

## Chapter 260

### SOLID WASTE

#### Part 1 Solid Waste Management

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[HISTORY: Adopted by the Fulton County Board of Supervisors as indicated in part histories. Amendments noted where applicable.]

## GENERAL REFERENCES

Solid Waste Department — See Ch. 169.

**Part 1**  
**Solid Waste Management**  
[Adopted 5-8-1989 by L.L. No. 5-1989]

**ARTICLE I**  
**Title and Purpose**

**§ 260-1. Title.**

This Part 1 shall be known as the "Fulton County Solid Waste Management Law of 1989."  
This Part 1 is enacted pursuant to County Law.

**§ 260-2. Purpose.**

- A. The purpose of this Part is to empower Fulton County, through its Board of Supervisors, to effectively regulate the disposition of nonhazardous solid waste, as defined in § 260-3, by the establishment of certain standards, regulations, rules and procedures as are set forth herein, all for the public health, safety and welfare and enhancement of the environment of the people of Fulton County.
- B. The Fulton County Board of Supervisors hereby determines that the well-ordered management of solid waste at the County level of government provides the most safe, sanitary, environmentally sound and feasible manner of responding to the solid waste needs of all the citizens of the County. The County Board of Supervisors further recognizes that a need exists within Fulton County for the County to assume this larger and expanding role in the solid waste problems of the cities, towns and villages located within the County, in that such cities, towns and villages are now less able to effectively solve their solid waste problems due to the growing volumes of the solid waste generated, the rising costs of solid waste disposal and the increasing environmental and regulatory controls thereof.
- C. The Fulton County Board of Supervisors hereby determines only nonhazardous waste shall be accepted at the Fulton County Landfill.

**ARTICLE II**  
**Definitions**

**§ 260-3. Terms defined.**

As used in this Part 1, the following terms shall have the meanings indicated:

**ASBESTOS WASTE** — Friable solid waste that contains more than 1% asbestos by weight and can be crumbled, pulverized or reduced to powder, when dry, by hand pressure. "Asbestos

waste" also includes any asbestos-containing solid waste that is collected in a pollution control device designed to remove asbestos.

**ASH RESIDUE** — All solid residue and any entrained liquids resulting from the combustion of solid waste at a solid waste incinerator, including bottom ash, boiler ash, fly ash and the solid residue of any air pollution control device used at a solid waste incinerator.

**COMMERCIAL WASTE** — Solid waste generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities other than household and industrial waste.

**COMPOSTING FACILITY** — Any solid waste facility used to provide aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

**CONSTRUCTION AND DEMOLITION DEBRIS** — Uncontaminated, inert solid waste resulting from the construction, remodeling, repair and demolition of structures and from road building and land clearing. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and metals that are incidental to any of the above.

**CONTAINER** — Any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

**COUNTY TRANSFER HAUL WASTE** — Mixed solid waste collected at the Fulton County owned and operated transfer stations and hauled by the County to a landfill.

**CURBSIDE COLLECTION PROGRAM** — Scheduled recycling collection service to households. [Added 11-12-1991 by L.L. No. 3-1991]

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION** — DEC or EnCon; the state agency enforcing the provisions of 6 NYCRR Part 360.

**DEPARTMENT OF SOLID WASTE** — The Fulton County department responsible for the administration of this Part 1.<sup>1</sup>

**DISCARDED** — Materials abandoned by being disposed of; burned or incinerated, including being burned as a fuel for the purpose of recovering usable energy; or accumulated, stored or physically, chemically or biologically treated (other than burned or incinerated) instead of or before being disposed of.

**DISPOSED OF** — Any material discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.

**DROP-OFF OR DROP-OFF CENTER** — The location designated to accept recyclable material from residents. [Added 11-12-1991 by L.L. No. 3-1991]

1. Editor's Note: See Ch. 169, Solid Waste Department.

**EXCLUDED SOLID WASTE** — All materials with less than 20% solids content, infectious waste, liquid waste, explosive waste, waste in sealed containers, automotive tires, truck tires, heavy equipment tires and radioactive waste. [Amended 5-14-1990 by L.L. No. 1-1990]

**FREE LIQUIDS** — Liquids which readily separate from the solid portion of a solid waste under normal conditions, as measured by the paint filter test.

**FULTON COUNTY SANITARY LANDFILL** — The land burial disposal facility permitted by DEC to accept nonhazardous waste generated within Fulton County.

**GARBAGE** — Putrescible solid waste, including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking or serving of foods. "Garbage" originates primarily in home kitchens, stores, markets, restaurants and other places where food is stored, prepared or served.

**GENERATOR** — Any person whose act or process produces a solid waste or whose act first causes solid waste to be subject to regulation under this Part 1.

**HAZARDOUS WASTE** — A hazardous waste, as defined in 6 NYCRR Part 371 (applicable state regulations promulgated by the New York State Department of Environmental Conservation) and/or 40 CFR Section 261 (applicable federal regulations promulgated by the United States Environmental Protection Agency), as said regulations now exist or are hereinafter amended, each of which are incorporated herein by reference. [Amended 9-11-1989 by L.L. No. 7-1989]

**HOUSEHOLD HAZARDOUS WASTE** — Household waste which, except for its point of generation, would be a hazardous waste under 6 NYCRR Part 371, including pesticides as defined in Environmental Conservation Law Article 33.

**HOUSEHOLD WASTE** — Solid waste discarded from single or multiple dwellings, campsites, ranger stations and other residential sources.

**INDUSTRIAL WASTE** — Solid waste generated by manufacturing or industrial processes. Such waste may include, but is not limited to, the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals from manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment.

**INFECTIOUS WASTE** — Means and includes the following:

- A. Surgical waste, which consists of materials discarded from surgical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- B. Obstetrical waste, which consists of materials discarded from obstetrical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation.

- C. Pathological waste, which consists of discarded human tissues and anatomical parts which are discarded from surgery, obstetrical procedures, autopsy and laboratory procedures.
- D. Biological waste, which consists of discarded excretions, exudates, secretions, suctionings and disposable medical supplies which have come in contact with these substances that cannot be legally discarded directly into a sewer and that emanate from the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- E. Discarded materials soiled with blood emanating from the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- F. All waste being discarded from renal dialysis, including tubing and needles.
- G. Discarded serums and vaccines that have not been autoclaved or returned to the manufacturer or point of origin.
- H. Discarded laboratory waste which has come in contact with pathogenic organisms and which has not been rendered noninfectious by autoclaving or other sterilization techniques.
- I. Animal carcasses exposed to pathogens in research, their bedding and other waste from such animals that is discarded.
- J. Other articles that are being discarded that are potentially infectious and that might cause punctures or cuts, including intravenous tubing with needles attached, that have not been autoclaved or subjected to a similar sterilization technique and rendered incapable of causing punctures or cuts.

**LANDFILL** — A disposal facility where solid waste, or its residue after treatment, is intentionally placed in or on land, and at which solid waste will remain after closure and which is not a landspreading facility, a surface impoundment or an injection well.

**LICENSEE** — Any person, business or corporation issued a valid license to dispose of solid waste.

**MARKET** — A firm or operation that accepts recyclable materials for purposes of recycling or reuse. [Added 11-12-1991 by L.L. No. 3-1991]

**MATERIAL RECOVERY FACILITY** — A facility where source-separated recyclables are processed for market manually and with low-technology equipment. [Added 11-12-1991 by L.L. No. 3-1991]

**MIXED SOLID WASTE** — Combinations of putrescible and nonputrescible waste materials.

**MUNICIPALITY** — A county, village, town, city or designated agency thereof.

**MUNICIPAL SOLID WASTE** — Mixed solid waste hauled by a municipal vehicle to a landfill or transfer station.

**NONSOLID WASTE — Include:**

- A. Domestic sewage.
- B. Any mixture of domestic sewage and other wastes that pass through a sewer system of a publicly owned treatment works for treatment.
- C. Industrial wastewater discharges that are actual point source discharges, subject to permits under Environmental Conservation Law (ECL) Article 17. Sludges that are generated by industrial wastewater treatment and municipal wastewater treatment are solid wastes and are regulated by this Part 1, if they consist of a minimum 20% solids by analysis.
- D. Radioactive materials which are source, special nuclear or by-product material, as defined by the Atomic Energy Act of 1954, as amended, 42 USC 2011 et seq. [see Subdivision 360.1.3(a)].
- E. Irrigation return flows.
- F. Materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process.

**PERSON —** Any individual, public or private corporation, political subdivision, government agency, authority, department or bureau of the state, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever.

