

Chapter 171: SOLID WASTE

[HISTORY: Adopted by the Board of Supervisors (now County Legislature) of the County of Sullivan 5-14-1992 by L.L. No. 1-1992. Amendments noted where applicable.]

Chapter 171: SOLID WASTE

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Chapter 171:_SOLID WASTE

Article I:_Legislative Findings

Chapter 171:_SOLID WASTE Article I:_Legislative Findings

§ 171-1_Legislative intent.

§ 171-2_Short title.

§ 171-1_Legislative intent.

A.

Section 27-0106 of the Environmental Conservation Law defines the state's solid waste management policy, and § 27-0107 of such law sets forth the purpose and scope of local solid waste management plans.

B.

Section 226-b of the County Law provides in part that a county may appropriate and expend such sums to "provide for the separation, collection and management of solid waste in such county and for that purpose may acquire, construct, operate and maintain solid waste management facilities."

C.

Section 120-aa of the General Municipal Law provides in part that in accordance with the state policy on solid waste management, a municipality adopt, on or before September 1, 1992, a local law to require source separation and segregation of recyclable or reusable materials from solid waste.

D.

Section **A7-4** of the Sullivan County Administrative Code provides that the Commissioner of Public Works shall have the power to formulate and implement a program for the collection and sanitary disposal of solid waste.

[Amended 5-20-1999 by L.L. No. 4-1999]

E.

The Sullivan County Legislature assumed the lead role in examining all alternatives for the disposal of solid waste within Sullivan County, and the County Legislature did also accept the responsibility of developing the most cost effective and environmentally safe solution for the disposal of solid waste in Sullivan County.

F.

The Public Works Committee has recommended a county-wide recycling program which shall require the source separation of various recyclable components of the solid waste stream. It is intended that an expanded recycling program of additional materials shall be initiated as the County of Sullivan gains experience and formalizes its recycling procedures.

[Amended 5-20-1999 by L.L. No. 4-1999]

G.

The County of Sullivan's goal is to reuse and to recycle materials such as paper, glass, yard wastes, metals, plastics and other recyclable materials which can be separated from nonrecyclable wastes at the source, i.e., at the residence or at the nonresidence where the waste is created. Such reduction and recycling of solid waste is in keeping with the expressed policy of the State of New York to save landfill space, reduce waste disposal problems and to conserve our precious natural resources.

H.

Mandatory recycling will be a new challenge to the residents of Sullivan County, one to be learned and to be improved upon. Education, participation and cooperation are the elements of a successful recycling program, and when the county has a successful recycling program operating, it will be a keystone in the management of the Sullivan County Solid Waste Management Plan. The Sullivan County Solid Waste Advisory Board is an integral part of the educational and monitoring process of the program.

I.

In connection with the effort by the County of Sullivan to recycle a substantial component of its solid waste stream, the County of Sullivan may also wish to accept recyclables that are generated from outside of the county for the purposes of marketing the same and obtaining the income generated thereby. Sullivan County recognizes that, as an inevitable adjunct to accepting recyclables that are generated outside of the County of Sullivan, a certain small percentage of that which is brought into the County of Sullivan may actually be nonrecyclable. The benefit to Sullivan County of the income generated by accepting recyclables from outside of Sullivan County warrants the toleration of the small percentage of nonrecyclables that inevitably accompany recyclables (e.g., a bottle coated in a substance rendering a bottle nonrecyclable, a nonrecyclable bottle or jar cap, etc.).

J.

The solid waste fee authorized by New York State County Law §§ 226-b and 266 and New York State Real Property Tax Law § 1501 is an access fee and is not a tax. However, said fee shall be collected, enforced and corrected, as necessary, at the same time and in the same manner as a real property tax. It is the intention of the Sullivan County Legislature that the fee be billed to property owners simultaneously with the annual County/town tax levy, on or about January 1 of each year, and as such, shall constitute a real property lien on the affected real property when levied, along with the rest of the tax bill. The solid waste fee shall be collected initially by the local collector as part and parcel of the tax bill and retained by said collector as are other taxes or fees that are levied on a tax bill, until the local collecting unit is made whole. Delinquent fees shall be collected

and enforced pursuant to New York State Real Property Tax Law Article 11, along with the delinquent taxes or other fees on the tax bill on which the solid waste access fee is contained. In the event a solid waste fee is required to be corrected, it shall be done so, as applicable, by implementing the provisions of Real Property Tax Law Article 550 et seq. and treated as a correction of errors.

