

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

County  
City# of Orleans  
#Town  
#Village#

Local Law No. 2 of the year 19 91

A local law Solid Waste Disposal and Sanitary Landfill Law of the County of Orleans  
(Insert title)

Be it enacted by the Legislature of the  
(Name of Legislative Body)

County  
City# of Orleans as follows:  
#Town  
#Village#

I. TITLE

This local law shall be known as the "Solid Waste Disposal and Sanitary Landfill Law of the County of Orleans".

II LEGISLATIVE FINDINGS AND PURPOSE OF LOCAL LAW

- A. Waste disposal activities in Orleans County are increasing to such an extent that the quality of life of County residents is threatened.
- B. Undesirable aspects of waste disposal include the proliferation on County highways of garbage truck traffic that is unsightly, noisy, malodorous, dangerous to pedestrians and other traffic, and damaging to roadways.
- C. Furthermore, expansion of solid waste disposal activity within the county, including expanded acreage and increased height, is likely to be unsightly and to have deleterious effects on property values associated with adjacent or nearby landfill operation and upon the tax bases of local municipalities.
- D. The need for landfill cover at sanitary landfills has also resulted in an undesirable proliferation of ponds throughout the County created by mining and removal of fill material.
- E. Solid waste landfills are by their very nature potentially dangerous to County residents and the surrounding natural environment and pose threats to water tables, nearby creeks and streams, and other bodies of water. Geology varies throughout Orleans

County in such a way that the danger of contamination is also variable and unpredictable. The possibility of water table contamination is of especial concern in Orleans County since most County residents rely on private wells rather than on municipal water systems. Contamination of water supplies may be very expensive or impossible to remediate.

- F. Recycling of solid waste within Orleans County should be encouraged in the interests of conserving natural resources and reducing reliance on sanitary landfills for waste disposal. Recycling reduces demand for landfill space, reduces the level of landfill-related activities, and extends the usable lifetimes of landfills.
- G. Landfill space within Orleans County is being filled at such a rate that available space for waste generated by County residents is being limited.
- H. Private landfill operation in Orleans County unavoidable and adversely affects the community in a manner that imposes a burden on its citizens that outweighs the advantages of having local waste disposal available and the economic benefits of having such facilities as ongoing business concerns and employers.
- I. The operation of sanitary landfills in a community is a subject of legitimate interest and concern to its residents, making it desirable that County residents have access to as much accurate, current information about the scope and effect of landfill operations, and the interaction of landfill operators with government, as possible.
- J. Solid waste regulation under the New York Environmental Conservation Law (ECL) is inadequate to relieve the Legislature's concerns.
- K. The Legislature intends by this Local Law to regulate the operation of sanitary landfills within Orleans County in order to promote a clean, wholesome, prosperous, and attractive environment for the community, and to ensure the availability of solid waste disposal for County residents now and in the future.

- L. The Legislature recognizes, furthermore, that the easy availability of solid waste disposal in landfills makes recycling less attractive. The legislature intends that this Local Law shall indirectly make recycling economically more attractive, in accordance with the State Solid Waste Management Policy (N.Y. Env. Cons. Law Sec. 27-0106).
- M. The County intends, furthermore, to reduce the risk of pollution from solid waste disposal operations and to minimize the level of other undesirable aspects of landfill operation by restricting their scope and size.
- N. The Legislature intends through this Local law to exercise its police power under the Municipal Home Rule Law for the physical and mental well-being, safety, and health of its citizens. In so doing, the Legislature expressly intends to regulate and restrict sanitary landfill operations within the County that might otherwise be permitted under the ECL.

