

Resolution No. 218

December 15, 2011

**A RESOLUTION ADOPTING COUNTY OF OSWEGO
LOCAL LAW NUMBER 2 OF 2011 ENTITLED
"A LOCAL LAW AMENDING LOCAL LAW NUMBER 3 OF 2008 THE
'OSWEGO COUNTY RECYCLING AND SOLID WASTE LOCAL LAW'"**

By Legislator James Oldenburg:

WHEREAS, a public hearing was held on December 15, 2011 and all interested parties having had an opportunity to be heard,

NOW, upon the recommendation of the Infrastructure and Facilities Committee of this body, be it

RESOLVED, that Local Law Number 2 of the year 2011 entitled "A LOCAL LAW AMENDING LOCAL LAW NUMBER 3 OF 2008 THE 'OSWEGO COUNTY RECYCLING AND SOLID WASTE LOCAL LAW'" be and is hereby adopted and enacted in its entirety.

ROLL CALL

YES: 24 NO: 0 ABSENT: 1

OSWEGO COUNTY LEGISLATURE

LOCAL LAW NO. 2 OF 2011:
A LOCAL LAW AMENDING LOCAL LAW NUMBER 3 OF 2008 ENTITLED THE
"OSWEGO COUNTY RECYCLING AND SOLID WASTE LOCAL LAW"

BE IT ENACTED by the County Legislature in and for the County of Oswego, State of New York, and Local Law Number 3 of 2008 be and is hereby amended to read in its entirety, as follows:

LEGISLATIVE INTENT AND PURPOSE

The purpose and intent of this Local Law is to ensure that Solid Waste and Residential Recyclables generated within Oswego County continue to be managed in a manner which protects public health, public safety and the environment and provides for the financial stability and independence of the county solid waste system from the real property tax levy. It is the intent of this body to continue a comprehensive and orderly solid waste and recycling program for the benefit and convenience of all county residents, businesses and industry alike and to promote the self-sufficiency of the Department of Solid Waste by imposing reasonable and appropriate fees for services. This Local Law requires Solid Wastes and Recyclables generated within the County of Oswego be disposed of in conformance with the county's Solid Waste Management Plan as approved by the NYS Department of Environmental Conservation. The County Legislature finds and determines that imposing flow control regarding certain Solid Wastes and Residential Recyclables generated within the County of Oswego is in the County's best interests and assists the County in achieving the intent and purposes of this enactment.

This Legislature recognizes that regulation of Solid Waste and Recyclables is a proper and necessary exercise of the County of Oswego's police powers as it is fundamentally related to the public health, safety and well-being of persons and the environment within the County of Oswego. Moreover, regulation of solid waste and recyclables is a necessary and proper exercise of the County's home rule powers under N.Y. Const., Art. IX, § 2[c][ii][10], sections 10 and 20 of the Municipal Home Rule Law, sections 120-aa and 120-w of the General Municipal Law, and section 226-b of the County Law. This Local Law amends County of Oswego Local Law Number 3 of 2008.

SECTION 1. GENERAL STATEMENT

1. Declaration of Policy

It is hereby declared to be the public policy of the County of Oswego to provide for the continued operation and viability of its comprehensive, publicly owned and operated solid waste management system which started in the mid 1970s and to provide mechanisms for the continued financial viability of same in light of state and federal regulations and requirements. This body recognizes that the County's solid waste system, comprised of an Energy Recovery Facility, transfer stations, landfills and other assets, is a critical part of the environmental infrastructure of Oswego County and provides facilities and services which are necessary to protect public health and the environment.

This Local Law provides incentives for the continued reduction of the volume of Solid Waste ending up in the County's landfill and thereby prolongs its useful life. This enactment promotes Recycling and energy recovery as a means to conserve limited fiscal

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and natural resources via a comprehensive and orderly program for the reduction, reuse, Recycling, recovery, collection, transportation, and disposal of Solid Waste and Residential Recyclables generated within Oswego County and thereby promotes the safety, health, sound environmental practices, the public welfare and convenience of the citizens of Oswego County.

As the Department of Solid Waste has heretofore been established as an enterprise fund, and is hereby continued as same, and in order to reduce or remove the reliance of the solid waste system upon the real property tax levy, while promoting its self-sufficiency, this enactment provides for flow control and an equitable system of fees, policies, rules, and regulations which encourage Solid Waste reduction, resource recovery, and Recycling and which prohibit the delivery of any hazardous waste and wastes generated Out of County to Oswego County facilities. Whenever possible, the County shall continue and provide for incentives to promote Recycling within its borders including promoting reduced fee or no-fee Recycling of certain commodities at County Facilities whenever practicable.

SECTION 2. DEFINITIONS

1. Alternate Daily Cover Material (ADCM)

A Solid Waste that has been approved by the NYSDEC for the use as daily cover material in a NYSDEC Part 360 permitted Landfill.

