

**TOWN OF
COEYMANS**

PROPOSED LOCAL LAW # 1 OF 2019

A LOCAL LAW OF THE TOWN OF COEYMANS, COUNTY OF ALBANY, NEW YORK,

Section 1: TITLE

This Local Law (Chapter) shall be known as the “Clean Air Law.”

Section 2: STATUTORY AUTHORIZATION

This Local Law (Chapter) is hereby adopted pursuant to the provisions of the New York State Municipal Home Rule Law, the Clean Air Act (42 U.S.C. § 7416), the Resource Conservation and Recovery Act (42 U.S.C. § 6929), New York State Air Pollution Control Act (Environmental Conservation Law §§ 19-0703 and 19-0709), and New York State Environmental Conservation Law § 27-0711.

Section 3: INTENT

It is the intent of this Local Law (Chapter) to promote and protect the public health and welfare of the residents of the Town of Coeymans by regulating burning or related processing of wastes, and prohibiting the same on a large scale.

Section 4: DEFINITIONS

As used in this Local Law (Chapter), the following terms shall have the meanings indicated:

COMMERCIALLY AVAILABLE

A system that is currently offered for purchase by equipment vendors for the proposed application, and for which service contracts can be obtained for a fee. The determination of commercial availability does not include an analysis of the costs of the system.

CONTINUOUS EMISSIONS MONITORING SYSTEM (OR “CEMS”)

A pollution monitoring system capable of sampling, conditioning, analyzing, and providing a record of emissions at frequent intervals and meets U.S. Environmental Protection Agency or Department data acquisition and availability requirements. The sampling frequency capability sufficient to qualify a system as a CEMS for the purposes of this law shall at a minimum deliver a monitoring sample (i) once per minute or (ii) any lesser frequency of interval that still provides sufficient data for a direct determination of compliance with all applicable emission limitations imposed by the Department for the Facility, but in no case may the frequency of interval for monitoring samples be less than once per hour. In the case of dioxins and furans, long-term sampling equipment may be used if real-time monitors are not Commercially Available, such that year-round monitoring is still achieved through back-to-back use of long-term monthly samples.

TEQ_{DF}-WHO₉₈

A unit of measurement for dioxins and furans, standardized to toxic equivalents, calculated in accordance with the World Health Organization’s 1998 method.

WASTE

Any of the following, or combination of the following: sewage (including, but not limited to, methane or other emissions from animal or human sewage, and including the water carrying human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present); solid or liquid waste, including but not limited to, all putrescible and non-putrescible materials or substances that are discarded, discharged, deposited, injected, dumped, burned, spilled, leaked, or placed into or on any land or water, or otherwise disposed of, or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection; garbage; trash; rubbish; refuse; industrial, commercial and household waste; plastics; any material that has been source separated for recycling or composting purposes; ash (including, but not limited to, bottom ash, boiler ash, fly ash, incinerator ash); ash and sludge from air or water treatment facilities; sewage sludges; biosolids; "biomass" as defined in Appendix B of New York State Public Service Commission's 9/24/2004 Order Approving Retail Renewable Portfolio Standard (Case 03-E-0188); coal refuse; waste coal; contained gaseous material; incinerator residue; offal; construction and demolition debris; disaster debris; industrial waste, hazardous waste as defined by N.Y. Environmental Conservation Law § 27-0901(3); "Waste" as defined by N.Y. Environmental Conservation Law § 27-0901(11); low-level radioactive waste as defined by N.Y. Environmental Conservation Law § 29-1010(1); source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923); high-level radioactive waste; transuranic waste; regulated medical waste as defined by N.Y. Environmental Conservation Law § 27-1501(1); "Solid Waste" as defined in the Resource Conservation and Recovery Act of 1976 ("RCRA") §1004(27), 42 U.S.C. §6904(27); "solid waste" as defined in 6 NYCRR Part 360.2; "solid waste" as defined in NY ECL §27-0701(1); automobile shredder residue; discarded automobiles; waste tires as defined by N.Y. Environmental Conservation Law § 27-1901(13); pharmaceutical wastes or expired pharmaceuticals; contaminated soil; electronic wastes; processed engineered fuel, refuse-derived fuel, any material determined by the U.S. Environmental Protection Agency or state agency to be a non-hazardous secondary material; the solid residue of any air or water pollution control device; and liquid or solid waste generated by stores, offices, warehouses, institutions, and restaurants. Any material that falls under this definition shall not be considered fuel.

