

An ordinance regulating the type and amount of waste that may be dumped or disposed of in the Town of Argyle.

Be it enacted by the Town Board of the Town of Argyle, as follows:

Section I Findings and Objective

A. The Town Board of the Town of Argyle in the State of New York finds that the unrestricted dumping or disposal of waste within the Town of Argyle, whether by landfill, incineration, or otherwise:

1. will pollute the water, soil and air of said town;
2. will be injurious to the health, safety and welfare of the residents of Argyle;
3. will threaten the quality and marketability of milk and other agricultural products in said town;
4. will adversely effect the wildlife and birdlife of the Town and reduce habitat which is important to the region and the State generally for such wildlife and birdlife.
5. will be adverse to the physical and visual environment and harmful to the anticipated growth and development of said town;
6. will damage roads and roadbeds within said town beyond the financial ability of the town to provide proper maintenance and repair;
7. will exacerbate the ill effects to the town of its present open and closed landfills, the several proposed or operating incinerators within a 30 mile radius of the town, and the air pollution to the town caused by its proximity to Glens Falls with its numerous sources of air pollution, including toxic waste sites, industrial plants and heavy vehicular traffic.

B. The Town Board of the Town of Argyle is cognizant of the fact that the Washington County Board of Supervisors has already determined that the importation of out of county solid waste is likely to constitute a hazard and menace to the health and safety of residents, and that the New York Court of Appeals in Wiggins v. Town of Somers, 4 N.Y. 2d215

declared:

"Garbage is a deleterious substance, and garbage dumps emit noxious fumes.*** (It is an) inescapable fact that garbage dumps, no matter how carefully controlled, present some hazard to a community.*** Garbage dumps are obnoxious in every sense of the word and a town is entitled to restrict such operations.*** The process of burning garbage causes smoke and oxidized garbage to be given off into the air which the community must breathe."

C. The Town Board of Argyle is in agreement with said determinations of both the Washington County Board of Supervisors and the New York Court of Appeals.

D. The Town Board of Argyle finds that these harmful, dangerous and deleterious effects of waste disposal within the Town of Argyle can be substantially minimized and reduced by limitations on the nature and amount of waste which may be dumped or disposed of in the Town of Argyle during any calendar year.

E. The Town Board of Argyle finds further that the health, safety and welfare of the residents of the Town of Argyle and the protection of its environment and economy require that the quantity of waste dumped or disposed of in said town in any calendar year be limited so as not to exceed the total quantity of waste originating within said town during such calendar year, and that certain types of waste be prohibited in their entirety from disposal in said town.

SECTION 2 -- DEFINITIONS

A. Person. An individual, firm, partnership, corporation, association of persons, municipality or other governmental body or agency thereof, or any other legal entity.

B. Waste. Garbage, trash, refuse, wastepaper, rubbish, ash, debris, sewage, sludge, human and animal excretions, dead animals, industrial waste, demolition and construction debris, commercial refuse, incineration residue, all discarded substances, and all other items defined as "solid waste" by 6 NYCRR Part 360.1.

C. Originating Waste Waste which is created, caused, made or generated within the Town of Argyle.

D. Dump. Any place, piece or parcel of land used for disposal of waste or as a repository for waste, regardless of whether or not the waste is buried after placement on the land; including landfills, leachate fields, buffer zones, access roads, equipment sheds, gas burnoffs and incinerators.

E. Disposal. To dump, deposit, throw away, spill, leak, discharge, abandon, burn or otherwise get rid of waste, including the consent to or approval of such act by a person with authority to control or prevent the same.

F. Waste hauler. A person who, for a fee or other valuable consideration, carries, moves or otherwise transports waste to any dump within the Town of Argyle, regardless of the place of origination of such waste.

SECTION 3 -- PROHIBITIONS

A. No person owning, renting or otherwise having an interest in or controlling the use of a parcel of land within the Town of Argyle shall allow such land to be used as a dump for waste without first having obtained a permit for such use from the Town Board of Argyle in accordance with the provisions hereof.

B. No person shall operate as a waste hauler within the Town of Argyle without first having obtained a permit to do so from the Town Board of Argyle in accordance with the provisions hereof.

C. It is prohibited for any person to dump or dispose of waste in the Town of Argyle which is classified as either "hazardous", "toxic" or "special" by any federal, state or county agency.

D. The total amount of waste, both originating and non-originating, dumped or disposed of in the Town of Argyle in any calendar year shall not be in excess of the amount of originating waste in the Town of Argyle in that calendar year.

E. Insofar as non-originating waste is concerned, such waste may not be dumped or disposed of within the Town of Argyle in an amount greater than the amount of originating waste which is dumped or disposed of outside the Town of Argyle in any calendar year. In any calendar year that all originating waste is dumped or disposed of within the Town of Argyle, no non-originating waste may be dumped or disposed of within the Town of Argyle.

