

Chapter 133. SOLID WASTE MANAGEMENT

Article V - RECYCLING

[HISTORY: Adopted by the Town Board of the Town of Babylon 1-10-1995 by L.L. No. 2-1995. Editor's Note: This local law also repealed former Ch. 133, Solid Waste Management, adopted 9-25-1987 by L.L. No. 7-1987, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

Article I. Definitions

§ 133-1. Definitions.

[Amended 12-18-2001 by L.L. No. 11-2001]

Unless otherwise stated expressly, the following words and expressions, where used in this chapter, shall have the meanings ascribed to them by this section:

ACCEPTABLE WASTE

The type of solid waste normally collected and disposed of in the Town, including but not limited to garbage, rubbish, offal, appliances, furniture, bicycles and baby carriages, automobile or small vehicle tires (to the extent that air and emission permits are not violated), as well as processable portions of commercial waste and logs if no more than four feet long and/or six inches in diameter, and yard wastes; except, however, that unacceptable waste and hazardous waste and recyclable materials are excluded.

ALUMINUM CANS

Empty all-aluminum beverage and food containers.

APPLIANCE

Includes any stove, washing machine, dryer, freezer, refrigerator or other household device or equipment abandoned, junked, discarded, wholly or partially dismantled, no longer intended or in condition for ordinary use for the purpose for which it was originally designed.

ASHES

The residue from the burning of wood, coal, coke or other combustible materials.

BABYLON RESOURCE RECOVERY FACILITY

That certain mass burn resource recovery and electric generation facility owned by the Town of Babylon located at Gleam Street in Wyandanch in the Town, operated, maintained and managed by Covanta Babylon, Inc., pursuant to the service agreement.

BIMETAL AND STEEL CANS

Empty food and beverage containers consisting of ferrous sides and bottoms and an aluminum top.

BUILDING PERFORMANCE CONTRACTOR

Implements measures to seal the thermal envelope of a building and install energy-efficient equipment to measurably reduce energy waste.

[Added 8-6-2008 by L.L. No. 20-2008]

COLLECTION VEHICLE

Any vehicle licensed by the Town of Babylon Sanitation Commission to operate commercially within the Town for the purpose of collecting and transporting garbage, rubbish, ashes, refuse, liquid waste or recyclable material or any other waste material, except hazardous waste, as defined pursuant to regulations promulgated under the New York State Environmental Conservation Law, Article 27, and/or the Federal Resource Conservation Recovery Act (RCRA) of 1976.

COMMERCIAL ESTABLISHMENTS

Those properties used primarily for commercial or industrial purposes and those multiple-dwelling residential buildings containing more than three dwelling units.

COMMERCIAL WASTE

All acceptable waste generated within the territorial limits of the Town which is not residential waste.

COMMISSION

The Sanitation Commission created pursuant to the terms of Chapter 57, Sanitation Commission.

CONSTRUCTION AND DEMOLITION DEBRIS

Nonputrescible building and street construction materials discarded as a result of the erection or dismantling of a pavement, building, dock, fence, street or similar structure.

CONTRACTOR COLLECTOR

The entity or entities designated by the Town which, collectively, have the duty and responsibility for collection of residential and/or commercial waste within the confines of the improvement area.

ENERGY AUDITOR

Is certified to comprehensively assess the energy performance of a building.

[Added 8-6-2008 by L.L. No. 20-2008]

FRONT PROPERTY LINE

The dividing line between the street and a lot.

[Added 6-3-2003 by L.L. No. 8-2003]

GARBAGE

Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food and readily combustible material such as paper, cardboard, wood, excelsior and cloth; also food cans, glass food containers and bottles; also dead birds, cats, dogs and other small animals.

HAZARDOUS WASTE

A. That portion of solid waste which, by reason of its composition or characteristics, is "hazardous waste" as defined in the Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq., and the regulations thereunder or in the New York Environmental Conservation Law, § 27-0901, Subdivision 3, and regulations promulgated thereunder, and any succeeding legislation or regulations or amendments to the foregoing.

B. In the event that the resource recovery plant is operational, any other material which any governmental agency or unit having appropriate jurisdiction shall determine from time to time is harmful, toxic or dangerous or otherwise ineligible for disposal through the facility.

C. In the event that the resource recovery plant is operational, any material which would result in process residue being hazardous waste under Subsection A or B above.

HOUSEHOLDER

The owner, lessee or occupant of any residence.

IMPROVEMENT AREA

The buildings and premises outside the incorporated villages which the Town of Babylon has designated as included within the residential garbage improvement area or the commercial garbage improvement area as authorized by Article 5 of the Town Law, as well as the areas within any incorporated village within the Town which a Village Board has authorized for inclusion within the improvement area.

INSPECTOR

Any person duly appointed as such.

MIXED GLASS CONTAINERS

Bottles and jars made of clear or colored glass. Expressly excluded are noncontainer glass, plate glass, blue glass and porcelain and ceramic products.

MOTOR VEHICLE

Includes any and all vehicles propelled or drawn by power, other than muscular power, intended for use on public highways; any unregistered, old or secondhand motor vehicle or trailer; any motor vehicle in such condition or state of repair that it cannot be licensed immediately without extensive repair; any abandoned, junked, discarded, wholly or partially dismantled motor vehicle no longer intended or in condition for legal use on the public highways.

NEWSPRINT

Paper of the type commonly referred to as "newspaper" and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Expressly excluded, however, are newspapers which have been soiled.

OUTDOOR STORAGE

Includes the placing, maintaining or keeping of any solid waste, motor vehicle, appliance, rubbish or debris, as the same are defined herein, in a place other than a structure with a roof and fully enclosed on all sides.

OWNER

Includes the person having legal title to property and also the person shown as the owner of the property on the current assessment rolls of the Town.

PERSON

Includes an individual, partnership, corporation or other legal entity.

PRIVATE COLLECTOR

Any person, firm or corporation engaged in the business of collecting and transporting garbage, ashes, refuse, recyclable material or any other solid waste material.

PRIVATE PROPERTY or PRIVATE PREMISES

Any real estate other than that used as a public road, street or highway.

RECYCLABLE MATERIAL

Any material source-separated from the solid waste stream so designated in regulations adopted by the Town from time to time, generally limited to materials which can be recovered, processed and reused for the original or a different purpose, which shall include but not be limited to paper and paper products, cardboard, metals, glass and plastic containers. In no event shall material contaminated by garbage, refuse, residue from source separation and/or other solid waste be considered a "recyclable material."

RECYCLABLE WASTE

Waste which must be accepted for processing by a recycling contractor at a particular recycling facility under the terms of a recycling service agreement.

RECYCLING CONTAINERS

The twenty-gallon plastic containers approved by the Town.

RECYCLING CONTRACTOR

Any person, firm, corporation or other entity providing any recycling or related services to the Town or to any entity under contract with the Town.

RECYCLING FACILITY

The facility designated by the Town by resolution of the Town Board as approved for receiving and processing one or more types of recyclable materials.

RECYCLING SERVICE AGREEMENT

Any agreement between the Town and a recycling contractor under which a recycling contractor is obligated to provide recycling or related services to or for the benefit of the Town or to any entity under contract with the Town.

REFUSE

All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish and ashes.

RESIDENCE

Any occupied single-family or multifamily dwelling having up to three dwelling units per structure.

RESIDENTIAL WASTE

All acceptable waste and recyclable materials generated by households included in the improvement area.

RUBBISH or DEBRIS

Includes ordinary household or stored trash of an inflammable character, such as barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, small tree trimmings, small stumps and similar garden waste; small dead animals, hay fodder, feed, meal or other discarded animal or vegetable matter originally intended for animal consumption; planting mill waste, shavings, sawdust and such other materials not otherwise defined herein as may be readily consumed by incineration.

SERVICE AGREEMENT

That certain service agreement, dated as of December 1, 1985, as amended and restated August 1, 1995, by and between the Town of Babylon and Ogden Martin Systems of Babylon, Inc., now known as Covanta Babylon, Inc., (the company), with respect to the delivery of acceptable waste by the Town and the processing thereof by the company at the Babylon resource recovery facility and the operation, management and maintenance of the Babylon resource recovery facility by the company, as such agreement may be extended, modified or supplemented.