WASTE DISPOSAL FACILITY

Any facility which disposes of Waste or uses Waste to produce energy (heat, electricity, or a burnable fuel) by combusting Waste (or gases produced on-site from the burning, gasification or pyrolysis of such Waste), or which produces a solid, liquid and/or gaseous fuel product through conversion of Waste, and is capable of processing at least five tons of Waste per day. A Waste Disposal Facility does not include systems used exclusively for on-site space heating purposes at a residential home.

Section 5: PROHIBITION

It is hereby prohibited for a Waste Disposal Facility to process more than 25 tons of Waste in any 24 hour period.

Section 6: MONITORING AND DISCLOSURE

- A. A Waste Disposal Facility with any air emissions point source shall not process more than one ton of Waste in any 24 hour period without complying with the monitoring requirements in this section.
- B. Continuous Emissions Monitoring Systems ("CEMS") equipment shall be used to monitor, measure and disclose the smokestack emission of the following pollutants:
 - a. Dioxins / Furans
 - b. Carbon Dioxide (CO₂)
 - c. Carbon Monoxide (CO)
 - d. Hydrochloric Acid (HCl)
 - e. Hydrofluoric Acid (HF)
 - f. Nitrogen Oxides (NO_x)
 - g. Sulfur Oxides (SO_x)

- h. Particulate Matter (PM)
- i. Volatile Organic Compounds (VOCs)
- j. Polycyclic Aromatic Hydrocarbons (PAHs)
- k. Arsenic
- l. Cadmium
- m. Chromium (VI)
- n. Lead
- o. Manganese
- p. Mercury
- q. Nickel
- r. Selenium
- s. Zinc

C. A Waste Disposal Facility shall disclose all data provided by CEMS required under this section in real-time on a public website. Data shall also be provided in summary form, including total amounts of releases of each chemical in pounds per day and per year. All displays of data shall be accompanied by any local, state, and federal emissions limits that apply. Data shall be archived and maintained such that the history of data is available for download in a commonly available spreadsheet format. Data shall be maintained until six months after the Waste Disposal Facility closes or changes their activities such that they no longer qualify as a Waste Disposal Facility.

Section 7: CLEAN AIR STANDARDS

- A. A Waste Disposal Facility with any air emissions point source shall not process more than one ton of Waste in any 24 hour period without complying with the clean air standards in this section.
- B. Waste Disposal Facilities must meet the following pollution limits where they are more stringent than corresponding limits in an air permit issued by a state or federal environmental agency:

Mercury:	15 micrograms per dry standard cubic meter (µg/dscm) corrected at 7% O ₂
Sulfur Dioxide (SO ₂):	18 parts per million dry volume (ppmvd) corrected at 7% O ₂ (24 hour geometric mean)
Dioxins/Furans (PCDD/F):	2.6 nanograms TEQ _{DF} -WHO ₉₈ per dry standard cubic meter (ng/dscm) corrected at 7% O ₂
Nitrogen Oxides (NO _x):	45 parts per million dry volume (ppmvd) corrected at 7% O ₂ (24 hour block arithmetic mean)
	40 parts per million dry volume (ppmvd) corrected at 7% O ₂ (12 month rolling average)

Section 8: LOCAL ENFORCEMENT OF STATE / FEDERAL AIR PERMITS

For any Waste Disposal Facility regulated by this law, the Town hereby adopts and incorporates by reference herein the standards, limits, and requirements for the emission of air contaminants for such facilities, and standards of performance for stationary sources that would apply to such facilities, as promulgated by the U.S. Environmental Protection Agency pursuant to the Clean Air Act, the State of New York pursuant to New York’s air pollution laws, or any other relevant statutes or consent orders. It is expressly the intent of the Town in adopting these standards, limits, requirements, and standards of performance, to make them independently enforceable by the Town of Coeymans, using any data made available from any Continuous Emissions Monitoring Systems required under Section 6.

