



SANITARY DISTRICT NO. 1
TOWN OF HEMPSTEAD, NEW YORK

ORDINANCE NO. 1

COMMISSIONERS
PHILIP MISTERO, CHAIRMAN
IRVING J. KAMINETSKY, SECRETARY
JOHN J. TENENBAUM
CHESTER F. CAFASSO

Exhibit C

Exhibit D

Exhibit E

SANITARY DISTRICT NO. 1

TOWN OF HEMPSTEAD, N. Y.

A law to enact a new Ordinance No. 1 of Sanitary District No. 1 entitled "Solid Waste Management and Recycling Ordinance."

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Article I
General Provisions

Section 101.1 Statement of Policy.

Sanitary District No. 1, Town of Hempstead (the "District") declares that the implementation of a recyclables recovery program, the conservation of recyclables material, the reduction of solid waste and the implementation of a solid waste management program consistent with New York State's solid waste management policy are important local concerns to the District.

It is the policy of the Board of Commissioners of the District to reduce the amount of solid waste generated within the District, to re-use materials for the purpose for which they were originally intended, to recycle materials which cannot be re-used, and, to ensure that only authorized solid waste is delivered to the District's facility. The collection and recycling of newspaper, glass, cans, plastic containers, yard waste and other materials for recycling from residential premises and the separation and collection of such materials together with office paper and cardboard from commercial,

industrial and institutional establishments in the District will serve to protect and enhance the District's physical environment and will promote the health, safety and well-being of the District.

To maximize the potential for recovery of recyclable materials the District has caused to be planned, designed and constructed a facility to separate, process and treat collected solid waste, which is included as part of the District's recyclables recovery program so that recoverable resources may be used as a raw material for new products or for useful purposes (the "District Facility").

By adoption of this law and enactment of the new ordinance, the District complies with the mandate of General Municipal Law Section 120-aa(2)(a).

Section 101.2 Statement of Findings

The District finds that:

A. The District is part of the Solid Waste Management Plan (SWMP) and Comprehensive Recycling Analysis (CRA) of the Town of Hempstead as required by the New York State Department of Environmental Conservation. As an independant sanitary district and as part of the SWMP and CRA of the Town of Hempstead, the District is required to adopt recycling laws and/or practices compatible with the regulations of the Town of Hempstead as embodied in Article 6 of Chapter 128 of the Town Code and New York State law.

B. The District has identified newspapers, glass bottles and jars, metal food and beverage containers, plastic food and household products, high-density polyethlenes and polyethylene terephthalate containers, yard waste, metal objects and construction and demolition debris as reusable or recyclable products that are to be separated from all solid waste. Cardboard and office paper have been additionally identified for commercial, industrial and institutional establishment recycling.

C. The District, as a rear-yard collection District, has determined that the District Facility when operational will best serve the goal of enhanced recycling and, at the same time, reduce the total cost of processing solid waste material by eliminating the cost of specialized compartmentalized pick-up equipment, additional personnel to operate the same, insurance costs, and, the risk factor of additional personnel and equipment on the roadways.

D. All provisions hereunder to be adopted shall be consistent with standards established pursuant to the New York State Environmental Conservation Law.

E. Commercial establishments electing not to participate in the District's recycling program must make approved arrangements for the collection and marketing of their own recyclables.

Section 101.3 Short Title

This Ordinance shall be known as "Ordinance No. 1 of Sanitary District No. 1, Town of Hempstead" or as the "Solid Waste Management and Recycling Ordinance" of Sanitary District No. 1, Town of Hempstead.

Section 101.4

Definitions

For the purposes of this Ordinance, the following terms, phrases, words, and their derivations, shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "Ashes" is the residue from the burning of wood, coal, coke or other combustible materials.

(b) "Authorized Container" is a commercially manufactured container for the disposal of garbage, rubbish, and recyclable materials (but excluding bulky waste) and not exceeding thirty (30) gallons in volume capacity and weighing no more than seventy five (75) pounds when filled and being equipped with a tight cover.

(c) "Board of Commissioners" is the Board of Commissioners of Sanitary District No. 1, Town of Hempstead, Nassau County, New York.

(d) "Bulky Waste" is any material or item longer or wider than four (4) feet, including but not limited to refrigerators and freezers; television sets; fenceposts, lumber or logs longer than four (4) feet; cooking stoves or other major appliances; household or office furniture; mattresses and carpeting; and rubber tires.