**PROCESSING FACILITY —** A combination of structures, machinery or devices, other than collection and transfer vehicles, utilized to reduce or alter the volume or the chemical or physical characteristics of solid waste through process such as, but not limited to, separating, baling or shredding, before its delivery to a landfill, composting facility or solid waste incinerator.

**PROCESSOR —** An operation where recyclables are sorted, graded, cleaned, densified or packaged. [Added 11-12-1991 by L.L. No. 1-1991]

**PUTRESCIBLE —** The tendency of organic matter to decompose with the formation of foul-smelling by-products.

**RECOVER —** Any act or process by which solid waste is separated from the solid waste stream for recycling.

**RECYCLE —** The reuse of solid waste recovered from the solid waste stream into goods or materials suitable for reuse in original or changed form.

**REFUSE —** Anything putrescible or nonputrescible that is discarded or rejected as useless or worthless.

**RESIDUALS —** Sludge, sewage sludge, septage, air pollution control facility waste or any other such waste having similar characteristics or effects; and solid waste remaining after the processing of solid waste by composting methods that was not made into compost subject to use.

**RESIDUE** — All solid waste remaining after treatment and includes, but is not limited to, ash residue and other solid waste which is not recovered or combusted.

**RESOURCE RECOVERY FACILITY** — A combination of structures, machinery or devices utilized to separate, process, modify, convert, treat or prepare collected solid waste so that component materials or substances or recoverable resources may be recovered or used as a raw material or energy source.

**SERVICE AREA** — The geographical area serviced by a solid waste management facility from which solid waste is generated and collected for delivery to that facility.

**SLUDGE** — Any solid or semisolid wastes that are not considered hazardous, that have a minimum solids content of 20%, with no evidence of free liquids in the dewatered sludge.

**SOLID WASTE** — All putrescible and nonputrescible materials or substances (except as hereinafter stated) that are 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, water or wastewater treatment facilities, rubbish, tires, ashes, incinerator residue and construction and demolition debris. Materials from minor home repairs and normal household maintenance are included as "solid wastes."

**SOLID WASTE HAULER** — Any person duly licensed to transport solid waste to Fulton County's Sanitary Landfill.

**SOLID WASTE MANAGEMENT FACILITY** — Any facility employed beyond the initial solid waste collection process for the management of solid waste, including but not limited to storage areas or facilities; transfer stations; processing facilities; landfills; disposal facilities; solid waste incinerators; landspreading facilities; composting facilities; surface impoundments; and waste soil storage, reprocessing, rerefining facilities, recycling facilities and waste tire storage facilities.

**SOURCE SEPARATION** — Dividing solid waste into some or all of its component parts at the point of generation.

**SPECIAL BULKY WASTES** — Blocks of masonry in excess of 100 pounds; trees (trunk sections) in excess of 16 inches in diameter (trees, logs and branches less than 16 inches in diameter shall not exceed eight feet in length); junk motor vehicles; steel cables; hardened shafts and gears; large thick walled or solid metallic objects, such as castings or forgings; stumps more than three feet in any diameter; any single item more than 10 cubic feet in volume; pipes more than eight inches in diameter and eight feet in length; and all other bulky items more than 10 cubic feet in volume.

**SPECIAL WASTES** — Includes but is not limited to materials from condemned or large dead animals and animal and food wastes from slaughterhouses and similar establishments.

**SPECIFICATIONS** — Detailed rules describing the method in which recyclables should be prepared to meet market requirements. [Added 11-12-1991 by L.L. No. 1-1991]

**TIPPING FEE** — A charge assessed for unloading solid waste/recyclables at a solid waste management facility on a per-ton basis. [Added 11-12-1991 by L.L. No. 1-1991]

**TRANSFER STATION** — A combination of structures, machinery or devices at a place or facility where solid waste is taken from collection vehicles and placed in other transportation units for movement to another solid waste management facility.

**TRANSPORTER** — A person engaged in the off-site transportation of solid waste.

**TRASH** — Any nonputrescible portion of the solid waste stream, including but not limited to paper, glass, metals and plastic.

**UNTREATABLE WASTE** — The same as defined in Environmental Conservation Law § 27-0704. "Untreatable waste" for a solid waste facility would include, but not be limited to, vehicle batteries; vehicle frame parts, crank cases, transmissions and engines; storage tanks; oil storage tanks; propane tanks; and any other materials that may be deemed untreatable.

**VEHICLE** — Any motor vehicle, trailer, water vessel or other device for transporting solid waste.

**WASTE TIRE** — Any tire that has ceased to serve the purpose for which it was initially intended due to factors such as, but not limited to, wear or imperfections and has been discarded.

**YARD WASTE** — Leaves, grass, clippings, garden debris, vegetative residuals that are visually recognizable as part of a plant or vegetable or small or chipped branches.

### ARTICLE III Standards and Regulations

#### § 260-4. Waste to be hauled to a approved facility.

All solid waste generated within Fulton County and disposed of at the Fulton County Sanitary Landfill shall be hauled, transported and disposed of at an authorized and approved solid waste facility and shall be subject to the licensing requirements of this Part 1.

#### § 260-5. Out-of-County waste.

Solid waste generated outside the County will not be accepted at any disposal, transfer or recycling facility operated by the County, unless permitted under contract with Fulton County.

#### § 260-6. Title to solid waste.

All right, title and interest in and to all solid waste delivered to solid waste facilities owned by Fulton County shall pass from the solid waste hauler to Fulton County when and at such time that the solid waste contained in such hauler's vehicle is deposited in or upon such facilities. Title shall be vested irrevocably in Fulton County so long as such solid waste remains in the possession and control of Fulton County or its agent. No other indication or evidence of title shall be required to assert title to such waste by Fulton County. Notwithstanding the aforesaid, and even though title passes to Fulton County, the person owning and/or hauling said solid waste shall be liable for the quality of said waste if it is in violation of this Part 1 or any other federal, state or other governmental agency applicable thereto. Title to solid waste deposited

by any person in a solid waste facility owned by Fulton County (which facility's primary purpose is to process solid waste in such a manner that will produce, at the completion of such process, a product or commodity which may have a market value) shall vest with Fulton County.

**§ 260-7. Effect on state and federal standards.**

Nothing in this Part 1 shall be construed to supersede the minimum standards and requirements in any New York State or federal law or code relative to solid waste management or the operation of any vehicle, equipment or process which shall govern when and where any provision of this Part 1 is found to be inconsistent with said minimum standard. This Part 1 shall seek to provide a coordinated County-wide program of solid waste management in cooperation with state and federal pollution control programs.

**§ 260-8. Clear bag policy. [Added 12-14-1992 by L.L. No. 8-1992]**

- A. Effective March 1, 1993, all bagged material entering the Fulton County waste system shall be placed in clear bags. This policy applies to all residential, commercial, industrial and institutional solid waste generators, including all refuse left at curbside or deposited at transfer stations. Failure to comply with this policy could be subject to a tipping fee penalty.
- B. The Department of Solid Waste is hereby directed to develop rules and regulations to determine when a system user is in violation of this section and when a per-ton penalty can be assessed.

**ARTICLE IV  
Administration**

**§ 260-9. Administrative agency designated.**

The Fulton County Department of Solid Waste is hereby designated and empowered to be the responsible agency to administer this Part 1.

**§ 260-10. Functions and powers.**

- A. The Fulton County Department of Solid Waste shall administer the program of registering and licensing refuse haulers and users of the County solid waste facilities. This includes issuance, renewal and revocation of permits. Also, the Department shall enforce established rules and regulations covering solid waste collection and haul services and other solid waste related activities.
- B. The Fulton County Department of Solid Waste shall issue warning notices and initiate, through the Office of the County Attorney, necessary proceedings to prosecute violations of this Part 1.

**§ 260-11. Empowerment of Department of Solid Waste.**

- A. The Department of Solid Waste is authorized herein to administer the County solid waste program and is empowered to enforce the regulations set forth herein and hereafter.
- B. The Director of the Solid Waste Department shall meet with the Board of Supervisors to formulate, adopt, promulgate, amend and repeal the rules and regulations in furtherance of this Part 1.
- C. The Department of Solid Waste shall register initial permits as it may require to all persons, collectors and haulers for the use of any of its facilities.
- D. The Department of Solid Waste shall administer the operation of said solid waste management system.
- E. The Department of Solid Waste shall enforce the hours of operation of any and all of its facilities, as established by the County Board of Supervisors.
- F. The Department of Solid Waste shall abide by the guidelines established by the Department of Environmental Conservation of the State of New York.
- G. The Director of the Solid Waste Department shall administer the Department, within budget appropriations, to carry out its functions for solid waste management and disposition of solid waste.
- H. The Department of Solid Waste shall supervise compliance with those applicable laws, rules and regulations pertaining to solid waste management.
- I. The Department of Solid Waste shall investigate all violations and grievances reported under this Part 1.
- J. The Department of Solid Waste shall initiate action against any licensee for forfeiture or suspension of a license for good cause.
- K. The Department of Solid Waste shall receive and investigate license applications and approve or deny issuance of licenses to perform services regulated by this Part 1.
- L. The Department of Solid Waste shall suspend the license of any licensee found to be in violation of the provisions of this Part 1 until said violations cease or have been corrected to the satisfaction of the Fulton County Board of Supervisors.
- M. The Department of Solid Waste shall issue notices and citations of violations of this Part 1.
- N. The Department of Solid Waste shall work with the County Attorney's office to institute the necessary proceedings to prosecute violations of this Part 1.

