sixty (60) days after the submission thereof, and shall advise the applicant as to whether the application, as submitted, shall be deemed complete, or whether additional submissions shall be required. The Planning Board shall schedule a public hearing on the application within sixty (60) days of its determination of completeness. The Planning Board may, following such public hearing, approve such application, and direct the Town Clerk to issue a permit for the storage, disposal or land application of such materials subject to the following conditions:
  - a. the issuance of a site utilization permit for each and every property thereunder by the DEC;
  - b. the filing of a copy of any and all conditions and/or limitations imposed by the DEC with respect thereto, results of any and all tests required by the DEC in connection therewith, any and all changes in the composition of the materials to be disposed of, stored or applied to the land, and any variations in site applications and/or storage or disposal plans;
  - c. review and determination as to environmental impact of the proposed storage, disposal or land application of such materials under the State Environmental Quality review Act ("SEQRA");
  - d. only materials that have been found and proven to be soil amendments in accordance with DEC, DOH, NYS Department of Agriculture Markets, and /or U.S. EPA standards and regulations, as the same may hereafter be amended or revised, may be applied to the lands in the Town of Laurens.
  - e. that the applicant comply with all provisions hereunder.

The decision of the Planning Board to approve or deny an application hereunder shall follow the guidelines set forth in Sec. 364.4(2), 6 NYCRR, Part 364, Waste Water Transporter Permits, which provides, in part, as follows: "the decision to issue or deny a permit will be based on the compliance status of any receiving facility. A waste transporter's permit to land spread may be denied, revoked, suspended or modified if the receiving facility has been determined to have violated any law, rule or regulation or permit condition related to the operation of its treatment, storage or disposal facility."

#### Section V. Permit Duration and Renewal

1. A permit issued hereunder shall be valid for a period of one (1) year from the date of its issuance.
2. An application to renew a permit issued hereunder shall be filed with the Town Clerk no less than ninety (90) days prior to its expiration date.
3. Each and every renewal application hereunder shall be accompanied by a copy of all information submitted by the applicant to the DEC in connection with its most recent annual review.
4. The applicant shall pay any and all actual and necessary costs incurred by the Town in the administration of the oversight provisions hereunder, and such costs shall be reimbursed to the Town within thirty (30) days of from the date they are presented by the Town and shall be non-refundable;
5. Within thirty (30) days of notice of the filing of a renewal application hereunder, the CEO shall file a report with the Planning Board containing the results of all soil, water and SRS characterization tests and a statement of any and all violations hereunder and/or conditions of the applicant's permit which have occurred during the last previous permit period;

6. Not less than thirty (30) days prior to the expiration of a permit issued hereunder, the Planning Board shall conduct a public hearing to consider the renewal application;
7. If, after review of the renewal application, together with the aforementioned additional information, and after the public hearing prescribed herein, the Planning Board determines that the applicant has been in substantial compliance with the provisions hereunder as well as any conditions under a permit issued hereunder, and that the applicant is in substantial compliance with SEQR procedures for the renewal thereof, it shall approve the renewal of the applicant's permit for an additional term of one (1) year.
8. If, after review of the renewal application, together with the aforementioned additional information, and after the public hearing prescribed herein, the Planning Board determines that the applicant has not been in substantial compliance with the provisions hereunder during the term of the permit, or has not been in compliance with any conditions under a permit issued hereunder, or that the applicant is not in substantial compliance with SEQR procedures for the renewal thereof, it shall deny the renewal application, and in addition, may revoke or modify the applicant's permit for the remainder of the permit term.

#### VI. Performance Standards.

DEC rules and regulations shall govern standards for the storage, disposal and land application of septage, sewage, sludge and their derivatives and/or by-products in the Town of Laurens. In addition, the Town shall require the following performance standards:

1. Disposal of any product for which a permit is required hereunder shall be prohibited on any ground with a slope exceeding six percent (6%), and shall be prohibited on any lands between November 15 and April 1.
2. No septage, sewage, sludge and/or their derivatives or by-products shall be applied to lands situate in the Town of Laurens until such lands have been plowed to a depth of not less than eight inches (8"), and any application of such materials shall be mechanically incorporated into the soil within a six (6) hour period after application. No crop shall be harvested from, nor any livestock be allowed to graze on, any lands where such application has taken place for a period of one (1) year from the date of the last application and mechanical incorporation of such material into the soil.
3. A licensed engineer shall prepare a site plan in accordance with DEC permitting standards and this Local Law. Such site plan shall include the design of the decontamination station and subsurface discharge system as described herein, and shall be submitted to the Planning Board.
4. Upon each site at which septage, sewage or sludge and their derivatives and/or by-products are to be stored, disposed of or applied, there shall be constructed a decontamination station to wash the wheels and undercarriage of all equipment departing the fenced area, as sited by the Planning Board, and entering any public highway or thoroughfare. The duration of the wash shall be sufficient to remove any solids adhering thereto. Such decontamination station shall include a concrete pad, which, in its dimensions, shall be twice the length and width of the largest equipment unit utilized in such operation. For the purposes of this Local Law, any motor-driven vehicle and attachment thereto shall be considered an equipment unit. Walls of a minimum height of twelve inches (12") shall surround such concrete pad, with ramping at the front and rear thereof. Such decontamination site shall be equipped with a water source, electrical utility service, a water heater, which shall be set to heat the water utilized by a power washer to a temperature of not less than one hundred eighty (180) degrees Fahrenheit, and a power washer, which shall be utilized to disinfect and sterilize each equipment unit involved in

