

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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

County  City  Town  Village  
(Select one.)

of LEWISTON

FILED  
STATE RECORDS

DEC 15 2016

Local Law No. 5 of the year 2016 DEPARTMENT OF STATE

A local law Extending the Town of Lewiston's Moritorium concerning the Disposal of Sludge, Sewage  
(Insert Title)  
and Septage

Be it enacted by the Town Board of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Lewiston

as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

## LOCAL LAW #2016 - 5

### A LOCAL LAW EXTENDING THE TOWN OF LEWISTON'S MORATORIUM CONCERNING THE DISPOSAL OF SLUDGE, SEWAGE AND SEPTAGE SECTION

#### I. PURPOSE AND INTENT.

The Town Board of the Town of Lewiston currently has under review amendments to the Town Code with regard to solid waste and recycling. The matters pertaining to solid waste and recycling activity within the Town emphasizes the need for suitable regulation under existing and clearly established standards, in an effort to plan for and protect the health, safety and well being of the citizens of and property in the Town of Lewiston. The existing provisions contained in Chapter 293 of the Town Code of the Town of Lewiston may not create and meet such appropriate standards and controls to allow for a harmonious balance and to protect the health, safety and well being of the citizens and property in the Town of Lewiston. The Town Board desires to review and address, in a careful manner, provisions relating to solid waste and recycling and the disposal of sludge, sewage sludge and septage on a comprehensive and town wide basis and to amend and/or adopt appropriate provisions to achieve these purposes.

To further this purpose the Town Board previously enacted a moratorium concerning the disposal of sludge, sewage and septage within the Town. Since that time legislation enacted by neighboring municipalities similar in nature to that being studied by the Town of Lewiston has been challenged both in administrative proceedings and in New York State Supreme Court. In particular, there is current litigation now before NYS Supreme Court Justice Caruso regarding the Town of Wheatfield and its Local Law regarding the use of solid waste and recycling and the disposal of sludge, sewage sludge and septage. This litigation has been pending decision for several months and the outcome of said litigation could and may have a dramatic effect on the manner in which the Town of Lewiston proceeds with the preparation of its own Town Code regarding solid waste and recycling and the disposal of sludge, sewage sludge and septage. The Town Board finds that it is prudent to await the outcome of the litigation concerning the Town of Wheatfield's law before it takes action on the same subject matter. The Town Board of the Town of Lewiston therefore it prudent and necessary to extend the existing moratorium applicable to solid waste and recycling and the disposal of sludge, sewage sludge and septage. This moratorium is intended to ensure that no approvals for such land use application be granted or permitted until this Board can complete its planning studies and has had an opportunity to consider and enact appropriate amendments to the Code.

#### SECTION 2. AUTHORITY.

This Local Law Is enacted pursuant to the provisions of the Town Law and the Municipal Home Rule Law of the State of New York.

#### SECTION 3. APPLICATION.

This Law shall apply to any and all solid waste and recycling and disposal of sludge, sewage sludge and septage within the Town.

#### SECTION 4. DURATION.

This Law shall be in effect for nine months from and after its adoption.

**SECTION 5. SCOPE.**

During the effective period of this Local Law no Board or Agency of the Town shall accept, process, review, recommend or grant approval for solid waste and recycling processing or the disposal of sewage, sewage sludge and septage, and no person or entity shall process, place, spread, or dispose of any sewage, sewage sludge or septage within the Town of Lewiston.

**SECTION 6. EXISTING ACTIVITIES.**

Any or all projects within the Town having a current permit to landfill sewage, sewage sludge or septage, or any product derived there from issued by the New York State Department of Environmental Conservation pursuant to 6 NRCRR part 360, and which are currently actively land filling such pursuant to such permit shall not be affected by the terms and provisions of this Local Law.

**SECTION 7. SEVERABILITY.**

The invalidity of any word, section, clause, paragraph, sentence or part or provision of this Local Law shall not affect the validity of any other part of this Local Law which shall be in effect. This Local Law shall take effect immediately upon adoption by the Town Board of the Town of Lewiston and filing with the 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 2016 of the (County)(City)(Town)(Village) of Lewiston was duly passed by the Town Board on November 14 2016, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

**3. (Final adoption by referendum.)**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.~~

~~Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting ~~thereon at the~~ (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the ~~qualified~~ electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

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 1 above.

*Anna R. Jansch*  
\_\_\_\_\_  
Clerk of the county legislative body City, Town or Village Clerk or officer designated by local legislative body

Date: 12/8/16

(Seal)