[Added 12-20-2012 by L.L. No. 6-2012]

§ 171-2_Short title.

This chapter may be cited as the "Sullivan County Solid Waste Management Law of 1992."

§ 171-3_Definitions.

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

COMMERCIAL USER

All other persons not defined in the definition of "residential user" below who transport solid waste to a county solid waste management facility for disposal.

COMMISSIONER OF PUBLIC WORKS

Commissioner of Public Works or his designee.

COMPONENTS

Paper, glass, metals, plastics, garden and yard wastes, and may include other elements of solid waste as may be defined by law or the rules.

COUNTY

County of Sullivan.

COUNTY SOLID WASTE MANAGEMENT FACILITY

A solid waste management facility operated by or under the supervision of the county.

DISPOSAL

The deposit at a solid waste management facility of any permitted or authorized solid waste.

DIVISION

Sullivan County Division of Public Works.

[Amended 5-20-1999 by L.L. No. 4-1999]

PERSON

Individual, partnership, group, association, corporation, estate, trust and municipal corporation.

RECYCLABLES

Solid waste that may be recycled or reused and can be recovered from the overall waste stream or as may be designated for source separation by the rules.

RESIDENTIAL USER

Any individual who transports, without fee, solid waste generated at a private residential location to a county solid waste management facility for disposal, and such transport does not exceed at any one time two cubic yards or 2,000 pounds.

RULES

Sullivan County Solid Waste Management Rules.

SOLID WASTE

All materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air and water pollution control facilities or water supply treatment facilities, rubbish, contained gaseous material, demolition and construction debris and offal, but not

including other sewage and other highly diluted water-carried materials or substances and those in gaseous form.

SOLID WASTE COLLECTOR OR HAULER

Any person who is engaged in the business of collecting, sorting, storing, hauling or otherwise disposing of solid waste.

SOLID WASTE MANAGEMENT FACILITY

Any facility employed beyond the initial solid waste collection process, including but not limited to recycling centers, transfer stations, baling facilities, rail haul or barge haul facilities, processing systems, including materials recovery facilities or other facilities for reducing solid waste volume, sanitary landfills, any other landfills, plants and facilities for compacting, composting or pyrolazation of solid wastes and other solid waste disposal, reduction or conversion facilities.

SOURCE SEPARATION

Segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other authorized disposition as provided in the rules.

Article III: Administration

§ 171-4 Administration and enforcement.

The Commissioner of Public Works shall administer and enforce this chapter.

§ 171-5 Powers and duties.

The Commissioner of Public Works or such persons as may be designated by him shall:

- A.
Administer the county solid waste management facilities, including days and hours of operation, and supervise personnel.
- B.
Administer the issuance, renewal, suspension and revocation of licenses, permits and passes to all solid waste collectors and haulers for use at any county solid waste management facility or any other solid waste management facility.
- C.
Adopt, modify and amend rules and regulations in accordance with the law for the operation and maintenance of County Solid Waste Management Facilities; for licensing and regulating solid waste collectors or haulers, and commercial users for implementation of the county recycling program pursuant to law; and for the implementation of this chapter, including methods of payment and deferral of payment of fees due the county.
- D.
Propose for approval by the County Legislature rates and fees for use of solid waste management facilities of the county.
- E.
Investigate violations of this chapter and applicable rules and institute appropriate administrative or judicial proceedings with full subpoena power in connection therewith.
- F.
Conduct studies and report the results thereof to the County Legislature.

G.

Take such other actions as the County Legislature may deem necessary and shall direct.

Article IV: Prohibited Activities

§ 171-6 Prohibited hauling, pickup and depositing activities.

A.

Unless authorized by the rules or by an order of the Commissioner of Public Works, no person shall knowingly pick up, haul or deposit solid waste generated outside of Sullivan County at the county landfill, solid waste transfer station operated by or under the supervision of the county and any other municipally owned or operated landfill or transfer station.

B.

Unless authorized by the rules or by an order of the Commissioner of Public Works, no person shall pick up or haul solid waste and/or recyclables generated inside the county to a solid waste management facility located outside of the county.

