

Chapter 21. SOLID WASTE

[HISTORY: Adopted by the Town Board of the Town of Islip 9-1-1993 by L.L. No. 2-1993. *Editor's Note: This local law superseded former Chapter 21, Solid Waste, adopted 10-21-1986 by L.L. No. 5-1986, as amended.* Amendments noted where applicable.]

GENERAL REFERENCES

Junkyards — See Ch. [29](#).

Issuance of licenses and permits — See Ch. [31](#).

Littering — See Ch. [32](#).

Water quality — See Ch. [66](#).

§ 21-1. Legislative intent.

The purpose of this chapter is to safeguard the health, safety and welfare of the people of the Town of Islip through the regulation of solid waste collection and disposal pursuant to the power granted the Town of Islip under Chapter 632 of the Laws of 1982, as amended, and consistent with the Solid Waste Management Plan of the Town of Islip and the laws of the State of New York. Nothing herein is intended or should be construed to modify or amend any terms or conditions of any contracts for solid waste services to which the Town of Islip is a party in effect on the effective date of this chapter.

§ 21-2. Definitions.

As used in this chapter, the following words are intended to include and be defined as follows:

ASH RESIDUE

All of the solid residue and any entrained liquids resulting from the combustion of solid waste or solid waste in combination with fossil fuel at a solid waste incinerator, including bottom ash, boiler ash, fly ash or the solid residue of any air pollution control device used at a solid waste incinerator.

BULK WASTE

An item of solid waste larger than two by two by four feet or heavier than 50 pounds.

COMMISSIONER

The Commissioner of the Department of Environmental Control for the Town of Islip, or authorized personnel. For purposes of this definition, said personnel shall include officers or employees of the Islip Resource Recovery Agency.

CONSTRUCTION AND DEMOLITION DEBRIS

Any solid waste material defined under 6 NYCRR 360-1.2(6), (22) and (33), except as said material may be restricted or conditioned for acceptance at a Town of Islip disposal facility.

CONTAINER

Any box, can, drum, compactor or other receptacle provided by persons licensed to provide solid waste services to nonresidences and multiple residences in the Town of Islip and used for the storage of solid waste pending collection.

DISPOSAL FACILITY

Any solid waste management facility or site operated by or on behalf of the Town of Islip or the Islip Resource Recovery Agency, including facilities located outside of the Town of Islip and designated as such by the Commissioner.

DISPOSAL FEE

The fee charged to receive and dispose of solid waste at a disposal facility, which fee may be modified from time to time by the Board of Directors of the Islip Resource Recovery Agency.

HAZARDOUS SUBSTANCE

Has the same meaning as set forth in 6 NYCRR Part 364, as the same may be amended from time to time.

ISLIP RESOURCE RECOVERY AGENCY

That public authority created pursuant to Chapter 632 of the Laws of 1982, as amended, the members of which consist of the Town Board of the Town of Islip.

MECHANIZED CONTAINER

A container used for the storage of solid waste on the premises of a generator which is equipped with any mechanical device to compact the solid waste stored therein.

MULTIPLE RESIDENCE

Any building or parcel of land not receiving solid waste services through any Town of Islip Special Garbage and Refuse District and containing four or more rental units, including but not limited to mobile homes and cooperative apartment units, or condominium units occupied as residential dwellings.

NONRESIDENCE

Any building or parcel of land not used as a residence or a multiple residence as defined in this section.

PERSON

Any individual, partnership, association, firm, corporation or any and all combinations of individuals acting in concert.

RECYCLABLES

Those components of the solid waste generated within the Town of Islip which are capable of being recycled or reused in place of virgin materials and for which economic markets exist. Said components shall be determined pursuant to this chapter, but shall include newspaper, corrugated cardboard, ferrous metals, glass, plastics, aluminum and yard waste, unless otherwise determined by the Commissioner.

REGULATED MEDICAL WASTE

All material so defined under 6 NYCRR 360-17 and relevant sections of the Public Health Law of the State of New York.

RESIDENCE

A building or parcel of land having three or fewer dwelling units, located within and serviced through a Special Garbage and Refuse District of the Town of Islip.

RESIDENT

A person residing in a residence.

SOLID WASTE

Materials or substances discharged or rejected as being spent, useless, worthless or unwanted by 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. Such wastes shall include but are not limited to garbage, sludge, rubbish, ashes, incinerator residue, street cleanings, dead animals, offal, abandoned vehicles, tires, agricultural waste, industrial waste, commercial waste and construction and demolition debris.

SOLID WASTE DISPOSAL ACCOUNT

The registration of any person who delivers solid waste from a single nonresidence or multiple residence to a Town disposal facility.

SOLID WASTE SERVICES

The business of handling, removal, storage or disposal of solid waste, including but not limited to placing or removing containers for solid waste on or from sites within the Town not owned by the person placing or removing the containers and transporting solid waste from or to any location within the Town.