SOLID WASTE

Any discarded material or substances, including but not limited to garbage, refuse, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous materials, incinerator residue, demolition and construction debris, offal and other discarded materials and substances resulting from industrial, commercial, mining and agricultural operations and from community activities, or the carbon component (or "content of") in energy waste, but not including sewage and other highly diluted water-carried materials or substances or those in gaseous form or solid or dissolved materials or irrigation return flows or industrial discharges or source or any special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended.

[Amended 8-6-2008 by L.L. No. 20-2008; 4-22-2009 by L.L. No. 4-2009]

SOLID WASTE ADMINISTRATOR

The Supervisor of the Town or, if designated as such in a certificate of the Supervisor, which may from time to time be modified or revoked by the Supervisor and shall be filed with the Town Clerk, a Deputy Supervisor or other public officer of the Town.

SOURCE SEPARATION

Dividing solid waste into some or all of its component parts at the point of generation, including the separation of recyclable materials from each other or the separation of recyclable material from solid waste.

TOWN

The Town of Babylon, Suffolk County, New York.

TOWN BOARD

The Town Board of the Town.

TOWN CLERK

The Town Clerk of the Town.

UNACCEPTABLE WASTE

That portion of solid waste excluding hazardous waste, but including, without limitation, explosives, pathological and biological waste, radioactive materials, ashes, foundry sand, sewage, sludge, cesspool and other human waste, human remains and large animal carcasses, motor vehicles, including such major motor vehicle parts as automobile transmissions, rear ends, springs and fenders, agricultural and farm machinery and equipment, marine vessels and major parts thereof, any other large machinery or equipment (excluding appliances in residential waste), liquid wastes or nonburnable construction materials and/or construction and demolition debris that the Town agrees or determines may present a substantial endangerment to the public health or safety, may cause applicable air quality or water effluent standards to be violated by the normal operation of the Babylon resource recovery facility, the landfill or the recycling facility or has a reasonable possibility of adversely affecting the operation of the Babylon resource

recovery facility, the landfill or the recycling facility, unless such unacceptable waste is delivered in minimal quantities and concentrations as part of normal collections.

YARD WASTE

Solid waste consisting of plant matter resulting from landscaping activities, and including but not limited to such items as lawn clippings, tree trimmings, fallen leaves, prunings, grass clippings, weeds and garden wastes.

Article II. General Provisions

§ 133-2. Intent; purpose.

A. The intent and purpose of this chapter is to provide for the management, on a Town-wide basis, of solid waste and to authorize the supervision of the transportation, disposition and collection of solid waste.

B. The management of solid waste is a fundamental municipal function of Town government. The powers and duties enumerated in this chapter constitute proper Town purposes intended to benefit and protect the safety, health and well-being of persons and property in the Town as provided for in the New York State Constitution and as required by federal and state statutes and regulations mandating the phasing out of the practice of landfilling raw garbage, with resource recovery as the preferred alternative of disposing of solid waste; encouraging waste reduction, reuse and recycling of solid waste; and directing the Town to develop a comprehensive, integrated and balanced solid waste management program.

C. The powers and duties enumerated in this chapter constitute proper Town purposes intended to benefit the health, welfare and safety of Town residents. The Town is exercising essential and proper governmental functions in accordance with the clearly articulated and affirmatively expressed policy of the State of New York.

§ 133-3. Supervision of solid waste.

The Solid Waste Administrator shall be responsible for the management and supervision of the transportation, disposition and collection of solid waste. In the performance of these duties, the Solid Waste Administrator shall be governed by the standards and requirements set forth in this chapter.

§ 133-4. Collection and disposal; proper entry.

A. The removal, transportation and/or disposal of solid waste shall be managed, supervised and/or performed by the Town or its agent(s) under this chapter, together with such rules and regulations as the Town has or shall from time to time adopt. Such solid waste generated within the Town shall be removed, transported and/or disposed of only by refuse collectors licensed pursuant to the requirements of this chapter and the amendments thereto or as permitted by the terms of any agreement with the Town. All other persons are hereby prohibited therefrom except as may be provided for herein or in the rules and regulations adopted pursuant to this chapter. Such chapter shall provide for the means of monitoring and supervising the conduct of licensees and the enforcement of the provisions of this chapter.

B. No person shall enter the Babylon resource recovery facility through other than a designated entrance or without proper payment of the appropriate fee.

§ 133-5. Authority to establish and amend fees and charges.

A. The Town is obligated to perform, with respect to the Babylon resource recovery facility and the recycling facility, pursuant to the terms of the service agreements. The Supervisor shall have the authority to establish and/or amend disposal fees to be charged at the Babylon resource recovery facility and/or any recycling facility, transfer station or disposition site operated or under contract or lease by the Town, based on prevailing market conditions for the disposal of waste in surrounding Towns. The rate established on a per-ton basis must be no less than the estimated per-ton amount required to fulfill all of the Town's obligations under the service agreement for the Babylon resource recovery facility and the recycling facility.

B. The Town Board, upon five days' notice and after a public hearing, shall establish a solid waste generation fee to be imposed on improved property (which is not residential) reasonably expected to generate solid waste. Such fee shall be computed and charged to such property owner based on a formula established by the Town Comptroller.

§ 133-6. Applicability.

Nothing contained in this chapter shall be deemed nor interpreted to prohibit any municipality located wholly or in part within the Town from engaging in the removal of recyclables or in the collection or transportation of solid waste.

§ 133-7. Hazardous waste and unacceptable waste.

No hazardous waste or unacceptable waste shall be delivered to the Babylon resource recovery facility or the recycling facility by any person, including, without limitation, any licensed refuse collector or any municipality. Failure to comply with the provisions of this section shall be subject to the provisions with respect to such penalties and enforcement, including the suspension or revocation of licenses and the imposition of fines, in accordance with the provisions of this chapter and the amendments thereto.

§ 133-8. Power to adopt rules and regulations.

The Town Board may, after a public hearing, adopt such rules and regulations as may be necessary to effectuate the purposes of this chapter. At least seven business days prior, notice of such public hearing shall be published in the official newspaper of the Town. A copy of all rules and regulations promulgated hereunder and any amendments thereto shall be filed in the office of the Town Clerk upon adoption and shall be effective as provided therein.

Article III. Collection

§ 133-9. Separation and storage of waste; standards for collection.

A. Separation and storage of residential waste prior to collection.

(1) Recyclable materials. Each household included in the improvement area and receiving collection service from the Town or its contract collector shall comply with such regulations as may be issued by the Town from time to time pertaining to the separation of recyclable materials from acceptable wastes and for the storage of recyclable materials prior to collection and for the placement of such recyclable materials for collection. Failure to comply with these regulations, as issued and adopted by the Town, shall result in the imposition of penalties and/or fines as issued and adopted by the Town at the time of issuance of the regulations relating to separation, storage and placement of recyclable materials.

(2) Acceptable waste.

(a) It shall be the duty of every person having the management or control of or occupying any land or building to provide, for the exclusive use of such land or building or a part thereof, sufficient receptacles for acceptable waste of sufficient capacity to contain the waste material ordinarily accumulated by the occupants of such land or building during 96 consecutive hours. Any waste material other than garbage which cannot be readily deposited in any receptacles may be compacted and securely bundled, tied or packed so as to be easily handled but not weighing more than 50 pounds and not likely to be scattered and, when packed and secured, may be placed alongside such a receptacle.

(b) Each of such receptacles provided for in Subsection A(2)(c) of this section shall be watertight, kept covered with a cover and maintained in a sanitary condition by periodic cleaning. Such receptacles shall not exceed 39 gallons' capacity and, when filled, shall not exceed 50 pounds in total weight.

(c) Refuse containers shall be provided by the owner, tenant, lessee or occupant of the premises. Refuse containers shall be maintained in good and sanitary condition. Any container that does not conform to the provisions of this article or that may have ragged or sharp edges or other defect liable to hamper or injure the person collecting the contents shall be promptly replaced upon notice.

(d) Appliances shall have the doors removed prior to placement at the curb for collection, or the households in the improvement areas must otherwise assure that no person or animal might accidentally be locked in the interior of such appliance.

(3) Points of collection.

(a) Where curb service is provided, acceptable waste containers shall be placed for collection in a visible and accessible area between the sidewalk line and the curbline immediately in front of the premises or, if there are no sidewalks, adjacent to the curb.

(b) Where rear-door service is provided, containers of acceptable waste shall be placed adjacent to the main (dwelling) building.