C.

No person shall deposit solid waste at any solid waste management facility other than at a location and in the manner directed by the employee in charge of such facility.

D.

No person shall operate a vehicle at a county solid waste management facility or collect or haul solid waste with a vehicle which does not comply with the rules.

E.

No person shall deposit solid waste at any solid waste management facility other than on the days and between the hours established for the operation of such facility or as may be authorized by the Commissioner of Public Works or the rules.

F.

No commercial user shall deposit solid waste at a county solid waste management facility without having a user valid permit or pass.

G.

No person shall deposit solid waste at any county solid waste management facility without paying the solid waste deposit fees established therefor.

H.

No person, including a solid waste collector or hauler, residential or commercial user, shall fail or refuse to separate solid waste at the source as herein defined or fail, refuse or neglect to separate solid waste into its components as may be provided in the rules.

I.

No person shall dispose of any solid waste generated in Sullivan County in any place in Sullivan County except at a solid waste management facility which is entitled to operate as such by permit or order on consent of the New York State Department of Environmental Conservation pursuant to the provisions of Article 27 of Title 7 of the Environmental Conservation Law and permitted by the County of Sullivan under this chapter.

J.

In accordance with the rules, no person shall leave for collection any solid waste unless it has separated from it at the point intended for collection all designated recyclable components.

K.
In accordance with the rules, no person shall collect, haul, store or transport solid waste generated in Sullivan County unless it has separated from it all designated recyclable components.

L.
In accordance with the rules, no person shall dispose of any solid waste generated in Sullivan County at any solid waste management facility in Sullivan County unless such solid waste has had removed from it all designated recyclable components.

M.
In accordance with the rules, no solid waste collector or hauler shall haul, store, collect or transport any solid waste generated in Sullivan County unless such person shall have obtained a license to operate from the county.

N.
No person shall dispose of hazardous or infectious wastes, as defined in NYCRR Part 360 Regulations, in the county by depositing such wastes in or at a solid waste management facility.

O.
No person shall deposit any solid waste in unregulated, uncontrolled or unlicensed disposal sites in Sullivan County.

Article V: Recycling Requirements

§ 171-7 Source separation required.

In accordance with the rules, every person shall be required to separate solid waste that has been left for collection or which is delivered by the generator of such solid waste to a solid waste management facility into recyclable, reusable or other components for which economic markets for alternate uses exist. Economic markets shall have the meaning as may be provided in the General Municipal Law.

§ 171-8 Title to waste.

Title to any solid waste deposited at a county solid waste management facility shall vest in the county which may sell and dispose of same on such terms as may be appropriate.

§ 171-9 Foreign waste.

Notwithstanding anything to the contrary contained in any other local law, resolution or regulation, solid waste, ashes, incinerator residue, special bulky waste, hazardous waste, wood and rubble waste, construction and demolition debris, waste tires and/or regulated waste generated outside of Sullivan County may not be transported into Sullivan County and/or deposited at a Solid Waste Management facility unless authorized by the rules or by an order of the Commissioner of Public Works. This shall not, however, be construed to prevent the transportation into Sullivan County and deposit into a solid waste management facility of recyclables by the county or a private entity that has received a permit from the county allowing it to so transport and/or deposit such recyclables.^[1]

[1]:
Editor's Note: Former Section 504, Flow control, which immediately followed this section, was repealed 5-20-1999 by L.L. No. 4-1999.

Fees.

§ 171-10_Permits required.

In order to permit the supervision and regulation of the disposal of solid waste, the County Legislature finds and determines that regulation is in the interest of the public health, safety and welfare and that licenses and permits shall be required. The Commissioner of Public Works is directed to adopt regulations that provide for periodic reporting of such information as may be appropriate in order to determine the amount of solid waste generated in the county, the locations where such waste is disposed of, the method and disposition of recyclables and such other information as may be necessary and appropriate.

§ 171-11_Solid waste collector or hauler license.

Every solid waste collector and hauler shall obtain a license to operate in the county unless such solid waste collectors and haulers shall operate solely and exclusively within the territory of a municipality in which solid waste is collected and disposed of and which municipality has adopted regulations which are not less comprehensive than that required by this chapter and the rules adopted hereunder.

