

**LOCAL LAW NO. 1 OF 2014
COUNTY OF JEFFERSON, STATE OF NEW YORK**

**LOCAL LAW OF THE COUNTY OF JEFFERSON TO PROVIDE A UNIFORM
SYSTEM FOR MANAGING THE COLLECTION, TRANSPORTATION AND
DISPOSAL OF SOLID WASTE AND RECYCLABLES**

Be It Enacted, by the Board of Legislators of the County of Jefferson, State of New York as follows:

LEGISLATIVE FINDINGS

The Board of Legislators of the County of Jefferson, upon consideration and in support of the adoption of Local Law No. 1 of 2014, hereby finds and declares:

1. The safe and proper disposal of the solid wastes generated by the people of the County has been and remains a matter of serious public concern. Having a solid waste management system that is environmentally sound and financially self-sufficient benefits all of the residents of the County in that it provides a safe, sanitary and efficient means for the collecting, transporting and disposing of solid wastes.
2. To that end, the County entered into an inter-municipal agreement on or about 1986 with the Development Authority of the North Country ("Authority"), to develop, construct and install a sanitary landfill located in the Town of Rodman (the "Authority landfill") for the purpose of disposing of solid waste materials that are produced or collected within the participating communities.
3. The Authority landfill has therefore become an integral component of the County's solid waste management system. Additionally, the professional resources of the Authority in the field of solid waste management are a valuable component of the County solid waste management system.
4. Following the adoption of the inter-municipal agreement with the Authority, the County adopted local laws and regulations governing the management of solid waste, including provisions governing collection, source separation of recyclables pursuant to General Municipal Law 120-aa.
5. The goal of the Regional Solid Waste Management Plan is to create a system of solid waste collection, transportation and disposal that is financially self-supporting, without the use of tax money to subsidize the waste management and recycling program costs. The County finds that designing an integrated solid waste management system that is financially supported by a user fee system is more equitable than one funded by taxes. Revenues needed to pay for the County's solid waste system are derived from user fees that are based on the amount of non-recyclable waste delivered to the County's facilities, as well as from revenues from

the sale of recyclable materials, rather than from tax revenues that are based on the assessed value of properties in the County.

6. The County provides a strong economic incentive to maximize recycling and waste reduction, by only charging a reduced or no fee on non-recyclable waste deliveries. The County does not currently charge for the use of its recycling programs and recycling services. Thus, both those who generate waste and those having a commercial waste hauling permit have an incentive to reduce their disposal costs by increasing their recyclables. This user fee system encourages recycling and other waste reduction activities and therefore maximizes environmental benefits. All classes of waste generators are equitably served when all classes deliver their wastes to the County's system. However, fiscal inequity results when some classes of generators or a significant number of waste generators or haulers do not participate in the system. In addition, waste reduction and recycling benefits are lost when recyclable materials are commingled with non-recyclable waste for disposal at out-of-system facilities.
7. Furthermore, establishing a regulatory scheme, including the granting of permits to collect and transport recyclables and waste delivered to the County's solid waste system is both a sound governmental function and provides a safe and effective means of controlling the collection, transportation and disposal of solid waste and recyclables.
8. The County finds and declares that establishing an integrated system of solid waste collection, transportation and disposal is the most effective means of achieving the goals of its Solid Waste Management Plan.

SECTION I. DEFINITIONS

1. **Authority Landfill** shall mean the Landfill owned and operated by the Authority and located at 23400 State Route 177, Town of Rodman, State of New York.
2. **Board of Legislators** or Board shall mean the duly elected County Board of Legislators.
3. **Commercial Waste Permit** shall mean the permit issued pursuant to Section III.1 of this local law.
4. **Commercial Waste** shall mean Solid Waste generated from commercial, business, institutional, educational, or other non-residential sources in the County.
5. **Construction and Demolition Debris** shall have the meaning set forth in 6 NYCRR 360-1.2 as amended from time to time.