2. Asbestos Waste

Asbestos Waste for the purpose of this Law is friable Solid Waste that contains more than one (1) percent asbestos by weight and can be crumbled, pulverized or reduced to powder, when dry, by hand pressure. Asbestos Waste also includes any asbestos-containing Solid Waste that is collected in a pollution control device designed to remove asbestos. Asbestos Waste includes the Solid Waste resulting from a New York State Department of Labor determination for the demolition of a structure as an asbestos abatement project

3. Compost

A stable, humus-like material produced through a managed controlled process (which may be aerobic or anaerobic) for the decomposition and stabilization of certain solid organic constituents of Solid Waste

4. Composting Facility

Shall have the meaning set forth in 6 NYCRR 360-1.2(b)(34), or successor provision.

5. Construction & Demolition Debris (C&D)

Shall have the meaning set forth in 6 NYCRR 360-1.2(b)(38), or successor provision.

6. Construction and Demolition Debris Processing Facility

Shall have the meaning set forth in 6NYCRR 360-1.2(b)(39) or successor provision.

7. County Solid Waste Facility

Any facility owned or operated by the County of Oswego, which includes, but shall not be limited to, composting sites, Construction & Demolition Debris landfills, energy recovery facilities, household hazardous waste collection facilities, materials recovery facilities, recycling centers, sanitary landfills, and transfer stations.

8. Director

The Oswego County Department of Solid Waste Director of Solid Waste Programs who shall be the appointing authority for the Department of Solid Waste and responsible for the day-to-day administration and oversight of the Department.

9. Department/ Oswego County Department of Solid Waste

An administrative unit of the County of Oswego with responsibility for the operation of County's Solid Waste Facilities and Solid Waste and Recycling programs.

10. Generator

A Person who generates Solid Waste or Recyclables

11. Hazardous Waste

Hazardous Waste is radioactive waste (including below regulatory concern radioactive waste, or any radioactive waste that has been deregulated as determined by the US Nuclear Regulatory Commission) and any other type of waste defined to be hazardous by any Federal or New York State Law, code, rule or regulation. Hazardous waste may also include another type of waste hereunder, including, inter alia, Liquid Waste and Regulated Medical Waste.

12. Household Medical Waste

Any medical waste discarded from a residential source which is exempt from New York State Law, code, rule or regulation related to Regulated Medical Waste management, and is considered a Solid Waste.

13. Industrial-Commercial-Institutional Waste

Includes all waste generated at an industry, manufacturing facility, business, store or institution, including, but not limited to, stabilized industrial-commercial-institutional sludges, waste water treatment sludges, polymers, copolymers, resins, metal fabrication and forge wastes, paint and varnish process related materials and wastes, food process waste, industrial-commercial-institutional process waste, plant trash and other non-hazardous industrial-commercial-institutional associated materials.

14. International Waste

International Waste is a subcategory of Special Waste and constitutes any waste discarded from an international flight, cargo vessel or passenger vessel required to be incinerated under federal law by the United States Department of Agriculture, APHIS, or otherwise upon entry into the United States.

15. Industrial-Commercial-Institutional Waste Generator

Any Person who generates within the County of Oswego Industrial-Commercial-Institutional Waste as defined herein.

16. Liquid Waste

Any waste that does not have at least twenty (20) percent solids content by volume in a non-frozen state.

17. Major Hauler

Any Person who collects waste generated within the County as a commercial endeavor and any Person who collects from multiple locations and/or transports Solid Waste in significant quantity on a daily or weekly basis, (e.g. a commercial refuse hauler, university, large industry, hospital, etc.) and/or transports waste to a County Solid Waste Facility that has characteristics requiring special handling as determined by this law.

18. Minor Hauler

Any Person who collects and/or transports Solid Waste generated within the County as a result of his/her own business, other than a Major Hauler (e.g. landlord with several apartments, insurance agency, small convenience store, etc.)

19. NYSDEC

Shall mean the New York State Department of Environmental Conservation or any successor agency designated by the State of New York with responsibility and oversight of solid waste, landfills, the environment and permitting thereof.

20. Non-Recyclable Materials

Any Solid Waste deemed to be Non-Recyclable by the Director under this law or by other NYS or Federal law, rule or regulation.

21. Non-Residential Solid Waste

Any item discarded by any Person within Oswego County that does not constitute Residential Solid Waste, Hazardous Waste, Liquid Waste, Institutional Medical Waste, Out-Of-County Solid Waste, or Sewage.

22. Out-Of-County Solid Waste

Any Solid Waste which is generated outside of the incorporated limits of Oswego County, including any Solid Waste that is generated outside of Oswego County and transported and delivered to any lawful transfer station or other solid waste management facility within Oswego County for processing or trans-shipment to another destination, together with any Solid Waste residue that is created by the processing of said Solid Waste at such a facility.

23. Permit Holder

A responsible person issued a Major Hauler permit, Minor Hauler permit, Special Waste Hauler permit or Residential Permit by the County of Oswego.

24. Person

Any individual, public or private corporation, political subdivision, government agency, department or bureau of New York State or United States government, municipality, industry, partnership, association, limited liability company firm, trust, estate, non-profit entity, tax-exempt entity, or any other legal entity.

25. Recyclable Materials

All materials which can be recovered for a material value as determined by the Director on an annual basis, case by case basis or by other NYS or Federal law, rule or regulation.

26. Recycling

The separation, collection, processing and marketing of Recyclable Materials.