ARTICLE V  
Landfill Licenses and Permits

**§ 260-12. Application.**

All persons desiring use of the Fulton County Sanitary Landfill are required to obtain a license and shall make an application therefor to the Director of the Fulton County Solid Waste Department. A license is required by firms requesting disposal of solid waste at the facility and for each and every vehicle used to haul solid waste to the facility.

**§ 260-13. Expiration of license.**

All licenses are nontransferable and shall expire on December 31 of each year, unless otherwise stated on the license or revoked sooner for just cause.

**§ 260-14. Renewal applications.**

License renewal applications shall be filed a minimum of 30 days prior to expiration of the license. An extension of time not to exceed 90 days may be granted by the Fulton County Department of Solid Waste upon request, in writing, on business letterhead of the licensee, showing just reason for the request.

**§ 260-15. Renewal license; special one-time licenses.**

Renewal licenses shall be issued upon compliance with all standards and requirements established for a license. The Solid Waste Director may issue special licenses for transporting and disposing solid waste on a one-time basis at a fee to be determined on a case-by-case basis by the Fulton County Department of Solid Waste.

**§ 260-16. Temporary emergency vehicle substitutions.**

In the event of an emergency or vehicle breakdown, a spare vehicle not under the license may be substituted for the licensed vehicle under the terms and conditions established by the Solid Waste Director of the Fulton County Department of Solid Waste, and such temporary license shall be for a period not to exceed 30 days.

**§ 260-17. Display of license.**

Any license issued by the Fulton County Department of Solid Waste shall be kept on the vehicle at all times and shall be displayed upon the request of the Fulton County Department of Solid Waste's personnel.

**§ 260-18. License required for all vehicles.**

A license shall be required for all solid waste hauling or transfer vehicles, including vehicles owned, leased or operated by persons, corporations, municipal governments or departments

thereof or public improvements or special districts which use the Department of Solid Waste facilities for disposal or recycling of solid waste.

**§ 260-19. Private haulers.**

- A. Private haulers may be required to provide acceptable proof of residency or ownership of property in Fulton County at the solid waste facility.
- B. Any solid waste hauler applying for a permit to utilize the facility must provide a current New York State Department of Environmental Conservation Part 364 Permit<sup>2</sup>, if they haul industrial waste, sewage sludge, asbestos waste or other waste requiring a New York State Department of Environmental Conservation Part 364 Permit.

**§ 260-20. Applications for permits.**

All applicants requesting a permit shall submit a request for a permit on forms provided by the Department of Solid Waste. Applicable application fees must accompany the permit for consideration. A refund of the application fee will be made if the permit is denied. The information to be furnished by the applicant to the Fulton County Solid Waste Department shall be in accordance with the rules and regulations of the Fulton County Solid Waste Department.

**§ 260-21. Indemnification. [Amended 9-11-1989 by L.L. No. 7-1989]**

- A. Included with the permit, application and fees, the solid waste hauler must warrant, covenant and represent that it shall not transport or cause to be transported any hazardous waste to the sanitary landfill. In the event of breach of the aforementioned warranty, covenant and representation, the solid waste hauler shall defend, indemnify and hold harmless the County, its directors, officers, employees, agents, contractors, subcontractors, licensees, invitees, successors and assigns from any and all claims, demands, judgments, damages, actions, cause of action, injuries, administrative orders, consent agreements and orders, liabilities, penalties, fines, costs, losses (including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) and expenses of any kind whatsoever, including claims arising out of loss of life, injury to persons, property or business or damage to natural resources, caused by such breach.
- B. This indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of hazardous waste present in the soil or groundwater on or under the disposal site. Without limiting the foregoing, if the presence of any hazardous waste on the disposal area caused by the solid waste hauler results in any contamination of the disposal site, the solid waste hauler shall promptly take all actions, at its sole expense, as are necessary to return the disposal site to the condition existing prior to the introduction

2. Editor's Note: See 6 NYCRR 364.

of any such hazardous waste to the disposal site, provided that the County's approval of such action shall first be obtained, which approval shall not be unreasonably withheld, so long as such actions would not potentially have any material adverse short-term or long-term effect on the disposal site.

**§ 260-22. Special wastes permits.**

It shall be unlawful for any person to discharge directly or indirectly into the Fulton County Landfill any special wastes, special bulky wastes and hazardous wastes as defined herein under § 260-3. Special wastes, special bulky wastes and soil and debris from gasoline and oil remediation sites, which shall have become nonhazardous, may be granted a variance, upon terms and conditions as set forth in the permit issued under this Part 1 and any other established rules of the Fulton County Solid Waste Department, New York State Department of Environmental Conservation, United States Environmental Protection Agency or other regulatory authority.

**§ 260-23. Transfer of discharge permit.**

Discharge permits are issued to a specific user for a specific operation. The permit shall not be transferred to a new owner, new user or for different premises without specific written approval of the Solid Waste Director.

**§ 260-24. Denial or cancellation of permit.**

The Fulton County Solid Waste Department reserves the right to deny, suspend or cancel any permit for just cause. Once a permit is issued, the application fee is nonrefundable, even if privileges to the facility are not utilized.

**ARTICLE VI**

**Insurance**

**§ 260-25. Insurance requirements for permits.**

- A. A certificate of insurance shall specifically evidence the following amounts of insurance coverage, which shall remain in effect during the term of the hauling permit and shall be submitted with the application for a hauling permit. Each licensed hauler shall maintain insurance at the following minimum amounts or the minimum amounts required by law:
- (1) Automotive liability: \$500,000 per incident.
  - (2) Bodily injury/property damage: \$500,000 per incident
  - (3) Workers' compensation: as required by law.
- B. Each licensed hauler shall provide the Fulton County Solid Waste Department with a certification of the coverages specified herein, including a new certification within 10 days of renewal. Each such certification of insurance shall provide that the Solid Waste Department receive at least 30 days' advance notice of any cancellation, discontinuation

or diminishment of coverage. The Fulton County Department of Solid Waste shall be named a certificate holder. [Amended 9-11-1989 by L.L. No. 7-1989]

## ARTICLE VII

### Fees

#### § 260-26. Establishment of user fees.

- A. The Fulton County Board of Supervisors reserves the right to establish user fees, via resolution, semiannually and hereby authorizes the Fulton County Solid Waste Department to ensure that appropriate user fees for the use of all County solid waste facilities are assessed to all system licensees. In the event of an inoperable weight scale, the Department of Solid Waste will estimate waste tonnage for billing purposes. Estimates will be based on historical average or the judgment of a designated Department of Solid Waste employee. All solid waste haulers will be assessed a user fee, including all private, municipal, etc., users.
- B. The Fulton County Board of Supervisors reserves the right to establish user fees for the recycling program, via resolution, semiannually and hereby authorizes the Fulton County Solid Waste Department to ensure that appropriate user fees are assessed to all tire recycling program users. [Adopted 5-14-1990 by L.L. No. 1-1990]

#### § 260-27. Assessment of permit application fee; waiver.

Fee costs will be established, via resolution, semiannually. Fees are assessed annually. Permits are valid from January 1 through December 31 of any given year. If a permit is desired after January 1, the full application fee is assessed, regardless of the date of application. Permit application fees shall be waived for Fulton County municipal vehicles (towns, villages, County, state or designated agency).

#### § 260-28. Payment of landfill user fees; penalty for late payment.

- A. Landfill billings will be prepared and mailed two times per month. Payment is due no later than 15 days after invoice is sent to system user.
- B. Upon posting the first delinquent invoice, the user will be given notification by registered mail that the bill must be paid in full within seven calendar days from the date of the notice. ("Paid in full" is defined as all overdue, as well as current, charges, including interest due, calculated at the rate of 2% per month.)
- C. If payment in full is not received within the time specified in the notice, landfill privileges may be withdrawn and the landfill permit revoked at that time by the Department of Solid Waste.
- D. Reissuance of a permit revoked for nonpayment of fees will require payment of a penalty, as follows, and offenses will be based on occurrence within a three-year period:

- (1) First offense: \$100.
  - (2) Second offense: \$250.
  - (3) Third offense: \$500.
- E. In no case will partial payment be considered sufficient to meet the above requirements.