### III. DEFINITIONS

The following definitions shall apply to this Local Law:

- A. Person: any individual, public or private corporation, governmental subdivision or agency, partnership, joint venture, or other legal entity.
- B. Sanitary Landfill: any disposal area for solid wastes in or upon the ground. The meaning of this term shall include any landfill within the meaning of 6 NYCRR Part 360-1 and shall include any facility or operation for which the New York State Department of Environmental Conservation has issued a permit for landfill operation or for which an application is pending.
- C. Sanitary Landfill Operation: the conduct of the business of accepting, depositing, moving, and covering solid waste at a sanitary landfill.
- D. Operator: any person engaging in sanitary landfill operation.

- E. Solid Waste: any discarded materials, substances or objects, including garbage, refuse, sludge, and industrial or commercial waste, including without limitation all items defined as "solid waste" under 6 NYCRR Part 360-1.
- F. DEC: The New York Department of Environmental Conservation.

#### IV. EXEMPTIONS

This Local Law does not apply to disposal of manure in normal farming operations; landspreading of septage by state-permitted haulers; recycling operations or facilities such as junkyards, citizen recycling programs, municipal recycling operations, or salvage dealers; or landfilling activities consisting solely of clean earth, rock, or gravel fill.

#### V. PERMIT REQUIREMENT

- A. No person shall operate a sanitary landfill within the municipal borders of the County of Orleans after the effective date of this local Law unless he has applied for and obtained a permit for such operation from the County.
- B. The Clerk of the Legislature shall prescribe and make available an appropriate form of application. All applications shall be submitted to the Clerk of the Legislature, who shall promptly refer them to the County Legislature, which shall have the power and authority to review and grant or deny such permits on the basis of the specific standards and criteria set forth herein.
- C. In approving any permit application, the Legislature may attach such reasonable conditions as it shall deem necessary and advisable in the public interest in furtherance of the purposes of this Local Law, including but not limited to access by representatives of the County for inspection, monitoring, or testing, and closure and post-closure plans.
- D. Each application shall state:
  - 1. the full name of the person seeking a

permit and whether that person is an individual, corporation, partnership, joint venture, or other legal entity; if the applicant is not an individual, the application shall set forth the names of all parent corporations, shareholders, partners, joint venturers, or other beneficial owners of the entity seeking a permit, unless the applicant is a publicly held corporation, and the names of all officers of an applicant that is a corporation, and officers and shareholders of any parent corporations;

2. the precise boundaries of the property on which landfill operations are or will be conducted, the names of all owners of interests in the property, and the nature of those interests;

3. the proposed maximum daily, monthly, quarterly, and annual rates of solid waste disposal at the proposed sanitary landfill (measured in tons);

4. the specific anticipated sources of solid waste to be disposed of at the sanitary landfill during the term of the permit;

5. the specific anticipated sources of fill material to be used at the sanitary landfill during the term of the permit.

E. Each application shall include analyses of the following impacts of the proposed operations and shall set forth any measures of the applicant proposes to employ to ameliorate them:

1. visual impacts;
2. noise;
3. odor;
4. traffic;
5. offset mining activities and related hauling activities;
6. surface water and groundwater resources; and
7. property values.

To the extent these matters are fully discussed in an completed environmental impact statement, the application may incorporate those discussions by reference. The application shall also include a discussion of any plans by the operator for rehabilitation of the site or portions of the

site after closure.

F. Each application shall be accompanied by (1) topographical maps, certified by a licensed surveyor, that show both the existing and the proposed vertical and area limits of the landfill site and the dimensions or outline of existing and proposed liners; and (2) a copy of the applicant's application to DEC and all accompanying materials.

G. Preconditions to permit issuance.

1. An application for a permit or renewal permit shall be approved by the Legislature if it finds that the landfill operations or mining activities contemplated thereby would not (a) result in a violation of any provisions of this Local Law, and in particular, the limitations set forth in paragraph VI below, or (b) result in violations of provisions of any other applicable County, town or village law or regulation (including without limitation any zoning restrictions that affect mining activities).

