

1967

TOWN OF HOWARD
COUNTY OF STEUBEN
STATE OF NEW YORK

THE TOWN BOARD OF THE TOWN OF HOWARD, COUNTY
OF STEUBEN, STATE OF NEW YORK, DOES HEREBY
ENACT AND ORDAIN AS FOLLOWS:

ARTICLE I.

TITLE

SECTION I. This Ordinance shall be known and
cited as the "REFUSE DISPOSAL ORDINANCE" for the Town of
Howard, Steuben County, New York.

ARTICLE II.

PURPOSE

SECTION I. Legislative Intent. By the adoption
of this Ordinance the Town Board of the Town of Howard
declares its intent to be the establishment of a clean,
wholesome, attractive environment within the Town of Howard
and further declares that such an environment is important
to the health and safety of the inhabitants and the safe-
guarding of their material rights against an unwarrantable
invasion, and such environment is deemed essential to the
maintenance and continued development of the economy of the
Town and the general welfare of its inhabitants. It is
further declared that the disposal of Refuse as herein defined,
without regulation as to the area of disposal and the method
of disposal, constitutes a menace to the public health, safety,
welfare and morals, and can adversely affect the growth and
development of this Town, necessitating the regulation,
restraint or elimination thereof.

ARTICLE III.

DEFINITIONS

SECTION I. Whenever used in this Ordinance, unless
otherwise expressly stated, or unless the context of subject

matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

- (a) The term "person" shall mean an individual, society, club, firm, partnership, corporation, group or association of persons, and the singular number includes the plural number.
- (b) The term "Refuse" shall mean garbage, rubbish, and trash produced by householders, commercial establishments, special community activities, manufacturing plants, and institutions. Garbage includes waste resulting from the distribution, preparation and serving of foods either from domestic or commercial uses. It does not include processing waste from the food industry. Rubbish includes general dry material produced routinely and consisting of such waste material as paper, cans, bottles, other containers and ashes. Trash includes all other kinds of solid waste material, including leaves, brush, branches, Christmas trees, lawn rakings, bulky objects such as discarded refrigerators and furniture, industrial waste, including a variety of organic and inorganic, inert and decomposable materials, building demolition material including contractors' waste at construction sites and residue from other demolition and construction operations, and any other waste materials presenting a special disposal problem, either in the collection or dumping thereof.

- (c) The term "Disposal Area" shall mean any premises authorized by the Town Board of the Town of Howard, as hereinafter provided, for the purpose of placement of refuse.

ARTICLE IV.

DISPOSAL OF REFUSE

SECTION I. No person shall dump, place or bury any refuse, whether the same originates from within or without the Town of Howard, upon any of the lands or waters within the Town of Howard except in an approved disposal area as hereinafter provided. No person shall permit any lands, in which he has an interest, to be used as a disposal area within the Town of Howard except as hereinafter provided. "Interest" in this section, shall include, occupancy, the control of, or the rite to control.

SECTION 2. Any person desiring to maintain and operate a disposal area, shall make application to the Town Board for a Certificate of Approval for the operation of a disposal area.

SECTION 2.1. Said Application shall be made in writing and shall include a description of the land to be used, and shall be submitted with the written approval of the Steuben County Department of Health and New York State Department of Health.

SECTION 2.2. A hearing shall be held on the application within the municipality not less than two (2) nor more than four (4) weeks from the receipt of the application by the Town Board.

SECTION 2.3. Notice of hearing shall be given to the applicant by mailing to the address given on the application, and shall be published once in the official newspaper of the Town, which publication shall be not less than ten (10) days before the date of the hearing.

SECTION 2.4. At the time and place set for the hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a Certificate of Approval for the location of a disposal area. In passing upon the same, it shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of surrounding property such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or other causes.

SECTION 2.5. Aesthetic considerations. At the hearing regarding location of the disposal area, the Town Board may also take into account the clean, wholesome, and attractive environment, which has been declared to be of vital importance to the continued general welfare of its citizens, by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection the Town Board may consider collectively the type of road service to and from the disposal area, the natural artificial barriers protecting the disposal area from view, the proximity of the proposed disposal area to established residential and recreational areas and main access routes into the same, as well as the reasonable availability of other suitable sites for disposal areas.

SECTION 2.6. Grant or denial of Application;

Appeal. After a hearing, the Town Board shall, at or before the next regular meeting, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant by mailing, postage prepaid, to the address given on the application. If approved, the Certificate of Approval shall be forthwith issued to remain in effect until the following April 1st. Approval shall be personal to the applicant and not assignable. Approvals shall be renewed thereafter upon payment of the annual fee without hearing, provided all provisions of this ordinance are complied with during the period, the disposal area has not become a public nuisance under the common law, and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the governing board may be reviewed under Article 78 of the Civil Practice Law and Rules.

SECTION 3. Fencing. The Town Board may approve of a disposal area conditioned upon the building and maintaining of a fence, at least eight (8) feet in height, which substantially screens the area and with a suitable gate which shall be closed and locked except during working hours or when the applicant or his agent shall be within. Said fence shall be erected not nearer than fifty (50) feet from a public highway. All refuse materials stored or deposited by the applicant shall be kept within said fence except as removal shall be necessary for the transportation of the same in the reasonable course of the business. All work activity of the disposal area shall be accomplished within the fence.

Where the topography, natural growth of timber or other considerations accomplish the purpose of fencing, in whole or in part, the fencing requirements may be reduced upon the granting of approval.

SECTION 4. License Fee. The annual fee shall be TEN DOLLARS (\$10.00), to be paid at the time the application is made and annually thereafter in the event of renewal. In the event the application is not granted, the fee shall be returned to the applicant. The municipality, in addition to the fee, may assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto, and may make the approval conditional upon payment of same.

SECTION 5. Refuse originating from residential use may be disposed of upon the premises where the residence is situated, provided: It is done in a safe, sanitary manner, and does not create a public or private nuisance.

ARTICLE V.

VIOLATIONS AND PENALTIES

Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding Fifty Dollars (\$50.00), or by imprisonment in the county jail for thirty (30) days, or by both fine and imprisonment; and upon failure to pay such fine to be imprisoned in the county jail until such fine can be paid, not to exceed one day for each dollar of fine imposed, and in addition may be subject to civil action brought in the name of the Town under Section 135 of the Town Law. In such civil action, the Town may recover a penalty of Fifty Dollars (\$50.00) for each day of said violation.

ARTICLE VI.

VALIDITY

If any part or portion of this Ordinance or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which said judgment shall have been rendered and shall not affect or impair the validity of the remainder of this ordinance or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this Ordinance or the remainder thereof had the invalidity of such provision or application thereof been apparent.

ARTICLE VII.

EFFECTIVE DATE

This Ordinance shall take effect immediately. All persons already maintaining a disposal area shall make application for a Certificate of Approval in the manner described in Article IV of this Ordinance, not later than the 1st day of May, 1967, and shall, in all respects, comply with all other provisions of this Ordinance not later than September 1st, 1967.

Dated 3-23-67

Walter O. Lathrop Supervisor
Ellen Stewart Justice of Peace
David Van Harnout-Councilman