

LOCAL LAW NO. 6 OF 2013

A LOCAL LAW CONCERNING THE PERMITTED USE OF THE TOWN OF ANDES TRANSFER STATION

BE IT ENACTED by the Town Board of the Town of Andes, State of New York as follows:

I. TITLE AND AUTHORITY: This Local Law shall be referred to the "Town of Andes Transfer Station and Recycling Center Law" ("Transfer Station Law").

II. SCOPE AND LOCATION: This law covers the collection, separation and disposal of all solid waste generated in the Town of Andes and establishes a permit system for the disposal of selected solid wastes at the transfer station facility (hereinafter "Facility") located on County Highway 1, Andes, New York. Any portion of attached Schedule "A" may be amended by Resolution of the Town Board of the Town of Andes. Nothing contained herein shall prevent the Town Board from amending Schedule "A" by Resolution, whether to amend such terms as the Town Board deems necessary or to conform with other laws, rules and regulations.

III. PURPOSE: The purpose of this Local Law is to:

- A. Ensure efficient and economical disposal of solid waste generated in the Town of Andes.
- B. Ensure compliance with all environmental laws.
- C. Minimize solid waste that must be transferred or disposed of at an approved facility by maximizing recycling.
- D. Maintain the highest safety standards and good working order of the facility for public users and commercial haulers as well as Andes employees located at the facility.

IV. POLICIES:

1. Schedule:

A. Hours of operation. The Facility shall be open during such times as the Town Board shall determine.

B. Holidays. The Facility shall be closed on the following holidays: Independence Day, Christmas, and New Year's Day. The schedule of hours and holidays may be amended by Resolution of the Town Board.

C. Disposal of any items at the Facility **except during hours of operation is prohibited**. Any person leaving items when the Facility is closed shall be prosecuted in accord with Section X "VIOLATION AND PENALTIES".

2. Safety:

Disposing of solid waste can be dangerous. Splinters from wood, broken glass, rusting scrap metal, sharp objects, etc. are potentially dangerous and shall be handled with care. No person shall loiter in the vicinity of the compactor while in operation. All persons using the Facility shall follow the directions of the attendant and adhere to the following safety procedures:

- a. All persons shall wear appropriate footwear while on site. Bare feet are absolutely prohibited.
- b. An adult shall accompany all children under the age of 16.

- c. No person(s) other than facility staff is allowed to enter any prohibited, restricted or closed area, or climb onto any drop off container or wall.
- d. Vehicles within the Facility shall be limited to a maximum speed of 5 miles per hour.
- e. Removal of items from the Facility or "dump picking" is prohibited except from a designated "swap area", if one is so designated.
- f. All persons entering the Facility do so at their own risk.

V. SEPARATION OF MATERIALS: All waste materials deposited at the Facility shall be separated into categories listed in Section I of Schedule A or as directed by attendants. Unseparated materials will not be accepted.

VI. TRANSFER STATION PERMITS: All vehicles entering the Facility are required to display a transfer station permit or be designated as per the commercial hauler requirements in Section C below.

- A. Permits can be applied for by residents at the Office of the Town Clerk.
- B. Permits shall be permanently affixed to all Transfer Station user vehicles and shall be visible at all times.
- C. Renters of residential property in the Town of Andes who are not full-time residents of Andes shall show proof of residency from their landlord in order to obtain a permit.

VII. ACCEPTABLE MATERIALS AND SEPARATION PRACTICES: The items set forth under Schedule "A," must be separated and placed in designated containers or locations. All household trash must be contained in clear plastic bags; trash in black or white bags is prohibited. No garbage, refuse, rubbish or other material that does not have its origin within the Town of Andes shall be deposited or disposed of in the Facility, unless the person depositing or disposing of such material has a permit issued pursuant to Section IX(B) below.

VIII. UNACCEPTABLE MATERIALS: The materials designated under Schedule "A" Part II shall not be accepted at the Facility.

IX. PAYMENT OF FEES:

A. Permits for residents: Residents of the Town of Andes shall be charged a one dollar administrative fee per permit, charged upon submission of a completed application and display of proof of residence as set forth in Section VI (A or E) above.

X. VIOLATION AND PENALTIES:

- A. A violation of this Local Law shall be committed whenever a person, without specific contrary instruction from the Facility Attendant or Supervisor:
 - 1. discards or disposes of, or attempts to discard or dispose of, any material whatsoever at the Facility without displaying a permit as required pursuant to Section VI above;
 - 2. discards or disposes of, or attempts to discard or dispose of, at the Facility, any material designated in Schedule "A" as unacceptable;
 - 3. discarding or disposing of any items of any type or kind at the Facility outside of regular hours of operation;

- B. A person who violates any provision of this Local Law shall be guilty of an offense punishable by a fine of One Hundred to Five Hundred Dollars and in addition thereto, liable to pay a civil penalty of Two Hundred Fifty Dollars. A person found to have violated this law three or more times within a twenty-four month period shall be guilty of a misdemeanor punishable by a fine of not less than One Thousand Dollars, or by imprisonment for up to thirty days, and in addition thereto, shall be liable to pay a civil penalty of One Thousand Dollars.
- C. A certificate, sworn to or affirmed by a Facility Attendant or Supervisor setting forth the facts of such violation shall constitute prima facie evidence of the facts stated therein.
- D. The owner of a vehicle the occupants of which violate this Local Law shall be jointly and severally liable for the civil penalty incurred by reason of such violation.
1. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of this Local Law. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein. It shall be presumed that a notice of liability was received by the addressee on the fifth business day after the notice was mailed.
 2. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of this Local Law, the license number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the facts constituting the violation.
 3. The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.
 4. It shall be a valid defense to an allegation of liability that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the court having jurisdiction.
 5. An owner who is a lessor of a vehicle to which a notice of liability was issued shall not be liable for the violation, provided that he or she sends to the court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within twenty-days after receiving notice. Failure to send such information within such twenty-one day period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation and shall be sent a notice of liability pursuant to subdivision (1) of this section.
 6. If the owner liable for a violation of this local law was not the

person who actually committed the violation, the owner may seek indemnification against the actual perpetrator.

- E. The Town Court of the Town of Andes shall have jurisdiction to adjudicate the liability imposed under this Local Law.
- F. All fines and penalties collected shall be payable to the Town of Andes and deposited in the general fund.
- G. It shall be a complete defense to any violation of Section VI of this Local Law that within five business days after receipt of a notice of liability or appearance ticket, the owner supplies the Town Clerk with documentation showing that the owner has the permit required by this law, or obtains such a permit.
- H. The Town shall have and retain the right to revoke any and all purchased (commercial and non-residential) or given (residential) permits.

XI. SEPARABILITY: The invalidity of any provision of this regulation shall neither affect the validity of any other provision hereof, nor the validity of the regulation as a whole.

XII. EFFECTIVE DATE: This local law shall take effect immediately upon filing with the Secretary of State.