2. For a period of 10 years after the effective date of revocation of a permit by the legislature as provided in this Local Law, no new permit shall be issued to the holder of that permit or to any related person. For purposes of this provision, the term "related person" shall include, without limitation, any member of the immediate family of an individual whose permit has been revoked; any corporation or other entity in which he or any entity controlled by him has any beneficial interest; any subsidiary, parent corporation, or other corporation related to a corporation whose permit has been revoked; or any corporation or other entity whose beneficial owners include any persons who were beneficial owners of a corporation or other entity whose permit has been revoked, or members of the immediate family of such beneficial owners.

3. No permit renewal shall be issued unless the applicant has held at least one public information meeting to discuss its application and to respond to questions and issues raised by the residents and other interested persons. At least one such meeting shall be held in the town or towns in

which landfill operations are to be conducted. The meeting shall be held after an application is filed but before the Legislature acts upon it. The applicant shall prepare a written summary of all questions asked at any meeting and the applicant's responses; the summary shall become part of his application. The applicant shall publish a notice of the meeting and its purpose in local print and broadcast media at least 7 days prior to the meeting.

4. Moreover, no permit or renewal permit shall be issued unless the applicant shall have tendered the permit and application fees required under this Local Law.

- H. In approving any permit application, the Legislature shall specify the effective date and the term of the permit. No permit or renewal permit shall be issued for a term of more than two years from its effective date; the legislature may in its discretion issue a permit or renewal permit for a term of less than two years.
- I. No person holding a permit under this Local Law shall continue to operate a sanitary landfill within the municipal borders of the County of Orleans after the expiration of his permit unless he has applied for and obtained a renewal permit from the County. Applications for renewal permits shall be made and considered in the same manner and subject to the same criteria as an application for an original permit.
- J. Upon the sale or other transfer of ownership of a permitted sanitary landfill, or upon any sale of stock or interest in a corporation, partnership, joint venture, or other entity holding a permit, the term of the permit shall automatically terminate. Permits shall not be transferable.
- K. Each permit or renewal application shall be accompanied by a nonrefundable application fee of \$25,000 which shall defray the administrative and technical costs of its review and of participation by the County in environmental review proceedings.
- L. Before any permit is issued under this Local Law, and on or before each anniversary of its

effective date, each permit holder shall pay to the County of Orleans an annual permit fee in the amount of \$1,000.00 which shall defray the cost of reviewing and maintaining records concerning the facility.

#### VI. SPECIFIC RESTRICTIONS ON LANDFILLING ACTIVITIES

##### A. Prohibition on Hazardous Waste

No commercial hazardous waste treatment, storage, or disposal facility shall be located, built, operated, or expanded within the County of Orleans.

##### B. Height Restriction

No person shall conduct sanitary landfill operations in such a manner that the height of the resulting landfill, after completion of operations and after the application of cover, exceeds the lesser of the final elevation contained in the application submitted by the applicant and approved by the Legislature in granting the permit, or 50 feet above the mean elevation of the property prior to the commencement of landfill operations, whichever is less.

##### C. Tonnage Limitation

1. No person shall dispose of or allow disposal of solid waste at a sanitary landfill in excess of the proposed monthly, quarterly, and annual tonnage amounts stated in the operator's approved application.

2. In any event, no landfill operator shall accept, dispose of, or allow disposal of more than 70,000 tons of solid waste per quarter, or 228,000 tons per calendar year.

3. For the calendar year in which this Local Law is enacted, amounts of solid waste disposed of prior to the effective date of this provision shall be disregarded. However, the permissible tonnage for the balance of such year shall be reduced by the ratio of days remaining in the year to the total number of days in the year.

4. Unless otherwise prescribed by the Legislature, tonnage shall be determined by incoming scale weights certified by a

weighmaster.