27. Regulated Medical Waste

Any kind of medical waste, including, but not limited to, surgical waste, obstetrical waste, pathological waste, biological waste, blood soiled waste, serums and vaccines, dialysis waste, laboratory waste, animal carcasses, and any other discarded article that has been in contact with infectious agents (as defined by 6 NYCRR Part 364), which is generated by medical or scientific research or testing, or the diagnosis, treatment or immunization of human beings or animals, and which is regulated by the United States Environmental Protection Agency, the United States Center for Disease Control, the New York State Department of Health, or the New York State Department of Environmental Conservation, but not including Household Medical Waste.

28. Resident

A natural person who resides in the County of Oswego.

29. Residential Recyclables

Any Recyclable Material generated at a residence within the County of Oswego, excluding beverage containers or other containers for which a return deposit has been imposed by state or

federal law.

30. Residential Solid Waste

All Solid Waste generated at a residence within the County of Oswego, including Construction and Demolition Debris resulting from remodeling, building or demolition of the residential structure, but not including Industrial-Commercial-Institutional Waste, Hazardous Waste, Liquid Waste, Regulated Medical Waste, Sewage, or Sludge.

31. Sewage

Sewage is defined as untreated wastes which are primarily liquid by volume that are or should be discharged into and contained within a public or private sewer system, septic tank, cesspool, or other facility for storage and/or treatment. Sludge as defined herein shall not be considered to be Sewage.

32. Sludge

Any solid or semi-solid waste generated from a municipal or industrial-commercial-institutional wastewater treatment plant, water supply treatment plant, or air pollution control facility, not including the treated effluent from a municipal or private wastewater treatment plant.

33. Solid Waste

Shall have the definition set forth in 6 NYCRR 360-1.2(a) or successor provision, but shall not include any materials designated as Recyclable Materials by the Director pursuant to section 3(4)(g) of this Local Law, or by New York State law or regulation.

34. Solid Waste Management Facility

Shall have the definition set forth in 6 NYCRR 360-1.2(b)(158) or successor provision.

35. Special Waste

Special Waste hereunder shall constitute:

- a) Residential Solid Waste or Non-Residential Solid Waste which could potentially be delivered to and disposed of at a County Solid Waste Facility, but which may otherwise require special treatment or handling (e.g. biohazard, noxious fumes, etc.); or
- b) Solid Waste which for purposes of confidentiality, or by law must, or for public health reasons must, be disposed of by incineration (i.e. International Waste,); or
- c) Pharmaceutical waste (e.g. pharmaceuticals, narcotics, evidence in criminal proceedings consisting of controlled substances or illicit drugs under state or federal law, etc.)

36. Special Waste Hauler

Any Person who collects and transports Special Waste generated as the result of his/her own business or transports and disposes of Special Waste as a commercial endeavor, a local, state or

federal law enforcement agency, any Industrial-Commercial-Institutional Generator of Special Waste, Minor Hauler or Major Hauler so deemed by the Director.

37. Tipping Fees

The fees, adopted by the County Legislature, based upon a weight measured by a certified scale at a County Solid Waste Facility, charged to all Persons where such volume and character of waste requires weighing. The Tipping Fees are primarily for use by Major and Minor Haulers.

38. Transfer Station

Shall have the meaning set forth in 6NYCRR 360-1.2(b)(172) or successor provision.

39. User Fees

The fees, adopted by resolution of the Oswego County Legislature's Infrastructure and Facilities Committee (IFC), based upon a representative weight measured at a certified scale at a County Solid Waste Facility, charged to all persons where the weighing of individual loads is impractical. User fees apply to all persons using County Solid Waste Facilities.

40. Waste Enforcement Board

The Waste Enforcement Board (WEB) shall consist of the Chairman of the County Legislature, the Chairman of the IFC, and the Oswego County Highway Superintendent. The County Attorney shall serve as counsel to the WEB.

41. Yard Waste

Yard Waste is grass (lawn) clippings, other plants, leaves, and brush and other small tree limbs and waste, but does not include stumps or whole logs

SECTION 3. ADMINISTRATIO

1. County Legislature

The Oswego County Legislature, upon recommendation of the Legislature's Infrastructure and Facilities Committee, or any successor jurisdictional committee established under the Rules of the County Legislature, shall be responsible for the direct oversight of the Department of Solid Waste, and is empowered to formulate and approve policies and Tipping Fee schedules consistent herewith and to amend the Tipping Fee schedules regarding the use of County Solid Waste Facilities. This Local Law may only be amended or repealed by the full Oswego County Legislature in accordance with the applicable provisions of the Municipal Home Rule Law.

2. Infrastructure and Facilities Committee (IFC)

The IFC of the County Legislature shall:

- a) Review the proposed budget, Tipping Fee/User Fee schedule, and modifications thereto, prepared by the Director and shall make a recommendation to the County Legislature.
- b) Recommend changes to the Tipping Fee schedule to the full County Legislature and set the User Fee schedule.
- c) Review and promulgate rules and regulations for the use of County Solid Waste Facilities as authorized herein.
- d) Adopt a schedule of proposed civil fines regarding uncontested violations
- e) Have the authority to waive Tipping Fees for large public events, festivals or for municipal requests on a case by case basis (e.g. cleanup day, etc.).