SOURCE SEPARATION

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

TOWN

The Town of Islip.

TOWN BOARD

The Town Board of the Town of Islip or the Board of Directors of the Islip Resource Recovery Agency, unless otherwise stated herein.

TOWN CLERK

The Town Clerk of the Town of Islip.

TRANSFER STATION/RECYCLING CENTER

Any combination of structures, machinery and facilities used for the off-loading of solid waste from collection vehicles, the recovery of recyclables from said solid waste and the reloading of nonrecyclable solid waste into vehicles for disposal.

YARD WASTE

Leaves, grass clippings, garden debris, shrubs, branches and similar material as designated by the Commissioner.

§ 21-3. Determination of recyclable solid waste.

For purposes of General Municipal Law § 120-aa, the determination of whether any component of the solid waste stream generated within the Town of Islip is capable of being reused or recycled and is a component for which economic markets exist, as that term is defined in General Municipal Law § 120-aa, shall be made by the Commissioner after notice and the opportunity for a public hearing, unless any such component is so determined by action of the State of New York. As of the effective date of this section, such components shall be deemed to be newspapers, corrugated cardboard, ferrous metal, aluminum beverage containers, plastic beverage containers and glass, pending any subsequent determination by the Commissioner. Nothing herein shall be deemed to prohibit the recycling or reuse of any material or substance in any market which may appear from time to time absent action by the Commissioner or the State of New York.

§ 21-4. Provisions for residences; penalties for offenses.

A. It shall be the responsibility of all residents of the Town of Islip to separate and place out for collection all recyclable components of solid waste generated at their residences.

B. The Commissioner shall have the authority to designate the recyclable components of the residential waste stream and to further designate the day or days upon which said recyclables and/or any other component of the residential waste stream shall be placed out for collection by the Town of Islip or its designated agents.

C. Ownership of recyclables set out for collection at residences shall thereupon vest in the Town. It shall be unlawful for a person to collect, remove or dispose of recyclables which are the property of the Town without

first having obtained the license required by this chapter. Persons who collect or remove recyclables which belong to the Town shall deliver and dispose of the same at such location as the Commissioner shall designate for that purpose.

D. It shall be unlawful for any resident to place out for collection with solid waste any recyclables designated by the Commissioner for separate collection. It shall be unlawful for any resident to place grass clippings out for collection by the Town of Islip or its designated contractors at any time.

E. Garbage receptacles.

[Added 6-10-2008 by L.L. No. 5-2008 *Editor's Note: This local law also redesignated former Subsection E as Subsection F.*]

(1) Any person receiving residential solid waste collection services shall provide suitable standard metal or plastic garbage receptacles for deposit of garbage and household solid waste. Said receptacles shall be watertight, kept covered with a cover and maintained in a sanitary condition by periodic cleaning.

(2) When household garbage is wet or contains animal carcasses or other putrescible material, said garbage shall be bagged in a manner that prevents insects, vector or any other public health and safety hazards.

(3) Garbage receptacles are to be placed at the curb no earlier than 4:00 p.m. on the day before collection and shall be removed from the collection point to a location to the rear of the front line of the main dwelling no later than 12:00 noon the day after the day of collection.

F. Penalties. Any violation of this section shall be considered a violation of law and shall be punishable as follows:

(1) For a first offense, by a fine not to exceed \$50.

(2) For a second offense, by a fine not to exceed \$100.

(3) For a third or subsequent offense, by a fine not to exceed \$500 or by a term of imprisonment not to exceed 15 days, or both.

§ 21-5. Provisions for nonresidences and multiple residences; penalties for offenses.

A. It shall be unlawful for any person owning or in possession of any nonresidence or the record owner or managing agent of any multiple residence in the Town of Islip to provide for the collection of solid waste from said nonresidence or multiple residence by any person not licensed to provide solid waste services pursuant to this chapter; provided, however, that any such person may deliver solid waste generated only at that nonresidence or multiple residence to Town disposal facilities upon the payment of the proper fee therefor and in conformance with the rules of the facility and the laws of the County of Suffolk and the State of New York governing the transport of waste material over the public roads. Such persons may establish a solid waste disposal account at a Town disposal facility for the regular delivery of such waste.

B. It shall be unlawful for any person to place solid waste into a container provided for collection by, or for the use of, another person without the express written consent of the person providing said container.

C. It shall be unlawful for any person to dispose of waste generated at nonresidences in Town of Islip waste or recycling containers placed on the public streets or other locations, except those expressly designated for such waste.

D. Penalties. Any violation of this section shall be considered a violation of law and shall be punishable by a fine or imprisonment as set forth in § 21-4E.

§ 21-6. Recyclables generated at nonresidences and multiple residences.