(4) Responsibility for payment. It shall be the duty of every person owning any land or building included in the improvement area, whether occupied by said person or leased to another person or persons for residential purposes, to maintain responsibility for the payment of the bills for collection and disposal included on the real property bill for these premises, as well as for any additional services contracted for individually between the Town or its contract collector and the owner or occupant of the property in the improvement area.

B. Separation and storage of commercial waste prior to collection.

(1) Commercial waste which is to be manually loaded into collection vehicles shall be containerized as described in Subsection A(2)(a), (b), (c) and (d) of this section.

(2) Commercial waste which is to be mechanically loaded into collection vehicles shall be placed in receptacles commercially manufactured for this purpose, equipped with covers.

(3) Commercial waste will be collected at the rear of buildings and immediately adjacent, if readily accessible, to the collection vehicle. If not readily accessible to the collection vehicle, refuse shall be placed for collection in a visible and accessible area between the sidewalk line and the curbline immediately in front of the premises.

C. Collection of waste.

(1) No collection whatsoever shall be made on Sundays or the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

(2) Collection vehicles shall be completely enclosed and watertight.

(3) Collection vehicles transporting no garbage or rubbish, as, for example, vehicles transporting recycling materials or construction and demolition debris, may be of an open, refuse-collection type, provided that such vehicle is fitted with a suitable canvas or other cover to prohibit any material from being discharged while the vehicle is in transit.

(4) Collections are to be made in such manner as not to permit debris, litter and the like from the collection procedure to fall upon any highway or street within the Town of Babylon.

(5) Vehicles designed or known as "rear loaders" or "rear-load packers" shall be completely closed in transit, either by use of the exterior closing door fitted as part of a body style or by the use of the closing mechanism in those units not having, as a standard or an accessory, a separate exterior door.

(6) All accessory doors, including the main loading door, shall be closed in travel on public highways unless the subject vehicle is engaged in a continuous servicing of adjacent structures on said highway.

(7) All collection vehicles shall perform and operate in accordance with the regulations of the Sanitation Commission.

(8) Collection vehicles shall be subject to inspection at any time by the Town for the purpose of enforcement of this chapter. All persons or their employees shall be required to give aid and cooperation when required by such personnel in the performance of the enforcement of this chapter.

(9) Collection vehicles shall be kept clean and sanitary, both inside and out. Where, as required in the collection practices, containers of one cubic yard or more are used, such containers shall be cleaned and sanitized as needed.

[Amended 12-18-2001 by L.L. No. 11-2001]

Article IV. Licensing

§ 133-10. Proper vehicle and license required.

[Amended 12-18-2001 by L.L. No. 11-2001; 6-19-2007 by L.L. No. 11-2007 Editor's Note: This local law also provided its legislative intent as follows: "The Town Board finds that toxic waste is a serious and extremely dangerous threat to our environment, health, welfare and safety. Toxic waste is a threat that can cause serious physical injury and death.

That without strict control over the disposal of waste, the residents of the Town of Babylon and of the State of New York are in jeopardy of toxic waste being disposed of unlawfully, not in compliance with local, state and federal law and in a manner which may pose a threat to all living things. For this reason, the Town Board takes the extraordinary step of authorizing summary abatement of the following nuisance.”]

A. No person, company, corporation, partnership, or other entity, except as hereinafter provided, shall remove any solid waste, offal, garbage, refuse, recyclable material, construction and demolition debris, ashes or rubbish of any kind from the premises of any person, firm or corporation or cart or transport the same through or upon any street, avenue, parkway or highway within the Town except in trucks which shall meet all statutory and contract requirements, if applicable, of the Town and unless such person shall have first obtained a license from the Town Clerk as hereinafter provided, but no such license shall be required for persons under contract with the Town who, pursuant to such contract, are transporting solid waste from a location outside the Town to the recycling facility or the Babylon resource recovery facility or transporting solid waste or recyclable material from the recycling facility to a location outside the Town.

B. No person, company, corporation, partnership, or other entity shall store, place, maintain, drop, put, rest, lay, leave, set, situate or cause or permit or suffer to be placed, maintained, dropped, put, rested, laid, left, set or situated on any property within the Town of Babylon a roll-off, compactor, container, collection box and/or dumpster without the person, company, corporation, partnership or other entity who stored, placed, maintained, dropped, put, rested, laid, left, set or situated the roll-off, compactor, container, collection box and/or dumpster being properly licensed and without there being displayed a valid license decal, conspicuously displayed on said roll-off, compactor, container, collection box and/or dumpster. Nor shall any collection vehicle be used to drop, put, rest, lay, leave, set or situate any roll-off, compactor, container and/or collection box or dumpster on any property within the Town of Babylon without conspicuously displaying said tag, plate or license decal upon said collection vehicle.

C. Any roll-off, compactor, container, collection box and/or dumpster present on any property within the Town of Babylon which does not have conspicuously displayed a valid license decal from the Town of Babylon may be impounded by the Town of Babylon without notice, summarily as a serious violation of a rigorously controlled industry.

§ 133-11. Exceptions to license requirements.

A. No license shall be required for householders who personally collect, convey and dispose of solid waste, refuse, garbage or ashes actually accumulated by them in their own households. All other provisions of this article, however, shall apply to such persons. Notwithstanding the above, no such householder shall be allowed to dispose of solid waste, refuse, garbage or ashes at the Babylon resource recovery facility or the recycling facility.

B. Certain business wastes.

(1) No license shall be required for the removal or transportation of waste material where such removal or transportation is incidental to the collection of meat, fat or bone waste, unless such waste material is a hazardous waste.

(2) Any person who removes or transports waste or other materials incidental to the conducting of any of the businesses described in Subsection B hereof shall only remove or transport such waste or other materials in such a manner as to prevent the discharge or littering of materials relating to said business or occupation upon any public street, road or highway in the Town.

(3) In exceptional circumstances a generator of waste may seek a special exemption from the Town Board or its designee on a case-by-case basis to haul its own waste material.

§ 133-12. Application for license.

A. All licenses authorizing the collection, removal or transportation of solid waste, offal, garbage, refuse, recyclable material, construction and demolition debris, rubbish or acceptable waste of any kind shall be issued by the Town Clerk, but only after an application for such license has been made to and approved by the Commission. The Commission shall require the application to contain the following:

(1) Execution of the application by either the applicant, if an individual, a partner, if the applicant is a partnership, or by the president, if the applicant is a corporation.

(2) The form of the application shall be a sworn affidavit, sworn to before a notary public and shall contain the statement that the signatory affirms the truth and completeness of the information contained in the application under the penalty of perjury pursuant to § 210.45 of the Penal Law.

(3) The names and addresses of all partners, limited or otherwise, if the applicant is a partnership, or of all officers and directors and shareholders, if the applicant is a corporation.

(4) A list of all obligations incurred by the applicant in connection with the operation of the applicant's business, except normal operating accounts payable occasioned by routine operation of the business, but shall include all loans to the applicant, together with the names and addresses of the persons or entities making said loans, and a description of the security for said loans, if any.

(5) A detailed account of the collection system, if any, used by the applicant and the names and addresses of all customers of the applicant as of the date of the application, together with the present schedule of charges to said customers.

(6) A complete list of the names and addresses of all employees of the applicant as of the date of the application.

(7) A statement that either the applicant, if an individual, any partner, if a partnership, or any officer, director or shareholder, if a corporation, has or has not been convicted of a crime within the last 10 years, other than a traffic infraction, provided that, if so, an explanation of the nature of said conviction shall be furnished on the application.

(8) The name and address of the registered owner of each vehicle to be used by the applicant in such collection, removal or transportation.

(9) The make, year, model of chassis, body style, volume, tonnage capacity, color and state vehicle registration number of each such vehicle.

(10) The community or communities in which the applicant intends to operate under the license for which the application is made.

(11) The garage location where each such vehicle is to be normally stored under this application.

(12) The type of service to be rendered by the applicant, including the number of solid waste or recyclable material pickups per week or per month, and the charges to be made for such service.

(13) Disclosure by the applicant (either an individual or any partner or any officer or director, if a partnership or corporation) of any position in any other applicant equivalent to the proprietor, partner, officer or director, as applicable.

§ 133-13. Suspension or revocation of license; notice; hearing.

A. A license issued hereunder may be suspended or revoked for violation of the provisions of this article by the Commission, upon notice and hearing as herein provided. Grounds for revocation or suspension of a license shall include but not be limited to the following reasons:

(1) Willful or persistent or serious violations of this chapter or of the regulations of the Commission.

