

March 11 1990 (Draft 7)

SOLID WASTE

AN ORDINANCE CONCERNING THE SEPARATION, RECOVERY, COLLECTION, REMOVAL, STORAGE AND DISPOSITION OF SOLID WASTE, INCLUDING RECYCLABLES IN THE TOWN OF NEWTOWN.

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ARTICLE I

PURPOSE

Section 1- Purpose

This ordinance is hereby enacted in order to provide a responsible method of dealing with Newtown's Solid Waste, including Recyclables and to meet the State of Connecticut mandate enacted in Public Act No. 87-544 and its subsequent regulations, thereby providing for the Health and Welfare of Newtown's citizens.

ARTICLE II

DEFINITIONS

Section 1 - Definitions

As used in this ordinance, the following terms shall have the meanings indicated below:

BOARD OF SELECTMEN OR BOARD: The Board of Selectmen of the town of Newtown, Connecticut. When used in reference to a voting body, it shall be taken to include the phrase "or a majority thereof."

BULKY WASTE: Land clearing debris and waste resulting directly from demolition activities, other than clean fill.

COMMERCIAL SOLID WASTE HAULER: Any person, firm or corporation, other than an Incidental Commercial User, as defined below, whose business activity is collecting, picking up and/or transporting Solid Waste and depositing or dumping the same in the Town Solid Waste Facility.

DWELLING: A building capable of providing complete living quarters including complete kitchen and bathroom facilities.

DWELLING UNIT: Each part of a building of a multifamily development capable of providing separate quarters including complete kitchen and bathroom facilities for one family.

FAMILY: One or more persons related by blood, marriage or adoption living together as a single housekeeping unit, including foster children and/or domestic help, but not including paying guests, boarders or roomers. A group of not more than four unrelated persons keeping house together shall be considered a family.

GARBAGE: Animal, vegetable, or other organic wastes resulting from the handling, preparation, cooking, serving or consumption of food.

INCIDENTAL COMMERCIAL USER: Any person, firm, or corporation, depositing or dumping Solid Waste in the Town Solid Waste Facility, which is incidental to their/its business or trade, such as a building contractor, landscaper or gardener. An "Incidental Commercial User" shall be subject to a special permit as hereinafter required.

MUNICIPAL SOLID WASTE OR MSW: That portion of the Solid Waste stream suitable for disposal, as determined by the Department of Environmental Protection of the State of Connecticut.

PRIVATE HOME: A Dwelling consisting of one, two, or more Dwelling Units.

RECYCLABLES: Any item designated by the Board of Selectmen to be separated or diverted as defined below under "Recycle".

RECYCLE: To separate or divert an item or items from the Solid Waste stream for the purposes of processing it, causing it to be processed, or storing it for later processing into a material product, including the production of compost, in order to provide for disposition of the item or items in a manner, other than incineration or landfilling, which will best protect the environment. Nothing in this definition shall preclude the use of Waste Oil as fuel in an oil burner, or Scrap Tires as fuel in an incinerator.

RESIDENTIAL RECYCLING BOX: Any container designated as a residential recycling container by the Board of Selectmen, for the collection and storage of Recyclables.

RECYCLING CENTER: The Town's recycling facility, area or areas as designated by the Newtown Legislative Council.

REFUSE: Garbage and Rubbish

RUBBISH: That portion of Municipal Solid Waste that is not Garbage nor Bulky Waste.

SCRAP METAL: Used or discarded items which consist predominantly of ferrous metals, aluminum, brass, copper, lead, chromium, tin, nickel or alloys thereof, including, but not limited to, white goods and metal food containers.

SCRAP TIRES: Discarded rubber or synthetic rubber tires used by or manufactured for vehicles including, but not limited to, automobiles, trucks, buses, tractors and trailers.

SOLID WASTE: Unwanted or discarded materials, including solid, liquid, semi-solid or contained gaseous material. This is an all encompassing term including but not limited to Garbage, Rubbish, Recyclables, Bulky Waste, and other separately identified waste streams.

STORAGE BATTERIES: Lead acid batteries or other batteries used in motor vehicles such as automobiles, airplanes, boats, recreational vehicles, tractors, and like applications.