### ARTICLE VIII Operating Regulations

#### § 260-29. Vehicle regulations.

- A. All vehicles used for collection and removal of solid waste shall be kept in a clean and sanitary condition to minimize the escape of noxious or disagreeable odor or the escape of any vehicle's contents, either liquid or solid.
- B. All vehicles used to haul or transport solid waste shall be subject to inspection by employees of the Department of Solid Waste for the purpose of determining compliance with the requirements of this section at the Fulton County Landfill site.
- C. All vehicles using the scale facilities shall be tare weighted at least once each year and at such other times as determined by the Fulton County Solid Waste Department's agents or employees.
- D. All licensed haulers utilizing the landfill facility shall be on a credit basis; no cash customers.
- E. All licensed haulers must maintain such insurance coverage required, as established by the Fulton County Board of Supervisors, per Article VI of this Part 1.

#### § 260-30. Regulations for operation of solid waste facilities.

- A. The Fulton County solid waste facilities shall be operated at the times posted and as determined by the Fulton County Board of Supervisors.
- B. If special conditions warrant, these times may be extended in conjunction with additional negotiated payments for such extended services.
- C. Excluded solid wastes, special wastes, special bulky wastes, untreatable wastes and hazardous wastes are prohibited from being disposed of at the Fulton County Landfill. Variances to dispose of certain prohibited wastes, i.e., special wastes, special bulky wastes and soil and debris from gasoline and oil remediation sites, which shall have become nonhazardous, may be given upon written request, which may require prior approval by the Fulton County Department of Solid Waste. Applications for said variance shall be subject to the terms and conditions of Article XI of this Part 1, as well as any other provisions herein or statutes, rules and regulations applicable to said variance.

- D. All construction and demolition debris as herein defined and which is to be transported and disposed of at the solid waste facility shall not be mixed with any other solid wastes and must be identified and certified as such by the person hauling said unmixed construction and demolition material. If said construction and demolition debris is mixed with any other solid wastes, it shall be treated as solid waste.
- E. All yard waste, as herein defined, may be regulated and prohibited from being transported and disposed of at the solid waste facility. Said regulated waste may be required to be separated and identified as yard waste for recycling, as herein stated.
- F. The disposal of liquid wastes, hazardous wastes, radioactive materials, pesticides and chemicals, large dead animals, explosive manure, sealed containers, septic tank pumpings, junk cars and other waste material prohibited by the New York State Department of Environmental Conservation in County-owned and -operated sanitary landfills is prohibited.
- G. No private cars or station wagons will be allowed on the landfill site.
- H. No scavenging will be allowed at the landfill site.
- I. Drums and containers must be emptied of their contents, rinsed per applicable state regulations, with both tops and bottoms removed, prior to disposal.
- J. All automotive, truck and heavy equipment tires must be separated from other solid waste and placed in areas designated by Department of Solid Waste staff. All tires must be removed from the rim. [Added 5-14-1990 by L.L. No. 1-1990]

#### § 260-31. Covering of vehicles.

- A. All vehicles used in the transportation of solid waste shall be so constructed as to prevent leakage in transit. The body of the truck shall be wholly enclosed or shall at all times be kept covered with an adequate cover. Operation of and loading of vehicles shall be in such a manner as to prevent spilling or loss of contents.
- B. All open trucks shall be covered to meet state regulations. If allowed by state regulations, a cover will not be needed in the following scenarios:
  - (1) If load is water level or below and is topped off with a heavy material or something similar to prevent the load from spilling over the sides; or
  - (2) If the load is secured by rope, wire, etc.
- C. The Department of Solid Waste reserves the right to require covers, in addition to the above Subsection B(1) and (2), if deemed necessary.

#### § 260-32. Modification of hours; facility closed on holidays.

The Board of Supervisors reserves the right to modify hours of operation via resolution, as required. The facility will be closed on all legal holidays observed by Fulton County.

**§ 260-33. Asbestos.**

Asbestos waste haulers must give two days' notice before transporting material to the site. The tipping fee for asbestos waste will be assessed per the Fee Schedule.<sup>3</sup> No asbestos will be accepted from outside Fulton County. Only DEC permitted haulers can deliver asbestos to the landfill. Proper DEC paperwork (Waste Transporter Permit No. 6, NYCRR Part 364) must accompany each load, including its origin.

### ARTICLE IX Inspection

**§ 260-34. Power to inspect.**

All users of the Fulton County Landfill are deemed to have consented to inspection necessary for the orderly administration of this Part 1 and the rules and regulations of the Fulton County Department of Solid Waste. Inspection will be accomplished during hours of operation or at the period of use, with or without notice to the users. Inspection shall be performed in such a manner as to reasonably observe and quantify, if necessary, the characteristics of the wastes to be discharged into the Fulton County Landfill.

**§ 260-35. Inspection procedure.**

All vehicles used to collect, haul or transport solid waste shall be subject to inspection by the Solid Waste Director and representatives. The Fulton County Solid Waste Director is authorized to determine satisfactory compliance with this Part 1.

### ARTICLE X Enforcement; Penalties

**§ 260-36. Revocation of license.**

Any license issued by authority of this Part 1 shall be revoked and stand revoked, without recourse to a hearing, for the following causes, unless such causes are corrected by a licensee within three working days:

- A. Cancellation of required insurance.
- B. Cancellation or termination of any contract which was the basis for obtaining the license.
- C. Failure to pay invoices within time frame established in this Part 1.
- D. If evidence indicates hazardous waste dumping has occurred.

<sup>3</sup> Editor's Note: See Art. VII, Fees, of this chapter.

**§ 260-37. Suspension or revocation of license or fine.**

- A. Any license issued by authority of law may be suspended or revoked by order of the Solid Waste Director for the following causes:
- (1) Conviction by a court of competent jurisdiction of three violations of this Part 1 within a twelve-month period or two convictions of the same provision of this Part 1 within a twelve-month period.
  - (2) Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this Part 1.
  - (3) A violation of any license provision or regulation.
  - (4) The application for the license contained falsehoods.
- B. The Fulton County Solid Waste Department, through the Office of the County Attorney, shall have the right to fine and/or suspend or revoke any permit issued hereunder from any permit holder who violates any of the provisions herein. Such suspension or revocation or fine must be followed by written notice of such violation, addressed to the permittee's address, as stated on the permit. The permittee may, within five days of the receipt of said written notice of suspension, revocation or fine, notify, in writing, the Fulton County Department of Solid Waste for a request to appeal said determination to the Fulton County Board of Supervisors and shall file therewith a petition stating the reasons and basis for said appeal.

**§ 260-38. Penalties for offenses; additional remedies.**

- A. Any person who violates any provision of this Part 1 shall be guilty of a violation, within the meaning of § 55.10, Subdivision 3, of the Penal Law of the State of New York, and, upon conviction thereof, shall be liable to a fine of not less than \$100 for the first violation nor less than \$300 for the second violation or imprisonment for not more than 15 days or both such fine and imprisonment.
- B. Each day of a violation of this Part 1, other than a violation thereof constituting an unclassified misdemeanor, shall constitute a separate and distinct violation.
- C. Violation of each single provision of this Part 1 shall constitute a separate and distinct violation.
- D. Any penalties levied and/or damages recovered under this Part 1 shall be in addition to any other remedies available under federal, state and local law and may include a provision to the effect that the violator pay the actual cost to rectify the problem created by the aforesaid violation or improper disposal of inappropriate wastes.
- E. In the case of violations by other than permit holders, the Fulton County Department of Solid Waste is authorized to issue written warnings to violators and is authorized to file a complaint with the New York State police and/or the appropriate judicial officials stating the violation and requesting a warrant for arrest.

**§ 260-39. Enforcement; notice of violation; civil action.**

- A. All provisions of this Part 1 are enforceable by the Fulton County Solid Waste Director of the Department of Solid Waste and other appropriate representatives of Fulton County.
- B. Any person who commits a material violation of any provision of this Part 1 is subject to arrest and punishment as hereinafter provided, if convicted.
- C. Whenever the Solid Waste Director determines that there has been a violation by virtue of noncompliance, he shall give notice of such violation to the person(s) responsible by personal service or by registered mail, return receipt requested. The citation shall be in writing and shall be properly served. It shall include a statement of reasons and shall allow three working days for performance of any act it requires. The citation may contain an outline of remedial action which, if taken, will affect compliance. It shall state that, unless corrections are made within the allotted time, suspension and revocation of license and penalties may be imposed.
- D. The civil action to abate, enjoin or otherwise compel the cessation of the violation of any provision of this Part 1 shall be taken by the Fulton County Attorney upon the request of the Solid Waste Director.