(2) Any violation of this Chapter 133.

(3) Persistent failure to service adequately the customers of any licensee.

(4) Failure to maintain the standards imposed upon applicants pursuant to this Code.

B. Any licensed collection vehicle used for the disposal of hazardous waste at the Babylon resource recovery facility or the recycling facility shall be immediately barred from the disposal of said material within the Town, and its license shall be suspended pending a hearing before the Sanitation Commission. Such a hearing shall be held pursuant to Subsection C of this section.

C. Notwithstanding § 133-13B, before any license may be suspended or revoked, a notice, in writing, of such proposed action must be sent to the licensee either personally or by certified mail. Such notice must specify the nature of the proposed action, the grounds therefor and a time and place, not less than 10 nor more than 20 days after the mailing or other service of such notice, at which a hearing will be held on such proposed action. The licensee may testify at such hearing, may be represented by counsel and may offer evidence in defense. The formal rules of evidence shall not apply at said hearing. A record of the proceedings on such hearing must be made. Hearings shall be held before the Sanitation Commission.

§ 133-14. License classifications and fees.

[Amended 12-18-2001 by L.L. No. 11-2001; 7-13-2004 by L.L. No. 19-2004; 12-21-2004 by L.L. No. 32-2004; 6-21-2005 by L.L. No. 18-2005; 3-7-2006 by L.L. No. 7-2006; 7-18-2006 by L.L. No. 21-2006; 9-13-2006 by L.L. No. 32-2006; 12-20-2006 by L.L. No. 41-2006; 8-6-2008 by L.L. No. 21-2008]

A. A Class 1 license shall be required of all persons engaged in the collection and transportation of garbage, refuse, recyclable material (including, but not limited to scrap metal), ashes or solid waste outside the improvement areas or for collection and transportation of recyclable material only within the commercial improvement area if properly authorized by the property owner. The annual fee for such license shall be \$2,000, plus \$450 for each truck and \$1 for each sticker for rollofs and compactors.

[Amended 11-17-2011 by L.L. No. 22-2011]

B. A Class 2 license shall be required of all persons engaged in the collection and transportation of garbage, refuse, solid waste and recyclable material within an improvement area authorized pursuant to a contract with the Town to collect and transport solid waste, garbage, refuse or recyclable material. There shall be no annual fee for such license.

[Amended 11-15-2012 by L.L. No. 17-2012]

C. A Class 3 license shall be required of all persons engaged in the collection and transportation of construction and demolition debris within the Town of Babylon. The annual fee shall be \$2,000. There shall be an annual per-truck fee of \$450, and a fee of \$1 for each sticker for rollofs and compactors.

D. Class 4 license.

(1) A Class 4 license shall be required of all persons engaged in the collection and/or transportation of garments, clothing, fabric, cloth, apparel, and any other similar materials, for recycling, collection, redeployment, redistribution, contribution, bequest, donation and the like, within the Town of Babylon through the placing, maintaining, providing or depositing of a container, collection box, storage bin or similar-type collection device outside on any property within the Town of Babylon. There shall be an annual licensing fee of \$1,000, an annual per-truck fee of \$350 and \$1 for each container/collection box. Each container/collection box shall have affixed to it, in a conspicuous location, a license decal, issued by the Town Clerk, which shall identify the license number, container/collection box number, year of issue and location. Said license decals shall be provided by the Town of Babylon at a cost of \$1 per decal.

(2) Restriction on location of recycling collection. The collection boxes and containers referred to in § 133-14D(1) are to be restricted as to location in the following manner, in addition to any other requirements of this Code:

(a) No box or container shall not be located within a five-hundred-foot radius of any area zoned for residential use.

(b) No box or container shall be located within a one-eighth-mile radius of another such collection box or container.

(c) No box or container shall be located on any public property without written permission of the property owner.

(d) No box or container shall be located in a manner which obstructs the vision or sight of traffic on private or public roadways, parking lots, highways, whether federal, state or local in nature.

(3) Approval of locations of recycling collection. Licensees must obtain approval from the Building Department for the location of all collection boxes, containers, storage bins or similar type collection devices within the Town of Babylon.

(4) Submission of plans and drawings for approval.

(a) Required. All plans and drawings for the placement of any container/collection box pursuant to § 133-14D(1) shall be submitted to the Building Department for examination and approval as to proper location and construction.

(b) Contents. Plans and drawings shall show lot lines and shall include information pertinent to the container/collection box, exits and entrances to the lot, roadways, parking spaces, buildings, etc.

(c) Effect. Containers/collection boxes shall be located and positioned in conformity with the approved plans.

(5) Health and safety conditions regarding the placement of recycling collection containers/boxes. Any container/collection box placed within the Town of Babylon must comply with the following regulations regarding health and safety:

(a) No container/collection box may be placed within 50 feet of any wooded area or area of vegetation.

(b) No container/collection box may be maintained in such a manner as to attract rodents, vermin, animals or insects.

(c) No container/collection box shall be used for any materials other than garments, clothing, fabric, cloth, apparel, and any other similar materials.

(d) Every container/collection box shall be maintained in a manner consistent with any and all federal, state and local health and sanitation laws and regulations.

(e) Every container/collection box shall be inspected weekly to ensure the absence of rodents, vermin, animals and insects.

(6) Illegal placement of recycling collection containers/boxes.

(a) It shall be a violation of this chapter for any person or entity to place, maintain or allow to be placed or maintained any collection box or container upon any property within the Town of Babylon without first having said location approved, said licenses issued and appropriate fees paid.

(b) It shall be a violation of this chapter to own or lease any property upon which a container/collection box is placed, maintained or allowed to be placed or maintained within the Town of Babylon without first having said location approved, said licenses issued and appropriate fees paid.

(c) Any container/collection box which is illegally present on any property within the Town of Babylon is subject to being impounded pursuant to § 133-14D(7).

(7) Impounding of illegal containers/collection boxes.

(a) Any container/collection box which is illegally present on any property within the Town of Babylon is subject to being impounded by the Town of Babylon without notice to the owner of the container/collection box or property owner.

(b) Subsequent to the impounding of any container/collection box, the owner of said container/collection box may apply to the Sanitation Commission for a hearing regarding the impounding and the fines and fees associated therewith.

(c) Any container/collection box which is impounded is subject to a fee of \$250 for transportation of said container/collection box and a fee of \$50 per day for storage for each day, including the day of impounding.

(d) Ten days after notification to the property owner that the container/collection box has been impounded, said container/collection box shall be forfeited to the Town of Babylon and used, sold or destroyed at the sole discretion of the Town of Babylon.

E. A Class 5 license shall be required of all persons engaged in the transportation of garbage, refuse, solid waste or ashes authorized pursuant to a contract with the Town or as otherwise authorized by the Town to transport garbage, refuse, solid waste or ashes to the Babylon resource recovery facility or the recycling facility. Such license shall be effective only for activities undertaken pursuant to such contract with the Town.

F. Class 6 licenses.

(1) A Class 6 license shall be required of all persons, firms, corporations or entities engaged in the cutting, removing and/or uprooting of trees.

(2) The trimming, pruning and/or maintenance of trees shall not require a Class 6 license.

(3) Persons, firms, corporations or entities that have a contract with a Class 3 licensee for the collection, removal, transportation and disposal of cut-down, removed and/or uprooted trees and tree stumps shall not be required to obtain a Class 6 license.

(4) Each applicant for a license shall pay a nonrefundable application fee with the application in the amount of \$150. The applicant shall also pay to the Town Clerk or his or her designee, upon the issuance of the license, a license fee of \$150. The license shall be effective for the calendar year in which it is issued and shall be reviewed by the applicant each successive year.

(5) All applicants are required to provide proof that they have received certification from the Department of Agriculture in relation to Asian long-horn beetles.

(6) Removal of debris.

(a) Licensees shall not place, keep, permit or suffer to be placed or kept at or around the vicinity of the front, side or rear property lines any stumps, limbs, branches, logs or anything else generated from the cutting, removing or uprooting of trees.

(b) Licensees are required to remove from the property and properly dispose of any stumps, limbs, branches, logs or anything else generated from the cutting, removing or uprooting of trees which exceeds four inches in diameter.

(7) All applicants shall be forwarded by the Town Clerk's office to the Sanitation Commission for approval prior to the issuance of a Class 6 license.