6. **County** shall mean Jefferson County, New York, a municipal corporation of the State of New York, with offices at 195 Arsenal St. Watertown, New York and all of its political subdivisions.
7. **County Facility** shall mean any Solid Waste management facility or facilities owned and/or operated, or caused to be operated by the County, a municipality, or more than one municipality jointly, or public authority, or privately owned facility designated by the County, located within or out of the County that accepts or disposes of Solid Waste and/or Recyclables pursuant to agreement with the County, including but not limited to landfills, transfer stations, materials recovery facilities, drop off centers, and resource recovery facilities. For the purposes of this local law, the Authority Landfill shall be considered a County Facility.
8. **Department** shall mean the County Recycling and Waste Management Department or its successor. The designated head of that Department is authorized to act on behalf of the Department and the County as authorized herein.
9. **Designated Recyclables** shall mean the materials, as established and described by the Department which shall be separated from the Solid Waste stream for collection and/or delivery to a materials recovery facility or other recycling facility or market. The list of Designated Recyclables may be modified from time to time by regulation promulgated by the Department.
10. **Farm** shall have the meaning specified in 6 NYCRR Part 360 - 1.2 as the same may be amended, suspended or replaced.
11. **Hazardous Waste** shall mean those materials, substances, or wastes including, but not limited to, pesticides and containers used for pesticides, other waste which appears on the list or satisfies characteristics of hazardous waste promulgated by the New York State Commissioner of the Department of Environmental Conservation, and any other material, determined now or in the future, to be hazardous by State or Federal rule, regulation and/or statute.
12. **Household Hazardous Waste** shall mean household hazardous waste as defined in 6 NYCRR Part 360 of the State of New York as the may be amended from time to time.
13. **Industrial Waste** shall mean industrial waste as defined in 6 NYCRR 360-1.2(b)(88) of the State of New York as the same and may be amended from time to time. Industrial waste may have characteristics requiring special handling or treatment in order to qualify for acceptance at a County Facility.
14. **Infectious Waste** shall have the meaning specified in 6 NYCRR 360-1.2 as the same may be amended from time to time.

15. **Market** shall mean a primary user of a particular Designated Recyclable, including but not limited to glass factories, de-tinners, plastic recovery facilities, paper mills or consolidators of such materials not including the County.
16. **Open Dump** shall mean a Solid Waste disposal area which is not authorized to be operated under applicable Federal and State laws and regulations.
17. **Person or Persons** shall mean any individual, company, partnership, association, firm, corporation, municipality, or any other entity.
18. **Prohibited Materials** shall mean materials which are not authorized to be accepted at a County Facility or the Authority Landfill under the permit for such Facility, together with such other materials posing a hazard or which the Facility is unable to accommodate as may be determined from time to time by the Department.
19. **Recyclables** shall mean such material from Commercial Waste, Industrial Waste, Construction and Demolition Debris, and Residential Waste sources, including but not limited to "Designated Recyclables", which under any applicable law or regulation, is not Hazardous Waste and which can be reasonably separated from the Solid Waste stream and held for its material recycling or reuse value.
20. **Refuse** shall mean putrescible and incidental non-putrescible Solid Waste including, but not limited to, animal, vegetable and paper waste. Refuse originates primarily in homes, businesses and restaurants, and has characteristics similar to that of Solid Waste collected and disposed of as part of normal residential and commercial collections in the County.
21. **Regulations** shall mean Regulations promulgated by the Board pursuant to the authority contained in this local law.
22. **Resident** shall mean any individual who is a legal resident of the County or any individual who is a temporary resident of the County.
23. **Residential Waste** shall mean Solid Waste generated from all houses, apartments and other residential dwellings, including, but not limited to, all single family dwellings and multi-family dwellings in the County.
24. **Solid Waste** shall have the meaning specified in 6 NYCRR Part 360-1.2 as the same may be amended, superseded or replaced.
25. **Waste Collector** shall mean any individual, association, partnership, firm, corporation, not-for-profit organization, municipality, educational institution or any other Person so deemed by the Department engaged in the business of collection, pickup, transfer, removal and/or disposal of Solid Waste and/or Recyclables.