3. Department of Solid Waste

There is hereby established and continued the Oswego County Department of Solid Waste as an administrative unit of the County of Oswego. The Department's responsibilities shall include oversight of all County Solid Waste and Recycling-related facilities and programs to include County-owned Transfer Stations, landfills, recycling programs, household hazardous waste facility and the energy recovery facility, and any other duties and responsibilities assigned to the Department by the County Legislature.

4. Director of Solid Waste Programs

The Director of Solid Waste Programs is a management confidential policy making position appointed by the Oswego County Legislature. The Director shall have duties and responsibilities to include:

- a) Preparation of a proposed budget and proposed Tipping Fees and User Fees, and modifications thereto, for the consideration of the IFC and the Legislature.
- b) Direction of Solid Waste and Recyclable Materials, generated within Oswego County, to the appropriate County Solid Waste Facility for handling and recovery.
- c) Operation of all County Solid Waste Facilities and all activities necessary for the operation of such facilities in conformance with all applicable local, state and federal laws and regulations.
- d) Administration of the permit programs, including the issuance, renewal, denial and revocation of permits and collection of fees assessed for permits or for the use of County Solid Waste Facilities.
- e) Formulation of rules and regulations in furtherance of this Local Law covering the operation, maintenance and use of County Solid Waste Facilities.
- f) Issuance of warning notices and notices of violation (NOV) and the initiation of proceedings necessary to enforce this Local Law and any rules and regulations in furtherance hereof, including the collection of fines for violations.
- g) Defining which Solid Waste Materials shall be Recyclable Materials hereunder by considering such factors as whether a market exists for the material; whether transportation to the market is economically feasible; whether the material is publicly-traded on the Chicago Board of Trade or like public exchange; the costs of alternative handling of the material as compared to the cost of Recycling by the county; whether the materials recovery facility or other County Solid Waste Facility or private facility available by contract to the County is equipped to process the material; the ability to sell same on the open market; demand for the material; the feasibility to readily identify

and separate the material from other waste; overall processing costs; impacts, if any, on greenhouse gases, energy and natural resources.

- h) Formulation of administrative policies and rules consistent with this Local Law which further the county's goals of environmentally sound solid waste management, those goals being, in order of descending priority, waste reduction, reuse and recycling; waste-to-energy recovery; and landfilling of waste.
- i) Serving as the appointing authority under New York State Civil Service Law for all employees within the Department of Solid Waste having and enjoying full authority to appoint, promote, demote, counsel, suspend, discipline, terminate any employee in accordance with Civil Service Law and rules and the terms of any Collective Bargaining Agreement with Oswego County.
- j) Commencing any action or proceeding at Law, or in equity, to collect or recover fees, fines or monies due and owing to the County of Oswego under this law and shall have authority to seek temporary equitable or injunctive relief against any person who may be in violation of this law subject to the approval of the Infrastructure and Facilities Committee.

5. The Oswego County Solid Waste Management Board

The Oswego County Solid Waste Management Board (Board) shall be appointed annually by the Legislature. The Board shall elect a chairperson. The Board shall be comprised of:

One (1) representative from each of the four (4) towns in the County where a Solid Waste transfer station is located;

Two (2) representatives from the Town of Volney to be selected from a list of at least four (4) individuals submitted by the Town Board of the Town of Volney;

One (1) representative from the Town of Palermo;

Three (3) representatives of industry within the County;

The Chairperson of the Oswego County Legislature;

The Director of Solid Waste Programs of the Department of Solid Waste of the County of Oswego;

The Chairperson of the IFC of the Oswego County Legislature;

One (1) representative who is a commercial hauler; and

The Highway Superintendent for the County of Oswego.

The Solid Waste Management Board shall:

- a) Convene a minimum of six (6) times annually, and more frequently if deemed necessary and appropriate by a majority of its members.

- b) Serve as a forum for increased communication between the local municipalities, industries, agencies of County government, and the general public.
- c) Participate in program planning to assist the County Legislature in determination of Solid Waste management priorities, service needs and methods of service provision.
- d) Review the operations of the Solid Waste program and make recommendations to the Legislature and its appropriate committees regarding said program.
- e) Provide for any sub-committees as deemed necessary by the majority of its members, said sub-committees having membership from the general public.
- f) Carry out any other duties consistent with this Section or as assigned by the Chairperson of the Oswego County Legislature or by the Oswego County Legislature.

6. The Waste Enforcement Board (WEB)

The WEB shall consist of the Chairman of the Legislature, The Oswego County Highway Superintendent and the Chairman of the Infrastructure and Facilities Committee shall:

- a) Convene, hear testimony, consider relevant evidence and review and determine by majority vote all notices of violation as may properly come before the WEB pursuant to Section 5 of this Local Law regarding civil violations only.
- b) Impose monetary fines and penalties for any violations of Section 5 herein, suspend or revoke applicable permits to use county solid waste facilities; and to authorize any litigation as may be necessary to enforce or recover penalties or fines for violations hereunder imposed by the WEB.

