

Attachment Three

Local Recycling Law

10/10/10 11:15 (C)

THE FOLLOWING COMMUNICATION WAS SUBMITTED BY THE CITY CLERK

RESOLUTION: 1992-108, RECYCLING ORDINANCE

Agenda Item 27

effective date
Please be advised that on July 29, 1992, Mayor Jacob A. Palillo duly approved Resolution 1992-108, relative to the addition of a new Chapter 924 to the Codified Ordinances pertaining to recycling in the City of Niagara Falls, which Resolution was adopted by the Council on July 27, 1992.

This communication was RECEIVED AND FILED.

RESOLUTION: FRANCES IUSI, APPT. TO ASSESSMENT REVIEW BOARD

Agenda Item 28

Resolution relative to appointment to the Assessment Review Board.

BY: Council Member Barbara A. Geracitano

BE IT RESOLVED that the following individual is hereby appointed to the Board of Assessment Review for the term the expiration date of which appears opposite the name:

APPOINTMENT:

TERM EXPIRES:

Frances Iusi

09/30/97

509-66th St.

Niagara Falls, NY 14304)

(Present Member's term expires on September 30, 1992.)

Prepared By: Council Member Barbara A. Geracitano

Yeas

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Gawel, Geracitano, Walker

Nays

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Cook, Quaranto, Chairman Sottile

DEFEATED

CITY OF NIAGARA FALLS, NEW YORK RECYCLING ORDINANCE

CHAPTER 924 RECYCLING ORDINANCE

- 924.01. Title.
- 924.02. Findings.
- 924.03. Legislative Purpose.
- 924.04. Definitions.
- 924.05. Program Established.
- 924.06. Collection.
- 924.07. Preparation of Recyclable Material for Collection.
- 924.08. Collection Containers.
- 924.09. Ownership of Recyclables Placed for Collection
- 924.10. Establishment of a Collection Program for Multi-Residential Complexes.
- 924.11. Mandatory Commercial, Industrial and Institutional Source Separation Program.
- 924.12. Unlawful Activities.
- 924.13. Non-collection of Solid Waste Contaminated by Designated Recyclables.
- 924.14. Enforcement.
- 924.15. Non-interference with Existing Contracts.
- 924.16. Injunction- Concurrent Remedies.
- 924.17. Penalties.
- 924.18. Severability.
- 924.19. Repealer.

924.01. TITLE.

This ordinance shall be known as the City of Niagara Falls Recycling Ordinance.

924.02. FINDINGS.

The Niagara Falls City Council finds that:

(a) The New York State Solid Waste Management Act of 1988 requires that municipalities adopt a local law or ordinance by September 1, 1992, for separating solid waste into recyclable, reusable, or other components for which economic markets for alternate uses exist.

(b) Continued use of landfills for solid waste disposal poses a concern to human health and safety through increased risks of groundwater pollution and other environmental, health, and safety hazards.

(c) Removal of certain materials from the solid waste stream will decrease the flow of solid waste to landfills, aid in the conservation of valuable resources, and reduce the required capacity of existing and proposed resource facilities.

(d) The reduction of the amount of solid waste and the conservation of recyclable materials are important public concerns.

(e) Methods of solid waste management emphasizing source reduction, recovery, conversion, and recycling of solid wastes are essential to the long-range preservation of health, safety, and well-being of the public, and to the economic productivity and environmental quality of the City of Niagara Falls.

(f) The separation and collection of newspaper, paper, cardboard, glass, cans, plastic containers, vegetative yard waste and other materials for recycling from the residential, commercial, industrial and institutional establishments in the City will protect and enhance the City's physical and visual environment by facilitating the implementation and operation of other forms of solid waste management, conserving natural resources, assisting the City in complying with the mandates of the New York State Environmental Conservation Law section 27-0704, ensuring conformance with the New York State Solid Waste Management Plan, and facilitating the development and implementation of a solid waste management plan for the City.

924.03. LEGISLATIVE PURPOSE.

In enacting this ordinance, the City of Niagara Falls supports the following statutory purposes:

(a) To increase the life expectancy of existing and potential landfill areas and decrease the need for alternative refuse disposal through a comprehensive program of waste stream reduction and recycling.

(b) To identify the methods of collection, reduction, and separation which will encourage the more efficient utilization of solid waste disposal facilities and contribute to more effective programs for the reuse of solid wastes.

(c) To conserve energy by using recovered materials in manufacturing.

(d) To set forth a methodology for efficient separation and collection of reusable and recyclable materials from Niagara Falls' waste stream.

