

REVISED DRAFT – JUNE 7, 2007

A LOCAL LAW

AMENDING THE CORINTH TOWN CODE

RELATING TO DISPOSAL OF WASTE

Be it enacted by the Corinth Town Board as follows:

ARTICLE 1. PURPOSE - The Town recognizes that any facility utilized for the disposal of waste material may present a hazard to both the natural and man-made resources of the community. Accordingly, the Town seeks to strictly regulate such facilities consistent with the development objectives of the Town to mitigate these impacts to the maximum extent possible.

ARTICLE 2. AMENDMENT OF TOWN CODE – The Code of the Town of Corinth (“Town Code”) is hereby amended as follows:

A. Chapter 71 of the Town Code, entitled “**DUMPS AND DUMPING**” is amended as follows:

(i) **Section 71-1**, entitled “Declaration of policy”, is amended to read as follows:

It is hereby determined by the Town Board that the establishment and/or operation of dumps for the disposal of ~~garbage and rubbish~~ garbage, rubbish and waste materials of any nature are likely to constitute a hazard and menace to health and safety of the residents of the Town of Corinth, and it is therefore the intent of this chapter to prohibit the establishment and/or operation of dumps other than by the Town of Corinth ~~for the disposal of garbage and rubbish in the Town of Corinth~~ pursuant to §130, Subdivisions 6 and 15 of the Town Law of the State of New York.

(ii) The definition of PERSON contained in **Section 71-2**, entitled “Definitions”, is amended to read as follows:

PERSON -- Includes an individual, firm, partnership, corporation, limited liability company, municipality or association of persons.

NATURAL – “Natural” shall mean naturally found or created and not created through manmade processes.

ORGANIC – “Organic” shall mean composed solely of animal or plant matter.

(iii) **Section 71-3**, entitled “Restrictions”, is amended to read as follows:

The establishment and/or operation and/or maintenance of a dump other than by the Town of Corinth ~~for the disposal of garbage and rubbish~~ is hereby prohibited in the Town of Corinth.

(iv) **Section 71-4**, entitled “Exceptions”, is amended to read as follows:

Nothing herein contained shall be deemed to prohibit any person from (a) disposing of noncommercial or nonindustrial rubbish ~~composed solely of natural organic materials, waste materials and garbage~~ on ~~the~~ property upon which such rubbish, ~~waste material and garbage~~ is produced or (b) disposing of paper sludge, or ashes produced by burning untreated wood, on the property upon which such paper sludge or ashes are produced, provided such paper sludge and/or ashes are deposited only in dump or landfill approved by the Department of Environmental Conservation and in accordance with a valid Department of Environmental Conservation permit.

(v) **Section 71-5**, entitled “Variance”, is re-titled “Waiver” and is amended to read as follows:

A person may apply to the Town Board for a waiver from the provisions of this Chapter, except that no waiver may be granted that would allow deposit or disposal of any waste material on property other than that where it is created, generated or produced. ***The applicant for such a waiver shall pay the costs of any review by an engineer or other expert retained by the Town as part of the Town’s review of the application. The procedure for review of a waiver request shall be as follows:***

(1) Application Form; SEQRA Form – The person seeking a waiver shall complete an application form for the purpose and a SEQRA environmental assessment form (EAF), both of which shall be available from the Town’s Code Enforcement Officer.

(2) Submission of Application – The completed application form, EAF and all supporting materials required in accordance with the application form and these provisions shall be submitted to the Code Enforcement Officer, who shall deliver them to the Town Board at its next regular monthly meeting.

(3) Town Board Receipt of Application – The Town Board shall receive the application form, EAF and supporting materials from the Code Enforcement Officer. Within 31 days of the meeting at which the Town Board receives them, the Town Board shall determine whether to engage the services of an engineer(s) or other appropriately qualified consultant(s) for the purpose of obtaining expert advice as to (1) whether additional information is needed in order to prudently and appropriately evaluate the application, and/or (2) whether the requested waiver would result in one or more significant detrimental impacts to the health, safety or welfare of the Town or its residents, including any likely environmental effects.

(4) Engagement of Engineer(s) or Other Consultant(s) – In the event the Town Board decides that an engineer(s) or other expert(s) should be engaged to review the application and supporting materials and provide the Board with advice, the Town Board shall select and retain such an expert(s) within 62 days of its decision to obtain expert advice.

