

**Proposed Local Law
Amendments to Chapter 80 – Clean Air**

§ 80-1 Title.

This chapter shall be known as the "Clean Air Law."

§ 80-2 Statutory authorization.

This 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.

§ 80-3 Intent.

It is the intent of this 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.

§ 80-4 Definitions.

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

COMMERCIALLY AVAILABLE

A system that is currently offered for purchase by equipment vendors and is technology deemed proven and accepted by the United States Environmental Protection Agency for the proposed application through the promulgation of a Performance Specification, 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.~~

TEQ_{DF}-~~WHO~~₉₈

International method of expressing toxicity equivalents for dioxins and furans as defined in U.S. Environmental Protection Agency, Interim Procedures for Estimating Risks Associated with Exposure to Mixtures of Chlorinated Dibenzodioxins and Dibenzofurans (CDDs and CDFs) and a989 Update, March 1989. 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 groundwater infiltration and surface water as may be present); solid or liquid waste, including but not limited to all putrescible and nonputrescible 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 New York Environmental Conservation Law § 27-0901(3); "waste" as defined by New York Environmental Conservation Law § 27-0901(11); low-level radioactive waste as defined by New York Environmental Conservation Law § 29-0101(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 New York 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 New York 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 United States Environmental Protection Agency or state agency to be a nonhazardous 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, [unless approved and permitted by New York State Department of Environmental Conservation and/or the US Environmental Protection Agency as a fuel, at which time it shall no longer be treated as a waste for purposes of this Chapter.](#)

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.

§ 80-5 Prohibition.

[It is hereby prohibited for a waste disposal facility to process more than 25 tons of waste in any twenty-four hour period.—Processing of any amount of hazardous waste as defined by USEPA Resource and Conservation Recovery Act \(RCRA\) or medical waste as defined by New York State Department of Health and Department of Environmental Conservation is strictly forbidden.](#)

§ 80-6 **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 twenty-four-hour period without complying with the monitoring requirements in this section.
- B. Continuous emissions monitoring systems ("CEMS") equipment, [when commercially available](#), shall be used to monitor, measure and disclose the smokestack emission of the following pollutants:
- (1) Dioxins/furans.
 - (2) Carbon dioxide (CO₂).
 - (3) Carbon monoxide (CO).
 - (4) Hydrochloric acid (HCl).
 - (5) Hydrofluoric acid (HF).
 - (6) Nitrogen oxides (NO_x).
 - (7) Sulfur oxides (SO_x).
 - (8) Particulate matter (PM).
 - (9) Volatile organic compounds (VOCs).
 - (10) Polycyclic aromatic hydrocarbons (PAHs).
 - (11) Arsenic.
 - (12) Cadmium.
 - (13) Chromium (VI).
 - (14) Lead.
 - (15) Manganese.
 - (16) Mercury.
 - (17) Nickel.
 - (18) Selenium.
 - (19) 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 its activities such that it no longer qualifies as a waste disposal facility.

§ 80-7 **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 twenty-four-hour period without complying with the clean air standards in this section.
- B. Waste disposal facilities must meet the following pollution limits found where they are more stringent than corresponding limits in in any air permit issued by a state or federal environmental agency.

- ~~(1) Mercury: 15 micrograms per dry standard cubic meter ($\mu\text{g}/\text{dscm}$) corrected at 7% O_2 .~~
- ~~(2) Sulfur dioxide (SO_2): 18 parts per million dry volume (ppmvd) corrected at 7% O_2 (twenty-four hour geometric mean).~~
- ~~(3) Dioxins/furans (PCDD/F): 2.6 nanograms TEQ_{D,F}-WHO₀₈ per dry standard cubic meter (ng/dscm) corrected at 7% O_2 .~~
- ~~(4) Nitrogen oxides (NO_x): 45 parts per million dry volume (ppmvd) corrected at 7% O_2 (twenty-four hour block arithmetic mean); 40 parts per million dry volume (ppmvd) corrected at 7% O_2 (twelve-month rolling average).~~

§ 80-8 Local enforcement of state/federal air permits.

For any waste disposal facility regulated by this chapter, 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 United States 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 § 80-6.

§ 80-9 Residue management.

- A. A waste disposal facility with any air emissions point source shall not process more than one ton of waste in any twenty-four-hour period without complying with the residue management requirements in this section.
- B. 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.

§ 80-10 Penalties for offenses.

- A. Failure to comply with any of the provisions of this chapter 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 by 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 chapter 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 of, or nonconformance with, any provision or requirement of this chapter. If equitable relief is requested in the form of a temporary restraining order, a temporary injunction, or 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 § 80-10 shall be the exclusive remedy of the Town, and each remedy or penalty specified in this § 80-10 shall be in addition to, and not in substitution for or in limitation of, any other remedies or penalties specified in this chapter or permitted by any applicable law, rule, order, or regulation. Any remedy or penalty specified in this chapter 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 § 80-10.
- C. In addition, any enforcement officer may issue stop-work orders or compliance notices relative to any violation of this chapter. 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 noncompliance 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 chapter 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.

§ 80-11 Enforcement and administration.

Enforcement of this chapter shall be the responsibility of Code Enforcement Official and/or assistants duly authorized by the Town of Coeymans.

~~§ 80-12 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 chapter's provisions and/or to seek civil penalties for a violation of a provision of this chapter or any order issued pursuant to this chapter. A civil action under this section may not be commenced prior to 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.~~

§ 80-13 **Severability.**

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

~~§ 80-14 **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 chapter, whichever local law, chapter, ordinance or regulation is more stringent shall supersede the less stringent local law, chapter, ordinance or regulation.~~

§ 80-15 **When effective.**

This chapter shall take effect immediately.