(8) Upon any violations of this chapter, the Sanitation Commission may hold a hearing as set forth in this chapter to consider suspending and/or revoking any Class 6 license issued hereunder.

G. Class 7 licenses.

(1) License required; fee.

(a) A Class 7 license shall be required of all persons, corporations, businesses or any other entity engaged in the rental, leasing, loaning or distribution of any storage container, collection box, storage bin or similar-type storage device

(collectively herein referred to as "storage containers"), within the Town of Babylon, that is used, stored, placed or maintained outside on any residential property within the Town of Babylon.

(b) There shall be an annual licensing fee of \$1,500. Each storage container shall include the licensee name and phone number.

(2) The storage containers referred to in Subsection G(1) are to be restricted as to location and size in the following manner, in addition to any other requirements of this Code:

(a) No storage container shall be located on any portion of the front yard of any residential property other than the paved portion of the driveway.

(b) No storage container shall be located at any given residential address for more than 180 days.

(c) No more than one storage container shall be located on any residential property at any given time.

(d) No storage container shall be located in a manner that obstructs the vision or sight of pedestrians or traffic on private or public roadways, sidewalks, parking lots or highways, whether federal, state or local in nature.

(e) No storage container may be maintained in such a manner as to attract rodents, vermin, animals or insects.

(f) Every storage container shall be maintained in a manner consistent with any and all federal, state and local health and sanitation laws and regulations.

(g) Every storage container shall be inspected weekly to ensure the absence of rodents, vermin, animals and insects.

(h) Storage containers shall be limited to a maximum size of 20 feet by 8 feet by 8.6 feet.

(i) The name of the storage container company and a valid phone number shall be displayed on the storage container in a conspicuous manner so that the name and phone number can be observed from the street abutting the residence on which the storage container is placed.

(3) It shall be a violation of this chapter for any person or entity to place or maintain, or allow to be placed or maintained, any storage container upon any residential property within the Town of Babylon without first having said licenses issued and appropriate fees paid.

(4) It shall be a violation of this chapter to own or lease any residential property upon which a storage container is placed, maintained or allowed to be placed or maintained within the Town of Babylon by any person, business, corporation or entity that is not licensed pursuant to this article.

(5) Any storage container that is illegally present on any property within the Town of Babylon is subject to being impounded pursuant to the following:

(a) Any storage container that is illegally present on any property within the Town of Babylon is subject to being impounded by the Town of Babylon upon five days' written notice to the owner of the storage container or property owner.

(b) Subsequent to the impounding of any storage container, the owner of said storage container may apply to the Sanitation Commission for a hearing regarding the impounding and the fines and fees associated therewith.

(c) Any storage container that is impounded is subject to a fee of \$250 for transportation of said storage container and a fee of \$50 per day for storage for each day, including the day of impounding.

(d) Ten days after written notification to the property owner that the storage container has been impounded, said storage container shall be forfeited to the Town of Babylon and used, sold or destroyed at the sole discretion of the Town of Babylon.

H. Class 8 license.

[Amended 1-25-2011 by L.L. No. 3-2011]

(1) License required; fee; eligibility.

(a) A Class 8 license shall be required of all persons, corporations, businesses or any other entity engaged as an energy auditor within the Town of Babylon on any residential property.

(b) There shall be an annual license fee of \$200. If any person, corporation, business or any other entity applies for a Class 8 license and a Class 9, 10, 11A and/or 11B license simultaneously, then they shall not be charged the individual fee for each class license, but shall be charged a maximum fee of \$250 in the aggregate, for all of the class licenses.

(c) To be eligible for a Class 8 license, the persons, corporations, businesses or any other entities must:

[1] Be certified by the Building Performance Institute (BPI) for the following three categories: Building Analyst, Envelope Professional (Shell-certified) and Heating Professional or Hydronic Heating Professional;

[2] Have completed 10 building energy audits; and

[3] Have general liability insurance in the sum of \$500,000 naming the Town of Babylon as an additional insured.

(d) If the license applicant is a corporation, business or any other entity, then a list of the employees who will be performing the building energy audits on behalf of the corporation, business or any other entity must be provided at the time of application. Each employee listed must provide proof of 10 completed building energy audits.

I. Class 9 license.

[Amended 12-10-2008 by L.L. No. 30-2008; 5-22-2009 by L.L. No. 12-2009; 11-5-2009 by L.L. No. 23-2009; 1-25-2011 by L.L. No. 3-2011]

(1) License required; fee; eligibility.

(a) A Class 9 license shall be required of all persons, corporations, businesses or any other entity engaged as a building performance contractor who can perform building performance modifications/improvements/construction within the Town of Babylon on any residential property.

(b) There shall be an annual license fee of \$200. If any person, corporation, business or any other entity applies for a Class 9 license and a Class 8, 10, 11A and/or 11B license simultaneously, then they shall not be charged the individual fee for each class license, but shall be charged a maximum fee of \$250 in the aggregate, for all of the class licenses.

(c) To be eligible for a Class 9 license, the persons, corporations, businesses or any other entities must:

[1] Be certified by the Building Performance Institute (BPI) for the following two categories: Building Analyst and Envelope Professional (Shell-certified);

[2] Be a contractor licensed by the Suffolk County Office of Consumer Affairs for at least one year in good standing without any open complaints;

[3] Have completed 10 building energy performance contracts; and

[4] Have general liability insurance in the sum of \$1,000,000 naming the Town of Babylon as an additional insured.

J. Class 10 license.

[Added 1-25-2011 by L.L. No. 3-2011]

(1) License required; fee; eligibility

(a) A Class 10 license shall be required of all persons, corporations, businesses or any other entity engaged as a building performance heating systems contractor who can perform building performance heating system modifications/improvements/installations within the Town of Babylon on any residential property.

(b) There shall be an annual license fee of \$200. If any person, corporation, business or any other entity applies for a Class 10 license and a Class 8, 9, 11A and/or 11B license simultaneously, then they shall not be charged the individual fee for each class license but shall be charged a maximum fee of \$250 in the aggregate, for all of the class licenses.

(c) To be eligible for a Class 10 license, the persons, corporations, businesses or any other entities must:

[1] Be certified by the Building Performance Institute (BPI) for the following one category: Heating Professional or Hydronic Heating Professional;

[2] Hold a valid Town of Babylon Master Plumber's License; and

[3] Have general liability insurance in the sum of \$1,000,000 naming the Town of Babylon as an additional insured.

K. Class 11 A and B licenses.

[Added 1-25-2011 by L.L. No. 3-2011]

(1) License required; types of license; fee; eligibility.

(a) A Class 11A license shall be required of all persons, corporations, businesses or any other entity engaged as a contractor who can perform building performance photovoltaic solar system modifications/ improvements/installations within the Town of Babylon on any residential property.

(b) There shall be an annual license fee of \$200. If any person, corporation, business or any other entity applies for a Class 11A license and a Class 8, 9, 10 and/or 11B license simultaneously, then they shall not be charged the individual fee for each class license but shall be charged a maximum fee of \$250 in the aggregate, for all of the class licenses.

(c) To be eligible for a Class 11A license, the persons, corporations, businesses or any other entities must:

[1] Hold a valid Suffolk County Master Electrician's license for at least one year in good standing without any open complaints;

[2] Be in an established business for at least three years without any open complaints with Suffolk County Office of Consumer Affairs or the Better Business Bureau;

[3] Have completed 10 building performance photo voltaic solar installations;

[4] Have general liability insurance in the sum of \$1,000,000 naming the Town of Babylon as an additional insured; and

[5] Must require all workers who will perform work on any residential property to have completed the OSHA ten-hour Construction Safety and Health Course.

(d) A Class 11B license shall be required of all persons, corporations, businesses or any other entity engaged as a contractor who can perform building performance thermal solar system modifications/ improvements/installations within the Town of Babylon on any residential property.

(e) There shall be an annual license fee of \$200. If any person, corporation, business or any other entity applies for a Class 11B license and a Class 8, 9, 10 and/or 11A license simultaneously, then they shall not be charged the individual fee for each class license but shall be charged a maximum fee of \$250 in the aggregate, for all of the class licenses.

