

**THE REGISTRATION AND LICENSING OF NON-MUNICIPAL USERS OF THE PERC FACILITIES  
IN ORRINGTON, MAINE**

**PURPOSE**

The purpose of this Article is to promote the public health, safety and welfare; to gain management control over solid waste and enable the reclamation of resources, including energy therefrom; to provide for the orderly operation of a solid waste disposal facility pursuant to Title 38 M.R.S.A. § 1305 (1) to allow the Town to contract with the Penobscot Energy Recovery Company hereinafter referred to as PERC; and to control commercial haulers, non-commercial haulers and users which generate and/or collect solid waste within the limits of the Town of Searsport. The accumulation, collection, transportation and disposal of acceptable solid waste generated by users within the Town of Searsport shall be regulated by the Article. All acceptable solid waste generated within the Town of Searsport shall be deposited at the PERC facilities in Orrington, Maine, by licenses commercial and non-commercial haulers in accordance with the provisions of this Article.

**DEFINITIONS**

The terms, phrases and words in the Article shall have the following meanings: Any terms, phrases and words not defined herein shall have the generally accepted meaning or definition promulgated in WEBSTER'S NEW WORLD COLLEGE DICTIONARY, Third Edition, Copyright 1997

**ACCEPTABLE SOLID WASTE**

Acceptable solid waste shall mean all waste, which PERC will accept at its facilities including all ordinary household, municipal, institutional, commercial and industrial wastes, which consist primarily of combustible materials, except for the following:

(The following shall be considered unacceptable solid waste as it pertains to this Article)

- (a) Hazardous waste: All hazardous waste as defined by federal and state regulatory agencies;
- (b) Hospital waste: All contaminated hospital waste as defined by federal and state laws, i.e., "red bag" pathological anatomical waste;
- (c) Infectious waste: Wastes, which are hazardous by reason of their contamination with infection materials i.e., "red bag", waste body parts, pathology lab waste, etc.
- (d) Human fecal waste;
- (e) Animal fecal waste which is not contained in a plastic bag;
- (f) Flammable liquids;
- (g) Powder and liquid pesticides, herbicides and fungicides;
- (h) Paint waste and pigments;
- (i) Construction demolition debris;
- (j) Electrical capacitors: Contain oils that may contain P.C.B.'s;
- (k) Special waste as defined by state law, including but not limited to, asbestos;
- (l) Laboratory chemicals;
- (m) Biohazard materials;
- (n) Plated metal parts;
- (o) Electrical transformers or parts; and
- (p) Hot ashes.
- (q) Mercury containing products - Batteries, Fluorescent light bulbs, thermometers, thermostats.
- (r) Universal waste - CRT's (Computer Monitors / TVs)

**COMMERCIAL HAULER**

A commercial hauler is an individual, corporation, partnership or other legal entity, which hauls the solid waste for another from within the Town limits of the Town of Searsport for compensation. Commercial haulers shall not include the Town of Searsport or a commercial hauler who has a contract with the Town of Searsport for solid waste pickup, which is collected and disposed of pursuant to the terms of a Contract.

**CONTRACTOR**

Any person, corporation, partnership, association or other legal entity under contract with the Town to provide refuse collection services.

**NON-COMMERCIAL HAULER**

A non - commercial hauler is an individual, corporation, partnership or other legal entity who hauls solid waste for herself, himself, itself or another from within the limits of the Town without compensation.

**SOLID WASTE**

Shall mean useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, by way of example and not by limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but shall not include septic tank sludge nor agricultural, biomedical or hazardous wastes; it shall also include acceptable waste, unacceptable waste and construction and demolition debris as defined herein. The fact that a solid waste or constituent of the waste may have value or other use, or may be recycled, or may be solid or exchanged does not exclude it from this definition. Solid waste shall have the same definition as set forth in Title 38 M.R.S.A. § 1303, as the same may be amended from time to time.

**UNACCEPTABLE SOLID WASTE**

Unacceptable solid waste shall mean all waste that is not Acceptable Solid Waste and will not be accepted by PERC at its Orrington, Maine facilities.