TOWN LANDFILL: The Town's Solid Waste disposal area situated on Route 25 at the southern end of town, or any other areas so designated by the Newtown Legislative Council.

TRANSFER STATION: The Town Solid Waste transfer facility, area, or areas as designated by the Newtown Legislative Council.

WASTE OIL: Crankcase oil that has been utilized in internal combustion engines.

BRUSH WASTE AND LEAVES: Brush and the boughs and foliage of trees.

TOWN SOLID WASTE FACILITY: The Town Solid Waste handling facility area or areas as designated by the Newtown Legislative Council. This facility may include the Town Landfill, transfer station, and/or Recycling center.

ARTICLE III

AUTHORITY, POWERS, DUTIES, FEES

Section 1 - Authority to direct Solid Waste.

The Newtown Legislative Council shall have the final authority to direct all Solid Waste generated within the Town of Newtown to the appropriate solid waste facility pursuant to Section 22a-220a of the Connecticut General Statutes, as amended.

Section 2 - Powers and duties.

2a. The Board of Selectmen shall adopt rules and regulations from time to time governing any practice in Articles IV through VI and related practices concerning Solid Waste, provided that such rules or regulations are not inconsistent with this ordinance. Said rules and regulations may include a schedule of fines for anyone violating the provisions of this ordinance or its subsequent regulations.

2b. The Board of Selectmen shall have the authority to add or delete, from time to time, items on the list of Recyclables in Sections 3a and 3c of Article IV, so long as such action shall not be in conflict with Connecticut General Statutes or Department of Environmental Protection Regulations.

2c. All generators of Solid Waste, other than residents of Private Homes shall be responsible for the proper separation of the Solid Waste they generate, to the extent required by law, and pursuant to all regulations established by the Board of Selectmen. All such generators shall be required to recycle all the items listed in Section 3a of Article IV and any other items pursuant to Section 2b of Article III.

2d. For purposes of this ordinance, the Board of Selectmen shall strive to apportion the Town into two or more districts in such a manner as to fairly distribute the opportunity for meaningful business investment by prospective Commercial Solid Waste Haulers. The Board of Selectmen shall enter into a contract for each district for collection of Recyclables from all Private Homes within each such district of the Town of Newtown, as established, subject to an appropriation for said contract by the Newtown Legislative Council. Said collection shall be done weekly at curbside for all Private Homes. Contracts for the collection of Recyclables shall be awarded to no less than two (2) Commercial Solid Waste Haulers who are not in any way related to each other with respect to their principal business practices. Said collection shall start no later than January 2, 1991.

Section 3 - Fees

The Board of Selectmen is hereby authorized to adopt a schedule of fees for depositing any and all Solid Waste in the Town Solid Waste Facility (whether such deposits are made by Commercial Solid Waste Haulers, Incidental Commercial Users, or by individual residents of the Town of Newtown).

ARTICLE IV

Collection and Transportation of Solid Waste

Section 1 - Compliance with other regulations.

Transportation and handling of Solid Waste shall be carried out in accordance with all state laws and regulations, included but not limited to The Public Health Code of the State of Connecticut as it shall be amended from time to time. No newspaper or other Solid Waste, clean or otherwise, shall be set out, stored, or transported in such a fashion as to cause it to blow away, become a hazard to public travel or safety, or otherwise create a public nuisance.

Section 2 - Duration of Contract

No contract pursuant to Subsection 2d of Article III shall be for more than five (5) years.

Section 3 - Recycling mandated

3a. The following materials are hereby designated as Recyclables:

- (1) Newspapers
- (2) Glass food containers
- (3) Metal food containers
- (4) Storage Batteries
- (5) Leaves
- (6) Corrugated cardboard
- (7) Office paper (residential office paper is excluded)
- (8) Scrap Metal

(9) Waste Oil

3b. All Recyclables listed in Section 3a above shall be recycled by all Private Homes in the manner set forth in this ordinance and its subsequent regulations.

