

Chapter 46. RECYCLING

[HISTORY: Adopted by the Town Board of the Town of Brookhaven 11-15-1988 by L.L. No. 27-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Dumps and disposal areas — See Ch. [24](#).

Sanitation — See Ch. [45](#).

Disposition of petroleum substances — See Ch. [47](#).

§ 46-1. Title.

This chapter shall be known as the "Town of Brookhaven Recycling Law."

§ 46-2. Legislative findings.

The Town Board of the Town of Brookhaven finds that the reduction of the amount of solid waste and the conservation of recyclable materials are important public concerns. The separation and collection of newspaper, paper, cardboard, glass, cans, plastic containers, vegetative yard waste and other materials for recycling from the residential, commercial, industrial and institutional establishments in the Town will protect and enhance the Town's physical and visual environment as well as promote the health, safety and well-being of persons and property within the Town by minimizing the potential adverse effects of landfilling through reduction of the need for landfills and conservation of existing landfill capacity, facilitating the implementation and operation of other forms of solid waste management, conserving natural resources, assisting the Town in complying with the mandates of the Long Island Landfill Law, codified in New York State Environmental Conservation Law § 27-0704, ensuring conformance with the New York State Solid Waste Management Plan and facilitating the development and implementation of a solid waste management plan for the Town. The promotion and use of recyclable materials, goods produced from recyclable materials and goods which facilitate recycling will further serve the same purposes by encouraging and facilitating recycling.

§ 46-3. Statutory authority.

This chapter is adopted pursuant to § 10 of the Municipal Home Rule Law of the State of New York.

§ 46-4. Definitions.

As used in this chapter, the following definitions shall apply:

CANS

Containers comprised of aluminum, tin, steel or a combination thereof, which contain or formerly contained only food and/or beverage substances.

CARDBOARD

All corrugated cardboard normally used for packing, mailing, shipping of containerizing goods, merchandise or other material, but shall not mean wax-coated or soiled cardboard.

COMMINGLED

Source-separated, nonputrescible, noncontaminated recyclable materials that have been placed in the same container.

COMMISSIONER

The Commissioner of the Department of Waste Management.

DEPARTMENT OF WASTE MANAGEMENT

The Town of Brookhaven Department of Waste Management.

DESIGNATED RECYCLABLE MATERIALS or DESIGNATED RECYCLABLES

Those recyclable materials designated by this chapter, and/or by resolution of the Town Board pursuant to this chapter, to be source separated. The term includes, but is not limited to, newspaper, glass, paper, cardboard, cans, plastic containers and vegetative yard waste.

DISPOSITION or DISPOSITION OF DESIGNATED RECYCLABLE MATERIALS

The transportation, placement or arrangement for transportation or placement of designated recyclable materials for all possible end uses.

GARBAGE

Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

GARBAGE DISTRICT

A refuse and garbage district within the Town established, consolidated or extended under Article 3-A, Article 12 and/or Article 12-A of the New York Town Law or such other laws governing the establishment of improvement districts, and shall include, without limitation, the Town-Wide Brookhaven Refuse and Recycling Improvement District.

GLASS

All clear (flint), green and brown (amber) colored glass containers, crystal, ceramics and plate, window, laminated, or mirrored glass, but shall not mean wired glass.

HAZARDOUS MATERIAL or HAZARDOUS WASTE

A solid waste, or a combination of solid wastes, which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. Such materials or wastes shall include, but are not limited to, explosives, hazardous radioactive materials, toxic substances and those substances which the Commissioner has identified as a hazardous waste pursuant to the above criteria and has included on a list of hazardous waste promulgated by the Department of Waste Management.

MULTIRESIDENTIAL COMPLEX

Four or more residential units located on a single property or continuous properties under common ownership, control or management. For this purpose, "residential unit" shall mean an enclosed space consisting of one or more rooms designed for use as a separate residence, and shall include, but not be limited to, an apartment, condominium unit, townhouse cooperative unit, mobile home, living unit in a group home and room or set of rooms in a boardinghouse, but shall not include rooms within a single-family residence, motel or hotel.