**USER**

A user is an individual, corporation, partnership or other legal entity, which either resides in the Town of Searsport and/or has a business in the Town of Searsport, which produces solid waste that is disposed of by a commercial or non commercial hauler.

**VEHICLES**

Only vehicles which are capable of discharging their loads on the PERC facilities tipping floor by mechanical means shall be licensed by the Town of Searsport. Included within the category of vehicles permitted to tip are: standard solid waste packer trucks, transfer trailers and hydraulic dump trucks. In addition, all solid waste vehicles entering the PERC facilities in Orrington, Maine, shall have their loads enclosed with a container or covered securely by means of a tarp. No pick up trucks, or other vehicle, which requires manual unloading, either by design or by reason of malfunction, shall be permitted to haul solid waste to the PERC facilities.

**ENERGY RECOVERY AND DISPOSAL FACILITY DESIGNATED**

In accordance with the provisions of Title 38 M.R.S.A. § 1304-B, the Town hereby designates the Penobscot Energy Recovery Company facility located in Orrington, Maine, (PERC) as the energy recovery facility and disposal facility for acceptable waste. The Town reserves the right to designate an alternate disposal facility for a specified time period for acceptable waste

should circumstances requires it, upon a majority vote of the Searsport Selectmen.

#### **REGULATED ACTIVITY**

The accumulation, collection, transportation, delivery and disposal of acceptable waste and unacceptable waste generated within the Town of Searsport shall be regulated in the following manner:

- (a) All acceptable wastes generated within the municipality shall be deposited at the energy recovery facility (PERC).
- (b) All unacceptable waste generated within the municipality shall be deposited only at a suitable disposal facility, which is designed for the express purpose of handling such unacceptable waste.

#### **LICENSING**

January 1 of each year, all commercial haulers must obtain an annual license from the office of the Searsport Town Clerk. The license shall end on the thirty-first (31st) day of December of each year. A copy of each commercial haulers license issued and of each application therefore shall be sent by the Town to PERC. PERC is authorized and directed to admit waste generated in the Town for processing in its facilities only from Searsport commercial haulers who are licensed. All licenses are non-transferable.

#### **FEES**

Commercial haulers shall pay the following annual non refundable vehicle fees to the Town of Searsport for their licenses:

- (a) Commercial Haulers - A basic fee of Twenty - Five Dollars (\$25.00) plus an additional Five Dollars (\$5.00) for each vehicle licensed. All fees must be paid to the Town Clerk when the application is made for the annual license and shall not be prorated.

#### **RECORDS**

The Town of Searsport may require all commercial haulers to provide to the Public Works Department Head the following information on an accurate basis:

- (a) Name, address and telephone number of the commercial hauler or commercial hauler filing the report;
- (b) Name and address of all users serviced by the hauler;
- (c) Frequency of pick up;
- (d) Size of container, if a container is used;
- (e) List of new users or users deleted from prior report;
- (f) Location of disposal of the solid waste;
- (g) Such other information as the Public Works Department Head may require relating to users and amount of solid waste picked up.
- (h) The amount of solid waste tonnage collected and transported per haul during the preceding twelve (12) months.

The Public Works Department Head or his or her agent shall have the right, upon reasonable notice, to inspect the records of any commercial hauler and non-commercial hauler as to solid waste generated and collected within the limits of the Town of Searsport as it may relate to users and the quantities generated by them.

In addition to the foregoing, all commercial haulers shall provide a current and accurate record of all vehicles used by them, including make, model, serial number, vehicle identification number and vehicle license plate number.

#### **CREDIT FOR TONNAGE**

It shall be the responsibility of the commercial hauler, non-commercial hauler and users to see the Town of Searsport is given credit by PERC for all acceptable waste generated within the limits of the Town of Searsport by the user and collected therein and delivered to the PERC facility by the commercial hauler and/or non-commercial hauler.

