

DUMPING LOCAL LAW TOWN OF KIRKWOOD

LOCAL LAW NO. 2 OF THE YEAR 1992

A Local Law Restricting and Regulating the Use of Lands In the Town of Kirkwood for Dumping

Adopted May 5, 1992

Amended March 4, 2003 by LL No. 3-2003

Amended November 3, 2003 by LL No. 15-2003

Amended March 1, 2004 by LL No. 5-2004

Be it enacted by the Town Board of the Town of Kirkwood as follows:

Section 1. LEGISLATIVE INTENT AND TITLE.

This local law is adopted in view of the increase in illegal dumping of garbage, rubbish, and other offensive materials, together with toxic materials due in part to the increasing costs associated with disposing of such materials at the Broome County landfill. It is the intent of the Town Board of the Town of Kirkwood to restrict and regulate, in a manner consistent with the interests of the residents of the Town of Kirkwood, the dumping and/or other disposal of various wastes in order to promote the health, safety and general welfare of persons and property within the Town of Kirkwood. This local law shall be known and cited as "The Dumping Local Law of the Town of Kirkwood." Therefore, pursuant to the authority contained in the Municipal Home Rule Law, and pursuant to its police power as contained in the Town Law, Section 130, Subdivisions 11 and 15, and Town Board of the Town of Kirkwood does hereby enact the following local law.

Section 2. DEFINITIONS.

- A. Compost. Means to heap or pile matter capable of decay, including but not limited to grass cuttings, leaves, brush, decaying foods, or paper products for use as fertilizer.
- B. Construction and demolition debris. Any matter which is defined as construction and demolition debris in 6 NYCRR Part 360.
- C. Garbage. Includes but is not limited to:
 - 1. Food waste of all kinds, whether for human or animal consumption.
 - 2. Used food containers or parts thereof, whether fabricated of metal, paper, wood, glass, plastic or synthetics.
 - 3. Paper materials used in food packaging.
 - 4. Dead animals or parts thereof.
 - 5. Any other matter which shall be capable of fermentation or decay, except:
 - a. Lumber as defined herein, and
 - b. Composted garbage used as fertilizer upon farms or gardens.
- D. Litter. Any matter capable or incapable of fermentation or decay.

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- E. Lumber. Includes but is not limited to:
1. Wood of growing trees sawed or split into boards or planks.
 2. Wood pallets.
 3. Wood used in packing and/or shipping.
 4. The term “lumber” does not include untreated wood products formerly used in construction or packing and/or shipping to be used as firewood pursuant to the provisions of Section 3(B)(2) herein.
- F. Rubbish. Includes but is not limited to:
1. Waste material.
 2. Garden refuse, grass and leaves.
 3. Tires.
 4. Glass, metal, tins, cans, ashes, cinders, pottery, crockery, aluminum, plastics, styrofoam and synthetics, except matters defined herein as “garbage.”
- G. Sludge. Solids removed during the treatment of:
1. Domestic or sanitary sewage.
 2. Storm waters.
 3. Industrial wastewaters, or
 4. From any combination of these.
- H. Solid Waste. Any matter which is defined as solid waste in either of the following:
1. Broome County Local Law No. 9, 1991, or
 2. 6 New York Code, Rules and Regulations, Part 360 (hereinafter “6 NYCRR Part 360”). However, concrete and concrete products (including steel or fiberglass reinforcing rods that are imbedded in the concrete), asphalt pavement, brick, soil and rock that are found to be uncontaminated after inspection by the Town Building Inspector or Town Code Enforcement Officer shall not be deemed to be Solid Waste for the purposes of the prohibitions and restrictions of paragraph 4 of Section 3 of this Local law. (Amended Nov. 7, 2003 by LL No. 15, 2003)
- I. Town. Means the Town of Kirkwood.
- J. Toxic materials. Material listed or defined as hazardous by either of the following:
1. New York State Department of Environmental Conservation, or

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2. U.S. Environmental Protection Agency.

Section 3. PROHIBITIONS AND RESTRICTIONS.

(Amended March 4, 2003 by LL No. 3-2003)

(Amended March 1, 2004 by LL No. 5-2004)

(Amended June 1, 2004 by LL No. 24-2004)

A. Dumping, disposing, burying, burning, or littering of any of the following on any public or private lands in the Town of Kirkwood is prohibited:

1. Garbage, rubbish or litter, subject to the following:

a. The storage of garbage, rubbish or litter which is awaiting collection or removal in a durable container in a manner which does not impair the public health or safety shall not be deemed to be prohibited by this section, provided, however, that garbage, rubbish or litter shall not be left at curbside or edge of road for removal or collection more than 24 hours prior to such removal or collection.

b. The owner of a single family residence or farm may compost on the property comprising said residence or farm matter capable of decay (as specified in Section 2(A) herein) generated from that residence or farm to be used as fertilizer so long as the disposal and composting is done in a nuisance-free manner which does not impair public health, safety or general welfare.

c. The disposal on areas within the property boundaries of a single family residence or farm of ashes generated from that residence or farm shall not be deemed to be prohibited by this section.