D. County-wide Tonnage Restriction

No more than 70,000 tons of solid waste per quarter or 228,000 tons of solid waste per year, in the aggregate, shall be disposed of at sanitary landfills within the County of Orleans. Any other provision of this Local Law notwithstanding, the Legislature shall not issue a permit if the quarterly or annual tonnage proposed in a permit application, aggregated with the quarterly or annual tonnage stated in the applications for all other permits that have been issued, would exceed 70,000 tons of solid waste per quarter or 228,000 tons of solid waste per year.

E. Sources of Waste

Solid waste generated from outside the borders of Orleans County may not exceed 85 percent of all solid waste, measured in tons, accepted or disposed of at any sanitary landfill during any month.

F. Hours of Operation

An operator may accept delivery of waste or cover only during the hours of 7 a.m. to 5 p.m. Monday through Friday, except that an operator may accept delivery of waste from residents of Orleans County during the hours of 7 a.m. to 12 noon on Saturdays. In weeks where waste disposal has not taken place because of a weekday holiday, however, an operator may accept delivery of waste or cover during the hours of 7 a.m. to 5 p.m. on Saturdays. Landfill operations other than accepting delivery of waste or cover are permitted only during the hours of 7 a.m. to 8 p.m. Monday through Friday.

VII. REPORTING AND PUBLIC INFORMATION

A. Every operator shall file with the County, on or before the 10th day of each month, a report on such forms as the Clerk of the Legislature shall designate, setting forth:

1. the total tonnage of solid waste disposed of at the sanitary landfill in the previous calendar month;

2. the specific sources of all waste disposed of at the sanitary landfill during the previous calendar month and the number of tons from each source, together with a statement as to the percentages of waste, measured in tons, disposed of at the sanitary landfill that was generated from outside Orleans County during the previous calendar month;

3. the total tonnage of solid waste disposed of at the landfill during the current calendar year;

4. the number of truck trips (broken down by disposal trucks and cover soil trucks) into the landfill during each day of the previous calendar month.

B. The accuracy of all information filed pursuant to subdivision A shall be certified under oath by the operator or, if the operator is not an individual, a partner or officer.

C. An operator shall upon request from the County supply or provide access to any additional information reasonably necessary to verify the accuracy of reports filed pursuant to subdivision A. An operator shall upon request afford representatives of the County access to any portion of the facility to enable the County to verify reports or compliance with any law or conditions of any permit.

D. Within three days after receiving or sending any reports, permit applications, or correspondence to or from DEC concerning the operation or permit status of the sanitary landfill or related off-site mining activities, every operator shall file copies of any such reports, applications, or correspondence with the Clerk of the Legislature.

E. Reporting concerning fill material extraction activities:

1. Before undertaking any activities at any site in Orleans County for the purpose of acquiring, extracting, mining, and removing fill material for waste cover or liner construction at a sanitary landfill, an operator shall file with the County a report

that sets forth:

a. A description of the site from which fill material is to be taken, including the property address, the name of its owner, and a map or survey of the property showing the site; and

b. An estimate of the cubic yards of fill material expected to be taken from the site, the period of time over which fill material will be taken, and the number of truck trips that will be made from the site to the sanitary landfill; and

c. If the operator is not the owner of the site, a statement of the financial arrangements by which the operator is acquiring the right to take fill material from the site, including copies of any written agreements with the owner.

2. When an operator has completed fill removal activities at any site, the operator shall file a report that sets forth the total volume of fill material taken from the site and the number of truck trips actually required to remove it.

F. The Clerk of the Legislature shall maintain all filed reports and correspondence, as well as all permits issued under this Local Law and the applications for those permits, at the office of the Clerk and shall permit any such documents and materials to be reviewed, inspected, and copies by any person at reasonable hours.

#### VIII. RULES AND REGULATIONS

The Legislature may by resolution authorize the Director of Planning and Development for the County of Orleans or other official or department to promulgate rules and regulations reasonably necessary to carry out, further, and implement the provisions of this Local Law.

#### IX. EFFECTIVE DATE

This Local Law shall become effective when it is filed with the Secretary of State pursuant to the Municipal Home Rule Law.