Acceptable solid waste collected by a commercial hauler and/or non commercial hauler in the Town of Searsport shall not be commingled in a vehicle with any other solid waste collected in any other municipality provided however, the Searsport Selectmen by order may authorize the Public Works Department Head to enter into a reciprocal arrangement, as the same is permitted by law, with other municipalities, which allows the co mingling of acceptable solid waste collected by licensed commercial haulers if there is a means recommended by the Public Works Department Head and approved by the Searsport Selectmen to allocate the relative share of each load to the municipality where the original solid waste was generated.

Users who fail to use a licensed hauler or fail to see that acceptable solid waste generated by them is delivered to the PERC facilities in Orrington, Maine, shall be subject to the penalties set forth in this Article.

#### **SOLID WASTE DELIVERY REQUIRED**

Within the Town, the dumping, disposal by any person including, but not limited to, any commercial hauler, non commercial hauler and users at any place other than at PERC of any acceptable waste is prohibited.

It shall be a violation of this Article for a person disposing of solid waste at a public disposal facility to misrepresent to PERC that the solid waste is chargeable to the city.

#### **INCINERATION OF SOLID WASTE PROHIBITED.**

It shall be unlawful for any person to burn or incinerate any solid waste within the Town of Searsport.

#### **ADMINISTRATION**

The Public Works Department Head shall establish rules and regulations governing the availability and use of PERC inconsistent materials from solid waste which may be deposited at PERC and any other rules or regulations that the Public Works Department Head determines are needed to implement this Article. These excluded materials may include junk auto bodies and such other bulky waste as may require special processing prior to disposal; trees and tree trunks and limbs; burning materials or materials containing hot or live coals; hazardous waste, and other materials which the Public Works Department Head deems necessary to exclude. Hazardous waste shall be handled in accordance with Title 38 M.R.S.A., as amended.

Before promulgating any rules or regulations or amendments to rules and amendments the Public Works Department Head shall publish a notice of rule making at least twice in a newspaper having a general circulation in the community. The notice shall state that the Public Works Department Head will be promulgating rules, the general subject matter covered by the rules, that a copy of the proposed rules may be obtained at the Searsport Town Office and that a Selectmen's Meeting will be held at a specified date, time and place. The second newspaper notice must be published at least seven (7) days before

the Selectmen's Meeting. The Public Works Department Head may enact the proposed rules and regulations immediately after the Selectmen's Meeting. Rules enacted by the Public Works Department Head shall go into effect (5) days after enactment, unless enacted on an emergency basis.

**EMERGENCY RULES**

The Public Works Department Head may enact emergency rules when the Public Works Department Head determines that such rules are necessary to address a situation that creates a threat of harm to the public health, welfare and safety, and the Public Works Department Head's decision on the necessity for emergency rules shall be conclusive.

Emergency rules shall be accompanied by a declaration of emergency, and the Public Works Department Head may enact such rules without prior published notice or any public hearing.

A notice describing the general subject matter of the rules shall be published in a newspaper of general circulation within five (5) days of enactment. Businesses affected by the emergency rules shall be given notice of the rules and a copy of them by mail sent to the business last known address within twenty-four (24) hours of the end of business on the date of promulgation.

Emergency rules shall be in effect for a maximum of sixty (60) days.

Failure to give any notice required by this paragraph shall not invalidate any rule.

The operation of any disposal facility shall conform to all pertinent provisions of this Article and applicable regulations or directives of all state or federal agencies, which may have jurisdiction.

Any rules and regulations promulgated by the Public Works Department Head prior to the enactment of this section are hereby ratified and given the full effect of law.

**PROHIBITION OF OPERATION**

No commercial hauler or noncommercial hauler shall operate within the limits of the Town of Searsport without a license as herein before provided. Any commercial hauler found operating shall be subject to a temporary restraining order, preliminary injunction and permanent injunction issued by a court of competent jurisdiction at the request of the Town and the penalties set forth under this Article.

**PAYMENT OF TIPPING FEE AND ADMINISTRATION FEES**

In the event that PERC requires the Town of Searsport to pay directly for all acceptable solid wastes delivered to the PERC facilities by commercial and non-commercial haulers the Town of Searsport shall bill the commercial and non-commercial haulers for the acceptable solid waste at the Town's agreed upon tipping fee, any administrative fees charged to support multi-jurisdictional solid waste activities and a Town of Searsport administration fee.

