

Local Law Filing

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Text of Law should be given as amended. Don not include matter being eliminated or do not use italics or underlining to indicate new matter.

Village of Depew

Local Law No. 5 of the year 2003

A local law Regulating Commercial Composting Facilities

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
SEP. 15 2003

MISCELLANEOUS
& STATE RECORDS

Be it enacted by the Board of Trustees of the Village of Depew as follows:

(See attached Text)

Local Law Regulating Commercial Composting Facilities

Be it enacted by the Board of Trustees of the Village of Depew as follows:

§ 88-1 PURPOSE

The purpose of this local law is to protect the public health and welfare through regulation of commercial composting facilities. Despite the need for composting to reduce the reliance on landfills as proposed by the EPA\DEC, the village Board is looking to provide some regulation where little or no regulations currently exist.

§ 88-2 DEFINITIONS

Composting shall mean the mixture of decomposable refuse at an outdoor, open-air facility for the purpose of producing material for fertilization and conditioning of soil.

Compostables shall mean brush, wood or wood by-products, leaves, grass clippings, vegetative prunings and garden and yard waste.

Odor shall mean emission of substances detrimental to the health, well being and general safety of the community.

Aerobic Composting shall mean the process of decomposition of organic matter in an environment with oxygen present. The microorganisms responsible for the decomposition consume oxygen and produce carbon dioxide. This type of composting is known to produce little or no offensive odor.

Anaerobic Composting shall mean the process of decomposition of organic matter in an environment with little or no oxygen present. The microorganisms responsible for the decomposition do not need oxygen. This method of composting decomposes compostables more slowly than aerobic composting and is known to produce hydrogen sulfide and ammonia-like compounds which have offensive odors.

Composting Facility shall mean a site where composting occurs as part of a private business or government service.

Composting Facility Operator shall mean the person responsible for the operation of a composting facility regulated by this ordinance.

Enforcement Official shall mean the Code Enforcement Officer of the Village.
Health Department shall mean the Erie County Department of Health.

§ 88-3 SCOPE OF APPLICATION

As of the effective date of this local law, no composting facility as defined and regulated herein shall be established in the Village by any person or business entity, unless the composting facility conforms to this local law and other local, state and federal regulations.

§ 88-4 OPERATION STANDARDS

Any composting facility operation shall be conducted in accordance with current standards established by the United States Environmental Protection Agency, the U.S. Department of Agriculture, The New York State Department of Environmental Conservation and other government regulatory agencies.

No compostables may be stored within 500 feet of any boundary of the composting facility when the adjacent property is a road right-of-way or not zoned an M-2 district.

No compostables may be stored or maintained at a height greater than five feet

The main service drive for vehicles bringing compostables to a composting facility must be accessible from a major highway legally permitted for said vehicles with the service drive improved with an asphalt or concrete surface having proper drainage.

Composting facilities will only be permitted in an M-2 zoning district as currently designated at the time of adoption of this local law. Future rezoning of property currently not zoned M-2 will still exempt said land from composting facility usage.

No composting facility shall be permitted within 1500 feet of an area zoned R-1 or R-2.

A composting facility must provide accessibility to all points of the site with a surface capable of supporting heavy rescue equipment and emergency vehicles. The operation must comply with all applicable local, state and federal fire and safety codes. Non-compliance may result in Injunctive Proceeding being initiated.

No anaerobic composting will be allowed.

A fire hydrant must be accessible within 500 feet of the site.

A contact person shall be designated by the Composting Facility Operator and registered with the Village. The contact information shall include adequate information so that in the event of a problem the village will be able to easily contact a responsible party. This contact person will be instructed to inform the village in the event that they become aware of any problems with the site.

The Composting Facility Operator shall be required to supply to the Enforcement Officer copies of the daily operational records required to be maintained by the DEC Solid Waste Management Regulations subdivision 360-1.14(i) and 360-5.7(c-1). Said copies to be presented on a monthly basis and submitted not later than five business days following the first day of the month.

§ 88-5 NOISE, ODOR AND VIBRATION

Noise, odor and vibration emanating from a composting facility shall not exceed the following standards so as to create a nuisance to the health, well being and general safety of the community. Noise when measured from the property line shall not exceed the following:

Residential	75 dba
Commercial	85 dba
Industrial	90 dba

The composting facility operator shall not permit noxious odors to escape the boundaries of the composting facility and so as to interfere with the enjoyment of adjacent properties. Corrective action shall be **immediate** and shall result in Injunctive Proceedings precluding said composting activities.

§ 88-6 PERMIT, BONDING AND CLOSURE REQUIREMENTS

No composting facility shall operate within the boundaries of the village unless the owner has first registered with and/or obtained a permit, as applicable, from the Department of Environmental Conservation and the Village of Depew. Permit shall not be granted from the Village of Depew until receipt of the following:

Security consisting of (1) Cash or its equivalent or (2) a performance bond, either of which must be in an amount which is not less than \$250,000.