the operation. The decontamination station shall also be equipped with a center drain which empties directly into a tank with a leach field in accordance with either DEC Design Standards for Waste Water Treatment Works-Intermediate Sized Sewage Facilities or DOII Individual Residential Waste Water Treatment Systems Designs (1996), as the same may hereafter be amended or revised.

5. A daily log shall be kept by the generator, detailing the nature and composition of the material brought on-site; the origin of such material (including specific address of source location); the time of any land application of such material; the volume of such material brought on-site for storage, disposal or land application; license number of all vehicles and equipment transporting such material on-site; and the name, address and license number, classification and status of each driver transporting such material on-site. Such daily log shall be kept at the site of such operation in a watertight lockbox located at the entrance of such site, and the CEO or other duly designated officer or agent of the Town shall have access thereto at all times.
6. No materials covered hereunder shall be stored or disposed of unless the Town Planning board shall have previously approved the erection of a storage facility on-site, and no such materials shall be applied to the land unless gathered directly by the permitted equipment from the sources listed in the daily log, and no land application thereof shall be permitted until the review and consideration by Town Planning Board of the effects of additional material on the land.
7. Land application of such material shall not exceed twenty thousand (20,000) gallons per acre per year. No permittee shall utilize more than two (2) vehicles with a combined capacity of three thousand (3000) gallons for the collection of such materials to be stored, disposed of or spread upon the permitted land. No permittee shall apply such material to any site containing less than fifteen (15) acres of useable land for each collection vehicle. Only such materials which have been collected by the two (2) permitted vehicles can be applied to the land, and may only be applied directly from the vehicle that collected it; no secondary stage or collection tanks shall be permitted.
8. The generator shall notify the CEO, or, in his absence, the designated officer or agent of the Town, at least twenty-four (24) hours prior to the entry of such materials onto the permitted site, and such notice shall include the proposed storage, disposal, or land application timetable.
9. Land application of such materials shall occur only between 8 AM and dusk.
10. No such materials shall be stored in the Town except in a permanent storage facility approved by the DEC and the Town Planning Board.
11. No such materials shall be derived from any business, commercial or institutional facility.
12. Land application of such materials shall not be permitted during periods of rain, if the ground upon which such materials are to be applied is saturated, frozen or snow covered. In the event of any dispute as to the existence of any of the aforesaid conditions or circumstances, the decision of the CEO, or, in his absence, the duly designated officer or agent of the Town shall be final.
13. The generator shall post notice at intervals not greater than two hundred feet (200') surrounding any permitted site. Such notice shall state that such materials have been applied to such site, and that such materials may contain substances harmful to humans or animals, and include the skull and cross bones, the universal sign for poison. Such notice shall be maintained for a period of one (1) year following the date of the last application of such materials to the land. In addition, access to such permitted site shall be restricted by such fencing, berms and barriers as shall be deemed necessary and proper by the Town Planning Board. Such fencing, berms and barriers shall be erected on the outer edge of the buffer zones described herein.
14. The storage, disposal or application of such materials shall be prohibited on lands situate within five hundred feet (500') of the lands of Laurens Central School, or within five hundred feet

(500') from any wetland, stream, pond, lake, or other surface body of water, well, sole source aquifer, well head protection area, residence and the boundary of any such permitted site.

15. No storage, disposal or application of such materials shall be permitted if the results of any testing required hereunder indicates a concentration of heavy metals, toxic organic compounds or pathogens, commonly and generically known as "contaminants", exceeding the maximum concentration limits set forth in DOH and DEC Rules and regulations, as the same may hereafter be amended and revised.

## Section VII. Testing Standards.

The Town shall require the following tests to identify concentrations of heavy metals, toxic organic compounds or pathogens, commonly and generically known as "contaminants", in the materials covered hereunder and in the town's soil and water:

1. Septage, Sewage, Sludge, their Derivatives and/or By-Products. Each generator shall complete a "priority pollution scan" of a representative composite sample of such materials delivered to its first utilization site in the Town each calendar year, based upon priority pollutants established by the U.S. Environmental Protection Agency (EPA), as may be hereafter amended and revised. This test shall be waived if the generator shall have conducted four (4) complete priority pollutant scans of such materials on a quarterly basis during the previous twelve (12) months, and if the generator shall have conducted a minimum of one (1) annual priority pollutant scan during each of the previous three (3) calendar years. In the event that such priority pollutant scan or heavy metals tests conducted during the previous three (3) calendar years indicate the existence of contaminants in excess of DOH Standards, such materials brought on-site shall be specifically tested for such contaminants.
2. Soil Tests. One (1) soil test at the permitted site shall be conducted prior to site utilization every five (5) years during which storage, disposal or land application operations are maintained thereon, and, in addition, one (1) such test shall be conducted at the expiration of any permit period. Parameters for such tests shall include priority pollutant heavy metals and toxic organics in such materials in excess of DOI limits for soil concentration.
3. Ground Water Tests. One (1) ground water test at the permitted site shall be conducted prior to site utilization and at the end of each calendar year during which storage, disposal or land application operations are maintained thereon. Ground water samples shall be collected at a minimum of two (2) monitoring wells placed by a licensed engineer or hydrogeologist in the presence of the CEO, or, in his absence, the duly appointed officer or agent of the Town, at a depth of four to twelve feet (4-12'), or such depth(s) as may be determined by said licensed engineer or hydrogeologist, with one (1) upgradient and one (1) downgradient at the permitted site, and not greater than one hundred feet (100') from the edge of any application site. Parameters for such tests shall include fecal coliform, salmonella, phosphorous, nitrate and nitrogen.
4. All tests required hereunder shall be conducted by a qualified independent laboratory acceptable to the CEO, the generator, the Planning Board and the DEC, and shall be conducted in accordance with guidelines established by the DEC and/or the EPA, as the same may hereafter be amended or revised. A copy of all such test results shall be filed with the CEO and the Planning Board. The cost of all tests required hereunder shall be borne by the generator.

## Section VIII. Surety.

The generator shall carry such insurance as required under the provisions of Sec. 364.5, Title 6, 6 NYCRR, as the same may be hereafter amended or revised, and shall provide the CEO and the Planning Board with copies of any and all such policies.

#### Section IX. Non-Compliance and Liability; Enforcement; Penalties for Offenses.

1. No person, business or corporation in violation of the provisions hereunder or of any conditions attached to the issuance of a permit issued hereunder or the renewal thereof, shall remain in operation while such violations continue. The CEO is hereby authorized to issue a stop work order for any action or activity observed in violation of the foregoing. In addition, any such violation shall be and hereby is declared to be a public nuisance.
2. The generator shall be fully liable for any damage to persons, property, wildlife or the environment resulting from the storage, disposal or land application of the materials covered hereunder, and shall hold harmless and indemnify the Town for any liability arising therefrom until all testing required hereunder shall have been completed.
3. Any person, business or corporation adjudged in a civil or criminal proceeding to have violated this Local Law shall be liable to the Town for all expenses incurred by the town in connection with such proceedings, including reasonable attorney's fees.
4. In the enforcement of the provisions hereunder, the CEO, or, in his absence, the duly appointed officer or agent of the Town, may enter any permitted property at reasonable hours or enter any building thereon with the consent of the owner, occupant or agent thereof for the purpose of inspection for the compliance hereunder, and any such entry shall not constitute a trespass. The CEO, or the duly appointed officer or agent shall issue a notice of any violation hereof, and is authorized hereby to enforce the provisions hereof. Upon receipt of a copy of the CEO's notice of violation, the Planning Board may, upon notice and hearing in connection therewith, and upon a finding that a provision hereof has been violated, suspend or revoke any permit granted hereunder. In addition, in the event that the CEO and/or the Planning Board has probable cause to believe that a provision of any accompanying DEC permit has been violated, he/it shall notify the DEC thereof.
5. Any person, including, but not limited to, the landowner, the landowner's agent or contractor, who violates the provisions hereof shall be liable for the penalties set forth in Sec. 71-0301 of the Environmental Conservation Law, as the same may hereafter be amended or revised.
6. Any person, business or corporation violating the provisions of this Local Law shall be punished upon a conviction thereof of a fine not less than five hundred dollars (\$500.00) or confinement to a maximum term of imprisonment of fifteen (15) days, or both. Each day's continued violation shall constitute a separate and additional violation hereof.

#### Section X. Right to Farm.

Nothing contained herein shall be deemed to limit the right to farm as set forth in Article 25-AA of the NYS Agriculture & Markets Law (the "Right to Farm Act"). Notwithstanding any other provision herein, no "sound agricultural practice" as defined in said statute shall be deemed prohibited by or under this ordinance or subject to the permit requirement herein.

#### Section XI. Construction and Severability.

Nothing herein shall be deemed to impair or diminish any cause of action or remedy which the Town may have under any other town, county, state or federal law or regulation, or under the

common law; provided, however, that in the case of conflict, those provisions or rules of law which are more restrictive shall control. In addition, the town may enforce the provisions of this ordinance by court injunction.

If any clause, sentence, paragraph, subdivision, section or part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment is rendered.

#### Section XII. Effective Date.

This ordinance shall become effective upon the date it is filed in the Office of the Secretary of State of the State of New York.