(e) "Cans" is any container comprised of aluminum, tin, steel or a combination thereof, which contains or formerly contained only food and/or beverage substances.

(f) "Cardboard" is all corrugated cardboard normally used for packing, mailing, shipping or containerizing goods, merchandise or other material, but shall not mean wax-coated or soiled cardboard.

(g) "Commercial Premises" shall mean any portion of a premises where business, industrial, or light manufacturing enterprises are located or operating.

(h) "Construction and Demolition Debris" shall mean bricks, concrete and other masonry materials; soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles, asphaltic pavement, glass, mirrors, windows, housewares, electric wiring and components and metal that is incidental to any of the foregoing.

(i) "District" shall mean Sanitary District No. 1, Town of Hempstead, Nassau County, New York and include the geographical areas comprising such District.

(j) "District Facility" shall mean the District's facility and equipment capable of separating and segregating recyclable or reusable materials from the solid waste stream.

(k) "Dwelling Unit" shall mean any accommodation which is occupied in whole or in part as the residence of one or more individuals and which is separate and independent of any other such accommodation.

(l) "Garbage" shall mean all putrescible animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, or the storage and sale of produce.

(l) "Glass" includes all clear (fluid), green and brown (amber) colored glass containers.

(m) "Hazardous Waste" shall mean a waste which is so defined under §27-0903 of the New York State Environmental Conservation Law and/or Section 1004 of the Federal Resource Conservation and Recovery Act of 1976, as amended, which shall include but not be limited to a solid waste or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when it is improperly treated, stored, transported, disposed or otherwise managed.

The final determination of whether or not a waste is hazardous shall be made by the Superintendent of the District subject to and in accordance with the applicable guidelines promulgated by the New York State Department of Environmental Conservation and/or the United States Environmental Protection Agency.

(n) "Holiday" shall mean that day on which a holiday is officially celebrated and recognized by the District.

(o) "Miscellaneous Premises" means and includes the following located within the geographical limits of the District: all public and private schools; all firehouses; all houses of worship; all public libraries; all post office; all municipal buildings; and all veterans and fraternal organization buildings.

(p) "Multiresidential Complex" shall mean four (4) or more residential units located on a single property or continuous properties under common ownership, control or management. Under this Ordinance "residential unit" shall mean an enclosed space consisting of one (1) 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.

(r) "Newspaper" shall mean all newspaper and all newspaper advertisements, supplements, comics, inserts and enclosures.

(s) "Office Paper" shall mean all high-grade office paper, fine paper, bond paper, xerographic paper, mimeo paper, duplication paper, school paper, junk mail, computer paper, 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 or cardboard.

(t) "Operational" shall mean with respect to the District Facility that the same shall without interruption of more than 60 consecutive days continuously achieve an operational level sufficient to meet the Districts separation and recycling goals.

(u) "Person" shall mean an individual, group of individuals, partnership, firm, corporation, association, trust, estate, company or organization of any kind, or any other legal entity, or their legal representatives, agents or assigns.

(u) "Plastic Containers" means containers composed of high-density polyethylenes, polyethylene terephthalate or other specific plastics as the Superintendent may designate which contain or formerly contained only food and/or beverage and/or household substances.

(v) "Potentially Infectious Waste" means the waste products, normally originating from but not limited to medical offices, medical laboratories, nursing homes, surgical centers and hospitals or from any other source which consist of human or animal body parts, tissues or blood or materials coming in contact with said body parts and tissues or blood from persons or animals that are diseased or infected or could reasonably be presumed to be diseased or infected. For the purpose of this definition, the presence of any waste deposited in red bags or deposited in orange bags marked "biohazardous" or the like or marked "autoclaving bag" or the like shall be considered a "potentially infectious waste". The final determination as to whether a waste is potentially infectious shall be made by the Superintendent in accordance with this Ordinance and any other applicable guidelines of the New York State Department of Environmental Conservation, the New York State Department of Health and/or the Nassau County Health Department.

(w) "Private Property" shall mean any property other than that used as a public highway.

(x) "Recyclable Materials" means and includes the following items: newspapers; food and beverage containers made of brown glass, green glass or clear glass; food and beverage containers or cans made of aluminum and/or steel; plastic containers; and cardboard and office paper. The Superintendent of the District shall be authorized to add or delete items from this list subject to the discretion of the Board of Commissioners.