3c. The following items are designated as "optional Recyclables" subject to voluntary recycling and mandatory pilot programs. Such items shall be considered "Recyclables" for the purposes of proper use of Residential Recycling Boxes, collection and transportation of Recyclables, and depositing of Recyclable material at the Recycling Center, when a program has been established through regulations pursuant to this ordinance to handle these materials, and the materials are handled in accordance with said regulations.

- (1) Bulky Waste
- (2) Dry-cell batteries
- (3) Grass clippings
- (4) H.D.P.E. plastic containers
- (5) Magazines and other non-magazine printed matter.
- (6) P.E.T. plastic food containers
- (7) Scrap Tires
- (8) Any other items designated by the Board of Selectmen

Section 4 - Containers for Private Homes.

4a. The Town shall provide one free Residential Recycling Box to each Private Home, unless such a box is to be provided as part of the contract per Section 2d of Article III.

4b. The owner or occupant of such Private Home shall label the Residential Recycling Box or cause said box to be labeled with the address where the box shall be used. All such boxes must be so labeled by the first time they are set out at the curb for collection.

4c. Said box shall remain the property of the Town, or the holder of the contract per Section 2d of Article III if said contract holder provided the box to the Private Home.

4d. Regulations for replacement of Residential Recycling Boxes

or the supplying or purchase of additional said boxes for residents shall be determined by the Board of Selectmen. In case said boxes are provided by contract per Section 2d of Article III, such regulations shall be spelled out in the said contract.

Section 5 - Additional services

Additional services beyond those offered by the Town contract may be rendered by the Commercial Solid Waste Hauler if requested by an individual within the said collection district, and a reasonable additional collection fee, subject to approval by the Board of Selectmen, may be charged by the Commercial Solid Waste Hauler to said individual for the added service.

Section 6 - Ownership of Recyclables; scavenging prohibited.

6a. Except as may be otherwise excepted by Statute, upon the placement of Recyclables at the curb in a Residential Recycling Box, it shall be a violation of this ordinance for any person, partnership, firm, or corporation, other the depositor of such Recyclables or authorized agents of the Town acting in the course of their employment or contract, to collect or pick up, or cause to be collected or picked up, such Recyclables.

6b. Each and every such collection or pick up in violation of Subsection 6a of this Article from one or more locations shall constitute a separate and distinct offense.

6c. Any person, partnership, firm, or corporation violating Subsection 6a of this Article shall be fined not more than one hundred dollars (\$100) for each offense.

6d. In addition to any fine per Subsection 6c of this Article, the offender, at the option of the Board of Selectmen, may be required to make restitution to the Town of Newtown for the value of any materials illegally removed.

6e. Nothing in this ordinance shall abridge the right of any person, partnership, firm, or corporation to give or sell their Recyclables, including deposit beverage containers, to any person, partnership, firm, corporation, or recycling program lawfully operated for profit, non-profit, or charitable purposes, provided that such materials shall not have been set out on the curb, or at any designated collection or pick-up site authorized by the Town or its designated agent.

ARTICLE V

TOWN SOLID WASTE FACILITY

Section 1 - Solid Waste originating from sources outside of the Town of Newtown.

The dumping or disposal in the Town Solid Waste Facility of any Solid Waste from a source outside of the Town of Newtown is prohibited. However, Recyclables originating outside of the Town of Newtown may be permitted by regulations established by the Board of Selectmen.

Section 2 - Scavenging

There shall be no scavenging at the Town Solid Waste Facility unless authorized by the Board of Selectmen.

ARTICLE VI

Permits, Enforcement, and Penalties

Section 1. Permits required for Commercial Solid Waste Haulers.

1a - No Commercial Solid Waste Hauler shall deposit or dump any Solid Waste in the Town Solid Waste Facility without first obtaining a permit to do so.

1b - No permit shall be issued to any Commercial Solid Waste Hauler whose permit has been previously revoked twice. For purposes of this section, the ownership of Commercial Solid Waste Haulers shall be determined pursuant to the standards set forth in Subsections 1c and 1d of this Article.

1c - During the period of any permit suspension, no permit shall be issued:

1c-(1) To any person who is or was an owner of or partner in any unincorporated business whose permit, during the period of said ownership, was revoked under the terms of this Article or who owns or owned fifty per cent (50%) or more of the stock of any corporation whose permit, during the period of said ownership, was revoked under the terms of this Article.

