

**Twenty-Fourth Ordinance
Amending the Jay Environmental
Control and Improvement
Ordinance**

Enacted: June 8, 2010

A TRUE COPY ATTEST CERTIFIED BY:

Ronda L. Palmer, Town Clerk

**ORDINANCE AMENDING
THE JAY ENVIRONMENTAL CONTROL AND IMPROVEMENT ORDINANCE**

The Jay Environmental Control and Improvement Ordinance, enacted on May 21, 1988, and as amended through April 27, 2009 is hereby amended as follows:

Section 1. The section of the Ordinance that has been repealed and replaced is identified as such and replacement language is not underlined.

Section 2. Chapter 1, §1-106 is repealed and replaced with the following:

**§1-106 EFFECTIVE DATE AND SUSPENSION OF CERTAIN ORDINANCE
CHAPTERS**

A. Effective Date and Duration of Suspension. All provisions of this Ordinance shall be effective upon enactment by the annual town meeting or a special town meeting of the Town of Jay. The period during which Chapters of this Ordinance shall be suspended pursuant to Section 1-106(B) will begin immediately upon enactment and will continue until the period of suspension is repealed or amended by the annual town meeting or a special town meeting of the Town of Jay. On the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, or upon their own initiative, the selectmen shall either insert an article for the repeal or amendment of the period of suspension in the next warrant issued for the annual town meeting or shall within sixty days call a special town meeting for its consideration.

B. Suspension. The following Chapters of this Ordinance shall be suspended:

1. Chapter 9 (Solid Waste Facilities);
2. Chapter 12 (Water); and
3. Chapter 13 (Air).

C. Effect of Suspension. For the period during which this Ordinance is suspended:

1. No new or amended permits under Chapters 9, 12 or 13 of this Ordinance shall be required.
2. Existing permits and existing compliance orders under Chapters 9, 12, and 13 of this Ordinance shall be suspended, as shall all obligations under these permits, compliance orders.

3. All requirements imposed by Chapters 9, 12 or 13 of this Ordinance shall be suspended, including, but not limited to: operation, discharge, or emission requirements; monitoring and reporting requirements; assignment and permit transfer requirements; and annual fee requirements.
3. During the period an existing permit or compliance order is suspended, its expiration date shall be tolled.
4. No provisions in Chapters 9, 12 or 13 of this Ordinance shall be enforced, either directly or through any other provision of this Ordinance or any other Town ordinance that may cross-reference Chapters 9, 12 or 13.

D. Obligation of Permit Holders. For the period of suspension, a person holding a permit under Chapters 9, 12 or 13 of this Ordinance or operating under a compliance order issued under these Chapters, including any person to whom such permit or order is transferred, shall provide to the Code Enforcement Officer:

1. a copy of all applications for new, amended, or transferred air emission, water discharge, or solid waste facility permits submitted to the Maine Department of Environmental Protection (“DEP”) or the U.S. Environmental Protection Agency (“EPA”);
2. a copy of all permits issued pursuant to any application identified in Section 1-106(D)(1).
3. written notice of all meetings with DEP or EPA to discuss air emission, water discharge, or solid waste facility permitting or compliance. Notice shall be provided by the person at least two weeks in advance of the meeting or, when the meeting is scheduled less than two weeks in advance, notice shall be provided no later than the next business day following the scheduling of the meeting. Notice to the Code Enforcement Officer shall contain the date, time, location, subject matter, and an invitation for the Code Enforcement Officer, or other municipal officials, to attend the meeting, if interested.
4. a copy of all emergency reports made to DEP or EPA within two days of making the report. Such notice shall be in addition to and shall not substitute for any other required notice to Town of Jay public safety agencies that may be required by state or federal law.
5. a copy of all notices of violation, proposed consent agreements, and any other documents received from or submitted to DEP or EPA related to enforcement or compliance with air emission, water discharge, or solid waste facility permits or environmental laws related to air, water, or solid waste. Any

documents received by the person from DEP or EPA shall be provided within two days of receipt.