**ARTICLE XI****Variances; Appeals****§ 260-40. Variances.**

The Solid Waste Director of the Department of Solid Waste may, in conjunction with the County Attorney, on written application, grant a variance from a specific provision of this Part 1 in a specific case, subject to appropriate conditions where such variance is in harmony with the general purpose and intent of this Part 1.

**§ 260-41. Appeals.**

The Fulton County Solid Waste Department is hereby authorized to conduct appeals pursuant to this section. In addition to the members of the Natural Resources Committee, the Solid Waste Director and County Attorney shall also be members. Within 30 days of a request for hearing and petition, said members shall conduct a hearing, upon notice of the permittee, to review the action of the Fulton County Department of Solid Waste with respect to suspension, revocation or fining of a permittee or other actions of the Department of Solid Waste. The permittee shall present all witnesses and documents and shall be entitled to be represented by counsel in any stage of the proceedings, and said proceedings may be adjourned only once by right by the permittee; all other adjournments shall be determined by the members of the Appeals Committee. Within 30 days of said hearing, said Appeals Committee may, upon written decision, affirm the actions of the Fulton County Department of Solid Waste, reinstate such permit, modify or suspend any fines or modify other actions of the Department of Solid Waste.

- B. The drop-off of recyclables is hereby authorized for all designated users of the above municipal transfer stations in the municipalities listed in this subsection.

**§ 260-48. Authority to transport recyclables.**

The Department of Solid Waste is hereby solely authorized and directed to collect recyclables at curbside from residents located in the municipalities identified in § 260-46. The Department of Solid Waste is also solely authorized to transport recyclables collected from the drop-off centers serving residents from the municipalities identified in § 260-47.

**§ 260-49. Nonresidential program.**

The curbside and drop-off programs operated by the Department of Solid Waste described in §§ 260-46 and 260-47 above shall not be utilized by commercial, industrial or institutional agencies. These agencies must adhere to the source-separation mandate pursuant to § 260-44 above and provide transportation of recyclables to a recycling processor.

**§ 260-50. Municipalities to reimburse County.**

Effective January 1, 1992, the Department of Solid Waste is hereby authorized and directed to invoice each municipality for recycling services on a monthly basis based on tons of recyclables collected in the respective municipal programs. Municipalities must reimburse the County for services rendered within 30 days after the date of the invoice. The Board of Supervisors hereby reserves the right to establish recyclable tipping fees semiannually.

**§ 260-51. Invoicing of commercial, industrial or institutional accounts.**

The Department of Solid Waste is hereby authorized and directed to invoice each commercial, industrial or institutional account for recycling services per standard Department of Solid Waste invoicing practices. The Board of Supervisors hereby reserves the right to establish recycling tipping fees semiannually.

**§ 260-52. Permits and insurance for commercial, industrial or institutional users.**

All commercial, industrial or institutions and institutional users desiring to utilize the Fulton County material recovery facility must obtain a license per Article V. In addition, insurance requirements outlined in Article VI apply to haulers desiring to utilize the material recovery facility.

**§ 260-53. Operation of material recovery facility.**

The Department of Solid Waste is hereby empowered to operate the material recovery facility located at the Fulton County Sanitary Landfill premises. No passenger cars or station wagons can utilize the facility.

**§ 260-54. Applicability.**

Sections 260-46 through 260-48 apply in their entirety with respect to recyclable materials collected, transported and/or processed by the Department of Solid Waste.

**§ 260-55. Scavaging prohibited.**

Scavaging of recyclables at the drop-off centers, from curbside programs or from the material recovery facility is prohibited.

**Part 2****Solid Waste Facilities**

[Adopted 5-14-1990 as L.L. No. 3-1990]

**ARTICLE XIV****Title; Purpose; Intent****§ 260-56. Title and authority.**

This Part 2 shall be known as the "Fulton County Solid Waste Management Facilities Law of 1990." This Part 2 is enacted pursuant to County Law and the Municipal Home Rule Law.

**§ 260-57. Purpose.**

- A. The purpose of this Part 2 is to effectively regulate the disposition of solid waste, as defined herein, by the establishment of certain standards, regulations, rules and procedures for solid waste management facilities as are set forth herein, all for the public health, safety and welfare and enhancement of the environment of the people of Fulton County.
- B. The Fulton County Board of Supervisors ("Board") hereby determines that the well-ordered management of solid waste disposal at the County level of government provides the most safe, sanitary, environmentally sound and feasible manner of responding to the needs of all the citizens of the County. The Board further recognizes that a need exists within Fulton County for the County to assume this larger and expanding role in the solid waste problem of the cities, towns and villages located within the County, in that such cities, towns and villages are now less able to effectively manage solid waste due to the growing volumes of the solid waste, the rising costs of solid waste disposal and the threat which unregulated solid waste disposal poses to the public health, safety, welfare and environment of the people of Fulton County.

**§ 260-58. Certain wastes accepted.**

The Board hereby determines that only nonhazardous solid waste may be accepted for disposal or disposed of in the County.

**§ 260-59. Intent; interpretation**

It is the intent of this Part 2 that it complement and be read together with Part 1 of this chapter, as amended, and that any conflict or inconsistency between this Part 2 and Part 1 be resolved so as to best effectuate the purposes of both laws.

**ARTICLE XV  
Administration****§ 260-60. Administrative agency designated.**

Except as provided otherwise herein, the Fulton County Department of Solid Waste ("Department") is designated to be the responsible agency to administer this Part 2.

**§ 260-61. Authority to adopt rules and regulations.**

In addition to those powers and duties set forth in Part 1 of this chapter, the Department, with the approval of the Board, may adopt those rules and regulations necessary to carry out this Part 2.

**ARTICLE XVI  
Definitions****§ 260-62. Terms defined. [Amended 7-11-1994 by L.L. No. 4-1994]**

As used in this Part 2, the following terms shall have the meanings indicated:

**ASBESTOS WASTE** — Friable solid waste that contains more than 1% asbestos by weight and can be crumbled, pulverized or reduced to powder, when dry, by hand pressure. "Asbestos waste" also includes any asbestos-containing solid waste that is collected in a pollution control device designed to remove asbestos.

**ASH RESIDUE** — All solid residue and any entrained liquids resulting from the combustion of solid waste at a solid waste incinerator, including bottom ash, boiler ash, fly ash and the solid residue of any air pollution control device used at a solid waste incinerator.

**COMMERCIAL WASTE** — Solid waste generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities other than household and industrial waste.

**COMPOSTING FACILITY** — Any solid waste facility used to provide aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

**CONSTRUCTION AND DEMOLITION DEBRIS** — Uncontaminated, inert solid waste resulting from the construction, remodeling, repair and demolition of structures and from road building and land clearing. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and metals that are incidental to any of the above.

**CONTAINER** — Any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

**COUNTY TRANSFER HAUL WASTE** — Mixed solid waste collected at the Fulton County owned and operated transfer stations and hauled by the County to a landfill.

**CURBSIDE COLLECTION PROGRAM** — Scheduled recycling collection service to households.

**DEPARTMENT OF ENVIRONMENTAL CONSERVATION** — DEC or EnCon; the state agency enforcing the provisions of 6 NYCRR Part 360.

**DEPARTMENT OF SOLID WASTE** — The Fulton County department responsible for the administration of this Part 1.<sup>4</sup>

**DISCARDED** — Materials abandoned by being disposed of; burned or incinerated, including being burned as a fuel for the purpose of recovering usable energy; or accumulated, stored or physically, chemically or biologically treated (other than burned or incinerated) instead of or before being disposed of.

**DISPOSED OF** — Any material discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.

**DROP-OFF OR DROP-OFF CENTER** — The location designated to accept recyclable material from residents.

**EXCLUDED SOLID WASTE** — All materials with less than 20% solids content, infectious waste, liquid waste, explosive waste, waste in sealed containers, automotive tires, truck tires, heavy equipment tires and radioactive waste.

**FREE LIQUIDS** — Liquids which readily separate from the solid portion of a solid waste under normal conditions, as measured by the paint filter test.

**FULTON COUNTY SANITARY LANDFILL** — The land burial disposal facility permitted by DEC to accept nonhazardous waste generated within Fulton County.

**GARBAGE** — Putrescible solid waste, including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking or serving of foods. "Garbage" originates primarily in home kitchens, stores, markets, restaurants and other places where food is stored, prepared or served.