SECTION II. ESTABLISHMENT OF THE DEPARTMENT OF RECYCLING AND WASTE MANAGEMENT, AND ADMINISTRATION OF LOCAL LAW

1. There is hereby established the Jefferson County Department of Recycling and Waste Management which shall operate as the department in County government responsible for oversight, coordination, operation and regulation of all recycling and waste management matters and other such matters as the Board shall direct.
2. The Director shall be appointed by the Board and shall serve at the pleasure of the Board. The Director shall be the administrative head of the Department and shall be responsible for the supervision of the Department's budget, personnel and mission. The Director may appoint such staff as may be authorized by the Board and subject to appropriations being made therefor.
3. The Department may encourage and conduct studies, investigations and research, develop and implement educational programs, and assist municipalities in the studying, implementation and planning of their various actions in effecting Solid Waste management in the County within the confines of appropriations provided therefor by the Board.
4. The Department shall be primarily responsible for the administration and enforcement of the terms of this local law, and for the promulgation of such rules and regulations as may be reasonably required in connection with the administration of this local law or the operation of any County Facility.
5. The Department shall administer the program of registering and permitting all Waste Collectors and other Persons collecting and/or transporting and disposing of Solid Waste and/or Recyclables at a County Facility. This includes the issuance, renewal, and revocation of all permits described in this local law.
6. The Authority shall be responsible for the administration of the Authority Landfill and for promulgating such rules and regulations as the Authority, in its sole discretion, may deem to be reasonably necessary.
7. In addition to authorized representatives of the County, the administrators and personnel of the Development Authority of the North Country (Authority) shall be authorized, upon personal knowledge and/or information and belief, to issue notices of violation on behalf of the Department and pursuant to Section IV (2)a. of this local law, to any person acting in violation of any provision of this local law. All such notices issued pursuant to this authorization shall be in a form approved by the Department and shall be returnable to the Department for prosecution pursuant to Section IV hereof.

SECTION III. STANDARDS AND REGULATIONS

1. Commercial Waste Permit Requirements

- a. No Waste Collector shall collect and/or transport and then dispose of Solid Waste and/or Recyclables at a County facility without obtaining a Commercial Waste Permit issued by the Department.
- b. All applications for Commercial Waste Permits shall be in writing and shall contain such information as requested by the Department, but at a minimum, as set forth in this local law. Such applications shall include a list of all vehicles (including registration and vehicle license numbers) the applicant intends to utilize for the collection of Solid Waste and/or Recyclables in the County. The list shall also describe the cubic yard capacity for each vehicle. All Commercial Waste Permit information shall be verified by the applicant as required by this local law and the Department.
- c. Upon receipt of a complete application, together with an application fee of \$100 and proof of insurance as required by subsection (k), below, the Department shall thereupon issue the applicant a Commercial Waste Permit so long as the applicant is otherwise deemed by the Department to be in compliance with this local law and related requirements of the Department. A Commercial Waste Permit shall, unless revoked or suspended pursuant to this local law, remain in effect for one year after it is issued.
- d. Renewal of Commercial Waste Permits shall be in the same manner and subject to the same conditions as original Commercial Waste Permits, and also shall be subject to any additional requirements in effect at the time of application for renewal as specified by the Department.
- e. The Department shall issue to a Permit Holder a decal or other identifying mark, to be displayed on each collection vehicle registered with the Department and used by the Permit Holder for collection of Solid Waste within the County. Use of any vehicle for the collection and subsequent disposal of Solid Waste at a County Facility that is not registered with the Department and identified as such shall be a violation of this Local Law.
- f. No Commercial Waste Permit issued pursuant to the provisions of this local law shall be transferable.
- g. The Commercial Waste Permit holder hereunder shall, when requested by the Department, furnish the Department with a list identifying the municipalities within which collection services are provided with as much detail as the Department may require to comply with the reporting requirements of the NYS Department of Environmental Conservation's Annual Transfer Station and/or Planning Unit Reports.
- h. The Department, pursuant to Section IV of this local law, shall have the power to impose a civil penalty or suspend, revoke or condition a Commercial Waste Permit

granted or renewed pursuant to this local law for any violation of any provision of this local law or any applicable rule, regulation, code or ordinance relating to the collection, handling, hauling or disposal of Solid Waste and/or Recyclables including, but not limited to, those promulgated by the Department.

- i. All collection, transportation and/or disposal of Solid Waste and/or Recyclables shall be in strict conformance with the rules and regulations prescribed in this local law and as such rules and regulations may hereafter be amended or supplemented by the Department.
- j. All vehicles used in the collection, transportation and/or disposal of Solid Waste and/or Recyclables shall be maintained in a sanitary condition and shall be constructed as to prevent leakage in transit. The body of the vehicle shall be wholly enclosed or shall at all times be kept covered with an adequate cover. The name of the Commercial Waste Permit holder shall be readily visible on all vehicles, and on all containers utilized for the collection of Solid Waste and/or Recyclables generated within the County.
- k. All Commercial Waste Permit holders shall carry insurance with coverages and terms established by regulations of the Board, naming Jefferson County, its officers, agents and employees, as additional insureds on a primary and non contributory basis.
- l. Any Commercial Waste Permit issued pursuant to this local law shall be in the nature of a privilege subject to the terms and conditions set forth in this local law and as amended or supplemented by the Department, and shall not be deemed to create a property interest with respect to the Commercial Waste Permit in the holder.
- m. All Commercial Waste Permit requirements, including but not limited to fees, insurance coverage amounts, and length of permit validity, may be amended from time to time by resolution of the Board of Legislators.