These obligations may be enforced as provided under this Ordinance.

E. Assignment or Transfer of Suspended Permit. The holder of a suspended permit and persons subject to existing compliance orders shall assign or transfer the suspended permit or compliance order to a new owner or operator of the previously permitted facility. Notice of this transfer shall be provided to the Code Enforcement Officer two weeks prior to the date the new owner or operator acquires right, title, or interest in the permitted facility. All applicable provisions of this Ordinance, including Section 3-112(H) shall apply to the assignment or transfer of a suspended permit or compliance order. The new permit holder or person subject to a compliance order assumes all responsibilities and liabilities under the permit or order.

F. Code Enforcement Officer Budget. Notwithstanding the suspension of permits and compliance orders and for so long as the minimum balance exceeds \$250,000, the Selectmen may authorize expenditures from the Environmental Reserve Fund to pay expenses associated with the Code Enforcement Officer to perform municipal functions as directed.

G. Nuisances. The Town retains and reserves its authority to protect the public health, safety, welfare, and environment against public nuisances or imminent threats.

STATEMENT OF PURPOSE

The purpose of this Amendment is to suspend the provisions of the Environmental Control and Improvement Ordinance that relate to solid waste facilities (Chapter 9), water discharges (Chapter 12), and air emissions (Chapter 13). The amendment does not affect certain administrative provisions of the Ordinance and does not change Chapter 5 of the Ordinance, which regulates subdivisions.

The suspension of certain provisions of the Ordinance is undertaken with knowledge of the existing laws administered by the state and federal government to promote environmental protection as well as the public health, safety, and welfare of the inhabitants of the Town of Jay. At the state level, the Maine Department of Environmental Protection (“DEP”) is responsible for enforcing and ensuring compliance with comprehensive environmental statutes and regulations governing solid waste facilities, water discharges, and air emissions by facilities within the Town. At the federal level, the United States Environmental Protection Agency (“EPA”) is responsible for enforcing and ensuring compliance with comprehensive federal environmental statutes and regulations also governing solid waste facilities, water discharges, and air emissions by facilities within the Town. The suspension of the Ordinance will not have any impact on the steps taken by DEP and EPA to enforce and ensure compliance with appropriate environmental standards for solid waste facilities, water discharges, and air emissions within the Town. If the suspension is reinstated, any new facility owners will be subject to the Ordinance.

The suspension of certain provisions of the Ordinance is in the interest of promoting jobs, tax revenue, and in bringing related benefits to the inhabitants of the Town of Jay. The suspension of the Ordinance will reduce the costs of doing business in the Town and make the Town a more attractive place to start, invest in, and expand industry.

The suspension will remain in effect unless and until the residents of the Town vote otherwise. In the event that suspension is repealed or amended, the Town will need to determine which provisions of the Ordinance to reinstate and on what terms those provisions should be reinstated. A comprehensive update to the Ordinance likely would be necessary to account for changes in relevant environmental laws, regulations, and reference codes.

The effect of the suspension will be to suspend Chapters 9, 12, and 13 of the Ordinance, to suspend any requirements to obtain new or amended permits, to allow permit transfers without approval by the Code Enforcement Officer, to toll the expiration date of existing permits, and to suspend enforcement of existing permits. In addition to permits, compliance orders are also suspended on similar terms.

To ensure that the Town remains aware of activities that may have environmental impacts on the inhabitants of the Town, the Town is requiring the submission of certain documents to the Code Enforcement Officer. The submission of these documents is anticipated to afford the Town with an adequate opportunity to comment on activities that may affect the public health, safety, and welfare of the inhabitants.

The Selectmen will retain authority to make expenditures from the Environmental Reserve Fund to pay expenses associated with the Code Enforcement Officer.

The Town retains and reserves its inherent authority to protect the public health, safety, welfare, and environment against public nuisances or imminent threats. In this respect, the Ordinance is not changed.

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