d. The disposal on areas within the property boundaries of a single family residence or farm of animal carcasses or parts thereof generated from that residence or farm shall not be deemed to be prohibited by this section so long as the same shall be disposed of pursuant to the applicable provisions of New York State's Agriculture and Markets Law.

e. Pursuant to the authority of Town Law section 64(5-a), in the event that a property owner fails to remove any such garbage, rubbish or litter and the Enforcement Officer in his/her own opinion finds that by reason of such failure such property is or may become a place of rodent infestation or presents any other danger to the health, safety, morals and general welfare of the public, the Enforcement Officer shall serve a notice of the same in the following manner:

1. by personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in said property as shown by the records of the Town Tax Collector or of the Broome County Clerk; or if no such person can reasonably be found, by mailing such owner by registered mail a copy of such notice directed to his/her last known address as shown by the above records; and

2. by personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and

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3. by securely affixing a copy of such notice upon any residence or other structure located on the property.

The notice shall contain the following:

1. a description of the condition of the property needing remediation
 2. a statement of the particulars in which the property presents a danger to health, safety, morals and general welfare of the public
 3. an order outlining the manner in which the property is to be made safe
 4. a statement that the remediation of the property shall commence within 5 days of the service of the notice and shall be completed within 10 days thereafter, unless, for good cause shown, such time shall be extended
 5. a statement that in the event of neglect or refusal to comply with the order the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located, which shall constitute a lien and charge on the property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.
2. Sludge. However, the disposal of sludge in accordance with the regulations and licensing requirements set forth in Broome County Local Law No. 9, 1991, and by the Department of Environmental Conservation shall not be deemed to be prohibited by this section.
3. Toxic material.
4. Solid waste. However, the disposal of solid waste at a disposal facility authorized and licensed in accordance with the regulations set forth in Broome County Local Law No.9, 1991 and 6 NYCRR Part 360 shall not be deemed to be prohibited by this section.
5. Construction and demolition debris, subject to the following:
- a. The storage of construction and demolition debris which is awaiting collection and removal in a manner which does not impair the public health or safety shall not be deemed to be prohibited by this section; provided, however, that said debris is removed from the site within sixty (60) days from the issuance of a building demolition permit pursuant to Rule No. 4(e) of the Rules for Building in the Town of Kirkwood unless otherwise exempt under Section 3 (A) (5) (b) herein.
 - b. The disposal on areas within the property boundaries of a single family residence or farm of construction and demolition debris generated from that residence or farm shall not be deemed to be prohibited by this section: provided, however, that such construction and demolition debris is completely buried not closer than fifteen (15) feet from neighboring property lines. Before the area is disturbed, it must be protected so that soil or other debris cannot leave the property through erosion. Best Management Practice as set forth in the New York State Storm Water Design Manual shall be utilized. The property owner must reclaim the area affected by seeding, planting, rip-rap or other means to prevent soil erosion within 60 days from the start

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of the disturbance. If the project is to last more than 60 days, it should be completed in stages to allow for the timely reclamation.

- B. Dumping, disposing or burying of lumber in the Town is prohibited, except:
1. Lumber awaiting use in any construction project stored in a manner which does not impair the public health or safety.
 2. This section shall not be deemed to prevent the storage of untreated lumber intended for use as firewood so long as the same shall not be stored in the following manner:
 - a. on any highway right-of-way, or
 - b. at or near any intersection in such a manner as to obstruct or impair the line of sight for vehicular or pedestrian traffic.

Section 4. ENFORCEMENT AND PENALTIES.

- A. Conviction under this local law shall be a violation as defined by Section 55.10(3) of the Penal Law of the State of New York.
- B. Each day during which a violation continues may be deemed to be a separate violation.
- C. Conviction of an offense as provided by this local law shall be punishable by the following:
1. Fine of not more than \$250 or in the case of a corporation an amount in accordance with Penal Law Section 80.10, and/or
 2. In the case of an individual(s), a term of imprisonment not to exceed fifteen (15) days, and/or
 3. Restitution based on avoided disposal fees and the costs of collection and hauling, and/ or
 4. Community service.
- D. In addition to the above provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with this local law by injunction, abate or otherwise compel cessation of each violation, or obtain restitution to the Town for costs incurred by the Town in identifying and remedying each violation, including but not limited to reasonable attorney's fees and environmental testing.

Section 5. AMENDMENTS.

Any reference herein to any state, county and/or local law, rule or regulation shall include any future amendments thereto which become effective after the adoption of this local law.

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Section 6. REPEAL.

Any portions or ordinances, resolutions or regulations heretofore adopted in conflict with this local law hereby repealed including but not limited to “The Dumping Ordinance of the Town of Kirkwood.”

Section 7. CONFLICTS OF LAW.

Whenever any local law, ordinance, or regulation of the Town, County of Broome, State of New York, or United States of America is inconsistent with this local law whichever local law, ordinance, or regulation is more stringent shall supersede the less stringent local law, ordinance, or regulation.

Section 8. SAVING CLAUSE.

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

Section 9. EFFECTIVE DATE.

This local law shall take effect as provided in Section 27 of the Municipal Home Rule Law.