(y) "Recycling Participants" means the owners or occupants of homes, of apartment complexes, of condominiums, of businesses, of commercial establishments, of organizations, of corporations, of associations or of industries or any other person or entity within the geographical limits of the District, that the Superintendent of the District, with the approval of the Board of Commissioners, shall from time to time so designate and who have received notice of the Superintendent's designation.

(2) "Refuse Not Acceptable for Collection" means and includes the following:

1. Construction and Demolition Debris resulting from the repair, construction, alteration or excavation of any building or structure, or any street or sidewalk, when such work was performed by a contractor for hire.

2. Hazardous Waste

3. Potentially Infectious Waste

4. Solid wastes resulting from industrial processes.

The Superintendent of the District shall be authorized to add or delete items from this list subject to the discretion of the Board of Commissioners.

(aa) "Residential Premises" shall mean any structure or part of a structure primarily used and occupied for dwelling purposes.

(cc) "Rubbish" means and consists of any solid waste other than garbage, recyclable materials, bulky waste, construction and demolition debris, hazardous waste and potentially infectious waste, and, yard waste.

(dd) "Solid Waste" means materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owner at the time of such discard or rejection (except sewage and other highly diluted water carried materials or substances and those in gaseous form) and shall consist of all materials defined in this Ordinance as bulky waste, garbage, recyclable materials, rubbish and construction and demolition debris, and, yard waste.

(ee) "Superintendent" is the Superintendent of Sanitary District No. 1, Town of Hempstead, Nassau County, New York.

(ff) "Yard Waste" means grass clippings, leaves, bundles of twigs or branches, brush, tree trunks, logs, stumps, all up to six (6) inches in diameter, natural holiday trees and wreathes, and other general tree and yard or garden waste.

Article II

Collection and Container Provisions

Section 201.1 Garbage

A. Frequency of Collection

(1) Garbage shall be collected from residential premises, multiresidential complex premises and commercial premises on regularly scheduled days as designated by the Board of Commissioners, during the hours designated by the Superintendent.

(2) Garbage shall be collected from miscellaneous premises on such days and during such hours as may be designated by the Superintendent.

(3) There shall be no collections of any type on Saturdays or Sundays or on such holidays as may be designated by the Board of Commissioners.

B. Containers

(1) Only authorized containers as defined in Article I, Section 101.4, subdivision (b) shall be used for the disposal of garbage.

(2) Garbage which cannot be readily placed in authorized containers must be securely enclosed in plastic bags or other weather-proof and durable receptacles not weighing more than fifty (50) pounds each nor exceeding eighteen (18) cubic feet in capacity.

C. Limitation on the number of authorized containers

(1) Residential and multiresidential complex premises - there is no limitation to the number of authorized containers of garbage that may be placed for collection in residential and multiresidential complex premises.

(2) Commercial premises - the number of authorized containers of garbage that may be placed for collection in commercial premises shall be based upon the square foot floor area of such commercial premises (inclusive of basements and accessory buildings) and shall be as follows:

(i) For the first five thousand (5,000) square feet of floor area two (2) authorized containers.

(ii) For each additional ten thousand (10,000) square feet of floor area or fraction thereof, one (1) additional authorized container.

(3) Miscellaneous Premises - there is no limitation to the number of authorized containers of garbage that may be placed for collection in miscellaneous premises.

D. Placement of Containers

(1) In residential premises, all containers shall be placed for collection in a readily accessible location adjacent to the rear door and/or rear yard of the principal dwelling unit, and, in no event shall containers be placed for collection forward of the front building line of the principal dwelling unit, and, in no event shall containers be placed for collection inside or within any accessory use building or garage. During inclement weather, the owner, tenant, lessee or occupant of residential premises shall provide a suitable walkway for the District's collector, as access to the containers.

(2) It shall hereafter be illegal for any person to build or to maintain facilities and/or receptacles or containers underground or below property grade for the deposit of garbage.

(3) In multiresidential complex premises, commercial premises and miscellaneous premises, all containers shall be placed for collection only at such accessible locations as shall be approved by the Superintendent.