§ 171-12_Solid waste management facility user permit.

Every commercial user shall obtain a permit to haul solid waste to a county solid waste management facility.

§ 171-13_Applications for a permit.

Any person applying for a permit shall apply for such permit on an application form provided by the county. The Commissioner of Public Works may require such information as may be appropriate for the permit to be issued. The Commissioner of Public Works may require such financial information as may be appropriate to permit a determination of financial responsibility of the applicant. An applicant for a permit shall indemnify and hold the county, its officers and agents free and harmless from any and all claims and liability arising from the deposit of any solid waste at a county solid waste management facility. The Commissioner of Public Works shall require insurance issued by insurance companies licensed by the State of New York and authorized to do business in the State of New York. Excess coverage shall be issued only through brokers licensed by the State of New York. The company issuing the policy shall be of sufficient size and amount of capital to cover the loss insured against. Ratings shall be determined upon review of same as set forth in A.M. Best ratings for the current year. The policies shall have such provisions as the Commissioner of Public Works shall deem appropriate. A permit shall have a term fixed by the Commissioner of Public Works. If the term of such permit is in excess of one year, the applicant shall pay the entire permit fee in advance. There shall be a pro-rata refund of the fee paid if a permit holder shall voluntarily surrender a permit with an unexpired term of more than six months. There shall be no refund paid to a permit holder in the event that a permit shall be suspended or revoked prior to the termination of the term.

§ 171-14_Passes.

Passes are special permits issued to residential users and persons other than commercial users and solid waste collectors and haulers for limited duration and purposes. Such passes may be issued for any purpose authorized by the rules.

§ 171-15_Fees.

The fees for passes shall be established by the Legislature by resolution.

§ 171-16_Criminal penalties.

Any person who shall fail to comply with this chapter or with the rules and regulations adopted pursuant to this chapter shall be subject to the following criminal penalties:

A.
Residential users. Any residential user convicted of violating any provision of this chapter or of the rules adopted pursuant to this chapter shall be guilty of a violation, and upon conviction thereof shall be punishable by a fine not to exceed \$100 for the first offense, \$200 for the second offense and \$300 for each subsequent offense, or by imprisonment for a term not to exceed 15 days, or by both such fine and imprisonment.

B.
Commercial users; solid waste collector or hauler. Except as hereinafter set forth, any commercial user or solid waste collector or hauler convicted of violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500 for the first offense, \$1,000 for the second offense and \$1,500 for each subsequent offense, or by imprisonment for a term not to exceed six months, or by both such fine and imprisonment.

C.
Persons other than those set forth in Subsections A and B convicted of violating any provision of this chapter or of the rules adopted pursuant to this chapter shall be guilty of a violation, and upon conviction thereof shall be punishable by a fine not to exceed \$200 for the first offense, \$300 for the second offense and \$500 for each subsequent offense, or by imprisonment for a term not to exceed 30 days, or by both such fine and imprisonment.

D.
Criminal penalty - hazardous waste. Any person who shall be convicted of depositing hazardous wastes as defined by the Solid Waste Management Rules at a county solid waste management facility shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed \$5,000 for each offense or by imprisonment for not longer than six months, or by both such fine and imprisonment.

E.
Any person convicted of littering transportation routes shall be guilty of a violation, and upon conviction thereof shall be punishable by a fine not to exceed \$200 for the first offense, \$300 for the second offense and \$500 for each subsequent offense, or by imprisonment for a term not to exceed 30 days, or by both such fine and imprisonment.

F.
Each day a violation shall continue in existence shall constitute a separate violation of this chapter or of the rules adopted pursuant to this chapter.

§ 171-17_Injunction.

This chapter may be enforced by injunction.

§ 171-18_Civil penalty.

Any person who shall violate this chapter or applicable rules, now or hereafter adopted, shall be liable to the County of Sullivan for a civil penalty not to exceed \$1,000 for each separate violation thereof. Each day during which such violation shall continue shall be deemed to be a separate violation.

§ 171-19_Civil penalty for illegal dumping.

Any person who shall have deposited solid waste in unlawful, uncontrolled and unpermitted disposal sites in violation this chapter shall be liable to the County of Sullivan for a civil penalty not to exceed \$5,000 for each separate violation thereof. Each day during which such violation shall continue shall be deemed to be a separate violation.