NEWSPAPER

Includes newsprint and all newspapers and newspaper advertisements, supplements, comics and enclosures.

PAPER

All high-grade office paper, fine paper, bond paper, office paper, xerographic paper, mimeo paper, duplication paper, magazines, paperback books, school paper, catalogs, junk mail, computer

paper, telephone books and similar cellulosic material, but shall not mean newspaper, wax paper, plastic or foil-coated paper, styrofoam, wax-coated food and beverage containers, carbon paper, blueprint paper, food-contaminated paper, soiled paper and cardboard.

PERSON

Any individual, firm, partnership, company, corporation, association, joint venture, cooperative enterprise, trust, municipality, other governmental agency or any other entity or any group of such persons which is recognized by law as the subject of rights and duties. In any provisions of this chapter prescribing a fine, penalty or imprisonment, the term "person" shall include the officers, directors, partners, managers or persons in charge of a company, corporation or other legal entity having officers, directors, partners, managers or other persons in charge.

PLASTIC CONTAINERS

Containers composed of high-density polyethylenes, polyethylene terephthalate or other specific plastics as the Town Board may designate, which contain or formerly contained only food and/or beverage substances.

RECYCLABLE MATERIAL

A material which would otherwise become solid waste, which can be collected, separated and/or processed, treated, reclaimed, used or reused to produce a raw material or product.

RECYCLING

Any process by which materials, which would otherwise become solid waste, are collected, separated and/or processed, treated, reclaimed, used or reused to produce a raw material or products.

RECYCLING COLLECTION AREA

Any facility designed and operated solely for the receiving and storing of source-separated designated recyclable materials.

RESIDENT

Any person residing within the Town on a temporary or permanent basis, but excluding persons residing in hotels or motels. For purposes of this chapter, "resident" does not include commercial, industrial or institutional establishments.

RUBBISH

Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, including but not limited to nonrecyclable paper, wrappings, cigarettes, wood, wires, glass, bedding, furniture and similar materials which are not designated recyclable materials.

SOLID WASTE

All putrescible and nonputrescible materials or substances discarded or rejected as having served their original intended use or as being spent, useless, worthless or in excess to the owner at the time of such discard or rejection, including garbage, refuse, litter, rubbish, industrial waste, commercial waste, sludges, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal, but not including designated recyclable materials, solid or dissolved matter in domestic sewage or substances, materials in noncontainerized gaseous form or hazardous materials or waste.

SOURCE SEPARATE

To separate recyclable materials from the solid waste stream at the point of waste generation.

TOWN

The Town of Brookhaven located within the County of Suffolk, State of New York.

TOWN BOARD

The Town Board of the Town of Brookhaven.

VEGETATIVE YARD WASTE

Organic yard and garden waste, leaves, grass clippings and brush.

§ 46-5. Curbside program established.

A. Upon the effective date of this chapter, there is established within existing garbage districts in the Town a program ("curbside program") for separate collection of newspaper from all non-physically-disabled residents of the districts. Said curbside program shall apply to multiresidential complexes in accordance with § [46-7](#) of this chapter and to commercial, industrial and institutional establishments in accordance with § [46-9](#) of this chapter.

B. Collection of newspaper pursuant to the curbside program established by this section shall be made once each week. Collection shall occur in accordance with a schedule advertised by the Town.

C. The curbside program established pursuant to this section shall apply to any new garbage district in the Town immediately upon the formation of such district and shall also be applied to other geographic areas within the Town designated by resolution of the Town Board at all times 30 days after enactment of the resolution and publication of notice in a newspaper of general circulation within the Town.

D. Expansion of program.

(1) The Town Board, by resolution, may expand the curbside program to include, in addition to newspaper, the collection in separate containers, bundles or packages, as appropriate, of one or more of the following designated recyclable materials:

(a) Paper;

(b) Cardboard;

(c) Commingled glass, cans and plastic containers;

(d) Vegetative yard waste;

(e) Other recyclable materials as designated by resolution of the Town Board.