Section 201.2 Bulky Waste

A. Frequency of Collection

(1) Bulky waste as defined in Article I, Section 101.4, subdivision (d) shall be collected as often and during such specified hours as shall be prescribed by the Superintendent and collection shall be by special arrangement and only from such accessible locations as shall be approved by the Superintendent.

(2) There shall be no collections of any type on Saturdays or Sundays or on such holidays as may be designated by the Board of Commissioners.

B. Limitation on number of bulky waste items

The number of bulky waste items which may be placed out for collection at any one time shall be subject to the discretion of the Superintendent as operational conditions may require.

Section 201.3 Recyclable Materials

A. Frequency of Collection

(1) Recyclable materials as defined in Article I, Section 101.4, subdivision (y) shall be collected from residential premises and multiresidential complex premises, on such collection days, as designated by the Board of Commissioners during the hours designated by the Superintendent.

(2) Cardboard and office paper and such other items as may hereafter be additionally identified (upon reasonable notice of such action to be given to all persons affected thereby) for commercial premises and miscellaneous premises recycling shall be collected as often and during such specified hours as shall be prescribed by the Superintendent.

(3) There shall be no collections of any type on Saturday or Sundays or on such holidays as may be designated by the Board of Commissioners.

B. Containers

(1) Each recycling participant shall (whether the District Facility shall be operational or not) place all recyclable materials, as above defined, for collection only in either authorized containers as defined in Article I, Section 101.4, subdivision (b) or, in securely tied plastic bags or other weather-proof and durable receptacles not weighing more than fifty (50) pounds each nor exceeding (18) cubic feet in capacity.

(2) Every person having the management or control of or occupying any land or building shall be required to obtain and have available a sufficient number of authorized containers for recycling purposes.

C. Limitation on number of containers used for recycling

There is no limitation to the number of authorized containers of recyclable materials that may be placed for collection by a recycling participant.

D. Placement of containers used for recycling

(1) In residential premises, all containers containing recyclable materials, as above defined, shall be placed for collection alongside the garbage containers as provided for in this Article II, Section 201.1, subdivision (D) (1).

(2) In multiresidential complex premises, all containers containing recyclable materials, as above defined, shall be placed for collection only at such accessible locations as shall be approved by the Superintendent.

(3) In commercial premises and miscellaneous premises, those items covered by this Article II, Section 201.3, subdivision (A) (2) shall be placed for collection only at such accessible locations as shall be approved by the Superintendent.

Section 201.4 Yard Waste and Construction and
Demolition Debris

(1) No person engaged in the business or occupation of landscaping, landscape contracting, landscape gardening, general building, construction, excavation or demolition shall be permitted the use of the disposal site maintained by the District until such person has applied for and received an annual disposal permit.

(2) The District shall cause a set of rules and regulations to be published and thereafter distributed with each permit governing and limiting the use thereof and prescribing the fees and additional fees which shall govern use of the District's disposal site.

Section 201.5 Used Motor Oil

Notwithstanding any other provision of this Ordinance, used motor oil shall only be disposed of by delivery to a service station or retailer which is required under New York State law to accept such material, or by delivery to such other facilities authorized by state law to accept such material.

Section 201.6 Used Batteries (other than automobile or marine)

Notwithstanding any other provisions of this Ordinance, used household batteries (other than automobile or marine) such as AA size, C size, D size and 9 volt size (and comparables) shall be disposed of by placing the same in a paper or plastic bag clearly marked "Used Batteries" in an authorized container for collection by the District.

Article III

Recycling

Section 301.1 Residential Premises Recycling

Pre-Collection Practices

(1) Each properly designated recycling participant shall undertake the following measures:

(i) Recyclable materials shall be placed for collection in authorized containers on such collection days as may be designated under the provisions of Article II, Section 201.3 of this Ordinance.

(ii) All recyclable materials shall be rinsed clean of all food and other particles.

(iii) Labels are to be removed from metal cans.

(iv) Unbundled newspapers may be either placed in a brown paper bag in an authorized container used for recycling or may be securely bundled and tied in bundles not to exceed thirty-five (35) pounds and which shall not exceed twelve (12) inches in height. All such bundles must be placed for collection alongside the authorized container(s) used for recycling.

(2) In the event that the Board of Commissioners determines that additional measures are necessary in order for the recyclable materials to be marketable, the Board of Commissioners shall have the power to require that recycling participants undertake such measures, provided, however, that in such event, recycling participants shall receive adequate notice of such additional measures.