Proof that the Composting Facility Operator has submitted and received approval of a site plan and operational plan from the Village of Depew Planning Board, the Depew Village Board, and a Declaration of Negative Environmental Impact finding by a full SEQR review

Receipt of a full copy of all documentation as presented to the DEC in obtaining a permit and/or registration to operate said composting facility.

At least 90 days prior to the planned date of closure of the facility the compost facility operator shall submit a site closure plan which shall include detailed plans as to (1) the closure date of the facility (2) the plan for the removal of materials and cleaning of the site.

Upon termination and closure of the facility, the composting facility operator may request, in writing, the release of the security held upon verification that all aspects of the closure plan have been met.

Permit Fee

Under one acre	\$1000
Over One acre	\$3000 for the first acre plus \$2000 for each additional acre.

Compliance Monitoring Fees

Per each staff hour	\$75
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§ 88-7 ENFORCEMENT

Enforcement Officials shall be permitted entry to the composting facility for inspection purposes to determine compliance with this local law and other applicable regulations.

§ 88-8 PENALTIES

Any person, corporation, partnership or any other legal entity who fails to comply with any of the provisions of this local law shall be subject to a fine of not more than \$1000 per day of violation. Every act or violation and every day that a violation occurs shall be considered a separate violation.

§ 88-9 CONSTRUCTION, NONAPPLICABILITY, APPEALS

This local law shall be liberally construed in such a manner as to effectuate its purpose. The provisions of the Local Law shall be construed, if possible, in such a manner as to make such provisions compatible and consistent with the provisions of all existing and future zoning and other local laws and ordinances of the Village and all amendments thereto; provided however, that where any inconsistency or conflict cannot be avoided, then the most restrictive of such inconsistent or conflicting provisions shall control and prevail

§ 88-10 REPEALS

All ordinances, local laws or parts thereof in conflict with the provisions of this local law, except as herein provided, are hereby repealed only to the extent necessary to give this local law full force and effect. However, this local law shall not otherwise in any way affect or modify the Village's existing Ordinances.

§ 88-11 SEVERABILITY

Should any provision or section of this local law be held invalid for any reason, such holding shall not be construed as affecting the validity of the remaining provisions or sections.

§ 88-12 SAVINGS CLAUSE

The repeal provided therein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution, or any right established or occurring prior to the effective date of this local law.

§ 88-13 EFFECTIVE DATE

This local law shall become effective immediately upon its adoption and acceptance by the New York State Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2003 of the Village of Depew, New York was duly passed by the Depew Village Board on August 25th, 2003, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph one, above.



Robert M. Kucewicz, Depew Village Clerk

(Seal)

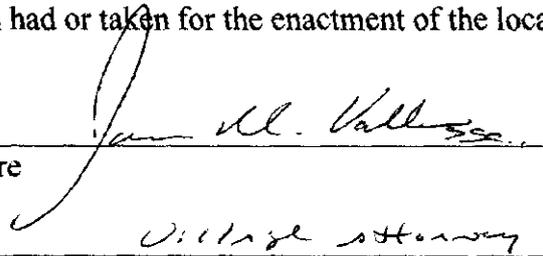
Date: September 8, 2003

(Certification to be executed by Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ERIE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature



Title

Village Attorney

Village of Depew

Date:

9/10/03

ADOPT LOCAL LAW #5 OF THE YEAR 2003 – COMPOSTING FACILITIES

Trustee Fragale, offered the following resolution and moved for its adoption:

WHEREAS, a public hearing was held on the 25th day of August 2003 by the Board of Trustees of the Village of Depew, notice of which was given as required by the Municipal Home Rule Law, the Open Meetings Law and the Village Law of the State of New York:

WHEREAS, at said public hearing the Board of Trustees considered the enactment of proposed Local Law No 5 of the Year 2003, entitled “Composting Facilities”, a revised version of a local law proposed at a meeting held on July 28th, 2003, and

WHEREAS, all interested persons were given an opportunity to be heard with respect to the enactment of said local law:

NOW, THEREFORE, BE IT RESOLVED, that Local Law No.5 of the Year 2003 be enacted as follows:

LOCAL LAW NO 5 OF THE YEAR 2003

A LOCAL LAW TO PROVIDE FOR REGULATION OF COMMERCIAL COMPOSTING FACILITIES

Copies of the text of the above-named local law shall be filed in the office of the Village Clerk.

NOW, THEREFORE, BE IT RESOLVED, that Local Law No. 5 of the Year 2003 is **ADOPTED**.

The foregoing resolution was seconded by Maryniewski, and duly put to a roll call vote which resulted in the following:

Trustee Pieczynski - Yes	Trustee Fragale - Yes	Mayor McIntosh - Yes
Trustee Mazur - Yes	Trustee Sherwood - Yes	
Trustee Mescall - Yes	Trustee Maryniewski - Yes	