§ 171-20 Administrative procedures.

A.
If the Commissioner of Public Works shall believe that any person holding a permit has violated these rules, or a hearing shall be requested pursuant to Subsections D and E, the Commissioner of Public Works, or his designee, on eight days' written notice, may hold a hearing to determine if a violation occurred. If the Commissioner of Public Works shall find from the evidence that a violation shall have occurred, he may suspend the permit of the holder for a period of not more than 180 days, revoke such permit, or impose a fine not to exceed \$1,000 for each violation, or impose such conditions on suspension or revocation and fine as may be appropriate. In the event that a fine is imposed, the permit shall be deemed suspended until payment of such fine. Upon reapplication for a permit, the Commissioner of Public Works may impose such conditions as may be appropriate under the circumstances, including but not limited to issuance of a provisional or conditional permit revocable upon a determination of subsequent violations of this chapter or the rules.

B.
At any hearing conducted by the Commissioner of Public Works, the respondent may be represented by counsel, cross-examine witnesses, present evidence and subpoena witnesses.

C.
Consent orders. The Commissioner of Public Works is hereby empowered to enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any person responsible for the noncompliance with this chapter or the rules. Such orders shall include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order.

D.
Administrative or compliance order. When the Commissioner of Public Works finds that a person has violated or continues to violate this chapter or a permit, license or order issued thereunder, he may issue an order to the person responsible for the violation directing that, following a specified time period, such permit and/or license held by such person shall be suspended unless the violation is corrected and that there is no reoccurrence of the violation. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the self-monitoring and management practices. The person responsible may, within 15 days of receipt of such order, petition the Commissioner of Public Works to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by certified mail, return receipt requested. The Commissioner of Public Works may:

(1)
Reject any frivolous petitions;

(2)
Modify or suspend the order;

(3)
Request additional information from the user; or

(4)

Order the petitioner to show cause in accordance with Subsection A.

E.

Cease-and-desist orders.

(1)

When the Commissioner of Public Works finds that a person has violated or continues to violate this chapter or any permit, license or order issued hereunder, the Commissioner of Public Works may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(a)

Comply forthwith.

(b)

Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the violation.

(2)

The person responsible may, within 15 days of receipt of such order, petition the Commissioner of Public Works to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Commissioner of Public Works by certified mail, return receipt requested. The Commissioner of Public Works may:

(a)

Reject any frivolous petitions;

(b)

Modify or suspend the order;

(c)

Request additional information from the user; or

(d)

Order the petitioner to show cause in accordance with Subsection A.

§ 171-21 Additional expenses recoverable.

In the event of a judgment in favor of the county in any such civil, administrative or criminal action or proceeding, the county may recover its expenses, including reasonable counsel fees and expert and special service and witness fees incurred in connection with the proof of such violation. The fact that the county shall not have retained counsel shall not be a bar to the collection of such counsel fees, and expert and special service and witness fees and expenses incurred; provided, however, that the county shall use a reasonable basis upon which to calculate the cost of services provided by officers and employees of the county.

§ 171-22 County Attorney.

The Sullivan County Attorney is hereby authorized on the request of the Commissioner of Public Works to appear in any proceeding on behalf of the county to enforce any civil or administrative penalty or order or to undertake the prosecution of any violation proceeding of whatsoever kind authorized by this chapter.

§ 171-23 Alternative remedies.

The county shall have the right to pursue civil penalties or administrative remedies regardless of whether a criminal proceeding has been or is to be commenced.

§ 171-24_Rules and regulations.

[Amended 4-21-2011 by L.L. No. 2-2011^[1]]

The Sullivan County Solid Waste Management Rules shall be subject to elimination, amendment, alteration, revision or reestablishment only by a duly adopted resolution of the Sullivan County Legislature. The effective date of any elimination, amendment, alteration, revision or reestablishment of the Sullivan County Solid Waste Management Rules shall be delineated in the resolution, or, in the absence of such designation, the effective date shall be the date upon which the resolution is adopted by the Sullivan County Legislature.

[1]:

Editor's Note: This local law also provided that the Sullivan County Waste Management Rules, previously promulgated pursuant to this section, as they existed on the effective date of this local law, would remain in full force and effect until such time as the Sullivan County Legislature acted as provided for in this section.