SECTION 4. RULES AND REGULATIONS

1. General Statement

All Persons shall comply with all provisions of this Local Law. The rules and regulations in furtherance of this Local Law shall include, but not be limited to, those set forth herein below. The Director shall promulgate regulations and policies not inconsistent herewith to carry out and implement the purposes of this law.

2. Geographical Jurisdiction Limited to County of Oswego

This law regulates only the collection, transport, processing and disposal of Solid Waste and Recyclable Materials generated within the incorporated limits of Oswego County. The transport, delivery, receipt, processing and disposal of Out of County Waste, as defined in section 2(22) of this Local Law, to or at any Solid Waste Management Facility located within the County of Oswego, other than an Oswego County Solid Waste Facility, which is authorized by federal, state or Local Law to receive, handle, process or dispose of such Out of County Waste is not regulated by this Law. This Local Law shall not be construed to extend the jurisdiction of the County of Oswego beyond the incorporated limits of the County of Oswego. The Legislature recognizes the actual and potential siting of privately owned and operated Solid Waste Management Facilities within the County of Oswego under the laws of the State of New York, and this Local Law is not intended, and shall not be construed, to prohibit or restrain such facilities from providing Solid Waste services to generators of Out-of-County Waste. It shall be the policy of the County of Oswego, in the adoption, implementation and enforcement of this Local Law, to treat all persons subject to its provisions in a fair and impartial manner without

regard to their location or legal residence, within or without the boundaries of the County of Oswego, the State of New York, or any other state.

3. Use of County Solid Waste Facilities

- a) All Solid Waste generated within Oswego County shall be disposed of at a County Solid Waste Facility in accordance with all the requirements contained and referenced herein, and in accordance with the instructions of the attendant on duty.
- b) No Solid Waste generated outside of the incorporated limits of Oswego County, (Out-Of-County Solid Waste) or the residue resulting from the processing of Out of County Solid Waste, except Special Waste as defined in Section 2.35(b) and 2.35(c) shall be disposed at a County Solid Waste Facility. The Chairman of the Oswego County Legislature shall have authority to waive this restriction for a period not in excess of fifteen (15) days in the event of an emergency situation. Extensions in excess of fifteen (15) days may only be granted by the Oswego County Legislature.
- c) No Hazardous Waste, Regulated Medical Waste, Liquid Waste or Sewage shall be disposed of at any County Solid Waste Facility.
- d) All loads of Solid Waste shall be appropriately covered or confined in the vehicle transporting the waste to prevent blowing papers, litter and debris in accordance with NYSDEC requirements.
- e) All users of County Solid Waste Facilities shall make payment for services pursuant to the Tipping Fee schedule approved by the County Legislature and the User Fee schedule approved by the IFC.
- f) All haulers and users of county facilities shall consult with the Director regarding the handling and treatment of Special Wastes prior to acceptance in the first instance at County Solid Waste Facilities and as may be necessary thereafter.

4. General Permit Requirements

- a) All applications for permits required by this Local Law shall be on a form promulgated by the Department, shall contain such information as requested on the application and as specified by the Director and shall be verified by the applicant. The Director will make every reasonable effort to treat the information obtained pursuant to this Local Law in a confidential manner if and when requested to do so by a permit applicant or permit holder, otherwise said information is deemed to be public information as provided for by law.
- b) Renewal permits shall be applied for and issued in the same manner and subject to the same requirements as original permits, and shall be subject to any additional requirements in effect at the time of application for renewal. A complete and timely submitted application for renewal shall result in the applicant's existing permit remaining in effect until the renewal application is acted upon by the Director.
- c) Any holder of a permit issued pursuant to this Local Law shall notify the Director in writing within ten (10) business days of any modification to its Solid Waste related operations, or a change in address, which is not reflected in its permit or permit application. If said change represents a substantial modification to its permit or permit application then the Director may require the permit holder to apply for a new permit or amend a pending permit application. A complete and timely submitted application shall

result in the applicant's existing permit remaining in effect until the new application is acted upon by the Director.

- d) No privileges to use county facilities will be granted unless and until any required permit is issued by the Department.

5. Special Permit Requirements

- a) Each Industrial-Commercial-Institutional Waste Generator as determined by the Director shall submit a "Generator registration" annually. The Generator registration shall adequately describe all the wastes generated in the previous year, including Solid Waste, Hazardous Waste, Regulated Medical Waste, Recyclable Materials, and other materials reduced and/or reused. Registrations must be submitted to the Director before January 31st of each year. Registration forms will be mailed at least thirty (30) days before the deadline. The Director may request an analytical test of the physical and chemical composition of Industrial-Commercial-Institutional Waste and written report of the test results at the applicant's expense for any Solid Waste disposed at County Solid Waste Facilities. The Director may also request an applicant to provide a manufacturer's specification sheet for any residuals which may be disposed at County Solid Waste Facilities. The Director will be notified in writing no later than thirty (30) calendar days from the initiation of any change in manufacturing process methodology or use of any new chemicals that would affect the chemical characterization of the waste disposed at County Solid Waste Facilities. In addition, the Director may request further documentation that there are no alternative methods of recovery for the Solid Waste material in question, and that it is neither Recyclable nor reusable.
- b) A "Major Hauler permit" shall be obtained by each Major Hauler annually. Each vehicle used by the Major Hauler in the performance of his/her business in the County of Oswego and used for hauling waste must be identified on the permit. A permit sticker shall be affixed in a conspicuous place on each vehicle. To obtain a Major Hauler permit, the applicant shall certify that it will not deliver any Solid Waste that is generated outside of Oswego County (Out-Of-County Solid Waste), Hazardous Waste, Liquid Waste, Regulated Medical Waste, or Sewage to a County Solid Waste Facility and that it will not deliver any Recyclable Material or Yard Waste to a County Solid Waste Facility not designated to accept it. A certificate or affidavit of insurance shall be submitted with the permit application and shall be executed by the representatives of an insurance company acceptable to the Director evidencing that said insurance company has issued liability and property damage insurance policies as required by law.

