

Topic:	Sewage Management
Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Town of Batavia
Year (adopted, written, etc.):	2005
Community Type - applicable to:	Suburban; Rural
Title:	Town of Batavia Disposal of Solid Waste Ordinance
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Abstract

This law outlines the application procedures for person applying to receive a permit to deposit fill on his or her land for purposes outlined within this section.

Resource

Town of Batavia NY Disposal of Solid Waste
Code of the Town of Batavia NY
Chapter 198: Solid Waste

General Code

ARTICLE II Disposal of Solid Waste [Adopted 2-16-2005 by L.L. No. 1-2005]

§ 198-8. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DEPOSIT — To put down, set down, leave, dump or otherwise place material onto or into the ground.

DISPOSE — To abandon, leave behind, throw away, discard or place any solid waste material in such a way that it is clear that the intention of the person placing such solid waste is to forgo any further use of the solid waste material.

FILL — Any material used to improve the grade or use of the land.

PERSON — Includes an individual, society, club, firm, partnership, corporation, municipality, or association of persons, and the singular number shall include the plural number.

SOLID WASTE — Shall have the same meaning as that term is defined in 6 NYCRR Part 360-1.2 and 1.3, the regulations adopted by the State of New York to regulate solid waste management facilities, and the definition as set forth therein is incorporated herein in its entirety.

§ 198-9. Applicability.

The provisions of this article shall apply to all lands within the Town of Batavia.

§ 198-10. Procedures and regulations.

Except as hereinafter provided:

- A. No person shall use any of the private or public lands within the Town of Batavia as a place to dispose of or deposit solid waste.
- B. Bringing any solid waste into the Town for the purpose of depositing or disposing of the same within the Town is hereby prohibited.
- C. Nothing contained in Subsections A and B shall prohibit any person from depositing within said Town such fill as the Town Board shall deem appropriate solely for the purpose of land improvement or the bringing of property up to grade level required by the Town of Batavia Zoning Ordinance, Editor's Note: See Ch. 235, Zoning. as amended from time to time, upon the following terms and conditions:

(1) Any person desiring to deposit fill on his property for the purposes hereinbefore specified shall first make application therefor to the Town Board on a form to be supplied by the Town. Said form shall indicate:

- (a) The name and address of the applicant;
- (b) The name and address of the owner of the property if the applicant is not the owner;
- (c) The consent, in writing, of the owner of the property if he is not the applicant;
- (d) The property location at which the fill is desired to be deposited;
- (e) The proximity of the area where said fill is proposed to be deposited with respect to any roads, street, highways, waterways, streams, ponds and abutting property owners;
- (f) The purpose for which said fill is desired;
- (g) The approximate amount of fill required;
- (h) The approximate average depth of the fill that will be deposited;
- (i) Each and every kind and type of fill intended to be deposited on said property;
- (j) The length of time required to deposit said fill on the property;
- (k) The time when said fill operations are intended to commence and cease; and
- (l) Such other information as may be hereinafter required by the Town Board.

(2) Said application, once completed, shall be filed with the Town Clerk, without charge, and the Town Clerk shall present the same to the Town Board at its next regularly scheduled meeting. The Town Board may either act on said application immediately or request additional information from the applicant if it deems it appropriate.

(3) Upon reviewing the application, any additional information that it may request, together with the investigation that it may order, the Town Board shall, within two regularly scheduled meetings after the application has been presented to it, make a determination with respect to the same. The Town Board may grant said application in full, deny the same in full, or grant the same in part and deny the same in part.

(4) The Town Board in reaching its determination as to whether to approve said application shall take into consideration:

(a) Whether the fill desired to be placed on said property:

[1] Will endanger the health, safety and welfare of the residents of the Town;

[2] Will cause unreasonable, uncontrolled or unnecessary damage to the nature resources of the Town or surrounding area;

[3] Will emit noxious odors and fumes, attract rodents and vermin and become breeding places therefor;

[4] Will cause or contribute to pollution of the air and ground, surface or subsurface waters;

[5] Is of combustible or incombustible nature;

[6] Is subject to disintegration and decay ; and

(b) Whether the deposition of said fill would violate any statutes, rules, regulations or ordinances of the Town of Batavia, County of Genesee or State of New York.

(5) If the Town Board denies said application for any of the reasons set forth in Subsection C(4) above, it shall set forth its reasons in resolution form. If said application is approved, either in whole or in part, the Town Board shall issue a permit to the applicant and, in its discretion, may condition said permit and approval upon the applicant:

(a) Completing said fill operation within a specified period of time at the expiration of which said permit shall expire;

(b) Leveling said fill once depositing is completed;

(c) Covering said fill with not less than one foot of nonorganic material within 30 days of completing or abandoning said fill operation;

(d) Compacting said fill as the same is deposited if said compaction is deemed necessary for health and safety reasons; and

(e) Filing a performance bond running to the Town in an amount not to exceed \$2,500 to insure faithful compliance with the conditions upon which said permit is issued.

(6) In addition to the penalties set forth in § 198-13 of this article, the Town Board shall revoke the permit of any person who violates any of the terms of the permit issued to him pursuant to this article.

(7) Where any land has been filled to a depth greater than three feet, the Town Clerk shall keep a permanent record of such fill and the location thereof. Any person may request a search of said record to determine if there has been any deep fill placed on any property within the Town, in accordance with the provisions of this article.

(8) The applicant will allow the Town to make a final inspection to monitor compliance with this article.

§ 198-11. Residential use.

Residents of the Town may use lands which they own or occupy for residence or farm purposes for the ordinary and usual purposes of disposing of solid waste normally resulting from the use of said lands by the owners thereof for household or farm purposes only.

§ 198-12. Town landfill.

The Town sanitary landfill located on Kelsey Road in the Town has been closed and is maintained pursuant to an administrative order on consent with the New York State Department of Environmental Conservation. There shall be no further use of the Town sanitary landfill, and any existing local law, ordinance or regulation permitting the use of the Town sanitary landfill is hereby repealed.

§ 198-13. Penalties for offenses.

Any person violating any provision of this article shall be guilty of an offense and upon conviction thereof shall be punishable by a fine not exceeding \$250 for each offense or by imprisonment in the county jail not exceeding 15 days, or by both such fine and imprisonment. Every day of such violation shall be or may be a separate offense.

§ 198-14. Effect on prior laws or ordinances.

All Town laws or ordinances or parts of Town laws or ordinances inconsistent herewith or contradictory hereto are hereby revoked.

§ 198-15. Severability.

If any clause, sentence, paragraph or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect and impair or invalidate the remainder thereof, but shall be confined to the operation of the clause, sentence, paragraph, section or party thereof directly involved with the controversy in which judgment shall have been rendered.