(2) Said expanded curbside program shall be established at all times 30 days after designation and publication of notice in an official newspaper of the Town or a newspaper of general circulation within the Town. Said expanded curbside program shall apply to multiresidential complexes in accordance with § [46-7](#) of this chapter and to commercial, industrial and institutional establishments in accordance with § [46-9](#) of this chapter.

E. Collection of designated recyclable materials added to the curbside program pursuant to Subsection **D** above shall be made once each week. Collection shall occur in accordance with a schedule advertised by the Town.

F. All residents of the Town within the areas serviced by the curbside programs established pursuant to this section shall, upon the applicable effective date, source separate newspaper and other designated recyclables and, in the manner designated by the Commissioner pursuant to § [46-6](#) of this chapter and on the date specified for collection by the schedule published by the Town, place them at the side of the road fronting their residences or at such other location at or near the residence agreeable to the person who is collecting the material.

§ 46-6. Preparation of recyclables for collection.

All designated recyclables placed at the roadside, or other location, by residents for collection pursuant to § [46-5](#) of this chapter shall be prepared for collection in accordance with regulations promulgated by the Commissioner.

§ 46-7. Private collection programs for multiresidential complexes.

A. In any garbage district or area designated by the Town Board subject to a curbside program established pursuant to § [46-5](#) of this chapter, there is also established a program ("private collection program") for the

source separation, collection and delivery of newspaper and any other designated recyclable material included in the curbside program from all non-physically-disabled residents of multiresidential complexes.

B. The owner, manager or superintendent of every multiresidential complex subject to Subsection A above shall provide and maintain, in a neat and sanitary condition, recycling collection areas to receive newspaper and other designated recyclables included in the curbside program which are generated by residents of the complex. In cases where a condominium, cooperative, homeowners' or similar association exists, the association shall be responsible for provision and maintenance of the recycling collection areas. Said recycling collection areas shall be constructed and capable of receiving newspaper within 180 days of the establishment of the curbside program and any and all other designated recyclables as may be included in or added to the curbside program within 180 days of such inclusion or in addition to the curbside program.

C. Once the recycling collection area for a particular multiresidential complex has been constructed and is capable of receiving newspaper and other designated recyclables as may be included in or added to the curbside program, all non-physically-disabled residents of such complex shall source separate such materials by placing them in the appropriate containers or areas within the collection area.

D. The owner, manager or superintendent of each multiresidential complex subject to Subsection A above shall arrange for the collection for recycling of newspaper and other designated recyclables from the recycling collection areas.

E. The number and design of the recycling collection areas required by this section for each multiresidential complex shall be consistent with guidelines provided by the Commissioner.

§ 46-8. Placement of recyclables in recycling collection areas.

Designated recyclables required to be placed in recycling collection areas pursuant to § 46-7 of this chapter shall be prepared for collection in accordance with regulations promulgated by the Commissioner.

§ 46-9. Mandatory commercial, industrial and institutional source separation program.

A. All commercial, industrial and institutional establishments within a garbage district or an area of the Town subject to a curbside program established pursuant to § 46-5 of this chapter shall source separate and arrange for the collection for recycling of: newspaper within 180 days of the establishment of the curbside program and any and all other designated recyclables as may be included in or added to such curbside program within 180 days of such inclusion in or addition to the curbside program.

B. Designated recyclables for the mandatory commercial, industrial and institutional source separation program may consist of the following materials:

(1) Newspaper.

(2) High-grade paper, including but not limited to white letterhead paper, white bond paper, white typing paper, white copier paper, white notepad paper, white writing paper, white envelopes without glassine windows, other nonglossy white office paper without plastic, computer printout paper, computer tab cards and white onion skin paper.

(3) Corrugated cardboard.

(4) Glass containers, plastic containers and cans generated by food and beverage service establishments;

(5) Vegetative yard waste.

(6) Other recyclable materials as designated by resolution of the Town Board at all times 30 days after said designation and publication of notice in an official newspaper of the Town or a newspaper of general circulation within the Town.