The Major Hauler permit application shall also include the following:

- 1. A list of each and every Industrial-Commercial-Institutional establishment serviced by the applicant. For each such establishment serviced, the Hauler must:
 - i. Describe the types and approximate quantities of Solid Waste, which are delivered to a County Solid Waste Facility, and indicate which County Solid Waste Facility is used.
 - ii. For any Solid Waste requiring a NYS Part 364 waste transporter permit, the applicant will provide the Director with a copy of the permit.

2. Major Haulers shall display such other permit sticker or other identification as may be required by the Director.
3. Major Haulers shall submit as a term and condition of their permit, a report on Commercial, Industrial and Institutional Recyclable Materials originating within the incorporated limits of Oswego County, and transported to non-County Facilities during the previous calendar year to assist the county in its state reporting requirements. Such reports shall be submitted no later than Jan. 31st of each year, in the format required by the Director.
- c) A Resident may annually obtain a residential permit upon production of proof of residency in Oswego County to authorized representatives of the County. The residential permit shall allow the use of County Solid Waste Facilities for one residence in accordance with the residential permit policies and procedures. A permit sticker shall be affixed in a conspicuous place on each and every vehicle used to deliver Solid Waste and Recyclables to County facilities.
- d) A "Minor Hauler permit" shall be obtained by each Minor Hauler annually. Each vehicle used by the Minor Hauler in the performance of his/her business in the County of Oswego and used for hauling waste must be identified on the permit. A permit sticker shall be affixed in a conspicuous place on each vehicle. To obtain a Minor Hauler permit an applicant must certify that it will not deliver any Solid Waste that is generated outside of Oswego County (Out-Of-County Solid Waste), Hazardous Waste, Liquid Waste, Regulated Medical Waste, or Sewage to a County Solid Waste Facility and that it will not deliver any Recyclable Material or Yard Waste to a County Solid Waste Facility not designated to accept it.
- e) A "Special Waste Hauler Permit" shall be obtained by each Special Waste Hauler annually. Each vehicle used by the Special Waste Hauler in the performance of his/her business and used for hauling Special Waste must be identified on the permit. A permit sticker shall be affixed in a conspicuous place on each vehicle. To obtain a Special Waste Hauler permit the applicant must certify that it will only deliver Special Waste as per Section 2.35(b) or 2.35(c) to the County Energy Recovery Facility. The Special Waste Hauler must identify the type and origin of the material to be destructured by incineration. A certificate or affidavit of insurance shall be submitted with the permit application and shall be executed by the representatives of an insurance company acceptable to the Director evidencing that said insurance company has issued liability and property damage insurance policies as required by law. Minor Haulers and Major Haulers may arrange to haul Special Wastes as per Section 2.35 in accordance with the procedures of this Section.

6. Recycling

- a) Each Person is hereby required to take all necessary actions to recycle or provide for the Recycling of all Recyclable Materials as specified by the Director according to the procedures set forth in this Local Law.
- b) All Residential Recyclables set out at roadside for collection within the County of Oswego shall be delivered to the County Materials Recovery Facility, or such other County Solid Waste Facility designated by the Director.
- c) All Industrial Recyclables, Commercial Recyclables, Institutional Recyclables and Recyclable Materials generated as a result of C&D activity, may be delivered to the

County Materials Recovery Facility, may be reused or recycled on-site regardless of location or, alternatively, may be taken to such other facility within or without the County of Oswego which provides for the re-use, recovery, or Recycling of the Recyclable Material(s).

- d) The level of Recyclables separation at the source will be determined by the Director and may change as new markets for Recyclable Materials are identified and market demand dictates.
- e) The Director will develop guidelines regarding the level of preparation of Recyclable Materials and Yard Waste required on the part of Solid Waste Generators and Haulers, including the use of suitable containers, prior to the collection and ultimate delivery of such to County Solid Waste Facilities.
- f) No Recyclable Material shall be disposed by depositing same in any transfer station, landfill, sanitary landfill, or energy recovery facility.
- g) The Director will specify what items constitute Recyclable Materials requiring Recycling as set forth herein.