A. It shall be the responsibility of all persons owning or in possession of any nonresidence or multiple residence to provide for the separation of the solid waste generated at said nonresidence into recyclable components as defined in § 21-3 hereof.

B. (Reserved)

§ 21-7. Disposal.

A. Solid waste generated within the Town of Islip shall be disposed of only at a disposal facility unless otherwise provided herein.

B. It shall be unlawful for any person to collect, remove or transport any solid waste generated within the Town of Islip for disposal, processing, sorting or any other purpose to any location other than a disposal facility, except by condition of a permit issued pursuant to this chapter or with the approval of the Commissioner pursuant to § 21-10 hereof.

C. The Commissioner shall have the authority to designate a disposal facility for all waste generated within the Town of Islip and for the use of all persons licensed to provide solid waste services pursuant to this chapter.

D. It shall be unlawful for any person to place a hazardous substance out for collection with solid waste or recyclables in the Town of Islip or to collect, transport or dispose of hazardous substances in the Town of Islip without a license or permit to do so from the State of New York or other appropriate authority.

E. It shall be unlawful for any person to place regulated medical waste out for collection with solid waste or recyclables in the Town of Islip or to collect, transport or dispose of regulated medical waste within the Town of Islip without a license or permit to do so from the State of New York or other appropriate authority.

F. Any violation of this section shall be considered a Class A misdemeanor and shall be punishable by a term of imprisonment up to one year or a fine of up to \$5,000, or both, and any such violations shall be subject to additional penalties as set forth in § 21-15 of this chapter. Any person, individual, partnership, association, firm, corporation or any and all combinations of individuals acting in concert found to be in violation of this section may be subject to additional penalties in accordance with the laws of the State of New York.

[Amended 8-31-1994]

G. (Reserved)

§ 21-8. Dumping prohibited.

[Amended 8-31-1994]

A. Notwithstanding any other provision of the Islip Town Code, it shall be unlawful for any person to create, maintain, suffer or permit the accumulation of a quantity of solid waste in excess of one cubic yard upon any street, lot, park, public place, open space or other area, whether publicly or privately owned, unless said area is licensed for that purpose under this chapter or said solid waste is stored in a container or otherwise subject to a lawful contract for removal and disposal by a person licensed by this chapter.

B. It shall be unlawful for any conditionally exempt generator, small quantity generator or generator of hazardous wastes, liquid wastes and/or solvents, as defined in 6 NYCRR Part 371, ignitable wastes, as defined in 40 CFR 261.21, or pesticides, as defined in 40 CFR 261.32 and 261.33, to dispose upon any street, lot, park, public place or open space, whether publicly or privately owned, including but not limited to storm drains, sumps, natural or man-made ponds, cisterns, wells, streams or waterways, any of the substances described in this subsection.

C. Any person found to be in violation of this section shall be guilty of a Class A misdemeanor and shall be subject to a fine of not less than \$500 and not more than \$10,000 or to one year's imprisonment, or both. Nothing herein shall relieve said person or the record owner of the property upon which the waste is deposited from removing said waste upon order of the Town Board, nor shall this section in any way restrict the Town Board from otherwise acting to remove the material pursuant to law.

§ 21-9. Permits for solid waste services.

A. No person shall engage in the business of collecting solid waste or otherwise render solid waste services to anyone without a permit as hereinafter provided. Any person found to be in violation of this subsection shall be

guilty of a Class A misdemeanor and shall be subject to a fine of not less than \$500 and no more than \$10,000 or one year's imprisonment, or both.

[Amended 8-31-1994]

B. Contents of application.

(1) A permit application shall be made, in writing, on the form prescribed by the Town Clerk, submitted to the Town Clerk and accompanied by a fee of \$750 for the first vehicle and \$250 for each additional vehicle applied for and \$7.50 for each container provided to places of service within the Town of Islip.

[Amended 8-31-1994; 8-17-2010 by L.L. No. 7-2010]

(2) Names to be included.

(a) The application shall contain the name of the applicant or, if a partnership or corporation, the names of all partners, officers, directors and all persons holding 5% or more of a financial interest in said partnership or corporation. If the applicant is a corporation which is wholly or partially owned by another corporation, the parent corporation shall be identified, together with the names of the officers and directors of the parent corporation.

(b) The application shall contain the name of any individual applicant, partnership, officer, director or any person holding 5% or more financial interest in said business or corporation, who has been convicted of any crime or committed an act for which a civil sanction or penalty was imposed or is under indictment for any crime.

[Added 8-31-1994]

(3) A permit application shall be accompanied by a current Suffolk County Department of Health Services solid waste permit applicable to any and all vehicles submitted.