(3) From the time of placement of recyclables for collection, such recyclables shall be either the property of the recycling participant or shall be deemed the property of the District. It shall be a violation of this Ordinance for any person, without the prior authority of either the recycling participant or the District to collect, pick-up, remove or cause to be removed or in any manner interfere with such recyclables. Each such act in violation of this Ordinance shall constitute a separate violation.

Section 301.2 Multiresidential Complex Premises Recycling
Pre-Collection Practices

In addition to the provisions of Section 301.1 of this Article III, which may be applicable, the following shall apply to recycling in multiresidential complex premises:

(1) The preferred and best methodology for storage, collection and removal of recyclable materials shall be determined by the District after appropriate survey.

(2) A central storage area for recyclable materials shall, if necessary, be established at a location approved by the Superintendent.

(3) The District may direct that large commercial type containers be used for storage and collection of recyclable materials.

Section 301.3 Commercial Premises and Miscellaneous
Premises Recycling

Pre-Collection Practices

In addition to the provisions of Section 301.1 of this Article III, which may be applicable, commercial premises and miscellaneous premises shall be required, at the discretion of the Board of Commissioners, to recycle cardboard and office paper, subject to the following:

(1) The arrangement for the collection of cardboard and office paper shall be the responsibility of the person who owns, manages or operates the commercial premises or miscellaneous premises where these materials are generated.

(2) A central storage area for cardboard and office paper shall, if necessary, be established at a location approved by the Superintendent.

(3) The District may direct that large commercial type containers be used for storage and collection of cardboard and office paper.

(4) On a showing of insufficient generation of a particular recyclable application may be made to the Board of Commissioners for a variance as provided for under Section 401.3 of Article IV of this Ordinance.

Miscellaneous Provisions

Section 401.1 Amendment by Board of Commissioners

The Board of Commissioners of the District is hereby authorized by majority vote of the members of the Board to adopt, promulgate and amend rules and regulations controlling the reduction, collection and disposal of garbage and refuse, the recovery and conservation of recyclables, and the management of solid waste within the geographical limits of the District and to provide penalties for violations of such rules and regulations.

Section 401.2 Severability

If any clause, sentence, paragraph, section or part of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved and shall not affect or invalidate the remainder thereof.

Section 401.3 Variances

Where practical difficulties or undue hardships result from compliance with the strict letter of this Ordinance, the Board of Commissioners of the District, may, upon written petition of any person, firm or corporation and upon majority vote of the members of the Board, vary or modify the application of this local law to any parcel of land to do substantial justice, secure public safety and welfare, and, observe the spirit of this Ordinance.

Section 401.4 Exception for Private Collectors

This Ordinance shall not prohibit duly licensed private carters or private collectors from collecting and transporting solid waste within and through the geographical limits of the District, provided such private carters or private collectors shall comply with the provisions of this Ordinance and with all other applicable laws and ordinances.

Section 401.5 Existing Ordinance Repealed

The existing Ordinance No. 1. of the District adopted by the Board of Commissioners of the District effective January 1, 1969 is hereby repealed in its entirety, the date of said repeal to be effective contemporaneously with the effective date of this Ordinance.

Section 401.6 Effective Date

This Ordinance shall take effect immediately and shall become enforceable sixty (60) days thereafter.

Section. 501.1 Penalties for offenses

Any person, firm or corporation who violates this Ordinance or any provision or section thereof shall be guilty of a violation and subject to a fine of not more than one hundred dollars (\$100.) and/or imprisonment for not more than fifteen (15) days and/or suspension of solid waste disposing privileges within the District for a period of not more than thirty (30) days. Each day that such violation exists shall constitute an additional and separate violation.

In addition to the penalties provided herein, the District may commence an action or proceeding, including but not limited to the initiation of an injunctive action in a court of competent jurisdiction to compel compliance with the provisions of this Ordinance.

Section 501.2 Enforcement

It shall be the responsibility of the District Superintendent, in consultation with the Board of Commissioners to enforce the provisions of this Ordinance and all rules, regulations and designations made pursuant thereto. Such enforcement shall be by such legal or equitable proceedings, including, without limitation, a proceeding for specific performance, brought in the name of the District as may be provided or authorized by law.