SECTION 4 PERMITS

A. Dump Permit -- Any person seeking a permit to do that which is otherwise prohibited under Section 3A hereof must make application for such permit to the Town Board of Argyle for each separate calendar year in which such person wishes to use such land as a dump, and in such application must show:

1. The name and address of applicant.
2. The location of the land to be used.
3. The name and address of the owner and/or lessee of such land.
4. Applicants relationship to such land.
5. The identity of the persons who will be hauling waste to that parcel of land.
6. The routes to be taken by such waste haulers, and the size and weights and capacity of the trucks to be used in such hauling.
7. The originating point or points of the waste to be dumped or deposited.
8. The amount of such waste which is originating, and the amount which is non-originating, during the calendar year for which the permit is sought.
9. That the amount of non-originating waste for which the permit is sought will not cause the total amount of waste to be dumped or disposed of in the Town of Argyle during that calendar year to exceed the total amount of originating waste during said calendar year. It will be applicants burden to establish these numbers to the satisfaction of the Town Board.

Such application must be in affidavit form and shall be considered by the Town Board of Argyle only upon its receipt of a non-refundable application fee of \$100 from applicant.

B. Waste Hauler Permit -- Any person seeking a waste hauler permit to do that which would otherwise be prohibited under Section 3B hereof must make application for such permit to the Town Board of Argyle for each separate calendar year in which such person wishes to operate as a waste hauler, and in such application must show:

1. The name and address of the applicant.
2. The place or places where applicant will receive the waste.
3. Whether the waste to be received by applicant is originating or non-originating waste, and the amount of each that applicant seeks to haul during the calendar year for which the permit is sought.
4. The place or places within the Town of Argyle to which

applicant seeks to haul such waste.

5. The routes through the Town of Argyle to be taken by applicant in hauling such waste, and the size and weights and capacity of each truck to be used by applicant in such hauling.
6. That the amount of non-originating waste to be hauled will not cause the total amount of waste to be dumped or disposed of in the Town of Argyle during that calendar year to exceed the total amount of originating waste during said calendar year. It will be applicants burden to establish these numbers to the satisfaction of the Town Board.
7. That none of the waste to be hauled is classified as "hazardous", "toxic" or "special" by any federal, state or county agency.

Such application must be in affidavit form and shall be considered by the Town Board of Argyle only upon its receipt of a non-refundable application fee of \$25 from applicant.

C. The issuance of any permit required herein shall rest wholly and solely in the discretion of the Town Board to whom application is made, and such discretion shall be exercised in accordance with the purpose, intent and objectives of this ordinance. The issuance of any permit hereunder may be upon such terms and conditions as to the Town Board may appear just, reasonable, proper or necessary; but under no circumstances may the Town Board issue either a dump permit or a waste hauler permit for non-originating waste which will cause the total amount of waste to be dumped or disposed of in Argyle for the permitted year to exceed the originating waste for that year.

D. Applications for dump permits and waste hauler permits for non-originating waste, to the extent that such waste may be allowed hereunder in any calendar year, shall be considered by the Town Board in the order in which such applications and the required fees are received. Once such permits for non-originating waste are issued in an amount equal to the amount of originating waste that may be dumped or disposed of outside the Town of Argyle in any calendar year, then no further permits for non-originating waste may be given that year.

SECTION 5 Exemptions

This ordinance shall not apply to the:

a. disposal of residential and farm waste which is disposed of on the premises where it is generated if said disposal is not within 500 feet of any stream, wetland, pond or other body of water, road or property boundary line. Such disposal shall be made in accordance with all other applicable laws, ordinances and regulations.

b. disposal of human waste in septic systems which meet all applicable laws, regulations and ordinances.

c. spreading of manure for usual and normal agricultural purposes.

SECTION 6 Enforcement and penalties

A. Each violation of this ordinance shall be a misdemeanor, which shall be punishable by a fine of not more than One Thousand Dollars (\$1,000) and a sentence of imprisonment not to exceed one(1) year. Each instance of prohibited conduct and each day on which a violation occurs shall be considered a separate offense.

B. Each violation of this ordinance shall also make the violator subject to a civil penalty of Ten Thousand (\$10,000) dollars. Each instance of prohibited conduct and each day on which a violation occurs shall be considered a separate violation.

C. The Town Board of Argyle or any resident of the Town of Argyle may institute an action to recover the aforesaid civil penalties, to recover such other damages as may be allowed by law for a violation of this ordinance, and/or to enjoin violation of this ordinance.

D. In addition to the foregoing, the Town Board may suspend or revoke any dump or waste hauling permit previously issued for any violation of this ordinance by a permittee.

SECTION 7 Superseding of prior ordinance or law

Wherever this ordinance conflicts with any prior ordinance or law of the Town of Argyle, then this ordinance supercedes such prior ordinance or law and this ordinance shall govern.

SECTION 8 Severability

If any section, subsection, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

SECTION 9 Effective date

This ordinance shall take effect ten days after its publication in the official newspaper of the Town and as to any person served with a copy hereof, either personally or by registered mail, it shall be effective at the time of service.