(e) To implement the applicable provisions of the New York State Solid Waste Management Act of 1988.

(n) **HAZARDOUS MATERIAL or HAZARDOUS WASTE** shall mean a solid waste, or a combination of solid wastes, which, because of its quantity, concentration or physical, chemical or infectious characteristics, may: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. Such materials or wastes shall include, but are not limited to, explosives, hazardous radioactive materials, toxic substances and those substances which the Department of Public Works Director has identified as a hazardous waste pursuant to the above criteria and has included on a list of hazardous waste promulgated by the Department of Public Works. **HAZARDOUS MATERIAL or HAZARDOUS WASTE** may include but is not limited to the following products and their empty containers: insecticides, herbicides, petroleum products, caustic chemicals, oil-based paint and batteries.

(o) **LARGE APPLIANCES** shall mean stoves, refrigerators, dishwashers, dryers, air conditioners, washing machines, and other large appliances.

(p) **LARGE HOUSEHOLD FURNISHINGS** shall mean large and/or bulky articles actually used in the home and which equip it for living (such as chairs, sofas, tables, beds, carpets, etc.).

(q) **MULTI-RESIDENTIAL COMPLEX** shall mean more than four (4) residential units located on a single property or continuous properties under common ownership, control or management. For this purpose, **RESIDENTIAL UNIT** shall mean an enclosed space consisting of one or more rooms designed for use as a separate residence and shall include, but not be limited to, an apartment ("flat"), condominium unit, town house cooperative unit, mobile home, living unit in a group home, and room or set of rooms in a boarding house but shall not include rooms within a single family residence, motel or hotel.

(r) **NEWSPRINT** shall mean the common, inexpensive machine finished paper made chiefly from wood pulp and used for newspapers. This term excludes magazines, and may exclude glossy inserts.

(s) **NON-RECYCLABLES or WASTE MATERIAL** shall mean that portion of the waste stream not included under "recyclables," and not treated separately as (1) hazardous waste under Section 27-0903 of the New York Environmental Conservation Law, (2) source, special nuclear or by-product material as defined in the United States Atomic Energy Act of 1954, or (3) low-level radioactive waste as defined in Section 29-0101 of the New York Environmental Conservation Law. The City reserves the right to change classification of "non-recyclables" as defined herein in the event it determines that reclassification is cost effective or that economic markets exist for that product. The City shall notify all generators of the change in classification.

(t) **PAPER** shall mean all high-grade office paper, fine paper, bond paper, office paper, xerographic paper, mimeographic paper, duplication paper, magazines, paperback books, school paper, catalogs, junk mail, computer paper, telephone books, and similar cellulosic material, but **shall not** mean newspaper, wax paper, plastic or foil-coated paper, styrofoam, wax-coated food and beverage containers, carbon paper, blueprint paper, food contaminated paper, soiled paper, and cardboard.

(u) **PERSON** shall mean any individual, firm, partnership, company, corporation, association, joint venture, cooperative enterprise, trust, municipality, other governmental agency or any other entity or any group of such persons which is recognized by law as the subject of rights and duties. In any provisions of this ordinance prescribing a fine, penalty, or imprisonment, the term **PERSON** shall include the officers, directors, partners, managers, or persons in charge of a company, corporation or other legal entity having officers, directors, partners, managers, or other persons in charge.

(v) **PLASTIC CONTAINERS** shall mean containers used primarily for laundry products, dishwashing detergents, milk, water, and similar items that are composed of PET (Polyethylene Terephthalate) and HDPE (High Density Polyethylene), but may selectively include other common plastic resin types.

(w) **RECYCLABLE MATERIAL** shall mean a material which would otherwise become solid waste, which can be collected, separated and/or processed, treated, reclaimed, used or reused to produce a raw material or product. These may include vehicle tires, auto batteries, waste motor oil, and others.

(x) **RECYCLABLES** shall mean those recyclable materials designated by this ordinance, and/or by resolution of the City Council pursuant to this ordinance, to be source separated. The term includes but is not limited to, newspaper, glass, paper, cardboard, cans, plastic containers and vegetative yard waste.

(y) **RECYCLING** shall mean any process by which materials, which would otherwise become solid waste, are collected, separated and/or processed, treated, reclaimed, used or reused to produce a raw material or product.

(z) **RECYCLING COLLECTION AREA** shall mean any facility designed and operated solely for the receiving and storing of source separated designated recyclable materials.

(aa) **RESIDENT** shall mean any person residing within the City on a temporary or permanent basis, but excluding persons residing in hotels or motels. For purposes of this ordinance, **RESIDENT** does not include commercial, industrial or institutional establishments.