(4) The applicant shall also provide the Town with a statement sworn to by the applicant, if an individual, or a partner or an officer of the applicant corporation, as the case may be, containing the following information:

(a) A complete list of all nonresidences and multiple residences serviced by the applicant at the time of application, including the name, address and telephone number of each such customer.

(b) A complete list of all containers provided by the applicant to nonresidences and multiple residences in the Town of Islip, which list shall include the location, capacity and frequency of collection of each such container at the time of application.

(c) A complete list of all nonresidences and multiple residences serviced by the applicant at which the collection of source-separated recyclables is performed in a manner or at a time other than that employed to collect solid waste at the time of application.

(5) The information required pursuant to this subsection shall be regarded by the Town as trade secrets which, if disclosed, could cause substantial injury to the competitive position of the person submitting the information.

C. All vehicles for which fees are paid pursuant to Subsection **B(1)** above shall, upon issuance of a permit, be provided with two Town of Islip decals indicating that the vehicle is permitted. These decals shall be securely fastened and conspicuously displayed on the vehicle at all times. In addition, all vehicles shall conspicuously display, in letters at least six inches high, the name and telephone number of the permit holder. It shall be unlawful for any person other than the permit holder to utilize such a vehicle for the provision of said waste services, without the express permission of the Commissioner, unless ownership or possession of the vehicle is lawfully transferred to such other person and a new permit issued.

[Added 8-31-1994]

§ 21-10. Obligations of permit holders; exceptions.

A. The issuance of a solid waste services permit shall obligate the holder to deliver all solid waste collected within the Town of Islip, excluding recyclables separated by commodity type and collected separately at the place of generation, to Town disposal facilities.

B. The Commissioner may release a permit holder from all or part of the obligation contained in Subsection A above under the following circumstances:

(1) Upon approval by the Commissioner of a recycling plan submitted by the permit holder, pursuant to which recyclables commingled with solid waste collected at nonresidences or multiple residences are to be extracted for sale or reuse and the residue delivered to Town disposal facilities.

[Amended 8-31-1994]

(a) Any such plan shall contain, at a minimum, the following elements:

[1] The name, location, container size and collection schedule of all customer stops to be included in the waste stream included in the plan.

[2] An estimate, supported by adequate documentation or other evidence, of the aggregate weight of the total solid waste to be collected under the plan on a monthly basis, seasonally adjusted.

[3] An estimate, supported by adequate documentation, including identification of markets or buyers, of the types and aggregate quantities of recyclables to be extracted from the solid waste collected under the plan on a monthly basis, seasonally adjusted.

[4] Identification of the facility or description of the method to be employed to extract the recyclables from the solid waste collected under the plan.

[5] Financial security, in a form acceptable to the Commissioner, ensuring the payment of the Town of Islip tipping fees to be incurred by the delivery of the solid waste residue after extraction of recyclables pursuant to the approved plan, which security shall be drawn upon in the event that said residue is not delivered to Town disposal facilities.

(b) A plan approved pursuant to this subsection shall be subject to amendment, including temporary modifications in the estimated amounts of solid waste, recyclables or residues to be collected or delivered, for good cause shown and upon prior notice to the Commissioner.

(c) Persons holding solid waste services permits from the Town on the effective date of this chapter shall not be relieved of the obligation to deliver solid waste collected to Town of Islip disposal facilities as a condition of said permit under the prior code.

(2) Upon a determination by the Commissioner that Islip disposal facilities are for any reason not available to receive all or part of the solid waste collected by permit holders within the Town of Islip. Any release of a permit holder from the obligations of this section due to unavailability of Islip facilities shall be effective for the duration of such unavailability, as determined by the Commissioner.

§ 21-11. Hours of collection.

No collections shall be made at multiple residences or nonresidences prior to 5:00 a.m. or at residences prior to 6:00 a.m., except with the prior approval of the Commissioner.

§ 21-12. Transfer station/recycling center.

A. It shall be unlawful for any person performing solid waste services in the Town of Islip to deliver solid waste generated in the Town of Islip to a transfer station/recycling center except pursuant to a recycling plan submitted and approved pursuant to § 21-10B hereof.

B. It shall be unlawful for any person to operate a transfer station/recycling center within the Town of Islip unless said transfer station/recycling center is licensed pursuant to this chapter.

§ 21-13. Transfer station/recycling center permit.

A. A permit application shall be made, in writing, on the form prescribed by the Town Clerk and accompanied by a fee of \$750. A permit issued pursuant to this section shall be valid for one year and shall be renewable annually after submission of the required fee and application materials.

[Amended 8-31-1994]

B. The application shall contain the information required in § 21-9B(2) above.

[Amended 8-31-1994]

C. No permit shall be granted unless the applicant can produce a valid transfer station operating permit issued by the New York State Department of Environmental Conservation for the proposed site and further demonstrate that the proposed transfer station/recycling center is consistent with the Town's Solid Waste Management Plan.