As of January 1, 2009, the following fees shall be charged.

PERC Fee \$58.81

Municipal Review Committee \$00.75

Penobscot Valley Regional Disposal District \$00.30  
Sub Total \$59.86  
Town of Searsport administration fee of 1 % of the PERC fee,  
Municipal Review Committee Fee and Penobscot Valley  
Regional Disposal District fee (rounded off to the nearest cent) \$00.60  
  
Total \$60.46

The fee shall be automatically adjusted on the first day of each quarter thereafter (April 1, July 1, October 1) to reflect the fees charged and/or assessed to the Town on the first day of each quarter by PERC, or its successor, the Municipal Review Committee and the Penobscot Valley Regional Disposal District.

The Searsport Selectmen shall also have the authority to establish by order additional fees on a quarterly basis, if it deems it necessary.

Failure to pay the Town within thirty (30) days shall result in an interest's penalty being applied to the outstanding balance at the same maximum rate as specified by the State of Maine for unpaid real estate taxes. Failure to pay any bill within ninety (90) days shall result in an automatic revocation of any license.

#### **RESPONSIBILITY OF HAULERS FOR UNACCEPTABLE WASTES**

As part of the application for a license, commercial and non commercial haulers shall agree to assume liability for and reimburse the Town for any expenses incurred, and/or remove immediately any unacceptable solid waste delivered to the PERC facilities in violation of the contract between PERC and the Town of Searsport. Repeated deliveries of unacceptable solid waste may result in forfeiture of the hauler's license by the Searsport Selectmen after notice and hearing.

#### **PENALTIES AND LICENSE REVOCATION**

Any Commercial hauler who fails to obtain a license as provided by this Article and picks up solid waste within the limits of the Town of Searsport shall be subject to a fine of Two Hundred Fifty Dollars (\$250.00) per day, with each date of collection being considered a separate offense.

In the event a commercial hauler shall have violated the licensing provision of this Article for five (5) days or more, the Searsport Selectmen shall, after notice and hearing, have the right to revoke any existing license and refuse to grant a license in the future.

Users who violate any other provisions of this Article shall be subject to a penalty of One Hundred Fifty Dollars (\$150.00) per day, with each day being a separate violation.

In addition to any penalty, injunction and/or license violation any commercial hauler, non-commercial hauler and user who has failed to insure that the Town of Searsport has been given credit by PERC for all acceptable solid waste generated within the limits of the Town of Searsport shall be jointly and severally liable to the Town for any penalties, fees or expenses incurred by the Town in failing to meet the Town's minimum annual solid waste tonnage requirements under the Town's contract with PERC. The percentage of penalties, fees and expenses to be paid by the commercial hauler, noncommercial, hauler and user shall be calculated by multiplying the penalty, fees and expenses incurred by the percentage of tonnage the

commercial hauler, non- commercial hauler and user failed to report to PERC in relation to all other non reported tonnage known by the Town.

In addition to any penalties provided in this Article, the Town shall also be entitled to its reasonable attorney fees and costs for successfully prosecuting a violation of this Article.

**SEVERABILITY** In the event of a conflict with the provisions of this Article or other Codes and Ordinances of the Town of Searsport, the more stringent provisions shall apply.

In the event any portion of this Article is held to be invalid, the balance of this Article shall remain unaffected thereby.

**AMENDMENTS** This Article may be amended by the Town of Searsport from time to time, as it deems appropriate.

I, Deborah Plourde, the duly appointed Town Clerk for the Town of Searsport, hereby certify pursuant to 30-A M.R.S.A. § 3006 that the above is the true and accurate Ordinance for the registration and licensing of non-municipal users of the PERC Facilities in Orrington, Maine as enacted by the voters of the Town of Searsport at a duly called Town Meeting held on March 7, 2009.

3/9/09  
Date

Deborah Plourde  
Deborah Plourde, Town Clerk