§ 171-25_Short title.

Article **VIII** of Chapter **171** of Part II of the Code of Sullivan County shall be known as the "Sullivan County Solid Waste/Recycling Fee Article."

§ 171-26_Findings.

The Legislature of Sullivan County finds that:

A.

The New York State Solid Waste Management Plan (the "Plan") and the Solid Waste Management Act of 1988 (the "1988 Act") mandates that the amount of solid waste generated and disposed in New York State be managed through the establishment of programs to reduce the amount of waste being produced and disposed by recycling and reusing that portion of the waste stream that feasibly can be so recovered. The legislature hereby finds that it is in the public interest, in order to further the purposes of the state policy on solid waste management articulated in Section 27-0106 of the Environmental Conservation Law, to require the source separation and segregation of recyclable or reusable materials from solid waste. Furthermore, the County's solid waste and environmental public policy establishes that all materials that may be reused, recycled, or otherwise removed from the solid waste stream shall be removed through programs offered by the County.

B.

To provide the citizens of the County with effective solid waste management and recycling services, the County has adopted and amended its Waste Management Plan and Rules, and has implemented a number of programs which provide services to all citizens of the County. Since 1992, the County has provided County-wide solid waste management, including the mandate of source separation of recyclable materials from municipal solid waste, recycling and disposal services at the Sullivan County Landfill and at County-owned and -operated transfer stations, and the education of our citizens on the mandates of state and local laws and the benefits of recycling.

C.

The County Legislature has determined as a matter of public policy that the cost of providing County-wide solid waste management and recycling services should be borne by the owners of all real property within the County on which solid waste is capable of being generated and that have access to the county's solid waste management system.

[Amended 12-20-2012 by L.L. No. 6-2012]

D.

The County Legislature finds that the County-wide solid waste management system has sufficient capacity to adequately handle all municipal solid waste, recycling and disposal services generated within the County.

E.
The County Legislature has determined that substantially all solid waste is generated on properties capable of generating solid waste and that have access to the County's solid waste management system.
[Amended 12-20-2012 by L.L. No. 6-2012]

F.
The County Legislature has determined that funding the entire cost of services and facilities by charging a tipping fee at the County's solid waste facilities and ad valorem taxes has placed a disproportionate burden on the taxpayers of Sullivan County.

G.
The County Legislature has determined that attempting to fund the entire cost of the County's solid waste services and facilities by a tipping fee alone would be unworkable and unacceptable.

H.
The County Legislature has determined that, in order to remove recyclables and household hazardous waste from the solid waste stream to the greatest extent possible, the County should continue to provide recycling and periodic household hazardous waste services/facilities without requiring that an on-site tipping fee be charged for such services/facilities and finds that the cost of such services/facilities be borne by the solid waste/recycling fee.

I.
Therefore, the Legislature finds that the most equitable method of funding the cost of the County's solid waste, recycling and household hazardous waste services is to charge, in addition to a reasonable tipping fee for solid waste, a rationally based solid waste/recycling fee to the owners of all parcels of real property within the County on which solid waste is capable of being generated and that have access to the County's solid waste management system, and to annually levy said solid waste fee on the County/town tax bill as a real property lien against said properties.
[Amended 12-20-2012 by L.L. No. 6-2012]

§ 171-27_Purposes.

A.
This Article VIII of Chapter 171 of Part II of the Code of Sullivan County is enacted pursuant to the laws of the State of New York, including Municipal Home Rule Law Section 10(1)(ii)(a)(9-a) and County Law Sections 226-b and 266, authorizing the County to institute a plan to provide recycling, solid waste management and related services and facilities and to charge a fee for such services and facilities, which fee shall cover a portion of the cost of the services being provided, and which fee shall be charged on a rational basis.