2. Disposal of Solid Waste

- a. No Waste Collector shall dispose of Solid Waste at any County Facility without a Commercial Waste Permit. Residents may transport, deliver and dispose of Residential Waste at the County Facilities without the necessity of obtaining a permit, provided that the applicable tipping fees are paid.
- b. Anyone entering a County Facility to dispose of Solid Waste must adhere to the rules and regulations as posted and must follow the instructions of the attendant on duty.
- c. Nothing within this local law shall be construed at any time to restrict the ability of the Department to refuse to accept Hazardous Waste or other Prohibited Materials at any County Facility.

- d. The Department may, from time to time, provide alternative disposal means at the Authority Landfill or other County Facilities for selected Prohibited Materials.
- e. No Waste Collector or other Person shall dispose of Solid Waste at a County Facility unless such Person or entity shall pay the applicable tipping fee.

3. Disposal of Recyclables

- a. Nothing in this local law shall be construed to prohibit any Person generating Recyclables within the County from separating such recyclables from other wastes and making arrangements for the separate collection or delivery and sale of such materials under such terms as such Person may choose.
- b. No Person shall commingle Designated Recyclables with other Solid Waste and set such commingled Designated Recyclables and Solid Waste at curbside for collection by a Waste Collector.
- c. Owners of facilities open to the public and all organizers of public events are required to provide for the separate recovery, collection, and disposal of Recyclable Materials at the sites and/or events under their sponsorship.
- d. All landlords shall:
 - 1. Deliver information about tenants' source separation obligations to all tenants; and
 - a. Incorporate in tenants' lease arrangements a condition that tenants must source separate Recyclable Materials in accordance with the provisions contained in this Law.
 - b. For rental properties at which landlords maintain the responsibility for waste disposal, all landlords shall also provide, and pay for the costs of, adequate access to on-site recycling facilities and systems.
 - c. No Waste Collector shall collect Designated Recyclables commingled with other Solid Wastes from any customer in the County.
 - d. All Waste Collectors shall provide customers that place separated Designated Recyclables at curbside a separate collection for such Designated Recyclables, and shall not commingle such Designated Recyclables with other solid wastes.
 - e. Designated Recyclables collected at curbside by a Waste Collector may be delivered to a County Facility or to another facility capable of

sorting and marketing said material, provided that such facility is permitted or registered with the State, or approved by the Department.

4. Promulgation of Regulations

- a. The Board is hereby authorized and directed to adopt and promulgate, amend and repeal such rules and Regulations by resolution as recommended by the Director which in his discretion are necessary or desirable to carry out, interpret and enforce the intent and purposes of this local law. Notwithstanding this power, any failure to adopt and promulgate such rules and Regulations shall not impair the enforceability of this local law in a court of competent jurisdiction.

SECTION IV. ENFORCEMENT

1. Administrative Sanctions

- a. Penalties and License Suspension/Revocation. The Department shall have the right to impose a civil penalty and/or suspend, condition or revoke any Commercial Waste Permit if the holder of such permit violates any of the provisions of this local law or any rules, regulations or requirements of the Department that may be adopted and modified from time to time in accordance with this local law.
- b. Civil penalties shall be assessed in an amount not to exceed \$500.00 for a first offense; up to \$1500.00 for a second offense against the same provision of this law within twelve (12) months of the first offense; and up to \$2500 and/or suspension or revocation of any permit issued pursuant to the local law for a third offense against the same provision of law within eighteen (18) months of the first offense. Civil penalties, or suspension or revocation of a Commercial Waste Permit may be imposed only after service of a written notice of violation upon the permit holder and, if demanded, a hearing as provided for in this local law.

