SOLID WASTE ORDINANCE

Be it enacted by the Town Council of the Town of Fairfield as follows:

Whereas: the Town of Fairfield with the legal authority to control the handling of solid waste generated within its borders; to promote the public health, safety and welfare; to gain management control over solid waste and thereby to enable reclamation of resources; and

Whereas: to provide for the requirement that all residential, commercial, and institutional solid waste generated within the borders of the Town be delivered to a designated disposal facility; and

Whereas: to provide the Town with the authority to enforce this requirement; and

Whereas: to enable the Town to be in compliance with the contract between the Town of Fairfield and the Penobscot Energy Recovery Company (PERC) entered into on the 29th day of March 1991; now, therefore

Be it ordained that the following Solid Waste Ordinance be incorporated into the code of the Town of Fairfield:

SECTION 1 COMPLIANCE REQUIRED

No person, corporation or legal entity shall dispose of solid waste in any manner which is contrary to the provisions herein and all acceptable solid waste generated within the Town of Fairfield shall be disposed of only at the PERC disposal facility pursuant to the Town's March 29, 1991, contract with PERC (a copy of which is located at the Town Office).

SECTION 2 DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this chapter. The definitions set forth in 38 M.R.S.A. Section 1303 also shall apply. Any word not otherwise defined shall have its ordinary meaning.

2.1 Acceptable Solid Waste. “Acceptable solid waste” shall mean waste which PERC, by means of its contract with the Town (a copy of which is located at the Fairfield Town Clerk’s Office), dated March 29, 1991, will accept at its disposal facility and includes all ordinary household, municipal, institutional, and commercial waste which consists primarily of combustible materials.
2.2 Solid Waste Hauler. “Solid waste hauler” means anyone collecting and transporting acceptable solid waste from residential customers, commercial establishments, and institutional facilities within Town borders.

2.3 Solid Waste. The term “solid waste” shall have the same definition as set forth in Title 38 M.R.S.A., section 1303, as the same may be amended from time to time.

2.4 Town. The term ‘Town” herein shall mean the Town of Fairfield, Maine, and its applicable officers, officials, representatives, employees, agents, designees, as well as the Town Manager and Town Council and his or her or their designees.

2.5 Unacceptable Solid Waste. “Unacceptable solid waste” means all solid waste that is not acceptable solid waste.

SECTION 3 LICENSING

3.1 All solid waste haulers must obtain an annual license from the office of the Town Manager, or his/her designee, of the Town of Fairfield. The license for the first year, notwithstanding when that license is obtained, shall expire on February 29, 1996, and on the last day of February of each year thereafter.

3.2 All solid waste haulers operating in the Town must submit an annual reporting form by January 31 of each year. Such form indicates the amount (in pounds) of acceptable solid waste and recyclables collected by the reporting solid waste hauler in the Town during the previous year. Once a reporting form has been received by the office of the Town Manager, a licensing application form will be sent to the reporting solid waste hauler. No license will be issued to an applicant that operated in the Town during the year previous to application and does not submit an annual reporting form.

3.3 In the event that a licensed solid waste hauler terminates operation within Town boundaries, such solid waste hauler shall submit at the time of termination an annual report for all acceptable solid waste delivered during the year that operation ceased.

3.4 The Town Manager shall prepare an application form which will include regulations governing the collection and disposal of solid waste at a Town-designated transfer facility or PERC as well as other information that the Town requires. Such application and regulations shall be approved by the Town Council prior to its use.

3.5 Each applicant must conform to the following standards:
a. Each application must be accompanied by a current certificate of insurance.

b. Each application must be accompanied by a list of current license plate numbers of all trucks owned by the applicant which are to be used to haul acceptable solid waste to a Town-designated transfer facility or PERC. The list shall be kept up to date during any year in which a license has been granted and any changes must be reported immediately to the Town Manager’s office.

c. Any applicant required to have a permit under the rules of the Department of Environmental Protection, Chapter 411, shall submit such permit with the Town’s application form.

d. The Town reserves the right to inspect all vehicles to determine if they are in good, operating condition and to determine whether they are so constructed as to enclose loads within the container or to provide for a secured covering of any load. (Failure to meet the conditions of this paragraph at all times will result in no license being issued to the applicant and possible loss of such solid waste hauler license hereunder until such unsatisfactory conditions are remedied to the Town’s satisfaction.)

e. All applicants’ vehicles must be capable of unloading their loads at a Town-designated transfer facility or PERC only by mechanical means.

