

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**FILLED  
STATE RECORDS**

**APR 18 2011**

**DEPARTMENT OF STATE**

- County
- City of Starkey
- Town
- Village

Local Law No. 2 of the year 20 11

**A local law** intending to regulate the disposal of sludge on lands located in the Town of Starkey  
*(Insert Title)*  
in order to protect the environment of the town and to promote the health and  
and general welfare of the citizens of the town.

Be it enacted by the Town Board of the  
*(Name of Legislative Body)*

- County
- City of Starkey **as follows:**
- Town
- Village

See Schedule "A" attached hereto and made a part hereof. Amend Local Law 2-1988, Section XIII.  
Responsibilities of owner:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20 11 of the ~~(County)(City)(Town)(Village)~~ of Starkey was duly passed by the Town Board on April 7 20 11, in accordance with the applicable ~~(Name of Legislative Body)~~ provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted ~~(Elective Chief Executive Officer\*)~~ on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. ~~(Elective Chief Executive Officer\*)~~

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) ~~(Name of Legislative Body)~~ (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

Sue A. O'Connell  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: April 7, 2011

(Seal)

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF Yates

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

David S. Buehler  
Signature  
Attorney for the Town  
Title

County  
City of  
Town  
Village  
Starbuck

Date: 4/13/11

## SCHEDULE "A"

I. Purpose: It is the purpose of this Local Law to regulate the disposal of sludge on lands located in the Town of Starkey in order to protect the environment of the town and to promote the health and general welfare of the citizens of the town.

II. Definitions: The following terms have meanings given in this Section unless the context requires otherwise.

A. "Sludge" means any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility. "Sludge" does not include the treatment effluent from a wastewater treatment plant, and it does not include compost.

B. "Owner" means the titled owner of land on which sludge is proposed to be injected, or is being injected.

C. "Operator" means the applicant, whether a municipality or private entity, that has sludge it proposes to dispose of in the Town of Starkey.

D. "Site" means the area of land in which sludge is to be injected.

E. "Sludge Injection" means the insertion of sludge under the ground by means of mechanical sludge injection equipment such that the sludge is completely covered by soil as it is applied to the site.

F. "Monitoring Well" means a hole in the ground for the purpose of obtaining water samples for testing for contaminants.

G. "Contaminants" means any chemical element or compound which is harmful to the environment or to humans, which is found in sludge.

Reference is made to the Department of Health and DEC regulations for a list of contaminants.

H. "Compost" means a stable, humus like material produced from Sludge through aerobic, thermophilic decomposition. For the purpose of this local law, material so produced from sewage sludge shall not be considered to be compost.

I. "Sewage Sludge" means the accumulated semi-solid suspension of solids deposited from wastewaters from municipal or private sewage treatment plants.

III. Prohibition: The disposal of sludge on lands located in the Town of Starkey is strictly prohibited, except by permit issued by the Town of Starkey designated officer. All such disposal, as permitted, shall be carried out in strict compliance with the requirements of the DEC and this Local Law.

IV. Odors: In any instance where 10 verified odor complaints for any sludge injection site are received by the Town of Starkey designated officer during any 12 month period, the designated officer shall order the facility closed until the cause of the odor problem is successfully eliminated. A verified complaint is a complaint received by designated officer which, during the 24 hour period after receipt by designated officer, is verified by the designated officer as an odor resulting from injection of sludge. All complaints received during any calendar day for any sludge injection shall be considered, for the purpose of this Local Law to be one complaint. This section is meant to regulate odors directly related to sludge and not odors emanating from general farming practices.

V. Origination of Sludge: Only sludge originating within the boundaries of the Town of Starkey may be injected in the Town of Starkey.

VI. Permits: A permit shall be required for the establishment of all sites regulated by this Local Law.

A. Applications for permits shall be made to the Town of Starkey designated officer.

B. Applications shall be made on forms supplied by the designated officer and shall be accompanied by copies of any permit applications and support documentation required by the New York State Department of Environmental Conservation for the issuance of state permits.

C. A permit for sludge injection site may be issued by the designated officer only after it has been demonstrated that the proposed site meets all of the requirements of:

1. this Local Law
2. the New York DEC, and Department of Health, and

3. any applicable County Law.

D. Permits for operation of Sludge injection sites shall be for a period of five years.

VII. Permit Review Committee: A Permit Review Committee shall be appointed by the Starkey Town Board to advise and assist the designated officer in the review of permit applications. The committee shall consist of 5 members.

The Permit Review Committee shall act in an advisory capacity and shall submit its written recommendations to the designated officer prior to issuance of a permit. The final determination, however, concerning the issuance of a permit shall be the responsibility of the designated officer.

VIII. Manner of Sludge Disposal:

A. All sludge disposal in the Town of Starkey must be by injection on agricultural land, located in an A-1 Zone, as determined by the Zoning Laws of the Town.