Section 9: RESIDUE MANAGEMENT

A Waste Disposal Facility with any air emissions point source shall not process more than one ton of Waste in any 24 hour period without complying with the residue management requirements in this section.

Solid waste residue resulting from a combustion or gasification process at a Waste Disposal Facility, such as fly ash, bottom ash, combined ash, cement kiln dust, and gasification slag, shall be disposed of as hazardous waste in a licensed hazardous waste landfill.

Section 10: PENALTIES FOR OFFENSES

- A. Failure to comply with any of the provisions of this Local Law shall be a violation as contemplated by Article 10 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of up to \$2,000 or imprisonment for not more than 10 days, or both, for the first offense. A second offense shall be punishable by a fine up to \$5,000 or imprisonment for a period of not more than 30 days, or both. All subsequent offenses shall be punishable of a fine up to \$10,000 or imprisonment for a period of not more than 50 days, or both. For purposes of this subsection, failure to monitor, disclose, or meet an emissions limit are all separate and distinct offenses, per pollutant, and for each day that noncompliance with this Local Law exists.

- B. The Attorney for the Town may also maintain an action or proceeding in a court of competent jurisdiction to prevent, restrain, enjoin, correct, enforce, and/or abate any violations of, or non-conformance with, any provision or requirement of this Local Law (Chapter). If equitable relief is requested in the form of a temporary restraining order, a temporary injunction, an injunction, or by any other form of prohibition or similar relief, the Town shall not be required to post any bond or undertaking as a condition or requirement for or of such relief, and the Town shall not be required to prove or show a lack of an adequate remedy at law. No right, remedy, or penalty specified in this Section 10 shall be the exclusive remedy of the Town, and each remedy or penalty specified in this Section 10 shall be in addition to, and not in substitution for or in limitation of, any other remedies or penalties specified in this Local Law or permitted by any applicable law, rule, order, or regulation. Any remedy or penalty specified in this Local Law may be pursued by the Town at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Section 10.

- C. In addition, any enforcement officer may issue stop work orders or compliance notices relative to any violation of this Local Law. The failure of any person to comply with any such notice or order shall be and be deemed a violation of any other applicable law or ordinance, including, without limitation, the New York Executive Law, § 382, and, in each case, such non-compliance or violation may also be enforced as such.

- D. In the event the Town desires or is required to take legal action to enforce this Local Law the violator will be responsible for any and all necessary costs and expenses incurred by the Town relative thereto, including attorneys', engineering, consulting, and experts' fees; provided, however, any responsibility or liability therefor, and the amount thereof, shall be determined by a court or other tribunal of competent jurisdiction, and this clause shall be interpreted, construed, and applied only to the maximum extent permitted by applicable law.

Section 11: ENFORCEMENT AND ADMINISTRATION

Enforcement of this Local Law (Chapter) shall be the responsibility of Code Enforcement Official and/or Assistants duly authorized by the Town of Coeymans.

Section 12: COMMUNITY ENFORCEMENT

Any Town resident or taxpayer shall have the standing and authority to bring a civil action in state court to compel compliance with this law's provisions and/or to seek civil penalties for a violation of a provision of this law or any order issued pursuant to this law. A civil action under this section may not be commenced prior to thirty (30) days after the plaintiff had given notice in writing of the noncompliance to the Town and to the owner or operator of the Waste Disposal Facility. The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

Section 13: SEVERABILITY

If any provisions of this Local Law (Chapter) are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Local Law (Chapter) shall remain in effect.

Section 14: CONFLICTS OF LAW

Whenever any Local Law, Chapter, Ordinance or Regulation of the Town of Coeymans, County of Albany, State of New York, or United States of America is inconsistent with this Local Law (Chapter), whichever Local Law, Chapter, Ordinance or Regulation is more stringent shall supersede the less stringent Local Law, Chapter, Ordinance or Regulation.

Section 15: EFFECTIVE DATE

This Local Law shall take effect immediately.