(5) If the Town Board retains an engineer(s) or other expert(s) in accordance with Paragraph 4, above, within 45 days thereafter he or she shall report in writing to the Town Board as to whether any additional information is needed, in addition to the forms and supporting materials submitted by the applicant, in order for the Town's expert(s) to evaluate the application and render a professional opinion as to whether the requested waiver, if granted, would have a significant detrimental impact on the health, safety or welfare of the Town or its residents, including any likely environmental effects. If the report of the engineer(s) or other expert(s) advises that additional information is needed, the report shall also specify what information is necessary. The report of the engineer(s) or expert(s) shall be reviewed at the next regular meeting of the Town Board after receipt of the report by the Town.

(6) The Town Board shall review the report of the engineer or other expert and shall determine whether additional, or other, expert assistance is needed in order to properly evaluate the applicant's waiver request. If the Town Board decides that additional or other expert is necessary, the Board shall have 62 days within which to retain an appropriate engineer or other expert, who shall advise the Board of the estimated time reasonably necessary to provide a written report to the Board, which report shall contain, if appropriate, any professional opinion or conclusion as to whether the requested waiver would result in one or more significant detrimental impacts to the health, safety or welfare of the Town or its residents, including any likely environmental effects, together with any other opinions, conclusions and/or professional recommendations of the expert.

(7) If the Town Board seeks further or other expert advice in accordance with Paragraph 6, above, the expert retained shall have a reasonable length of time, consistent with his or her estimate of time required, to deliver the report for which the expert was engaged by the Board. In the event the expert needs additional time, beyond the period he or she previously estimated to be necessary, to produce his or her report, a reasonable amount of additional time shall be allowed.

(8) At the next regular Town Board meeting after the Town's receipt of reports from engineers and experts engaged to assist the Town Board, the Board shall determine whether it has received the final reports of all such engineers and experts. If the Board determines that all final reports have been received, the Board shall have up to 62 days to review and study the reports, during which time it may request written or verbal answers to any questions posed collectively by the Board. Answers to any such questions shall be provided within 31 days after such 62-day period,

except that the 31-day period may be extended by the Board for good reason. At the Board's next regularly scheduled meeting after the Town's receipt of answers from its expert(s), the Board shall determine whether all of its questions have been satisfactorily answered. If so, within 62 days of that determination the Board shall hold a Public Hearing on the waiver application. Notice of the hearing shall be by publication in the Town's official newspaper(s) at least 10 days prior to the hearing and by posting at Town Hall and by mailing notice to owners of property within 1,000 feet of the property for which the waiver is being sought at least 10 days prior to the date of the hearing. If any of the Board's questions have not been satisfactorily answered, the Board shall fix a reasonable period of time for receipt of clarification of any such answers. Upon the Board's determination that all necessary clarification has been received, it shall hold a Public Hearing within the following 62 days, with notice provided as set forth above.

(9) The Public Hearing on applicant's waiver request shall not remain open longer than 45 days without the applicant's consent, which consent shall not be unreasonably withheld.

(9) Within 31 days after the conclusion of the Public Hearing, the Town Board shall begin its SEQRA review of the waiver application, except that if coordinated SEQRA review will be conducted, the Town Board may initiate such coordinated review at any time after it receives the applicant's EAF with Part 1 completed.

(10) Within 62 days after the Town Board's issuance of a Negative Declaration or, if applicable, within 62 days after the Town Board issues its findings following the preparation of an environmental impact statement, the Board shall render a decision as to whether to grant the requested waiver, deny the waiver, or grant the waiver subject to conditions. In making its decision, the Town Board shall consider the application form, supporting material submitted by the applicant, spoken and written comments from the Public Hearing, and all reports, opinions and recommendations provided by experts retained by the Board. Considering all of the evidence, the Board shall determine whether granting the requested waiver would likely result in one or more significant detrimental impacts to the health, safety or welfare of the Town or its residents, including any likely detrimental environmental effects. If the Board finds there would be, or would likely be, one or more such detrimental impacts which cannot be prevented by the imposition of one or more reasonable conditions, it shall deny the waiver request.