B.
The solid waste fee authorized by New York State County Law § 226-b and 266 and New York State Real Property Tax Law § 1501 is an access fee and is not a tax. However, said fee shall be collected, enforced and corrected, as necessary, at the same time and in the same manner as a real property tax. It is the intention of the Sullivan County Legislature that the fee be billed to property owners simultaneously with the annual County/town tax levy on or about January 1 of each year, and as such, shall constitute a real property lien on the affected real property when levied, along with the rest of the tax bill. It shall be collected initially by the local collector as part and parcel of the tax bill and retained by said collector as are other taxes or fees that are

levied on a tax bill, until the local collecting unit is made whole. Delinquent fees shall be collected and enforced pursuant to New York State Real Property Tax Law Article 11, along with the delinquent taxes or other fees on the tax bill on which the solid waste access fee is contained. In the event the fee is required to be corrected, the provisions of Real Property Tax Law Article 550 et seq. shall be implemented as applicable and shall be treated as a correction of error.

[Added 12-20-2012 by L.L. No. 6-2012]

§ 171-28 Definitions; general provisions regarding dates.

A.
In addition to the definitions set forth in Article II of this chapter, the following terms shall have the following meanings. In the event of a discrepancy in the definition of a term defined in both Article II and in this Article VIII, the definition in this Article VIII shall take precedence.

FEES STATUS DATE

The Taxable Status Date for real property, as defined in Section 302 of the Real Property Tax Law.

LEGISLATURE

The County Legislature of the County of Sullivan.

RATE SCHEDULE

Refers to the schedule adopted by the Legislature pursuant to § 171-29 below establishing fees to be charged to the owners of real property within the County on which solid waste and/or recyclables are capable of being generated and that have access to the County's solid waste management system.

[Amended 12-20-2012 by L.L. No. 6-2012]

RECYCLABLES or RECYCLABLE MATERIALS

Materials that would otherwise be solid waste, and which can be collected, separated, and/or processed, treated, reclaimed, used or reused so that theft component materials or substances can be beneficially used or reused.

SOLID WASTE

All putrescible and nonputrescible solid waste materials generated or originated within the County, including, but not limited to, materials or substances discarded or rejected, whether as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection or for any other reason; or being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use; or a manufacturing by-product, including, but not limited to, garbage, refuse, waste materials resulting from industrial, commercial, community, and agricultural activities, sludge from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition debris and offal; but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, or hazardous waste as defined in the New York Environmental Conservation Law or its implementing regulations.

SOLID WASTE FEE ROLL

The County solid waste/recycling fee roll determined as of the fee status date and based on the then-current rate schedule.

SOLID WASTE/RECYCLING FEE

An annual fee determined in accordance with the provisions of this Article VIII and which fee is to be billed to and paid by the owners of the real property within the County on which solid waste and/or recyclables may be generated.

SOLID WASTE/RECYCLING FEE APPEALS COMMITTEE

A committee comprised of the Commissioner of the Division of Management and Budget, Treasurer and Commissioner of the Division of Public Works or their designees.

[Amended 12-20-2012 by L.L. No. 6-2012]

B.

In the event that any date herein falls on a Saturday, Sunday or legal holiday, then the applicable date shall be the next succeeding date that is not a Saturday, Sunday or legal holiday.

§ 171-29 Establishment of annual solid waste/recycling fee.

A.

The solid waste/recycling fee, in accordance with the rate schedule shall be levied against real property within the County on which solid waste and/or recyclables are capable of being generated and that have access to the County's solid waste management system.

[Amended 12-20-2012 by L.L. No. 6-2012]

B.

The solid waste/recycling fee shall be an annual fee covering the period from January 1 through December 31 of each calendar year.

C.

The Legislature shall establish by resolution a rate schedule setting forth the fees to be charged to real property within the County on which solid waste and/or recyclables are capable of being generated and that have access to the County's solid waste management system. In addition it is intended that such rate schedule will be comprehensive and will replace any of the individual rate resolutions which may have been enacted during 2010 as the fee was being initially developed.

[Amended 12-20-2012 by L.L. No. 6-2012]

D.

Until such time as the County shall have developed a database dedicated to the solid waste/recycling fee, information with regard to each parcel of real property within the County on which solid waste and/or recyclables may be generated, shall be based upon the assessment records for each property together with such other data as may be deemed necessary for the purpose of creating a solid waste/recycling fee roll.

E.

On or before December 1 the Legislature shall, by resolution, establish the rate schedule, which schedule may be changed from time to time by resolution. Until changed such rate schedule shall remain in effect.

§ 171-30 Preparation of solid waste/recycling fee roll.

A.