(f) To be eligible for a Class 11B license, the persons, corporations, businesses or any other entities must:

[1] Hold a valid Suffolk County Master Electrician's license for at least one year in good standing without any open complaints;

[2] Hold a valid Town of Babylon Master Plumber's license;

[3] Be an established business for at least three years without any open complaints with Suffolk County Office of Consumer Affairs or the Better Business Bureau;

[4] Have completed 10 building performance thermal solar installations;

[5] Have general liability insurance in the sum of \$1,000,000 naming the Town of Babylon as an additional insured; and

[6] Must require all workers who will perform work on any residential property to have completed the OSHA ten-hour Construction Safety and Health Course.

§ 133-15. License plate or tag.

[Amended 12-18-2001 by L.L. No. 11-2001; 7-13-2004 by L.L. No. 19-2004; 6-19-2007 by L.L. No. 11-2007]

The Town Clerk shall issue a plate or tag for each truck, container and compactor used by a licensee hereunder. Such plate or tag shall be securely fastened and displayed at all times in a conspicuous place on each such truck, rolloff, compactor, container, collection box and/or dumpster. Failure to display said tag or license plate in such a conspicuous place on any truck, rolloff, compactor, container, collection box and/or dumpster is a violation of this section.

§ 133-16. Term of license; license nontransferable.

Each license issued hereunder shall be valid for the calendar year for which it was issued and may be renewed upon application to the Commission for such renewal and upon payment of the required annual fees, provided that the licensee has satisfactorily complied with the provisions of this chapter and with the regulations of the Sanitation Commission adopted hereunder. The application for each license shall be verified under oath by the applicant. Licenses issued hereunder shall not be transferable. The plate or tag issued for each vehicle used by the licensee may be transferred to any replacement vehicle upon five days' written notice to the Town Clerk. No permission granted pursuant to a license issued hereunder may be further delegated, by subcontract or any other arrangement, whereby a licensed or nonlicensed operator agrees to collect solid waste in consideration of any payment whatsoever to another licensed operator.

§ 133-17. Financial impact information.

In order to provide information to the Town Board regarding the financial impact of disposal and collection costs on entities within the Town, the Commission may from time to time require licensees to submit reports detailing the rates charged, levels of service provided and such other pertinent information.

Article V. Recycling

§ 133-18. Solid waste reduction.

A. It is hereby declared the policy of the Town to cause the Babylon resource recovery facility to be operated so that the volume of solid waste processed results in the most revenues to the Town, thereby minimizing the burden of the costs of

solid waste disposal to the residents of the Town. To achieve such volume, the Town shall, by resolution, provide for the implementation of programs to separate recyclable materials from solid waste.

B. In addition, the Town Board finds that the implementation of a commercial source separation program shall be established for which economic conditions exist. This program shall give due consideration to the Town's existing source separation, recycling and resource recovery activities as provided for in the Town Solid Waste Management Plan. Economic conditions will take into account the costs of paper collection, transportation, processing and marketing of source-separated materials.

§ 133-19. Residential recycling.

A. There is hereby established a program for the mandatory separation of recyclable materials from solid waste by all persons within the residential improvement area of the Town of Babylon. This program shall apply only to residential recyclable materials.

B. Participation in the residential recyclable program is mandatory. Failure to participate shall subject the owner and/or occupant of a residence to fines set forth in Article VII.

§ 133-20. Separation of recyclables; placement for disposal.

Residential recyclable materials shall be placed at the curb, separate from solid waste, for collection at such times and dates as may be established by regulation.

§ 133-21. Commercial recycling.

A. Prior to a Class 1 licensee collecting and/or disposing of recyclable materials from any customer within the commercial improvement area, the customer must file with the Solid Waste Administrator an "Opt-Out" form.

[Amended 12-18-2001 by L.L. No. 11-2001]

B. Every Class 1 license holder collecting and/or disposing of recyclable material must provide the Solid Waste Administrator with a monthly summary, using a form to be provided by the Solid Waste Administrator, of the types and amounts of all materials recycled.

§ 133-22. Collection by unauthorized persons.

It shall be a violation of this chapter for any person(s) unlicensed by the Town Board and/or the Commission to collect or pick up or cause to be collected or picked up any recyclable materials. Each such collection in violation hereof shall constitute a separate distinct offense punishable as hereinafter provided.

§ 133-23. Administration.

There shall be a Solid Waste Licensing Administrator (SWLA) who will be authorized to monitor all operations of licensees operating in the Town of Babylon. The Town Attorney shall select the Solid Waste Licensing Administrator (SWLA).

Article VI. Improper Deposit or Storage of Waste

§ 133-24. Legislative intent.

[Amended 10-4-2011 by L.L. No. 18-2011]

It is hereby declared that the outdoor placement, maintenance, existence, deposit, siting, putting, positioning or maintenance of abandoned, junked, discarded, dismantled and unlicensed or unregistered motor vehicles, household appliances, solid waste, rubbish, debris or any other objects identified herein, upon privately owned properties within the Town is a matter affecting the public interest. Such placement, storage and maintenance constitutes a nuisance and a

blight, is aesthetically unpleasant, an unsightly condition and a source of vexation and annoyance not only to the owners and occupants of adjoining lands, but also to the general public. The Town Board does not find that it be required that any of the aforementioned or stated hereinafter objects or items or vehicles be present on said premises for any period of time. The existence of same at any given time shall be as offensive, unsafe, unhealthy, in degradation of the public good and welfare and be prohibited as if it should exist or be maintained for any period of time. The preservation of peace, good order, the safeguarding of health, safety and general welfare and the protection of private property and the removal and avoidance of blight on a neighborhood compel the Town Board to legislate upon said subject matter.

§ 133-25. Outdoor deposit or storage of waste.

[Amended 6-3-2003 by L.L. No. 8-2003; 7-15-2003 by L.L. No. 12-2003; 12-2-2003 by L.L. No. 29-2003; 4-12-2005 by L.L. No. 4-2005; 6-19-2007 by L.L. No. 12-2007; 11-8-2007 by L.L. No. 20-2007; 10-4-2011 by L.L. No. 18-2011]

A. Outdoor placement, maintenance, existence, deposit, situating, putting, positioning or storing of any of abandoned, junked, discarded, dismantled and unlicensed or unregistered motor vehicles, household appliances, solid waste, rubbish and debris or any other objects identified herein.

(1) On private property.

(a) Vehicles, waste and other objects.

[1] It shall be unlawful for any person, as owner, occupant, lessee or agent, or in any other capacity, to store, deposit, put, place, maintain, suffer or cause or permit to be stored, deposited, placed or maintained outdoors, or for the following to exist outdoors, any wholly or partially dismantled and/or covered vehicles; appliances; solid waste; rubbish; paper and paper products; furniture; mattresses; bedding; yard waste; bagged materials; plastic bags either full, partially full or empty; tires; motor vehicle parts; vehicle parts; piles or mounds of grass; vegetation and/or plant clippings; logs; stumps; branches; metal; plastic; cans; beverage and food containers; putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food; cardboard; wood; excelsior and cloth; also food cans; glass food containers and bottles; construction materials and/or construction and demolition debris; plant matter resulting from landscaping activities, including but not limited to such items as lawn clippings; tree trimmings; prunings; piles, mounds or stacks of weeds and garden wastes; barrels; cartons; boxes; crates; rugs; clothing; rags; blankets; small tree trimmings; small stumps and similar garden waste; shavings, sawdust and such other materials not otherwise defined herein as may be readily consumed by incineration or debris as defined in this chapter upon any private property within the Town.

[2] Nothing in this section shall prohibit the covering of a vehicle which visibly, manifestly, clearly and patently displays a valid license plate, properly issued to said vehicle and properly affixed to said vehicle pursuant to the state issuing said license plates.

[3] There shall be a presumption in any proceeding for a violation of this subsection that a covered object which, by its size, shape, appearance, outline and/or the observation of tires or other motor vehicle parts protruding or displayed from under the covering, is a motor vehicle. This presumption may be rebutted by substantial evidence that said object was not a vehicle.

[4] Nothing herein shall require that any of the aforementioned objects or items or vehicles be present on said premises for any period of time. The existence of same at any given time shall be a violation of this chapter.

(b) It shall be unlawful for any person, as owner, occupant, lessee or agent, or in any other capacity, to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained any motor vehicle which does not display valid license plates, properly registered to the vehicle and properly affixed in compliance with the regulation of the state issuing the license plate, upon any private property within the Town.

[1] Nothing herein shall require that any vehicle be present on said premises for any period of time. The existence of same at any given time shall be a violation of this chapter.