D. The grant of a permit shall bind the applicant to provide the Town of Islip with the following information on a quarterly basis:

(1) Gross tons of mixed solid waste and recyclables received.

(2) Gross tons of recyclables removed from solid waste delivered.

(3) Net tons of nonrecyclable solid waste reloaded onto vehicles for disposal.

(4) Total container capacity of all nonresidential stops and multiple-residence stops serviced by collection vehicles delivering mixed solid waste and recyclables to the facility.

(5) Location and container capacity of all nonresidential and multiple-residence stops located within the Town of Islip serviced by all collection vehicles delivering mixed solid waste and recyclables to the facility.

E. (Reserved)

F. (Reserved)

G. (Reserved)

H. (Reserved)

I. Prior to the issuance of a permit for a transfer station/recycling center, an application shall be reviewed and approved by the Planning Division of the Town of Islip. Approval will be based on the following criteria and requirements:

(1) Submission of a site plan to the Planning Division. The plan shall include the precise location of all buildings, structures, employee and truck parking, loading, unloading and traffic areas, internal circulation, container storage areas, storage areas for recycling and any other information deemed pertinent to an adequate review of the proposal. All requirements for the submission and issuance of building permits and change of use permits shall be met.

(2) A minimum lot area of two acres and the right to require a greater lot area. Such requirement will be based on the scale of operation as measured by the size of the buildings proposed for the site, the volume of solid waste handled on a daily basis and the requirements for vehicle parking and movement or a finding that the operation cannot be adequately screened from adjoining property.

(3) A minimum distance of 200 feet from property zoned for residential use.

(4) Submission of a route plan to indicate that traffic generated by the facility will have a minimal impact on residential streets.

(5) Provision of adequate lanes for vehicles entering the facility.

(6) All sorting, baling, processing, crushing and similar intensive activity associated with the facility, including the storage of all containers containing recyclable and any other materials, shall be contained inside a completely enclosed building.

(7) Outdoor use of the property shall be restricted to the parking and maneuvering of vehicles and the storage of empty containers.

(8) The storage of said containers shall be restricted to locations specifically identified on the site plan. This equipment shall be located and screened in such a manner so as to not be visible from the street or from adjoining properties.

(9) On-street parking of vehicles, containers or any other equipment or materials in any way connected with the facility shall be prohibited.

(10) Where feasible, truck loading and unloading areas shall not face the street.

(11) A minimum of 20 feet of landscaping, including street trees in accordance with the Land Development Regulations of the Town of Islip, shall be planted and maintained along all street frontages.

(12) An eight-foot-high chain link fence with stockade attached shall be installed and maintained directly behind said landscaped areas.

(13) The maximum height of the facility shall not exceed 30 feet.

(14) Protective barriers around those portions of the building vulnerable to damage from vehicle movements shall be provided.

J. Application for variances from the requirements governing minimum lot area and minimum distances from residences shall be made to the Planning Board.

K. Grant and acceptance of this permit shall constitute consent to allow inspection of the premises by the Town of Islip for the purpose of ensuring compliance with this section. Inspection shall be upon reasonable prior notice to the permit holder.

L. Nothing in this section shall exempt an applicant or facility from compliance with zoning or other requirements of the Islip Town Code.

§ 21-14. Additional nonresidence and multiple residence requirements.

A. A person who provides solid waste services to a nonresidence or multiple residence customer shall:

(1) Provide the customer with a container for solid waste and/or recyclables sufficient for the customer's needs. All such containers shall be conspicuously labeled with the name and telephone number of the person providing solid waste services and the volume of the container, expressed in cubic yards.

[Amended 8-31-1994]

(2) Within one week of a request by the customer, provide solid waste services to any nonresidence or multiple residence within 1/2 mile of any other such customer to whom the person provides solid waste services or arrange for another person to provide such services or provide such services after being ordered to provide such services by the Commissioner.

(3) Specify on each bill to a customer the rate charged per unit of solid waste removed and the rates charged per unit of recyclables serviced.

(4) Remove any solid waste container provided by him within 21 days after solid waste services are terminated.

B. Notwithstanding any other provisions of this section to the contrary, the Commissioner shall have the authority to direct the person providing solid waste services to immediately remove, or, in the alternative, to direct Town personnel to immediately remove, any waste in a container remaining uncollected for a period of seven days or more or any waste which by its nature or condition presents an immediate nuisance or threat to the public health. In the event that the Town removes said waste, the person providing the container shall be liable to the Town for the cost of collection and disposal.

[Added 8-31-1994]

§ 21-15. Denial, suspension and revocation of permits; penalties for offenses.