(bb) **RUBBISH** shall mean nonputrescible solid wastes consisting of both combustible and noncombustible wastes, including, but not limited to, nonrecyclable paper, wrappings, cigarettes, soil, wood, wires, glass, ashes, leather, clothing and similar materials that are not designated recyclable materials.

(cc) **SOLID WASTE** shall mean all putrescible and nonputrescible materials or substances discarded or rejected as having served their original intended use or as being spent, useless, worthless or in excess to the owner at the time of such discard or rejection, including garbage, refuse, litter, rubbish, industrial waste, construction and demolition debris, discarded automobiles and offal, but not including designated recyclable materials, solid or dissolved matter in domestic sewage or substances, materials in non-containerized gaseous form or hazardous materials or waste.

(dd) **SOURCE SEPARATE** shall mean to separate recyclable materials from the solid waste stream at the point of waste generation.

(ee) **VEGETATIVE YARD WASTE** or **YARD ORGANICS** shall mean organic yard and garden waste, leaves, grass clippings and brush and branches up to a diameter to be determined by the Director of the Department of Public Works.

924.05. PROGRAM ESTABLISHED.

(a) Upon the effective date of this ordinance, there is established a program ("curbside program") for the separation, preparation and collection of waste materials from all non-physically disabled residents of the City. The program shall be under the supervision of the City of Niagara Falls, the Administrator and/or the City's collection agent. Said curbside program shall apply to multi-residential complexes in accordance with Section 924.10 of this ordinance and to commercial, industrial and institutional establishments in accordance with Section 924.11 of this ordinance.

(b) The City Council and the Administrator will determine recyclables and notify City residents of said information in the official City newspaper or newspapers at least 30 days before said declaration will be incorporated into the City program. Collection of materials pursuant to the curbside program established by this Section shall be made once each week. Collection shall occur in accordance with the schedule advertised by the City.

(c) All waste material shall be separated and prepared for collection in accordance with Sections 924.06 and 924.07 of this ordinance.

(d) The City Council, by resolution and when determined economically feasible, may expand or initiate the curbside program to include the collection in separate containers, bundles or packages, as appropriate, of one or more of the following recyclable materials:

- (1) Paper;
- (2) Cardboard;
- (3) ~~Commingled~~ Glass, cans and plastic containers;
- (4) Newsprint;
- (5) Vegetative yard waste; and
- (6) Other recyclable materials as designated by resolution of the City Council.

Said curbside program shall be implemented on or before July 1, 1995. Said expanded curbside program shall be established at all times thirty (30) days after designation and publication of notice in an official newspaper or newspapers of the City.

(e) All residents of the City within the areas serviced by the curbside programs established pursuant to this Section shall, upon the applicable effective date, source separate designated recyclables and, in the manner designated by the Director of the Department of Public Works pursuant to Section 924.07 of this ordinance and on the date specified for collection by the schedule published by the City, place them at the side of the road fronting their residences or at such other location at or near the residence agreeable to the person who is collecting the material.

(f) Nothing in this ordinance shall be construed as preventing any person from utilizing vegetative yard waste for compost, mulch, or other agricultural, horticultural, silvicultural, gardening or landscaping purposes.

924.09. OWNERSHIP OF RECYCLABLES PLACED FOR COLLECTION.

- (a) From the time any person places any recyclable materials at or near any curb, sidewalk, or street for purposes of collection by the City of Niagara Falls, those recyclable materials shall become the property of the City of Niagara Falls or its authorized agent. No person who is not acting under authority of the City of Niagara Falls or its authorized agent shall collect, remove or cause to be collected, picked-up or removed, any recyclable materials so placed for collection. Each such unauthorized collection, pick-up or removal shall constitute a separate violation of this section; provided, however, where the City of Niagara Falls has refused to collect certain recyclables because they have not been placed or treated in accordance with the provisions of this Article, the person responsible for initially placing those materials for collection shall remove those materials from any curb, sidewalk, or street side.
- (b) Nothing herein shall prevent any person from making arrangements for the private collection of recyclables, provided that recyclables privately collected shall not be placed curbside on or immediately preceding the day for municipal collection of such recyclables.