(c) It shall be unlawful for any person, as owner, occupant, lessee or agent, or in any other capacity, to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained any motor vehicle which does not display a valid registration sticker on the vehicle, which said registration sticker is properly issued to the vehicle and properly affixed to the vehicle in compliance with the state that issued the registration sticker, upon any private property within the Town.

[1] Nothing herein shall require that any vehicle be present on said premises for any period of time. The existence of same at any given time shall be a violation of this chapter.

(d) Use of waste containers without validly issued plate or tag.

[1] It shall be unlawful for any person, as owner, occupant, lessee or agent, or in any capacity, to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained outdoors any abandoned, junked, discarded, wholly or partially dismantled vehicle or vehicles, appliance, solid waste, rubbish or debris in any container, rolloff, dumpster, compactor and/or collection box which does not contain a validly issued plate or tag from the Town of Babylon pursuant to § 133-15 of the Babylon Town Code for the materials being placed therein.

[2] Upon violation of § 133-25A(1)(d)[1], the Town of Babylon may immediately impound the container, rolloff, dumpster, compactor and/or collection box and charge the property owner a fee equal to the commercial garbage district rates.

(2) At front property line.

(a) No person who is the owner, occupant or lessee of any premises abutting on any street, road, highway or parkway shall place, keep, permit or suffer to be placed or kept at or around the vicinity of the front property line of his premises any goods, wares, merchandise, boxes, barrels, or material things of any kind or description, but nothing contained in this section shall prevent persons from:

[1] Placing goods, wares, merchandise or household furniture at or around the vicinity of the front property line temporarily while loading or unloading it, if it is done without unnecessary delay and if such goods, wares or merchandise are not allowed or permitted to remain at or around the vicinity of the front property line for a longer period than one hour; or

[2] Depositing or storing at or around the vicinity of the front property line acceptable waste scheduled for collection by a licensed refuse collector after 1:00 p.m. on the eve of said collection; or

[3] From storing a licensed and registered motor vehicle at or around the vicinity of the front property line.

(b) Wherever it shall appear that the provisions of § 133-25A(2)(a) are violated, the inspector or such other person or agency authorized by the Town Board to have jurisdiction thereof shall remove or cause to be removed the goods, wares, merchandise or household furniture, and the cost of such removal shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

§ 133-25.1. Grass height.

[Added 9-17-2002 by L.L. No. 28-2002]

A. No owner or occupant of any developed parcel of land located in the Town of Babylon shall permit thereon an accumulation or growth of weeds, brush, grass, grains or other growths or by-products of the same which have attained or exceeded the height of eight inches; this shall not apply to mature and healthy trees or reasonably manicured shrubs or bushes growing upon the premises. "Developed property" shall mean property on which a certificate of occupancy has been issued.

B. No owner or occupant of any undeveloped parcel of land located in the Town of Babylon shall permit thereon an accumulation or growth of weeds, brush, grass, grains or other growth or by-products of the same which have attained or exceeded the height of two feet; this shall not apply to mature and healthy trees or reasonably manicured shrubs or bushes growing upon the premises. "Undeveloped property" shall mean property on which no certificate of occupancy has been issued and no legitimate nonconforming structures exist.

C. Whenever it shall appear that the provisions of this chapter are being violated, correction of such violation may be made by the Town of Babylon and the cost of said correction assessed to the owner. Prior to correction, the Town of Babylon shall comply with the notice provisions as set forth in §§ 133-27 and 133-28.

§ 133-25.2. Hazardous wastes.

[Added 5-22-2009 by L.L. No. 10-2009]

A. It shall be unlawful for any person, as owner, occupant, lessee or agent, or in any other capacity, to store, deposit, place, maintain, suffer or cause or permit to be stored, deposited, placed or maintained on any premises, any hazardous waste, hazardous materials or unacceptable waste in any form, including contaminated soil, lead base paint, radon, asbestos, water, petroleum contaminated soils, and/or any other hazardous material contamination.

B. Nothing in this section shall prohibit the storage of hazardous materials or waste if the owner of said premises is in compliance with all the rules and regulations pertaining to the storage of substances hazardous or acutely hazardous to public health, safety or the environment and has a certificate of occupancy and license or permit for use of the premises for the storage of hazardous materials or waste, issued by the Town of Babylon.

§ 133-26. Placement of waste on property of another.

Any person who shall willfully and intentionally place any solid waste, motor vehicle, appliance, rubbish or debris, as the same are defined in this chapter, upon any property not owned, leased or lawfully occupied by such person shall be deemed to have violated this chapter and shall be subject to all the penalties herein provided.

§ 133-27. Inspection; notice of violation.

[Amended 6-19-2007 by L.L. No. 12-2007]

A. Whenever it shall appear that the provisions of this article are violated, any employee, official or agent of the Town shall make an inspection of the property and shall issue a notice of remediation.

B. Notice of remediation.

(1) If conditions existing on property violate the provisions of this article, the Town shall serve or cause to be served a written notice, either by posting said notice in a conspicuous place at the premises, serving said notice personally to the owner, lessee or occupant or by serving by certified mail to the address of the owner on file with the Assessor's Office.

(2) Said notice shall contain substantially the following: the name of the owner, lessee or occupant of the premises; the address or location of the premises; the identification of the premises as the same appears on the current assessment roll of the Town; a statement of the condition of the premises as found on the inspection; demand that the motor vehicle, appliance, solid waste, rubbish or debris be removed from the premises within 72 hours after the service or mailing of such notice; a statement that a failure or refusal to comply with the provisions of this article and the notice given pursuant thereto within the time specified will result in a duly authorized officer, agent or employee of the Town entering upon the property and removing such motor vehicle, appliance, solid waste, rubbish and debris and causing the same to be disposed of or otherwise destroyed; and that the cost and expense of such removal shall be certified to the Assessor of the Town and shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

(3) Nothing contained herein shall require notice as a prerequisite to the issuance of a summons for a violation of any of the provisions of this article.

§ 133-28. Inspection and correction following notice.

[Amended 8-12-2003 by L.L. No. 15-2003; 6-19-2007 by L.L. No. 12-2007]

A. If there is not compliance with the notice within 72 hours after the service or mailing of the notice required by § 133-27B, the Town shall remove or cause to be removed the motor vehicle, solid waste, rubbish or debris and shall certify the cost of said removal to the Assessor, and the cost shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

B. The Town shall report the removal and disposition of all motor vehicles removed pursuant to § 133-28A herein in accordance with the provisions of § 6-4 of the Town of Babylon Uniform Code of Traffic Ordinances.

C. Motor vehicles removed pursuant to § 133-28A herein shall be stored and/or disposed of in accordance with the Town of Babylon Uniform Code of Traffic Ordinance.

§ 133-29. Exceptions.

[Amended 6-19-2007 by L.L. No. 12-2007]

This article shall not apply to any junkyard duly licensed under this Code.

§ 133-30. (Reserved)

Editor's Note: Former § 133-30, Penalties for noncompliance, as amended 6-19-2007 by L.L. No. 12-2007, was repealed 4-9-2008 by L.L. No. 12-2008.

Article VII. Penalties for Offenses; Restrictions

§ 133-31. Penalties for offenses.

[Amended 10-7-2003 by L.L. No. 22-2003; 3-7-2006 by L.L. No. 8-2006; 6-19-2007 by L.L. No. 13-2007; 4-9-2008 by L.L. No. 9-2008]

A. Any owner, lessee, occupant, person or entity who shall fail or refuse to comply with the provisions of any written notice herein provided for or who shall refuse to remove any motor vehicle, appliance, solid waste, rubbish or debris, upon conviction of said violation shall be fined not less than \$250 nor more than \$2,500 or by imprisonment for a period not exceeding 15 days for each offense, or by both fine and imprisonment. The mandatory minimum fine must be imposed and there shall be no discretion in imposing the mandatory minimum fine; no unconditional discharge or any other sentence which does not include the mandatory minimum fine or term of imprisonment may be imposed, except upon application of the Special Assistant District Attorney and consent of the court. Each day that such violation shall be permitted to continue shall constitute a separate offense hereunder.