1c-(2) To any partnership or unincorporated business in which any owner or partner is or was the owner of or partner in any unincorporated business whose permit, during the period of said ownership, was revoked under the terms of this Article or in which any partner or owner owns or owned fifty per cent (50%) or

more of the stock of any corporation whose permit, during the period of said ownership, was revoked under the terms of this Article.

1c-(3) To any corporation in which the owner of fifty per cent (50%) or more of the stock is or was the owner of fifty per cent (50%) or more of the stock of any corporation whose permit, during the period of said ownership, was revoked under the terms of this Article or is or was the owner of or partner in any unincorporated business whose permit, during the period of said ownership, was revoked under the terms of this Article.

1d - For purposes of the computation of the ownership of stock in any corporation or the interest in any partnership or unincorporated business under the provisions of this section, the interest of any person shall include:

1d -(1) Any beneficial interest held for the benefit of said person or for the benefit of any person of the type set forth in Subsection 1d-(2) or 1d-(3) hereof, whether in trust or otherwise.

1d -(2) Any interest owned by the spouse of said person, if said person and said spouse shall file a joint tax return for purposes of Federal or State tax.

1d -(3) Any interest owned by any person whom said person shall claim as a dependent upon his or her Federal or State tax return.

1e - The Board of Selectmen may require of any Permittee or permit applicant, such information, under oath, as it deems necessary for purposes of enforcement of this section. To the extent permitted by law, such information shall not be disclosed, except to the extent necessary for the determination, by the appropriate municipal authorities, as to compliance with the provisions of this ordinance.

Section 2 - Revocation of permit of Commercial Solid Waste Haulers.

2a. The permit of any Commercial Solid Waste Hauler shall, after notice and hearing pursuant to Subsection 2b of this Article, be revoked for the violations listed in Subsections 2a-(1), 2a-(2) and 2a-(3) of this Article. In addition, said Commercial Solid Waste Hauler shall be prohibited from dumping or depositing any Solid Waste in the Newtown Town Solid Waste Facility , for a period of thirty (30) days from the date of such permit revocation.

2a -(1) Dumping or depositing any Solid Waste originating

from a source outside of the limits of the Town of Newtown, except as otherwise provided herein.

2a -(2) Depositing Bulky Waste, Recyclables, or Refuse in other than the authorized facility.

2a-(3) Refusing to remove or cause to be removed Bulky Waste, Recyclables, or Refuse, deposited at other than the authorized facility, when ordered to do so by the Board of Selectmen or its authorized agent.

2a-(4) Any material misrepresentation or omission in the filling out of any permit application or in providing information pursuant to this ordinance.

2b. Investigations and hearings.

2b-(1) Prior to any action pursuant to the provisions of Subsection 2a of this Article, the Board of Selectmen shall hold a hearing, pursuant to the provisions of this Subsection.

(a) The First Selectman may cause the Town Attorney to investigate any allegation of a violation of the provisions of this Article, and, if he or she shall determine that there is probable cause to believe that such a violation has occurred, he or she shall refer said matter to the Board of Selectmen for a hearing.

(b) The Selectman who, pursuant to the provisions of Subsection 2b -1(c) of this section, shall preside at said hearing shall give notice of the time and place of said hearing and a general statement of the alleged violation, including the date thereof, to the Permittee by mailing such notice, certified mail, return receipt requested, not less than seven (7) days prior to the date of said hearing, to the address set forth upon the permit.

(c) The First Selectman shall preside at said hearing unless said First Selectman shall be disqualified, in which event the Selectman commonly known as the Second Selectman shall preside.

(d) The permittee and the Town shall have the right to be represented by counsel.

(e) All witnesses at said hearing shall be placed under oath, and each party shall have an opportunity to cross-examine all witnesses to be presented by the other.

(f) Unless both the Town and the Permittee shall waive the keeping of a transcript, a verbatim record of said proceeding

shall be kept. Either party shall have the right to order a copy of said record upon the payment, in advance, of the cost thereof.