A. Notwithstanding any other provision of this chapter, the Town Clerk, pursuant to Chapter 50B of the Town Code, or the Town Board may refuse to issue or may suspend or revoke a permit issued to any person if such permittee or applicant or any person having a financial interest therein is convicted of a crime or is otherwise determined to be undesirable or incapable of properly rendering solid waste services.

B. The issuance of a solid waste services permit under this chapter shall obligate the holder to the payment of a civil penalty and/or the suspension or revocation of the permit granted hereunder if, after notice and hearing

and by a preponderance of the evidence, the holder is found to have violated the conditions of the permit as set forth in this chapter. Civil penalties shall be imposed for violations of this chapter pursuant to the following schedule:

(1) For a first violation the penalty shall be \$2,500.

(2) For a second violation within three years, the penalty shall be \$5,000.

(3) For a third or subsequent violation within any three-year period, the penalty shall be \$10,000.

(4) A third or subsequent violation within any three-year period shall, in addition, subject the permit of the violator to suspension or revocation by the Town Board.

C. Any suspension of a permit pursuant to this chapter shall be for a definite period of up to one year, which period shall be deemed to extend into the term of the next renewed permit if the term of suspension is longer than the period remaining under the instant permit. Any suspension ordered pursuant to this chapter may be accompanied by such terms and conditions imposed by the Town Board which may provide reasonable assurance that the permit holder does not engage, directly or indirectly, in the provision of solid waste services in the Town during the term of suspension. Violation of the terms and conditions of any suspension shall be grounds for revocation of the permit.

D. Any revocation of a permit pursuant to this chapter shall preclude the former permit holder as an individual and, if a partnership, its partners and, if a corporation, its officers, directors and shareholders holding over 5% of the stock of said corporation at the time of revocation from engaging in the business of providing solid waste services in the Town of Islip for a minimum period of five years. Any such former permit holder may apply for a new permit after the expiration of said five-year period; provided, however, that all such applications shall be approved or denied by majority vote of the Town Board. The Town Board, in considering such an application, may, in its discretion, and in addition to any other relevant information, consider such mitigating or aggravating factors as the nature of the incident or incidents giving rise to the revocation, the relative culpability of the applicant in said incident and the past history of the applicant in Islip or other licensing jurisdictions. Nothing in this section is intended or shall be construed as creating a right to the reinstatement of any permit after the expiration of five years or any other period of time.

§ 21-16. Administrative hearings.

A. Hearings conducted pursuant to this chapter shall be had upon at least 10 days' written notice to the permit holder setting forth the specific nature and circumstances of the alleged violation of the conditions of permit.

B. The burden of proof in establishing a violation shall be upon the Town.

C. Hearings shall be held before a hearing officer appointed by the Commissioner. The hearing officer shall be the Commissioner, Deputy Commissioner or executive officer of a department of the Town, other than the Department of Environmental Control. The hearing officer shall have the power to set the time and place of the hearing, grant recesses and adjournments, rule upon motions and requests, rule upon the admissibility of evidence and make findings of fact.

D. The permit holder may be represented by counsel.

E. Witnesses shall be sworn and subject to cross-examination. A stenographic record of the proceedings shall be kept.

F. Evidence submitted shall be relevant and may include evidence as to the history and character of the permit holder if a suspension or revocation of the permit is potentially at issue. Hearsay evidence shall be admissible, but shall be accorded such weight as the hearing officer deems appropriate, consistent with its reliability.

G. Findings of fact shall be made by the hearing officer, in writing, upon a preponderance of the evidence.

H. Upon a finding that a violation is proved, the Commissioner shall impose the monetary civil penalty which shall be applicable.

I. If, as a result of a finding of violation, the permit of the violator is subject to suspension or revocation, the Commissioner, in addition to imposing the appropriate monetary civil penalty, shall forward the findings of fact and the record of the hearing to the Town Board. The Town Board may determine to take no further action and so notify the permit holder. In the alternative, upon at least 10 days' written notice to the permit holder and the public, but not later than 90 days after the close of the administrative hearing, the Town Board may convene a public hearing solely to determine whether, on the basis of the violation found, the past history and performance of the permit holder and such other evidence as the Board may receive at the public hearing, the permit should be suspended or revoked. A public hearing commenced for this purpose may be adjourned for such reasonable periods as the Board deems necessary to receive and evaluate the evidence. Within 30 days of the close of the public hearing, the Board shall determine whether the permit shall be suspended or revoked and, if suspended, the period of suspension or whether no further action shall be taken.