**GENERATOR** — Any person whose act or process produces a solid waste or whose act first causes solid waste to be subject to regulation under this Part 1.

**HAZARDOUS WASTE** — A hazardous waste, as defined in 6 NYCRR Part 371 (applicable state regulations promulgated by the New York State Department of Environmental Conservation) and/or 40 CFR Section 261 (applicable federal regulations promulgated by the

4. Editor's Note: See Ch. 169, Solid Waste Department.

United States Environmental Protection Agency), as said regulations now exist or are hereinafter amended, each of which are incorporated herein by reference.

**HOUSEHOLD HAZARDOUS WASTE** — Household waste which, except for its point of generation, would be a hazardous waste under 6 NYCRR Part 371, including pesticides as defined in Environmental Conservation Law Article 33.

**HOUSEHOLD WASTE** — Solid waste discarded from single or multiple dwellings, campsites, ranger stations and other residential sources.

**INDUSTRIAL WASTE** — Solid waste generated by manufacturing or industrial processes. Such waste may include, but is not limited to, the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals from manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment.

**INFECTIOUS WASTE** — Means and includes the following:

- A. Surgical waste, which consists of materials discarded from surgical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- B. Obstetrical waste, which consists of materials discarded from obstetrical procedures involving the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- C. Pathological waste, which consists of discarded human tissues and anatomical parts which are discarded from surgery, obstetrical procedures, autopsy and laboratory procedures.
- D. Biological waste, which consists of discarded excretions, exudates, secretions, suctionings and disposable medical supplies which have come in contact with these substances that cannot be legally discarded directly into a sewer and that emanate from the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- E. Discarded materials soiled with blood emanating from the treatment of a patient on isolation, other than patients on reverse or protective isolation.
- F. All waste being discarded from renal dialysis, including tubing and needles.
- G. Discarded serums and vaccines that have not been autoclaved or returned to the manufacturer or point of origin.
- H. Discarded laboratory waste which has come in contact with pathogenic organisms and which has not been rendered noninfectious by autoclaving or other sterilization techniques.
- I. Animal carcasses exposed to pathogens in research, their bedding and other waste from such animals that is discarded.

- J. Other articles that are being discarded that are potentially infectious and that might cause punctures or cuts, including intravenous tubing with needles attached, that have not been autoclaved or subjected to a similar sterilization technique and rendered incapable of causing punctures or cuts.

**LANDFILL** — A disposal facility where solid waste, or its residue after treatment, is intentionally placed in or on land, and at which solid waste will remain after closure and which is not a landspreading facility, a surface impoundment or an injection well.

**LICENSEE** — Any person, business or corporation issued a valid license to dispose of solid waste.

**MARKET** — A firm or operation that accepts recyclable materials for purposes of recycling or reuse.

**MATERIAL RECOVERY FACILITY** — A facility where source-separated recyclables are processed for market manually and with low-technology equipment.

**MIXED SOLID WASTE** — Combinations of putrescible and nonputrescible waste materials.

**MUNICIPALITY** — A county, village, town, city or designated agency thereof.

**MUNICIPAL SOLID WASTE** — Mixed solid waste hauled by a municipal vehicle to a landfill or transfer station.

**NONSOLID WASTE** — Includes:

- A. Domestic sewage.
- B. Any mixture of domestic sewage and other wastes that pass through a sewer system of a publicly owned treatment works for treatment.
- C. Industrial wastewater discharges that are actual point source discharges, subject to permits under Environmental Conservation Law (ECL) Article 17. Sludges that are generated by industrial wastewater treatment and municipal wastewater treatment are solid wastes and are regulated by this Part 1, if they consist of a minimum 20% solids by analysis.
- D. Irrigation return flows.
- E. Radioactive materials which are source, special nuclear or by-product material, as defined by the Atomic Energy Act of 1954, as amended, 42 USC 2011 et seq. [see Subdivision 360.1.3(a)].
- F. Materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process.

**PERSON** — Any individual, public or private corporation, political subdivision, government agency, authority, department or bureau of the state, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever.

**PROCESSING FACILITY** — A combination of structures, machinery or devices, other than collection and transfer vehicles, utilized to reduce or alter the volume or the chemical or

physical characteristics of solid waste through process such as, but not limited to, separating, baling or shredding, before its delivery to a landfill, composting facility or solid waste incinerator.

**PROCESSOR** — An operation where recyclables are sorted, graded, cleaned, densified or packaged.

**PUTRESCIBLE** — The tendency of organic matter to decompose with the formation of foul-smelling by-products.

**RECOVER** — Any act or process by which solid waste is separated from the solid waste stream for recycling.

**RECYCLE** — The reuse of solid waste recovered from the solid waste stream into goods or materials suitable for reuse in original or changed form.

**REFUSE** — Anything putrescible or nonputrescible that is discarded or rejected as useless or worthless.

**RESIDUALS** — Sludge, sewage sludge, septage, air pollution control facility waste or any other such waste having similar characteristics or effects; and solid waste remaining after the processing of solid waste by composting methods that was not made into compost subject to use.

**RESIDUE** — All solid waste remaining after treatment and includes, but is not limited to, ash residue and other solid waste which is not recovered or combusted.

**RESOURCE RECOVERY FACILITY** — A combination of structures, machinery or devices utilized to separate, process, modify, convert, treat or prepare collected solid waste so that component materials or substances or recoverable resources may be recovered or used as a raw material or energy source.

**SERVICE AREA** — The geographical area serviced by a solid waste management facility from which solid waste is generated and collected for delivery to that facility.

**SLUDGE** — Any solid or semisolid wastes that are not considered hazardous, that have a minimum solids content of 20%, with no evidence of free liquids in the dewatered sludge.

**SOLID WASTE** — All putrescible and nonputrescible materials or substances (except as hereinafter stated) that are 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, water or wastewater treatment facilities, rubbish, tires, ashes, incinerator residue and construction and demolition debris. Materials from minor home repairs and normal household maintenance are included as "solid wastes."

**SOLID WASTE HAULER** — Any person duly licensed to transport solid waste to Fulton County's Sanitary Landfill.

**SOLID WASTE MANAGEMENT FACILITY** — Any facility employed beyond the initial solid waste collection process for the management of solid waste, including but not limited to storage areas or facilities; transfer stations; processing facilities; landfills; disposal facilities;

solid waste incinerators; landspreading facilities; composting facilities; surface impoundments; and waste soil storage, reprocessing, rerefining facilities, recycling facilities and waste tire storage facilities.

**SOURCE SEPARATION** — Dividing solid waste into some or all of its component parts at the point of generation.

**SPECIAL BULKY WASTES** — Blocks of masonry in excess of 100 pounds; trees (trunk sections) in excess of 16 inches in diameter (trees, logs and branches less than 16 inches in diameter shall not exceed eight feet in length); junk motor vehicles; steel cables; hardened shafts and gears; large thick walled or solid metallic objects, such as castings or forgings; stumps more than three feet in any diameter; any single item more than 10 cubic feet in volume; pipes more than eight inches in diameter and eight feet in length; and all other bulky items more than 10 cubic feet in volume.

**SPECIAL WASTES** — Includes but is not limited to materials from condemned or large dead animals and animal and food wastes from slaughterhouses and similar establishments.

**SPECIFICATIONS** — Detailed rules describing the method in which recyclables should be prepared to meet market requirements.

**TIPPING FEE** — A charge assessed for unloading solid waste/recyclables at a solid waste management facility on a per-ton basis.

**TRANSFER STATION** — A combination of structures, machinery or devices at a place or facility where solid waste is taken from collection vehicles and placed in other transportation units for movement to another solid waste management facility.

**TRANSPORTER** — A person engaged in the off-site transportation of solid waste.

**TRASH** — Any nonputrescible portion of the solid waste stream, including but not limited to paper, glass, metals and plastic.

**UNTREATABLE WASTE** — The same as defined in Environmental Conservation Law § 27-0704. "Untreatable waste" for a solid waste facility would include, but not be limited to, vehicle batteries; vehicle frame parts, crank cases, transmissions and engines; storage tanks; oil storage tanks; propane tanks; and any other materials that may be deemed untreatable.

**VEHICLE** — Any motor vehicle, trailer, water vessel or other device for transporting solid waste.

**WASTE TIRE** — Any tire that has ceased to serve the purpose for which it was initially intended due to factors such as, but not limited to, wear or imperfections and has been discarded.

**YARD WASTE** — Leaves, grass, clippings, garden debris, vegetative residuals that are visually recognizable as part of a plant or vegetable or small or clipped branches.