7. Unauthorized Dumping

- a) In order to provide for public health and safety, and to facilitate the conservation of vital natural resources, each Person shall provide for the removal of Solid Waste from the property on which it is generated either through a hauling service provided by trash hauler, by municipal trash pickup, or by direct haul by the individual Generator to a County Solid Waste Facility. Disposal of solid waste on private property is prohibited by this Local Law except as otherwise authorized by law. Disposal shall not include home composting which is in compliance with Section 4.8(a) of this Local Law.
- b) No Person shall place or dispose of Solid Waste or Recyclables upon a property other than the location of waste generation or an appropriate County Solid Waste Facility or other Solid Waste Management Facility authorized by law to accept such solid waste for transport, trans-shipment, processing or disposal.
- c) No Person shall bury Solid Waste or Recyclables on public or private property.
- d) No Person shall throw, dump, deposit or place Solid Waste along the roadside, in public or private waters or on public and/or private property within Oswego County, except for designated County Solid Waste Facilities or other Solid Waste Management Facilities authorized by law to accept such Solid Waste or Recyclables for transport, trans-shipment, processing or disposal.

8. Other Regulations

- a) The establishment of private and public compost piles is allowed to the extent that they are operated and managed in a manner so as to protect the public health and welfare, to reduce vermin infestation, to limit instances of nuisance type activity, such as odor problems, and to preserve the local environment.
- b) All haulers shall manage Solid Waste removal, disposal and transportation in a manner consistent with all applicable state and federal laws and in a manner that protects the public health and welfare, reduces vermin infestation, avoids the spread of certain diseases, limits instances of nuisance type activities, such as odor problems, and preserves and protects the local environment.

9. Flow Control

- a) All Solid Waste generated within and/or collected within the County of Oswego shall be delivered to the County Solid Waste Facility designated by the Director pursuant to this Local Law, except as follows:
 - i Recyclable Materials generated at an industrial, commercial or institutional facility. Such Recyclable Materials generated at an industrial, commercial or institutional facility shall be recycled pursuant to the requirements set forth in Sections 6a and 6c herein and such recycling shall be accomplished by delivery to a County Solid Waste Facility, delivery to a facility other than a County Solid Waste Facility regardless of location, selling said materials as a commodity on the open market, or re-using said materials at the industrial, commercial or institutional facility where they were generated.
 - ii Non-Hazardous Industrial Waste, Commercial Waste, or Institutional Solid Waste which does not meet the applicable requirements for acceptance at a County Solid Waste Facility shall be disposed of at a facility, regardless of its location, authorized for its acceptance and disposal by the State of New York Department of Environmental Conservation or other jurisdiction.
 - iii Special Waste which does not meet the applicable criteria for acceptance at a County Solid Waste Facility shall be disposed of at a facility, regardless of its location, authorized for its acceptance by the State of New York Department of Environmental Conservation or other jurisdiction.
- b) All Residential Recyclables generated or collected from the roadside within the County of Oswego shall only be delivered to the County Solid Waste Facility designated by the Director pursuant to this Local Law, excluding beverage containers or other containers for which a return deposit is imposed by state or federal law.

Compliance with paragraphs (a) and (b) above shall be a term and condition of all permits issued pursuant to this Local Law, and violation thereof shall subject the violator to the penalties set forth in Section 5 of this Local Law, including, but not limited to, fines, civil penalties, and the possible suspension or revocation of permits issued by the county.

10. Flow Control; Scope

Nothing in this section shall be construed to prevent the source separation and marketing of Recyclable Materials from C&D Debris or other Solid Waste at the point of collection, provided, however, that such Recyclable Materials are segregated in a suitable container and are not commingled with other Solid Wastes before transport to market. Recyclable Materials that are commingled with other Solid Wastes shall be subject to the provisions of this section.

SECTION 5. ENFORCEMENT

1. The Director is hereby empowered to take all necessary action, including seeking equitable relief and the temporary suspension of permits the use of County Solid Waste Facilities, for any of the following violations of this Local Law:
 - a) Failure to pay the Tipping Fees approved by the Legislature for the use of a County facility, and/or failure to pay the User Fees approved by the Legislature.
 - b) Failure to obtain the necessary permission to use County Solid Waste Facilities, including, but not limited to, residential punch cards/stickers, Minor Hauler permit, Major Hauler permit, or Special Waste permit.
 - c) Failure to follow the instructions of County personnel or County policies at a transfer station, landfill or at the energy recovery facility.
 - d) Delivery of waste to a County Solid Waste Facility, in an inappropriate container or uncovered vehicle which does not prevent littering, spillage or mitigate known hazards.
 - e) Unauthorized Dumping of Solid Waste as defined in Section 4.7 of this Law.
 - f) Failure to recycle in accordance with Section 4.6 of this Law.
 - g) Failure to deliver Solid Waste and Residential Recyclables generated and/or originating within the incorporated limits of Oswego County to County Solid Waste Facilities in accordance with Section 4.9 of this Law
2. For any of the violations listed herein, the Director may issue a written Notice of Violation [NOV] containing the date, description and documentation of the nature of the violation or may alternatively provide a warning in his or her discretion. A copy of any NOV shall be mailed via first class mail to the last known address of the Person alleged to have committed the violation and the permit holder, if any, if not the same individual. Should the permit holder and/or person not wish to contest same and accept the proposed penalty as approved by the IFC, the matter will be closed upon receipt of payment by the County of Oswego. If contested within thirty (30) days of mailing, the NOV will be referred to the WEB for its review and action pursuant to this section and law.
3.
 - a) All violations referred to the WEB and determined to have occurred by majority vote thereof, after hearing, shall be subject to a civil penalty as provided for herein and/or suspension or revocation of any permits held by the violator.
 - b) Civil penalties and permit suspensions or revocations pursuant to this Section shall be determined by the WEB. In any hearing conducted pursuant to this Section, the following shall apply:
 - i. Minutes of all proceedings of the WEB shall be kept. If a party requests that a stenographer make a transcript of the proceedings, the cost of the stenographer shall be borne equally between the parties.
 - ii. The permit holder or responsible party may be represented by counsel at their own expense.
 - iii. All witnesses shall be sworn and subject to cross-examination.
 - iv. Evidence submitted shall be relevant and material and may include evidence as to the past history or performance of the permit holder.
 - v. Hearsay evidence shall be admissible, but shall be accorded such weight as the WEB deems appropriate, consistent with its reliability.