B. Chapter 87 of the Town Code, entitled "**JUNKYARDS, AUTOMOBILE**" is amended as follows:

(i) The first sentence of **Section 87-1**, entitled "Legislative intent" is amended to read as follows:

By the adoption of this chapter, the Town Board of the Town of Corinth declares its intent in so doing to be to regulate, control and license the activities or businesses known as "auto

graveyards," "junkyards," and "secondhand parts collection areas" and the processing of used metals for resale and the storage and/or disposal of other used or secondhand property intended for resale ~~dumping, storage and disposal of waste, secondhand or used materials of whatever composition.~~

(ii) **Section 87-3**, entitled "License required", is amended to read as follows:

No person shall engage in or conduct on real property within the Town of Corinth, either for himself or for and on behalf of any other person, directly or indirectly as agent, employee or otherwise, any activity or business, either for profit or otherwise, at wholesale or retail, which involves the collection, storage, ~~dumping~~, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging for sale, resale, storing or disposal or otherwise of bodies, engines, or other parts of autos or of any other secondhand or used property, of whatever material it is composed, or any waste material, whether composed of wood, paper, cloth, cardboard, plastics, metals, stone, cement or otherwise, without first obtaining a license therefor as hereinafter provided.

C. **Chapter 89** of the Town Code, entitled "**LAND USE**", is amended as follows:

(i) **Section 89-56**, entitled "Planned Unit Development District Standards", is amended by deleting subparagraph (4) of paragraph B, entitled "Industrial PDD standards".

(ii) **Appendix A** entitled "DEFINITIONS" is amended as follows:

(a) the definition of WASTE DISPOSAL AREA is deleted in its entirety;

(b) the definition of INDUSTRY/MANUFACTURING is amended to read as follows:

INDUSTRY, MANUFACTURING - Any industrial process ~~whereby the nature, size or shape of article is changed into a product that generally shall be a finished product for the~~ manufacturing, processing, cleaning or assembly of any product, commodity or article which is not considered Light Industry; but not including (a) refineries, (b) cement manufacturing, (c) slaughterhouses, (d) explosives manufacturing, (e) **manufacture, fabrication or assembly of nuclear weapons or components of nuclear weapons, (f) any storage, transfer, use and/or processing of toxic or hazardous wastes, including medical wastes, sewage sludge and any materials containing pathogens (g) any manufacture, storage, use and/or processing of extremely toxic chemicals, (h) any manufacture, use, processing, generation**

and/or storage of corrosive, highly toxic, oxidizing, pyrophoric, water-reactive, highly combustible, flammable or explosive materials that constitute a high fire, explosion or health hazard, including **but not limited to** loose, combustible fibers, dust and unstable material, (j) any manufacture, storage, transportation, **processing and/or any other** use of any substance potentially dangerous to the public health, safety and welfare, including generation of any such material as a by-product or waste product, or (j) **the burning, gasification or other combustion or chemical conversion, by any process, of any fuel or material of any form or nature; whether solid, liquid, gaseous, or other; which would result in the generation, creation or release of heat, electricity or any other form of energy or fuel, whether directly or indirectly**

(iii) SCHEDULE 1 is amended as follows:

- (a) “Compost Facility” is deleted as a Special Permit Use in the Industrial (I) District;
- (b) “Manufacturing Industry” and “Industry, Light” are deleted as Permitted Uses in the Industrial (I) District and added, with their respective area and bulk regulations, as Special Permit Uses in the Industrial (I) District.

ARTICLE 3. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

ARTICLE 4. *Neither all nor any part of this Local Law shall have the effect of terminating or preventing the extension of the Local Law entitled “A Local Law Establishing a Moratorium on Waste Disposal Facilities in the Town of Corinth,” which was approved by the Corinth Town Board on _____ and filed in the New York Secretary of State’s Office on _____ as such Moratorium applies to composting facilities and as such law has been extended and may be further extended. During such Moratorium and its extensions, the Town Board has been and is continuing to study composting and the potential effects of composting on the health, safety and welfare of Town residents. The Town Board plans to adopt a separate Local Law in the future to address composting.* All *other* Local Laws or ordinances or parts of *other* Local Laws or ordinances in conflict with Articles of this Local law are hereby repealed.

ARTICLE 5. This Local Law shall take effect upon filing in the office of the New York State Secretary of State.