B. All proposed sludge disposal sites must meet all current New York State Department of Environmental Conservation (DEC) and Department of Health requirements.

C. Sludge to be disposed must be in liquid form and shall be injected in the ground at a depth of not less than six inches nor more than eight inches.

IX. Fees and Expenses:

A. Sludge injection permit shall be issued to each operator that meets all town requirements as herein set forth at a fee to be determined by the town board each year at its January regular meeting commencing in 1989. The fee for 1988 shall be determined by the town board at its regular August, 1988 meeting. The fee for renewals shall also be determined by the town board at its regular January meeting each year.

B. All non-municipal operators, in addition to the permit fees, shall post a bond in the amount of \$500.00 per acre of proposed site.

C. Operators shall also be responsible for all expenses incurred by the town in monitoring sludge injection sites, including fees for the annual tests of soil and vegetation samples for contaminants, and water monitoring tests

if determined necessary by the town board. The annual tests shall be done at a time to be determined by the town board.

X. Standard Permit Conditions: The following provisions shall apply to sludge injection in the Town of Starkey.

A. A representative analysis of the sludge proposed for sludge injection shall be performed initially and submitted with the application. The analysis shall be performed by a state certified laboratory.

B. Loading rates shall be determined based on the sludge quantity, quality (heavy metal), nutrient and persistent organic concentrations, site characteristics, and plant requirements (nitrogen uptake rate), as required by DEC.

C. Sludge injection shall be controlled to avoid surface runoff and contravention of surface and ground water standards.

D. No sludge shall be injected in frozen or snow covered ground, during periods of rain, or between December 15 and March 31.

E. The operator shall operate the site to control vectors, pathogens and odors.

F. Sludge containing polychlorinated biphenyls in concentrations greater than 10 mg/kg (dry weight basis) shall not be injected in the land.

G. The maximum cumulative cadmium application rate that can be applied to agricultural land is 5 kilograms per hectare (kg/ha<sup>0</sup>). Background soil cadmium levels shall be determined prior to establishing loading rates of additional cadmium. In addition, the annual cadmium application rate shall not exceed 0.5 kg/ha.

H. Soil ph, if below 6.5 shall be amended to a ph of 6.5 or greater during periods of sludge injection, and the soil ph shall be maintained at 6.5 or greater for a period of three years after final sludge injection. It will be the responsibility of the operator to maintain the soil ph as indicated.

I. A management plan, as required and approved by the DEC as a permit condition, shall be developed to include: crops or vegetation to be grown, schedules and methods of injecting sludge, and harvesting of the vegetation. This plan will be submitted to the town as a permit condition.

J. A map (from the Yates County Soil and Water Conservation District office) with 1:7920 minimum scale and a 20 foot contour shall be submitted with the application for permit to the town. This map shall indicate:

1. The location of the proposed sludge injection site;
2. all potable water wells, or other drinking water supplies and buildings within 1000 feet of the site, and the identification of any buildings which are owned by the owner or operator;
3. the location of access roads and roads on site;
4. the location of property boundaries identifying the names and addresses of all contiguous landowners;
5. all surface water bodies and their water quality classification within 1000 feet of the site, including 100 year flood elevations;
6. the locations of any primary and principal aquifers within 1000 feet of the site;
7. all drainage swales within 500 feet of the site;
8. the location of all test pits, soil borings and soil sampling points;
9. the location of fences, forested areas, and any other non-agricultural areas;
10. the direction of prevailing winds; and
11. the location of existing and proposed monitoring wells and surface water sampling stations or other environmental monitoring stations or devices.

K. The permit application shall also be accompanied by a map indicating wetlands, including their classification, and flood plains within 1000 feet of the site.

L. The permit application shall also be accompanied by a soil survey map from U.S. Department of Agricultural Soil Conservation Service Soil Survey, a key to the soil survey, and ph test results of the top 12 inches of soil.

M. Sludge shall not be injected within 200 feet of floodplain areas, as such areas are designated by the Town of Starkey Local Law 1, 1988.

N. Sludge stabilized by chlorine oxidation is not acceptable for injection.



O. Sludge injection shall not be practiced on land with a slope greater than 12%. Subsurface injection of sludge must be along paths parallel to contours.

P. Grazing by animals, other than dairy cattle, shall be prevented for one month after sludge injection, and, in addition grazing of dairy cattle shall be prevented for 12 months after sludge injection.

Q. Public access shall be prevented for 12 months after sludge injection.

R. Sludge injection shall not be permitted in land currently used for producing food chain crops for direct human consumption.

S. Food chain crops for direct human consumption shall not be grown on lands that have received sludge within preceding 24 months.

T. Sludge must be treated and stabilized to comply with current New York Department of Environmental Conservation Standards prior to its injection.

XI. Distance Requirements:

A. Sludge shall not be injected closer than 200 feet from any creek, stream, pond, lake or drinking water well.

B. Sludge shall not be injected closer than 100 feet from any neighboring, adjoining land.

C. Sludge shall not be injected closer than 500 feet from any residence or place of business, excluding the land owner on whose property the sludge is injected.