J. In the event of any denial of an application for a permit or any denial or disapproval of a recycling plan proposed hereunder or upon the finding of a violation and the imposition of any administrative penalty after hearing pursuant to this chapter, the applicant or holder of the permit against whom such action is taken may appeal the determination of the Commissioner or the Town Clerk to the Town Board of the Town of Islip by filing with the Town Clerk a written request for the review of said determination within 30 days of the date of said determination. All such requests for review shall be in writing and shall contain a full and complete statement of the reasons for reversal or modification of said determination, including any supporting documentation. The Town Attorney, on behalf of the Commissioner or the Town Clerk, shall have the opportunity to reply to the request for review. The Town Board shall render its decision to uphold, reverse or modify the determination at issue within a reasonable time thereafter. The decision of the Town Board shall be in writing and shall be final.

K. No penalty imposed by any determination hereunder shall be effective until 30 days after said determination, unless a request for review is filed, in which case said penalty shall not be effective until the Town Board renders its decision.

§ 21-17. Seizure of evidence.

A. By a vehicle's entry into a disposal facility, the owner and operator of that vehicle shall be deemed to consent to the searches and seizures hereinafter provided.

B. Any vehicle which enters a disposal facility may be searched and its contents examined by Town employees to determine compliance with the rules and regulations of that facility governing delivery of materials to that facility.

C. Any police officer shall have the power to seize without a warrant, for conservation, health, safety or evidentiary purposes, any material he has cause to believe is a hazardous substance or regulated medical waste collected or transported through the Town in violation of the applicable provisions of this chapter. Any material seized under this subsection and determined to be a hazardous substance or regulated medical waste shall be disposed of as deemed appropriate by the Commissioner, and any costs associated with such disposal shall be assessed against the person or persons in possession of said materials.

D. Any police officer shall have the power to seize without a warrant, for conservation, health, safety or evidentiary purposes, any vehicle he has cause to believe has been or is being knowingly used to unlawfully dump, store, transport or dispose of any solid waste, including hazardous substances, regulated medical waste, tires or other materials. A seized vehicle may be forfeited as hereinafter provided.

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

F. It shall be the duty of the Town Attorney to inquire into the facts of the seizure so reported to him and, if it appears probable that a forfeiture should be incurred for the determination of which the institution of proceedings in the Supreme Court is necessary to cause the proper proceedings to be commenced, at any time within 30 days from the date of seizure, to declare such forfeiture, unless, upon inquiry and examination, the 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 Town Attorney shall cause such seized property to be returned to the owner thereof. The Town Attorney shall make his determination as to whether or not it appears probable that a forfeiture has been incurred within one business day after the delivery of the vehicle to his custody.

G. Notice of the institution of the forfeiture proceeding shall be served either personally on the owner of the seized vehicle 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.

H. Forfeiture shall not occur where the owner establishes, by a preponderance of the evidence, that the use of such seized vehicle in violation of this chapter was not intentional on the part of the owner or that said seized vehicle was used in violation of this chapter 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 any state.

I. The Town Attorney, having custody of the seized vehicle after such judicial determination of forfeiture, shall, at his discretion, either retain such seized property for the official use of the Town or, by a public notice of at least five days, sell such forfeited property at public sale. The net proceeds of such sale, after deduction of lawful expenses incurred, shall be paid into the general fund of the Town.

J. Whenever any person interested in any property which is seized and declared forfeited under the provisions of this section files with a Justice of the Supreme Court a petition for the recovery of such forfeited property, the Justice of the Supreme Court may restore said forfeited property upon such terms and conditions as he deems reasonable and just, if the petitioner establishes either of the affirmative defenses set forth in Subsection H of this section and that the petitioner was without personal or actual knowledge of the forfeiture proceedings. If the petition is filed after the sale of the forfeited property, any judgment in favor of the petitioner shall be limited to the net proceeds of such sale after deduction of the lawful expenses and costs incurred by the Town Attorney.

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

§ 21-18. Clothes dropoff bins.

[Added 9-9-2008 by L.L. No. 9-2008 *Editor's Note: This local law also redesignated former §§ 21-18 through 21-20 as §§ 21-19 through 21-21, respectively.* ; amended 12-16-2008 by L.L. No. 14-2008; 10-13-2010 by L.L. No. 11-2010]

A. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

CHARITABLE NOT-FOR-PROFIT

Any organization formed pursuant to N-PCL § 201(b), Type-B.

CLOTHES DROPOFF BIN (BIN)

A closed container, metal or otherwise, having an opening through which new or used clothing or household goods only can be deposited and stored until pickup by the registrant, also known as the "owner."

NON-CHARITABLE NOT-FOR-PROFIT AND FOR-PROFIT

Any organization other than one formed pursuant to N-PCL § 201(b), Type-B.

ORGANIZATION

An individual, business, partnership, association, firm, company or corporation of any kind.

OWNER

The organization or person having legal title to the bin. Said legal title shall be established by a bill of sale, a chattel mortgage, a titled document or any other documentation evidencing ownership.

REGISTRANT

Any organization or person that registers a clothes dropoff bin with the Islip Town Clerks office pursuant to the provisions of this chapter.