- vi. Findings of fact shall be made in writing, based upon a preponderance of the evidence.
 - vii. Upon a finding that a violation is proved, the WEB shall impose such civil penalty, or order such suspension or revocation of the applicable Permit, as it deems appropriate. The determination of the WEB shall be final, and shall be subject to judicial review in accordance with New York Civil Practice Law and Rules (CPLR Article 78).
 - viii. Any Person who is ordered to pay a civil penalty for a violation of the provisions of this Local Law shall pay such penalty or any judgment, owed to the County together with interest and costs thereupon in full before any subsequent permit issued pursuant to this Local Law can be renewed or reinstated, unless otherwise ordered by the WEB or as provided for in a court of competent jurisdiction including the United States Bankruptcy Court.
 - ix. Subpoenas, if any, issued in proceedings before the WEB shall be governed by the applicable provisions of the CPLR.
- c) All persons appearing before the WEB in response to a NOV issued by the Department shall be presumed innocent of the civil violation unless and until proven guilty by substantial evidence which may include hearsay. There shall be rebuttable presumptions in the enforcement of this Local Law which must be proven on substantial evidence that.
- i. The placement of any container, which is marked or identified with the name, non-county registration number, or other identifying feature of any Major Hauler, or other person owning said container, at any location within the County, shall be presumptive evidence that said Major Hauler or other person is providing Solid Waste collection services at said location within the County as of the date of said placement.
 - ii. Evidence of Solid Waste in a container located in the County as described in (c)(i) above, and subsequent observation of the same container empty, shall be presumptive evidence that Solid Waste was collected from the container by the Major Hauler whose name and/or registration is marked on the container.
 - iii. The failure to deliver any Solid Waste or Residential Recyclables to a County Solid Waste Facility within three (3) calendar days of the collection of Solid Waste or Residential Recyclables from any location within the County shall be presumptive evidence of a violation of Section 4.9 of this Local Law.
4. Any Person who violates any Section of this Local Law shall be subject to the following civil penalties:
- a) For the first violation proved, no less than Fifty Dollars (\$50), nor more than Five Hundred Dollars (\$500);
 - b) For a second and subsequent offense, no less than Five Hundred Dollars (\$500), nor more than Three Thousand Dollars (\$3,000).
1. Each separate incident of a violation of this Local Law shall be deemed to be a separate offense.

2. Consistent herewith, the IFC of the County Legislature shall approve a civil penalty schedule within the limits of subsections (a) and (b) above, for violations which can be resolved without referral to the WEB by either admission to the NOV by a person and/or permit holder or upon the default in responding to same by a person and/or permit holder.

SECTION 6. ADDITIONAL PROVISIONS

- a) Notwithstanding the other penalties described herein, the WEB shall have the authority to prohibit any Person from using County Solid Waste Facilities upon conviction of said Person of a violation of Section 4 or Section 5 herein.
- b) The WEB shall be empowered to initiate legal proceedings against violators in the name of the County of Oswego in addition to any other remedies available under Federal, State or Local Law, and shall be empowered to suspend any Person's permit to use County Solid Waste Facilities for alleged violations of this Local Law during the pendency of any charges hereunder. In the event of a permit suspension, the County shall make a good faith effort to promptly schedule a hearing within thirty (30) days of the effective date of the suspension after consultation with the adverse party and/or their counsel.

SECTION 7. SEVERABILITY

If any part of this Local Law or the application thereof to any person or circumstance should be adjudged to be invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the application, part or provision of this Local Law directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the rest and remainder of this Local Law or the application thereof to other persons or circumstances and the Oswego County Legislature hereby declares that it would have passed this Local Law or the remainder of it had such invalid application or provision been apparent.

SECTION 8. COUNTY NOT LIABLE

Nothing in this enactment shall be deemed to impose any civil or criminal liability upon, or give rise to, a cause of action against any official, employee or agency of the County of Oswego for failing to act in accordance with this Local Law or by enforcing same in good faith.

SECTION 9. EFFECTIVE DATE

This Local Law shall take effect January 1, 2012 in accordance with the applicable provisions of New York State Municipal Home Rule Law.

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