D. Sludge shall not be injected closer than 25 feet from any drainage swale or ditch.

XII. Monitoring:

A. The operator at its expense, shall establish one monitoring well per 40 acres on each site prior to obtaining a town permit, only if the Operator will be injecting more than three dry tons of sludge per acre per year. Each well shall be at least 10 feet deep. The operator, at its expense, shall prior to any injection have water samples tested from all wells on parcels contiguous to the parcel where the injection is to be done, such water sample test shall then be done annually thereafter. If any adjoining parcels within one

thousand (1,000') feet of the property that has been injected, said wells shall be tested at the operator's expense no less than every six (6) months.

B. The Town of Starkey designated officer shall obtain a water sample from each monitoring well on an annual basis and will have the sample tested at a state certified laboratory for contaminants, at operators expense.

C. The Town of Starkey designated officer shall obtain representative crop samples from each site on an annual basis and shall have the samples tested at a state certified laboratory for contaminants at the operator's expense.

D. The Town of Starkey designated officer shall obtain representative soil samples from each site on an annual basis and shall have the samples tested at a state certified laboratory for contaminants at the operator's expense.

E. The operator prior to initial permit and at six month intervals after initial injection of sludge shall provide the Town of Starkey designated officer with a representative sample of sludge which the officer shall have tested at a state certified laboratory for contaminants at the operator's expense.

F. All such samples must meet or exceed current NYS Department of Health, and Department of Environmental Conservation standards for safety before a permit may be issued or renewed.

G. If any such samples do not meet said standards for safety, the Operator shall have the opportunity to present a second sample and if this does not meet the standards for safety, the sludge injection initial permit shall not be issued, and if a permit is in effect it shall immediately be revoked.

### XIII Responsibilities of Owner:

A. There shall be filed with the initial permit application an excuted lease which shall be recorded by the leasee in the Yates County Clerk's Office, within 10 days of it's execution, with owner as lessor and operator as lessee, containing the following covenants by lessor:

1. That the lease will be binding on all successors and assigns of lessor for a period of 3 years after the last sludge is injected on the land.

2. That the lessor will allow the town designated officer to monitor the soli, crops and water for a period of 3 years after sludge injection is

discontinued, and will grant said officer to the land for such purpose. The lessor will not interfere with the monitoring wells.

3. Lessor will conform to the practice identified in the approved management plan.

4. The application of sludge shall be utilized to meet the nitrogen needs of the crops to be grown. Excessive fertilization will not be practiced.

5. The lessor shall restrict public access to the sludge injection areas for a period of 12 months after sludge injection.

6. The owner will not allow land used for sludge injection to be used for human habitation for 5 years after final injection, and then only after soil, water and vegetation samples taken from the proposed building site have been tested and have passed all safety requirements of the DEC, and Department of Health.

7. The lessor shall not allow grazing by animals, other than dairy cattle, for a period of one month after sludge injection, and in addition, grazing of dairy cattle shall be prevented for 12 months after sludge injection.

8. Lessor will not grow food chain crops for direct human consumption on sludge injected land for a period of 24 months after the land has received sludge.

9. The operator will obtain from owner, and submit with permit application, a signed statement that the owner acknowledges the fertilization benefits of sludge injection, but is aware of the presence of harmful material in sludge, including mutagens, pathogenic organisms, heavy metals and is aware of the possibility of odor problems.

XIV. Responsibilities of the Town:

A. The town clerk shall maintain a file of all maps of approved sludge injection sites, which maps will be available for public inspection during normal business hours.

B. The Town Building Inspector shall maintain a file of all maps of approved sludge injection sites, and will confirm that all soil, water and vegetation testing requirements have been met prior to issuance of a building permit on such site.

XV. Annual Report:

The Operator shall submit to the town enforcement officer an annual report which shall include the following:

- A. A map showing where sludge injection has occurred during the previous year.
- B. The dates and amounts of sludge injected.
- C. Detailed description and analysis of all sludge brought to the premises, and
- D. Such other information as specified by the designated officer. The annual report shall be submitted to the designated officer within 45 days prior to annual anniversary date of issuance of the permit.

XVI. Penalties for Violations: Any violation of any provision of this Local Law or of any law, ordinance, rule, regulation or order adopted pursuant thereto, shall be punishable by a fine not to exceed Ten Thousand Dollars (\$10,000) and/or imprisonment for a period not to exceed one year, for each and every violation. Each day during which a violation of this Local Law continues shall be deemed a separate violation.

XVI. Validity: If any clause, sentence, paragraph, section or a part of this Local Law shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder, but shall be confined in its operation to the clause, sentence, paragraph, section or a part directly involved in a controversy in which such judgment shall have been rendered.

XVII. Effective Date: This Local Law shall take effect immediately pursuant to the requisites of the Municipal Home Rule Law.