## ARTICLE XVII

## Construction or Modification of Facilities

**§ 260-63. Permit required.**

No person shall construct, modify, expand or operate a solid waste management facility within the County without a permit issued by the Board pursuant to this Part 2.

**§ 260-64. Modifications to existing facilities.**

- A. Proposed modifications to existing facilities. Any person proposing to modify the use of a solid waste management facility in a manner which is not reflected in either a construction permit or operation permit issued pursuant to this Part 2 and any holder of an operating permit, shall submit to the Board a complete application for a construction permit reflecting such proposed modification. Among the acts constituting modification are the following: [Amended 10-13-1992 by L.L. No. 7-1992]
- (1) Expansion of the facility by the acquisition, purchase, lease or otherwise of additional land which has not been the subject of any application under this Part 2.
  - (2) Movement of the disposal operation to a portion of property already owned, leased or otherwise held by such person but which has not been the subject of any application under this Part 2.
  - (3) Increase of the total quantity of solid waste received during any quarter at the facility by 50% or more over the total quantity of solid waste received during the comparable quarter of the preceding year (except where such increase is not in excess of the approved design capacity of the facility for such time period).
  - (4) Expansion of the facility by the installing of additional processing equipment which increases the approved design capacity of the facility or changes the facility process.
  - (5) Addition of any solid waste stream or solid waste type not previously approved or any change in solid waste type accepted at the facility.
- B. Proposed modifications of facility operations. Any holder of an operation permit, issued pursuant to this Part 2, who proposes to modify any phase of operations at the solid waste management facility covered by such permit shall submit to the Board an application for modification of such operation permit. [Amended 7-11-1994 by L.L. No. 3-1994]
- C. All applications pursuant to Subsections A and B shall comply with all application requirements of this Part 2, including application fee requirements.

**§ 260-65. Exemption.**

This Part 2 shall not apply to any solid waste management facility owned or operated by Fulton County, including, without limitation, the five-hundred-forty-three-acre landfill owned and operated by the County at Mud Road in the Town of Johnstown.

**§ 260-66. Effect on existing facilities lawfully in existence. [Amended 10-13-1992 by L.L. No. 7-1992]**

Any solid waste management facility lawfully in existence and operating on the effective date of this Part 2 shall be exempt from its initial requirement of obtaining an operating permit, except that any expansion or modification of such facility or its operations shall be subject to the provisions of § 260-64 above. For the purposes of this section, "lawfully in existence" shall be deemed to mean in possession of all currently required permits and approvals, including a valid Department of Environmental Conservation Part 360 permit.

**§ 260-67. Continuing operation of existing municipal facilities. [Added 10-13-1992 by L.L. No. 7-1992]**

Disposal of solid waste at any previously existing solid waste management facility owned and operated by a municipality within Fulton County and closed pursuant to direction of the New York State Department of Environmental Conservation (DEC) shall be exempt from this Part 2 and may be undertaken only by such municipality and only if permitted, authorized or mandated by DEC, in conjunction with an enforcement proceeding or an order on consent between such municipality and DEC. If such disposal is to occur, then the municipality must provide the County with the appropriate authorization from DEC and a release from the municipality in favor of the County in form approved by the County Attorney. Nothing in this section shall constitute an exemption from Part 3, Solid Waste Flow Control, of this chapter.

**ARTICLE XVIII  
Disposal of Solid Waste**

**§ 260-68. Disposal at County facilities required.**

All persons, commercial establishments, industrial generators, institutions, solid waste haulers and transporters shall dispose of solid waste, including construction and demolition debris and source-separated recyclables, generated or originated within Fulton County only at Fulton County owned, operated and/or designated solid waste management facilities, including the Fulton County Sanitary Landfill, transfer stations or material recovery facility, and only as set forth in the rules and regulations adopted by the Department or as otherwise directed by the Department.<sup>5</sup>

**§ 260-69. Exemptions.**

- A. Solid waste generated within Fulton County for disposal or intermediate processing at other New York State Department of Environmental Conservation Part 360 Permitted Facilities located within Fulton County is exempt from the provisions of this Part 2, provided that said facilities have been issued a valid New York State Department of Environmental Conservation Part 360 operating permit prior to the enactment of this Part 2, and provided that said facilities are in compliance with Part 1, Solid Waste

5. Editor's Note: Resolution No. 54, which designated the City of Johnstown Landfill as an acceptable site for demolition debris, as well as similar resolutions on this same subject, are on file in the office of the Clerk of the Board of Supervisors.

Management, of this chapter, if applicable. In addition, nonresidential recyclable materials, i.e., industrial, commercial or institutional recyclables, are exempt from the provisions of this Part 2.

- B. Disposal of land-clearing debris at a land-clearing debris landfill shall be exempt from this Part 2, as long as said land-clearing debris landfill is less than three acres in size and has obtained registration status with the New York State Department of Environmental Conservation and if the facility operates per all other applicable local, state and federal rules and regulations. For the purpose of this exemption, the definition of land-clearing debris landfill is contained in the New York State Department of Environmental Conservation Part 360 Rules and Regulations. [Added 3-14-1994 by L.L. No. 1-1994]

#### § 260-70. Out-of-County waste.

Solid waste generated outside Fulton County will not be accepted at any disposal, transfer or recycling facility operated by the County, unless permitted under contract with the County.

### ARTICLE XIX Permit Requirements

#### § 260-71. Application procedure.

##### A. Form and content of applications generally.

- (1) Applications submitted pursuant to this Part 2 shall be submitted to the Department. Applications shall be accompanied by such data as the Department may reasonably require for the purpose of fulfilling its responsibilities under this Part 2. All applications for construction permits shall be accompanied by an application for an operation permit.
- (2) In addition to any information required pursuant to the preceding subsection, applications submitted pursuant to this Part 2 shall comply with the following:
  - (a) All applications shall be accompanied by evidence satisfactory to the Department that all permits for the construction or operation of a solid waste management facility that may be required under applicable federal, state and local laws and regulations have been applied for by the applicant. Any applicant seeking approval shall submit its application to the Department within 30 days after its application for a Part 360 permit is submitted to the New York State Department of Environmental Conservation (DEC).
  - (b) Copies of all applications, including all engineering plans, reports and specifications submitted for approval to any federal, state or local agency, shall be submitted in triplicate to the Department with the application.
  - (c) The location of property boundaries shall be certified by a person or firm registered to practice land surveying in the State of New York.

- (d) The applicant shall include a proposed detailed program for closure of the facility for implementation when use of the facility permanently terminates.
- (3) Signature and verification of applications.
- (a) All applications for permits shall be accompanied by evidence of authority to sign the application and shall be signed by the applicant as follows:
- [1] In the case of corporations, by a duly authorized principal executive officer of at least the level of vice president.
  - [2] In the case of a partnership, by a general partner.
  - [3] In the case of a sole proprietorship, by the proprietor.
  - [4] In the case of a municipal, state or other governmental entity, by a duly authorized principal executive officer or elected official.
- (b) Applications shall be sworn to by or on behalf of the applicant in respect to all statements of fact therein or shall bear an executed statement by or on behalf of the applicant as provided in § 210.45 of the Penal Law of the State of New York, to the effect that false statements made therein are made under penalty of perjury.
- B. Additional requirements for applications for operation permits. All applications for operation permits shall include a detailed report describing the proposed plan of operation, including demonstration of specific means for meeting the standards and requirements of this Part 2 and all applicable federal, state and local laws and regulations. The application shall include a contingency plan setting forth in detail the applicant's proposal for remediation and/or closure action to be taken in the event of equipment breakdowns, ground- or surface water or air contamination, fires or spills or releases of hazardous or toxic materials.
- C. Application fees. The application for a construction permit shall be accompanied by an application fee of \$10,000. The application for an operation permit shall be accompanied by an application fee of \$5,000. These fees shall cover the cost of the County's review of the applications. Any portion of the fee not used will be refunded to the applicant within 60 days after the application is approved or denied.
- D. Application fees for minor facilities. For purposes of this section, a facility which will accept less than 5,000 tons per year of solid waste shall be deemed a minor facility for which the construction permit application fee shall be \$100 and the operation permit application fee shall be \$100.
- E. There shall be no application fees for recycling, materials recovery or processing facilities.

**§ 260-72. Review and recommendation of application.**

- A. Notification of complete application. The Department shall notify the applicant in writing whether the application is complete. Such notification shall occur within 60 days after

application submission. However, such notification shall not restrict or limit in any manner the Department's right to request additional information from the applicant at any time.