B. Notwithstanding any other provision of this chapter, but except as provided in § 133-31C, D and/or E below, upon a first conviction of a violation of any provision of this chapter, a fine of not less than \$500 nor more than \$2,500 must be imposed and by imprisonment for a period not exceeding 15 days for each offense, or by both fine and imprisonment, upon a second conviction of a violation of any provision of this chapter, a fine of not less than \$2,500 nor more than \$5,000 must be imposed and by imprisonment for a period not exceeding 15 days for each offense, or by both fine and imprisonment; upon any subsequent conviction of a violation of any provision of this chapter, a fine of not less than \$5000 nor more than \$7,500 must be imposed and by imprisonment for a period not exceeding 15 days for each offense, or by both fine and imprisonment, and upon conviction of any violation of this chapter, by plea or trial, the mandatory minimum fine must be imposed and there shall be no discretion in imposing the mandatory minimum fine; no unconditional discharge or any other sentence which does not include the mandatory or imprisonment may be imposed, except upon application of the Special Assistant District Attorney and consent of the court. Each day that such violation shall be permitted to continue shall constitute a separate offense hereunder.

C. Upon the conviction of a violation of § 133-35A, B and/or C, a fine of not less than \$1,500 nor more than \$5,000 must be imposed and, after notice and hearing by the Sanitation Commission, a suspension of a license issued hereunder for a period of not less than 15 days. Upon the conviction of a second violation of § 133-35A, B and/or C within five years of a previous conviction for a like offense shall be punishable as a misdemeanor and a fine of not less than \$2,500 nor more than \$10,000 must be imposed, and, after notice and hearing by the Sanitation Commission, a suspension of a license issued hereunder for a period of not less than 30 days. A third violation of § 133-35A, B and/or C within seven years of a previous conviction for a like offense shall result in, after notice and hearing by the Sanitation Commission, the revocation of a license issued hereunder.

D. Upon conviction for any action by any person, firm, corporation or other entity which violates or does not comply with any provision of Article V or any regulation thereof, a fine of not less than \$150 nor more than \$250 upon a first conviction must be imposed, not less than \$250 nor more than \$500 must be imposed upon a second conviction and not less than \$500 nor more than \$1,000 must be imposed upon a third or subsequent conviction.

E. Upon the violation of § 133-7, a fine of not less than \$2,000 nor more than \$5,000 must be imposed; provided, however, that for any violation of § 133-7 that results in an expense for cleanup, remediation or disposal to the Town and/or a recycling contractor, a fine of not less than \$2,000 nor more than \$5,000 must be imposed, plus the cost of cleanup, remediation and disposal of the hazardous waste or unacceptable waste causing such violation. In addition, a violation of § 133-7 shall be punishable, after notice and hearing by the Sanitation Commission, by a suspension of a license issued hereunder for a period of not less than 15 days, and a second violation of § 133-7 within one year of the date of a first violation shall be punishable, after notice and hearing by the Sanitation Commission, by a revocation of a license issued hereunder.

§ 133-32. Seizure of evidence.

A. By a vehicle's entry into the Babylon resource recovery facility or the recycling facility, the owner and operator of the vehicle shall be deemed to consent to the searches and seizures hereinafter provided.

B. Any vehicle which enters the Babylon resource recovery facility or the recycling facility may be searched and its contents examined by Town of Babylon employees or agents acting pursuant to agreement with the Town to determine compliance with the prohibitions against hazardous waste or unacceptable waste, as previously provided for herein.

C. Any police officer or peace officer shall have the power to seize, without a warrant, for conservation, health, safety or evidentiary purposes, an item he has cause to believe is a hazardous waste. An item seized under this subsection shall be disposed of as deemed appropriate by the Commissioner.

D. The seized vehicle shall be delivered by the police officer or peace officer having made the seizure to the custody of the Babylon Town Attorney, together with a report of all the facts and circumstances of the seizures, as soon as practical under the circumstances.

E. It shall be the duty of the Babylon Town Attorney to inquire into the facts of any seizure reported to the Babylon Town Attorney and, if it appears probable that a forfeiture has been incurred by reason of a violation of § 133-35A, B and/or C and § 133-36A for the determination of which the institution of proceedings in the Supreme Court is necessary, to cause the proper proceedings to be commenced and prosecuted, at any time after 30 days from the date of seizure, to declare such forfeiture, unless, upon inquiry and examination, the Babylon Town Attorney decides that such proceedings cannot probably be sustained or that the ends of public justice do not require that they should be instituted or prosecuted, in which case the Babylon Town Attorney shall cause such seized property to be returned to the owner thereof. The Babylon Town Attorney shall make his determination whether or not it appears probable that a forfeiture has been incurred within one business day after the delivery of the vehicle and/or container to his custody.

F. Notice of the institution of the forfeiture proceeding shall be served either personally on the owner of the seized vehicle and/or container or by registered mail to the owner's last known address and by publication of the notice once a week for two successive weeks in a newspaper published or circulated in the Town of Babylon.

G. Forfeiture shall not be adjudged where the Town fails to establish by preponderance of the evidence that the use of such seized vehicle and/or container in violation of § 133-35A, B and/or C was intentional on the part of the owner of said seized vehicle and/or container if said vehicle was used in violation of § 133-36A by any person other than an owner thereof while such seized vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or of any state.

H. No suit or action under this section alleging wrongful seizure shall be instituted unless such suit or action is commenced within two years after the time when the property was seized.

§ 133-33. Depositing unsecured waste on private land.

The owner, lessee, tenant or other person having the management or control of or occupying any lot or plot of land in the Town of Babylon shall keep such land at all times free and clear of solid waste, ashes, rubbish, refuse, grass cuttings, leaves, garbage, waste materials, offal or any offensive substances, except such as are deposited in containers or are otherwise secured as provided for in this chapter.

§ 133-34. Depositing waste on vacant property.

No person shall deposit, throw, cast or bury solid waste, rubbish, ashes, refuse, grass cuttings, tree cuttings, leaves, garbage, waste material, offal or any offensive substance on any vacant land or plot of land in the Town of Babylon.

§ 133-35. Outside placement of dumpsters/roll-offs.

[Amended 6-6-2000 by L.L. No. 14-2000; 12-18-2001 by L.L. No. 11-2001]

A. It shall be unlawful for any person to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained any roll-off upon any portion of any street, lane, sidewalk, roadway or highway located within the Town.

B. Any roll-off left in violation of § 213-250.1F of this Code which shall unlawfully obstruct or impede traffic or remain on any street, lane, sidewalk, roadway or highway shall be deemed to have been abandoned, and such roll-off may be removed and stored in the manner set forth in Chapter 6 of the Uniform Code of Traffic Ordinances.

C. Any person who shall violate this section and who shall refuse to remove any roll-off or who shall resist or obstruct the duly authorized officer, agent or employee of the Town in the removal thereof shall, upon conviction, be subject to the penalties provided in § 133-31B.

§ 133-36. Collection and disposal of waste.

A. It shall be unlawful to use a licensed collection vehicle for the disposal of hazardous waste, as defined herein, at the Babylon resource recovery facility or the recycling facility. Furthermore, it shall be unlawful to utilize a licensed collection vehicle for the transport or storage of hazardous waste, as defined herein, in the Town of Babylon.

B. It shall be unlawful to collect any garbage, solid waste, rubbish or debris, ashes, recyclable material or refuse between the hours of 4:30 p.m. and 6:00 a.m. Notwithstanding the foregoing, the Solid Waste Administrator, upon the consent of the Sanitation Commission, may approve the regular collection of garbage, solid waste, rubbish or debris, ashes, recyclable material or refuse within the Residential or Commercial Garbage District No. 2 between the hours of 4:00 a.m. and 6:00 a.m., upon the written request of the carter licensed by the Town to service such customer.

[Amended 12-5-2000 by L.L. No. 26-2000; 4-23-2013 by L.L. No. 10-2013]

C. It shall be unlawful for any person, partnership or corporation to fail to remove from or permit to be stored on the property of a commercial customer a collection container of one cubic yard or more within 30 days after said customer vacates, abandons or ceases to operate a commercial establishment at said location.

§ 133-37. Use of unlicensed private collectors.

A. It shall be unlawful for any person to enter into any agreement or arrangement, whether a fee is paid therefor or not, whereby a person not licensed by the Commission pursuant to this chapter removes solid waste, rubbish or debris, recyclable material or construction and demolition debris within the Town.

B. No person shall be cited for a violation of this section unless given an opportunity to terminate the agreement or arrangement with the unlicensed collector within 24 hours of receipt of a notice from the Town advising that the collector being used is unlicensed and said person refuses to terminate said agreement or arrangement within the twenty-four-hour period.

[Amended 12-18-2001 by L.L. No. 11-2001]