(g) The rules of evidence shall not apply to any proceeding hereunder, and subject to the provisions of Subsection 2b-1(e), the presiding Selectman shall be permitted to accept such evidence as he or she shall deem appropriate.

(h) In the event that any member of the Board of Selectmen shall be a witness in the proceedings, he or she shall be disqualified to act upon said complaint.

(i) In the event that any member of the Board of Selectmen shall be disqualified to act upon said complaint for any reason, the remaining members of the Board shall select an elector of the Town to replace said disqualified Selectman at said hearing. If the remaining Selectmen are unable to agree upon said replacement, the Newtown Legislative Council, acting at a regular or special meeting, shall select said replacement.

2b-(2) In the event that the Board of Selectmen shall determine, by a preponderance of the evidence, that the Permittee has dumped or deposited solid waste in violation of Subsection 2a of this Article, the Selectman presiding at said hearing shall take such action as may be proper under the provisions of this Article. Notice of such action shall be given to the Permittee, in writing, by mailing thereof, certified mail return receipt requested, to said Permittee at the address set forth on the permit not less than five (5) days prior to the effective date of said action.

Section 3 - Term of Permit for Commercial Solid Waste Haulers

All permits issued to Commercial Solid Waste Haulers pursuant to Subsections 1 and 2 of this Article shall be in effect until revoked or until voluntarily surrendered by the Permittee.

Section 4 - Permit required for Incidental Commercial User.

An Incidental Commercial User shall not deposit or dump any Solid Waste in the Town Solid Waste Facility without first obtaining a permit to do so from the Town Clerk, or such other official as may be designated from time to time by the Board of Selectmen. The permit shall be valid for a period of one (1) day and shall only be issued to the Incidental Commercial User upon satisfactory proof that the Solid Waste to be dumped or deposited in the Town Solid Waste Facility originates from a source within the Town of Newtown.

Section 5 - Permit required for Newtown residents.

5a. A resident of the Town of Newtown shall not deposit or dump any Solid Waste in the Town Solid Waste Facility without first obtaining a permit to do so from the Town Clerk, or such other official as may be designated from time to time by the Board of Selectmen. Such permit shall be valid for a period not to exceed two years and shall be issued upon satisfactory proof that the applicant is a resident of the Town of Newtown, and such permit shall be used for Solid Waste generated from his or her residence only. Said permit may, but need not, be combined with other functions requiring town residency, such as use of parks and pools.

5b - Said permit shall be deemed automatically revoked if the Permittee is no longer a resident of the Town of Newtown.

Section 6 - Inspections, notices and penalties for offenses.

6a - All Solid Waste is subject to inspection from the time it is placed at the curb or in a dumpster, through and including the time it arrives at the ultimate disposal area.

6a-(1) Said inspection may be carried out by the Town Recycling Coordinator; the Director of Public Works; the Director of Health or his or her designated agent or by any member of the Board of Selectmen or its designated agent.

6a-(2) The Commercial Solid Waste Hauler responsible for pick-up of a particular load of Refuse or Recyclables may inspect said Refuse and Recyclables at curbside or in dumpsters for the purpose of determining proper separation of Solid Waste as set forth in this ordinance and its subsequent regulations.

6 b. An informational or warning notice may be given orally or in writing whenever any provision of this ordinance is violated by any person, partnership, firm, corporation, or association.

ARTICLE VII

MISCELLANEOUS

Section 1 - Validity

If any section, paragraph, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional by a decree or decision of any court of

competent jurisdiction, such decree or decision shall not affect or impair the validity of any other section or remaining portion of this ordinance.

Section 2 - Relation to previous ordinance.

Nothing in this ordinance shall be deemed to invalidate any action taken regarding any forfeiture or revocation prior to the effective date of this ordinance.

Section 3 - Ordinance Number 12, known as the "Ordinance To Regulate the Disposal of Garbage, Rubbish or Waste Material of any Kind in Municipal Disposal Area" is hereby repealed. Resolution number 6, known as the Town Dump Resolution adopted May 20, 1949 is hereby repealed.

Section 4- Effective date.

This ordinance shall take effect 15 days after publication.