X. ENFORCEMENT

- A. The Legislature shall be entitled to suspend for a stated period, modify by imposing or altering conditions or imposing limitations on operations, or revoke any permit, in its discretion, upon 10 days' notice to the permit holder;
1. in the event that a permittee violates this Local Law or any regulation promulgated under it;
  2. upon a violation of any condition imposed by the Legislature in issuing a permit;
  3. in the event that any person operates a permitted landfill in a manner other than as described or represented in his application for a permit under this Local Law;
  4. in the event that a permit was obtained by misrepresentation or material omission of relevant facts, or a permit application is found to have contained misrepresentations or material omissions of relevant facts; or
  5. in case of any material misstatement of information in reports filed by the operator under subsection VII(A) of this Local Law.
- B. Upon a showing of a violation of this Local Law by any person, or upon a showing of any of the foregoing grounds for suspension, modification, or revocation of a permit, the County shall also be entitled to obtain an injunction in any court of competent jurisdiction against such person prohibiting further violations. On an application by the County for preliminary injunctive relief in such a proceeding, the County shall not be required to show irreparable harm or to pose security in any form.
- C. An injunction order may provide, among other things:
1. that any solid waste disposed of in violation of this Local Law be removed from the County;
  2. that any land on which solid waste has been illegally disposed of be restored as nearly as possible to its former condition by the removal of any waste illegally disposed

of and by such other restorative measures as are available; and

3. that the operator remedy any adverse effects of the violation on surrounding or adjacent properties or resources, including without limitation water bodies, wetlands, and groundwaters.

- D. For any violation of Section V(A) of this Local Law (operation of sanitary landfill without a valid permit) a violator shall be subject to a civil penalty of \$10,000.00 per day; each day during which a violation is ongoing shall constitute a separate violation. For any violation of section VI(C) of this Local Law (Tonnage Limitations), a violator shall be subject to a civil penalty of \$100.00 for each ton of solid waste in excess of permitted limits. This section shall not be construed to render any persons liable for civil penalties other than operators, as defined in this Local Law, and other persons engaged in the business of collection or disposal of solid waste for profit. The County shall be entitled to recover civil penalties in an action at law in any court of competent jurisdiction.
- E. Upon an action for injunctive relief, or for a civil penalty hereunder, the County shall be entitled to a further award and judgment for its costs, expenses, disbursements, and reasonable attorneys' fees in connection with the action or proceeding.

#### XI. MISCELLANEOUS

- A. This Local Law shall be deemed to supersede and repeal any other County ordinances and Local Laws to the extent inconsistent with them.
- B. If any part of this Local Law shall be judicially declared to be invalid, void, unconstitutional, or unenforceable, or if the County should be enjoined from enforcing any part of this Local Law for any reason, all unaffected provisions shall survive such declaration or order, and this Local Law shall remain in full force and effect as if the invalidated portions had not been enacted.

- C. Nothing herein shall be deemed to be a waiver of or restriction upon any rights or powers available to the County of Orleans under state law or equity to further regulate the subject matter of this Local Law.

NYS DEPARTMENT OF STATE  
BUREAU OF STATE RECORDS  
162 Washington Avenue  
Albany, NY 12231-0001

RECEIVED

SEP 03 1991

DATE: 8/29/91

ORLEANS COUNTY  
LEGISLATURE

MUNICIPALITY		
County of Orleans		
LOCAL LAW(S) NO.	YEAR	FILING DATE
2	1991	8/20/91

## Local Law Acknowledgment

| MRS LOIS M BRANDT |  
| ORLEANS COUNTY LEGISLATURE |  
| COURT HOUSE SQUARE |  
| ALBION NY 14411 |

|  
DOS-236 (Rev. 6/90)

The above-referenced material was received  
and filed by this office as indicated.

Additional local law filing forms will be  
forwarded upon request.