C. The arrangement for collection of designated recyclables for disposition hereunder shall be the responsibility of the person who owns, manages or operates the commercial, industrial or institutional establishment at which the recyclables are generated ("generator") or the person contractually obligated to the generator to arrange for

collection and disposal of its solid waste. Said arrangements may include, without limitation, direct marketing of recyclables, contracts with permitted solid waste collector/haulers for separate collection of any or all designated recyclables, contracts with other persons for separate collection of any or all designated recyclables or direct delivery to a designated processing facility.

§ 46-10. Use of vegetative yard waste for certain purposes permitted.

Nothing in this chapter shall be construed as preventing any person from utilizing vegetative yard waste for compost, mulch or other agricultural, horticultural, silvicultural, gardening or landscaping purposes.

§ 46-11. Enforcement; promulgation of additional rules and regulations.

The Department of Waste Management is authorized to enforce the provisions of this chapter and to administer the recycling programs established herein. The Commissioner of said Department may adopt and promulgate, amend and repeal rules and regulations implementing this chapter in order to carry out and enforce the intent and purposes thereof.

§ 46-12. Unlawful activities.

A. It shall be unlawful for:

- (1) Any person, other than those persons so authorized, to collect any designated recyclable which has been placed at the roadside for collection or within a recycling collection area pursuant to this chapter.
- (2) Any person to violate or to cause or to assist in the violation of any provision of this chapter or any implementing rule or regulation promulgated of the Commissioner of the Department of Waste Management.
- (3) Any person to place or to cause to be placed any material other than a designated recyclable in or near a recycling collection area.
- (4) Any person to hinder, obstruct, prevent or interfere with this Town, Department of Waste Management employees or any other authorized persons in the performance of any duty under this chapter or in the enforcement of this chapter.

B. All unlawful conduct set forth in this section shall constitute a violation.

§ 46-13. Solid waste unseparated from recyclables not to be collected.

The Town or any other person collecting solid waste generated within this Town may refuse to collect solid waste from any person who has clearly failed to source separate recyclables designated under an applicable section of this chapter, and the Town may refuse to accept solid waste containing recyclables designated under an applicable section of this chapter at any solid waste disposal facility owned or operated by the Town.

§ 46-14. Existing contracts to remain in force; nonrenewal of nonconforming contracts.

A. Nothing contained in this chapter shall be construed to interfere with or in any way modify the provisions of any existing contract in force in the Town on the effective date of this chapter.

B. No renewal of any existing contract upon the expiration of the original term thereof and no new contract for the collection, transportation, processing or purchase of solid waste or recyclables shall be entered into after the effective date of this chapter unless renewal of such contract shall conform to the requirements of this chapter.

§ 46-15. Penalties for offenses.

A. Any person who engages in unlawful conduct as defined in this chapter may, upon conviction thereof in a proceeding before a court of competent jurisdiction, be sentenced to imprisonment for a term not to exceed 15 days or to a term of community service related to the purposes of this chapter or to pay a fine of not more than \$250 and not less than \$25, or any combination of the above penalties.

B. Each continuing day of violation of this chapter shall constitute a separate offense.

§ 46-16. Injunction to restrain violation; remedies to be concurrent.

A. In addition to any other remedy provided in this chapter, the Town may institute a suit in equity where unlawful conduct exists as defined in this chapter for an injunction to restrain a violation of this chapter.

B. The penalties and remedies prescribed by this chapter shall be deemed concurrent. The existence or exercise of any remedy shall not prevent this Town from exercising any other remedy provided by this chapter or otherwise provided at law or equity.

§ 46-17. Construal.

The terms and provisions of this chapter are to be liberally construed so as best to achieve and effectuate the goals and purposes hereof.

§ 46-18. Severability.

The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstances is held invalid, said invalidity shall not affect any other provision or application of this chapter which can be given effect without the invalid provision or application of the chapter.

§ 46-19. Repealer.

All provisions of any other chapter or ordinance which are inconsistent with the provisions of this chapter are hereby repealed.

§ 46-20. Effective date.

This chapter shall become effective January 1, 1989.