3.6 Once a complete licensing application is received and approved by the Town Manager, the applicant will be given a new annual report form. Such applicant also will be issued a license and a certified decal for each truck owned by the applicant which is used to haul acceptable solid waste. A current license shall be indicated by an appropriate decal which decal shall be displayed in a prominent position on the vehicle.

3.7 All licenses are non-transferable.

SECTION 4 FEES

The Town Council may establish from time to time an annual fee for the licensing of solid waste haulers, which fee shall include a basic fee and an additional fee for each vehicle to be licensed.

SECTION 5 TONNAGE REPORTING

It shall be the responsibility of the solid waste hauler to ensure that the Town of Fairfield is given accurate or reasonably estimated tonnage for all acceptable solid waste collected from within the borders of the Town and delivered to a
Town-designated transfer facility or PERC by said solid waste hauler. Reporting of these weights shall be submitted with the annual reporting form on January 31 of each year.

SECTION 6 RESPONSIBILITIES OF THE HAULER

6.1 A solid waste hauler shall be held fully responsible for the presence of unacceptable solid waste in any load delivered by the solid waste hauler to a Town-designated transfer facility or PERC. In the event that the solid waste hauler disposes of any unacceptable solid waste at such facilities, such unacceptable solid waste shall be removed from the facility by the solid waste hauler at the hauler's expense within a 24 hour period following oral notification by the Town. If the unacceptable solid waste is not removed by said solid waste hauler within the 24 hour notification period, it will be removed by the Town or its agents, with double the cost of removal and disposal to be billed to the solid waste hauler and paid by any such solid waste hauler within thirty (30) days. Failure or refusal by such solid waste hauler to pay such bill from the Town may result in loss of such solid waste hauler license hereunder through the process described in Section 7 until all outstanding amounts due under this ordinance are paid.

6.2 The solid waste hauler shall be fully responsible for the handling of waste between its sources from within the borders of the Town and a Town-designated transfer facility or PERC. The solid waste hauler's license does not make the hauler an agent, employee or contractor of the Town. The solid waste hauler is fully and solely responsible for his/her own negligent and intentional acts or omissions, and all workers’ compensation costs, insurance costs, and other costs and obligations associated with hauling solid waste.

SECTION 7 PENALTIES AND LICENSE REVOCATION

7.1 In the event that a solid waste hauler shall have violated the provisions of this chapter for five (5) days or more, or on ten (10) or more separate occasions, the Town Manager shall have the right to begin the process of revocation of the existing license herein described in Section 7.2, and permanently refuse to grant a license to such solid waste hauler in the future.

7.2 Upon notice by the Town Manager to the solid waste hauler of a proposed temporary or permanent suspension of its solid waste hauler's license, a public notice of said proposed suspension will be issued and will be posted in the normal posting places within the Town and a copy shall be sent to the solid waste collection sources of said solid waste hauler. Upon issuance of a notice of a proposed temporary or permanent suspension, the solid waste hauler will be entitled to a hearing before a select committee of the Town Council. If the select
committee upholds the decision of the Town Manager, then a suspension of the solid waste hauler's license may be enacted and/or a fine may be levied.

7.3 Any solid waste hauler who is responsible for a violation of this Ordinance is liable for the penalties in Title 30-A, MRSA, Section 4452. Said hauler shall pay the Town's court costs and reasonable attorney's fees in the event that the Town takes court action to enforce this Ordinance.

7.4 The Town Manager may enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and imposing fines without court action. Such agreements should not allow an illegal activity to continue unless there is clear and convincing evidence that the illegality was a direct result of erroneous information or advice given by an authorized Town official, and there is no evidence that the violator acted in bad faith.

SECTION 8 SEVERABILITY AND CONFLICT

8.1 In the event that any provision of this ordinance is found to be void and unenforceable by a court, the remaining provisions continue in full force and effect.

8.2 If this Ordinance conflicts with other Town ordinances, then the strictest provisions shall apply.

8.3 Provisions of Federal and State laws and rules adopted pursuant thereto shall govern if such provisions are more stringent than the provisions of this Ordinance.

Public Hearing: July 18, 1995

Adopted: July 18, 1995

Effective: July 18, 1995