2. Notice and Hearing

- a. Upon any violation of the provisions of this local law or any applicable rules, regulations or requirements of the Department, the Department may serve notice in person or by ordinary mail sent to the residence of the offender, or in the case of a holder of any permit issued pursuant to this local law, to the address set forth in the permit application on file with the Department. Such notice shall state the Department's intent to revoke or suspend any permit, and/or impose a civil penalty upon the person charged. Any Person so notified may demand a hearing as allowed by this Section, by serving upon the Department a written request for a hearing; such request must be received by the Department within ten days of the date of service of notice. Upon receipt of such demand, a hearing shall be scheduled and held at the offices of the Department.

- i) If the holder of a Commercial Waste Permit served with Notice pursuant to subsection (a) above fails to demand a hearing within the ten-day notice period provided for in Section IV.2.a, the revocation, suspension and/or surcharge provided for in the notice, shall be effective.
- ii) Hearings. Hearings shall be held by a Hearing Officer designated by the Board. In any hearing conducted pursuant to this Section, the following shall apply:
 - (1) A stenographic record shall be kept.
 - (2) The permit holder may be represented by counsel.
 - (3) Witnesses shall be sworn and subject to cross-examination.
 - (4) Evidence submitted shall be relevant and may include evidence as to the past performance of the permit holder. Hearsay evidence shall be admissible, but shall be accorded such weight as the Hearing Officer deems appropriate, consistent with its reliability.
 - (5) Findings of fact shall be made by a majority of the Hearing Officer, in writing, upon a preponderance of the evidence.
 - (6) Upon a finding that a violation is proved, the Hearing Officer shall impose such civil penalty, or order such suspension or revocation of the Commercial Waste Permit, as it deems appropriate. The determination of the Hearing Officer shall be final, and shall be subject to judicial review.
- iii) Any person who shall set Designated Recyclables commingled with other solid waste out for collection shall be liable for a civil penalty of up to \$50 for the first violation, \$100 for a the 2nd violation committed within 12 months of a prior violation, and \$200 for a 3rd or subsequent committed within 12 months of a prior violation.
- iv) Any Person who is ordered to pay a civil penalty for a violation of the provisions of this local law shall pay such penalty in full before any permit issued pursuant to this local law can be renewed or reinstated, unless otherwise ordered by the Hearing Officer.
- v) Civil Enforcement. The County may enforce the orders and decisions of the Hearing Officer in a civil court of competent jurisdiction of the State of New York, including, but not limited to actions for declaratory and injunctive relief.

3. Presumptions

There shall be rebuttable presumptions in the enforcement of this local law that:

- a. The placement of any Container which is marked or identified with the name of any Waste Collector, at any location within the County, shall be presumptive evidence that said Waste Collector is providing solid waste collection services at said location within the County as of the date of said placement.
- b. Evidence of Solid Waste in a Container located in the County as described in Section IV(2)(a) above, and subsequent observation of the same Container empty, shall be presumptive evidence that Solid Waste was collected from the Container by the Waste Collector whose name is marked on the Container.

4. Enforcement Guidelines

- a. The Department shall notify in writing each Waste Collector presently collecting, transporting and/or delivering Solid Waste generated or collected in the County of the adoption of the within local law and the effective date thereof. Such notice shall be delivered by first class mail at the last known address or business address or in person. Any such Waste Collector or Contractor so notified shall have sixty (60) days from the date of such notice to comply with the rules, regulations and requirements set forth herein. Thereafter, the Department shall implement the enforcement provisions of this local law as set forth herein.

SECTION V. EFFECTIVE DATE

This law shall take effect on March 1, 2014.

SECTION VI. REPLACEMENT OF LOCAL LAW NO. 3 of 1991

This local law will, upon its effective date, repeal and replace Local Law No. 3 of 1991, "Providing for Separation at the Source of Solid Waste Generation into Reusable, Recyclable and Waste Components, and to Provide Regulatory Authority to Assure that said Components are Handled, Transported and Disposed of Properly by Various Permitting and Enforcement Measures", as amended. All Board resolutions pertaining to solid waste adopted under the authority of that local law will remain in effect until superceded by future resolutions. All regulations promulgated by the Department under the authority of that local law will remain in effect until superceded by new regulations promulgated under the authority of this local law.

SECTION VII. SEVERABILITY

If any part of this local law, as originally enacted or as amended from time to time, is found to be illegal, or its application to any Person or circumstance is held invalid, the remainder and the

application of its provisions to Persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall remain in full force and effect.