B. Permit required; dates of issuance and expiration.

(1) Permit required for placement, emptying and removal. It shall be unlawful for any person, except the Town of Islip or other municipal agency to maintain, place, empty or remove or cause to be maintained, placed, emptied or removed a clothes dropoff bin without having first obtained a permit issued by the Islip Town Clerk.

(2) (Reserved)

(3) Permit required. A clothes dropoff bin permit shall be affixed to every bin used by the permit holder for the collection and storage of new or used clothing. A permit issued to a registrant shall be affixed to the bin prior to placement. The permit shall be placed on the same side of the bin as the chute used for the deposit of the clothing. Next to the permit there shall be placed in clear lettering the name and telephone number of the registrant. Upon the sale or transfer of a bin, the new owner shall obtain a new permit from the Islip Town Clerk's office and shall abide by the aforementioned placement provisions.

(4) A permit issued under this chapter shall be valid for one year from its date of issuance. Said permit can be renewed for successive one-year periods upon application to the Islip Town Clerk and upon payment of any applicable fees.

C. Application for permit; contents: fees.

(1) The person wishing to obtain a dropoff bin permit shall complete a registration application in such form as to be acceptable to the Islip Town Clerk. Such application shall include but not be limited to:

(a) The name, address and telephone number of the person, applying for the permit;

(b) The proposed location/address where the bin is to be placed, together with the estimated duration of occupancy;

(c) The name, telephone number and written consent of the owner of the location at which the bin is to be placed;

(d) The name, address, and telephone number of the person who will be placing the bin;

(e) Information as to the manner and schedule for which the bin is to be emptied or removed; and

(f) The destination of the clothing or other items to be removed from the bin.

(2) Permitting fees:

(a) Not-for-profits: An application permitting fee of \$100 shall be charged in advance for each one-year period the bin is in place at the permitted locations. Said permitting fee of \$100 shall cover the fees for all bins placed by the not-for-profit. Said fee shall be paid to the Islip Town Clerk in cash or by check. At the time of payment of said fee, proof that the registrant is a recognized § 501(c)(3) charitable organization must be submitted to the Islip Town Clerk in at least two of the following formats:

[1] Section 501(c)(3) IRS determination letter or letter of good standing from the state or federal government oversight agency;

[2] Certificate of incorporation indicating a charitable purpose. together with a tax identification number;

[3] A letter addressed to the Islip Town Clerk on the not-for-profit's letterhead and signed by an authorized signatory stating that at least 25% of the revenue obtained from the clothing bin is donated back to the not-for-profit.

(b) For-profit businesses: An application permitting fee of \$100 per bin shall be charged in advance for each one-year period the bin is in place at the permitted locations. Said fee shall be paid to the Islip Town Clerk in cash or by check.

D. Permit number. Each approved permit application shall be given a permit number issued by the Islip Town Clerk that shall be affixed to the bin as required by this chapter and shall identify the bin as a for-profit or not-for-profit bin.

E. Penalties for offenses: continuing offenses.

(1) In addition to any penalty that may be imposed for an offense against the Penal Law, any person violating the provisions of this chapter shall be guilty of a violation, punishable by a fine of not less than \$150 per day, but not more than \$1,000 for the first such offense.

(2) For each subsequent violation following a first offense, a violator of this chapter shall be punished by a fine of not less than \$250 per day, but not more than \$2,500 in a one-month period. The Town may also bring an action or proceeding to enjoin the offense and to recover the costs incurred by the Town for removing and/or storing the bin or otherwise remedying conditions brought about by the offense of this chapter.

(3) In the event that the Town of Islip or any of its agencies is required to retrieve a bin that is in violation of this chapter, the Town may also bring an action or proceeding against the owner or registrant or for-profit or not-for-profit to enjoin the offense and to recover the costs incurred by the Town for removing and/or storing the bin or otherwise remedying conditions brought about by the offense of this chapter. Storage fees shall be \$25 per day.

§ 21-19. Severability.

[Amended 12-16-2008 by L.L. No. 14-2008]

If any term, part, provision, section, subdivision or paragraph of this chapter shall be held unconstitutional or ineffective, in whole or in part, then, to the extent that it is not unconstitutional or ineffective, this chapter and such term, part, provision, section, subdivision or paragraph thereof shall be in full force and effect, and such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions or paragraphs thereof.

§ 21-20. When effective.

[Amended 12-16-2008 by L.L. No. 14-2008]

This chapter shall take effect upon filing with the Secretary of State. *Editor's Note: Former § 21-21, Penalties for offenses, added 8-31-1994, was repealed 12-16-2008 by L.L. No. 14-2008.*

Chapter 21A. (RESERVED)

[Former Ch. 21A, Liquid or Scavenger Waste, adopted 6-7-77, as amended, was repealed 3-2-82.]