- B. Review. After the application is deemed complete, the Department shall review the application. The Department may retain such outside technical or expert assistance as it deems necessary to review the application. If the cost of such assistance exceeds the application fee paid by the applicant pursuant to this Part 2, then the additional cost shall be paid for by the applicant. The applicant must pay said expense within 30 days after the Department sends a copy of the bill provided by the person or firm providing such outside technical or expert assistance.
- C. Recommendation. Within 120 days after the application is deemed complete, the Department shall make a recommendation in writing to the Natural Resources Committee of the Board as to whether the application shall be approved, approved with conditions or modifications, or denied. The Natural Resources Committee shall then make its recommendation to the Board within 60 days.

#### § 260-73. Action by County Board of Supervisors.

##### A. Public hearing.

- (1) Within 60 days after receipt of the Natural Resource Committee's recommendation, the Board shall hold a public hearing on the application. At least 10 days before such hearing, a notice of hearing shall be posted and the hearing advertised as provided by law.
- (2) Mailing notice of hearing. In addition to the above notice, the Board shall cause copies of the notice of the public hearing to be mailed at least 10 days before the hearing to the owners of all property lying within a distance of 500 feet from the boundary of the location which is the subject of the application. The notice shall be addressed to the owners of said property as their names appear on the latest completed assessment rolls.

##### B. Criteria for issuance of permits.

- (1) Criteria for construction permits for proposed facilities and modification to a facility. No permit shall be issued for the construction of a solid waste management facility or for the modification of a solid waste management facility unless:
  - (a) The Board had approved the engineering data and construction plans.
  - (b) The Board has determined that the design, construction and operation of the facility represents the state of the art in solid waste management technology and utilizes the best available technology.
  - (c) The Board determines that the facility will not have a significant adverse impact on surface water or groundwater quality.

- (d) The Board determines that the facility will not have a significant adverse impact on air quality.
  - (e) The Board determines that traffic to and from the facility will not have a significant adverse impact on existing roads and traffic patterns.
  - (f) The Board determines that any adverse environmental impacts have been mitigated to the maximum extent possible.
  - (g) The Board finds that the location and size of the facility, the nature and intensity of its operations and its site layout will be in harmony with the appropriate and orderly development of the area in which it is proposed to be situated and will not be detrimental to or hinder the orderly development of the surrounding neighborhood in accordance with the character of the properties in such neighborhood.
  - (h) The Board finds that operation of the facility will not have any substantial adverse impacts, including, without limitation, adverse economic impacts, on County resources or the operation of any solid waste management facility owned or operated by the County.
- (2) No permit shall be issued for the construction of a solid waste management facility unless such facility contains not more than 50 acres of land. For purposes of this Part 2, the acreage of a facility shall be defined to mean the total contiguous property acreage owned or controlled by the applicant and not utilized for any other purpose. No permit shall be issued for the modification of a solid waste management facility if the modified facility, including the existing facility, will contain more than 50 acres of land. Such acreage limitation shall not be deemed to apply to recycling, materials recovery or processing facilities.
- (3) Notwithstanding anything to the contrary contained herein, no permit shall be issued for the construction of a solid waste management facility or the modification to such a facility if the amount of land comprising the proposed or modified facility when added to land comprising all other lawfully operating solid waste management facilities within the County shall exceed 555 acres. Such acreage limitation shall not be deemed to apply to or include any recycling, materials recovery or processing facilities. For the purposes of this Part 2 and consistent with the acreage definition set forth above, the acreage of the Fulton County Sanitary Landfill located on Mud Road in the Town of Johnstown is 543 acres.
- (4) Criteria for the issuance of operation permits. An operation permit shall be issued for a proposed solid waste management facility only if construction thereof is demonstrated to be in accordance with the terms of the construction permit (and plans approved thereunder) issued pursuant to this Part 2, certification of construction has been submitted in accordance with this Part 2 and the Board has approved the proposed plan of operation and contingency plans required pursuant to § 260-71B above.

- C. Decision of the Board. After the Board has reviewed the Natural Resources Committee's recommendation and, if necessary, held a public hearing as provided herein, the Board shall either approve, approve with conditions or modifications, or disapprove the application. The Board's decision shall be made within 60 days after the Committee's recommendation if no hearing is held and within 60 days after the public hearing if one is held. The Board shall notify the applicant in writing by mail of its decision and the reasons for its decision.

**§ 260-74. Permit provisions and conditions.**

- A. The provisions of each permit issued pursuant to this Part 2 shall attempt to minimize the adverse impacts of any facility on public health, safety or welfare, the environment or natural resources and ensure that such activity will comply with the design and operation standards set forth in this Part 2. Therefore, the Board may impose conditions on permits, including sampling, monitoring and reporting requirements.
- B. Operation permits shall have a duration fixed at the discretion of the Board for a period not to exceed five years.
- C. Construction permits for all solid waste management facilities shall have a duration fixed at the discretion of the Board, and construction shall be completed pursuant to the permit within that duration.
- D. The construction of facilities pursuant to a construction permit shall be under the supervision of a person or firm registered to practice professional engineering in the State of New York. Upon completion of construction, written certification shall be made by said firm or person that the construction is in accordance with the terms of the construction permit and approved plans thereunder. Such certification shall be submitted to the Board within 30 days after completion of construction. The Board shall require as-built plans to support such certification.
- E. In the event that construction or operation activities pursuant to a construction or operation permit issued pursuant to this Part 2 cease for a period of 12 consecutive months, such permit shall automatically expire on the anniversary date of the cessation.
- F. All permits issued pursuant to this Part 2 shall be transferable only upon prior written approval of the Board.
- G. Activities performed pursuant to any permit issued pursuant to this Part 2 are subject to inspection by representatives of the County during normal business hours. County representatives shall be authorized to enter upon reasonable notice upon the premises of any facility which holds a permit issued pursuant to this Part 2 or where records required to be kept pursuant to such a permit are located, for the purpose of determining such facility's status of compliance with the permit and with this Part 2.
- H. All solid waste management facilities shall submit semiannual reports to the Department setting forth a comprehensive summary of daily volume, weight, type and origin of waste received.

- I. For the purpose of reimbursing the County for its expense in inspecting the operation of a solid waste management facility for compliance with this Part 2 and any permit issued hereunder, the operator of any such facility shall pay the County a fee of \$0.25 for each ton of solid waste disposed of or deposited at such facility. Such fee shall be paid on the 10th day of each month, computed on the amount of solid waste disposed of or deposited at such facility during the preceding month. If the operator shall fail to pay such fee when the same becomes due, the Board may revoke the operation permit for such facility. Such fee shall not be required of recycling, materials recovery or processing facilities.

#### § 260-75. Reissuance of permits.

- A. Any permit holder who intends to continue construction or operation beyond the period of time covered in such permit must apply for reissuance of such permit by submitting a reissuance application to the Department. In the case of a construction permit, such filing shall be made not less than 90 days before the expiration of said permit. In the case of an operation permit, such filing shall be made not less than 180 days before the expiration of said permit. Application for reissuance shall be made by the permit holder as authorized by the Department. The provisions of this Part 2 regarding submittal and processing of initial applications, including application fees, shall apply to reissuance applications.
- B. Upon review of a reissuance application, the Department shall determine whether the permittee is in compliance with or has substantially complied with all the terms, conditions and requirements of the expiring permit and this Part 2. The Department shall make a recommendation to the Board whether the permit shall be reissued. Prior to approving or denying reissuance, the Board may, in its discretion, hold a public hearing pursuant to the procedures in § 260-73A above. The Board shall notify the applicant in writing by mail of its decision and the reasons for its decision.

#### § 260-76. Surety.

- A. The Board may require a form of surety or financial responsibility acceptable to the Board of a permit holder, in an amount determined by the Board, in order to assure compliance with the terms of the permit issued to such holder pursuant to this Part 2.
- B. A form of surety or financial responsibility acceptable to the Board to cover the cost of proper closure of the facility shall be required for facilities where the operator and the owner are not the same person.
- C. Forms of surety or financial responsibility for any and all claims arising out of injury to persons or property relative to either sudden and/or accidental occurrences or nonsudden and/or nonaccidental occurrences may be required for solid waste management facilities. Such financial responsibility may be in the form of liability insurance, self-insurance or other form acceptable to the Board. The amount of such financial responsibility shall be set by the Board.

**§ 260-92. Restrictions.**

The program is not intended to benefit fundraising events.

**§ 260-93. Time frame for request.**

Requests must be made a month in advance, in order to be placed on Committee agenda and subsequent Board agenda for approval.

**§ 260-94. Separation of recyclables.**

Recyclables must be separated out, if possible.

**§ 260-95. Requests.**

Requests for scheduled civic cleanup programs will be considered on a case-by-case basis, based on Department of Solid Waste operational needs.