The Director of Real Property Tax, or such other County official or entity as may be designated by the County Manager, shall make a reasonable effort to ascertain the name of the owner, last known owner or reputed owner and the use of each parcel of real property as of the fee status date.

B.

The County shall prepare a solid waste/recycling fee roll listing the fee(s) to be charged to the parcels of real property within the County on which solid waste and/or recyclables are capable of being generated and have access to the County's solid waste management system.

[Amended 12-20-2012 by L.L. No. 6-2012]

C.
The solid waste/recycling fee roll shall be completed in sufficient time so that it and the rate schedule may be used in the preparation of real property tax bills.

§ 171-31_Billing and collecting fees.

A.
An invoice for the annual solid waste/recycling fee shall be sent to each owner of real property as a separate line item on the County tax bill.

B.
The solid waste/recycling fee shall be due January 1 and payable without interest or penalties by January 31, and payment shall be made to the local tax collector in person or by mail. The solid waste/recycling fee shall be collected by the local collectors at the same time and in the same manner as their collection of local taxes (County Law §§ 226-b and 266; Real Property Tax Law § 1510).

C.
All annual solid waste/recycling fees shall constitute a debt and personal obligation of the owner(s) of real property within the County on which solid waste and/or recyclables may be generated.

D.
Any portion of a solid waste/recycling fee which shall remain unpaid after January 31 shall bear interest at the same rate and in the same manner as unpaid real property taxes.

§ 171-32_Challenges.

Challenges to any solid waste/recycling fee may be made only as follows:

A.
Any challenge to the data on the assessment rolls used in compiling the solid waste/recycling fee roll shall be brought before the assessing authority at the same time and in the same manner as any other challenge with respect to an assessment of real property. In the event of any correction or adjustment resulting from such a challenge, the Town and County shall remediate such error in the same manner as the correction of an error, if appropriate, with respect to real property taxes.

B.
Any challenge to the imposition of the solid waste/recycling fee on a parcel of real property within the County on which solid waste and/or recyclables may be generated may only be brought as follows:

(1)
The challenge provided for herein shall constitute the sole and exclusive remedy with respect to any claim that imposition of the solid waste/recycling fee on any parcel of real property within the County on which solid waste and/or recyclables may be generated, was improper.

(2)
The challenge shall be brought by no later than March 31.

(3)
The challenge shall be brought before the County's Solid Waste/Recycling Fee Appeals Committee whose determination shall be final. Such final determination shall be subject to a judicial review, provided such petition to commence such judicial review is filed and served within 120 days, as provided in Article 78 of the Civil Practice Law and Rules, of the date on which the challenger is notified of the determination of the Committee.

[Amended 12-20-2012 by L.L. No. 6-2012]

(4)

In the event the Solid Waste/Recycling Fee Appeals Committee shall grant a challenge or grievance, the property owner shall be granted a credit or refund, in the amount determined by said Committee.

§ 171-33_Delinquent fees.

A.

The County shall be entitled to commence a civil action to foreclose upon any lien upon property in the same manner and to the same extent as its ability to foreclose upon a lien for the nonpayment of real property taxes, or in accordance with any other provision of law to collect any amount due to it.

[Amended 12-20-2012 by L.L. No. 6-2012^[1]]

[1]:

Editor's Note: This local law also repealed former Subsection A, which regarded unpaid solid waste/recycling fees becoming a lien on the property, and provided for the redesignation of former Subsections B and C as Subsections A and B, respectively.

B.

Any unpaid solid waste/recycling fee shall be subject to a two-year redemption period which period shall commence on January 1 when such fee was first levied and became a lien on the property.

[Amended 12-20-2012 by L.L. No. 6-2012]

§ 171-34_Severability.

If any word, clause, sentence, paragraph, section or part of this article 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 word, clause, sentence, paragraph, section or part thereof involved in the controversy in which such judgment shall have been rendered and that rest and remainder of this article shall be given the fullest extent possible, consistent with law and consistent with the intent of this article as determined from the content of the entire article.

§ 171-35_When effective.

[Amended 12-20-2012 by L.L. No. 6-2012]

The provisions of this local law^[1] shall be effective immediately upon the filing of a copy with the Secretary of State.

[1]:

Editor's Note: "This local law" refers to L.L. No. 6-2012, adopted 12-20-2012.