924.10. ESTABLISHMENT OF A COLLECTION PROGRAM FOR MULTI-RESIDENTIAL COMPLEXES.

- (a) Upon separate City Council approval, there may also be established a program ("collection program") for the source separation and collection of designated recyclable material included in said program from all multi-residential complexes of more than four (4) units.
- (b) The owner, manager or superintendent of every multi-residential complex subject to paragraph (a) above, shall provide and maintain, in a neat and sanitary condition, recycling collection areas to receive designated recyclables included in the private collection program which are generated by residents of the complex. In cases where a condominium, cooperative, homeowner or similar association exists, the association shall be responsible for provision and maintenance of the recycling collection areas. Said recycling collection areas shall be constructed and capable of receiving any and all designated recyclables as may be included in or added to the collection program within one hundred eighty (180) days of such inclusion or in addition to the said program.
- (c) Once the recycling collection area for a particular multi-residential complex has been constructed and is capable of receiving designated recyclables as may be included in or added to the curbside program, all non-physically disabled residents of such complex shall source separate such materials by placing them in the appropriate containers or areas within the collection area.
- (d) The arrangement for collection of designated recyclables for disposition hereunder shall be the responsibility of the person who owns, manages, supervises or operates each multi-residential complex subject to paragraph (a) above at which the recyclables are generated ("generator") or the person contractually obligated to the generator to arrange for collection and disposal of its solid waste. Said arrangements may include, without limitation, direct marketing of recyclables, contracts with permitted solid waste collector/haulers for separate collection of any or all

designated recyclables, contracts with other persons for separate collection of any or all designated recyclables, or direct delivery to a designated processing facility.

924.11. MANDATORY COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL SOURCE SEPARATION PROGRAM.

(a) Upon separate City Council approval, there may also be established a program for the source separation and collection of designated recyclable material from all, or from selected classes of, commercial, industrial and institutional establishments. These establishments shall source separate and arrange for the collection, for recycling, of any and all designated recyclables as may be included in or added to the program within one hundred eighty (180) days of such inclusion or in addition to the curbside program.

(b) Designated recyclables for the mandatory commercial, industrial and institutional source separation program may consist of the following materials:

- (1) Newspaper;
- (2) High grade paper, including but not limited to white letterhead paper, white bond paper, white typing paper, white copier paper, white note pad paper, white writing paper, white envelopes, other non-glossy white office paper without plastic, computer printout paper, computer tab cards, and white onion skin paper;
- (3) Corrugated cardboard;
- (4) Glass containers, plastic containers, and cans generated by food and beverage service establishments;
- (5) Vegetative yard waste; and
- (6) Other recyclable materials as designated by resolution of the City Council at all times one hundred eighty (180) days after said designation and publication of notice in an official newspaper of the City.

(c) The arrangement for collection of designated recyclables for disposition hereunder shall be the responsibility of the person who owns, manages or operates the commercial, industrial or institutional establishment subject to paragraph (a) above at which the recyclables are generated ("generator") or the person contractually obligated to the generator to arrange for collection and disposal of its solid waste. Said arrangements may include, without limitation, direct marketing of recyclables, contracts with permitted solid waste collector/haulers for separate collection of any or all designated recyclables, contracts with other persons for separate collection of any or all designated recyclables, or direct delivery to a designated processing facility.

(d) The provisions of this ordinance apply to commercial, industrial and institutional waste generators which in the event do not have materials collected pursuant to law or contract, said generator shall be responsible for components prior to being disposed of in any manner or solid waste left at collection by any person defined herein left for collection or delivered to the generator at a Solid Waste Management facility which must be source separated.

924.12. UNLAWFUL ACTIVITIES.

It shall be unlawful and a violation of the provisions of this ordinance for any person (1) to collect any designated recyclable which has been placed at curbside for collection or within a recycling collection area pursuant to this ordinance, unless authorized by the City;

(2) to violate or to cause or to assist in the violation of any provision of this ordinance or any rule or regulation pertaining to this ordinance promulgated by the Director of the Department of Public Works;

(3) to place or to cause to be placed any material other than a designated recyclable in or near a recycling collection area; or,

(4) to hinder the performance of any Department of Public Works employee or any other authorized person in the performance of any duty under this ordinance or in the enforcement of this ordinance.

924.13. NON-COLLECTION OF SOLID WASTE CONTAMINATED BY DESIGNATED RECYCLABLES.

The City or any other person collecting solid waste generated within this City may refuse to collect solid waste from any person who has clearly failed to source separate or prepare for collection recyclables designated under an applicable section of this ordinance and the City may refuse to accept solid waste containing recyclables designated under an applicable section of this ordinance at any solid waste disposal facility owned or operated by the City.

924.14. ENFORCEMENT.

(a) The Department of Public Works ^{are} ~~and Environmental Services~~ authorized to enforce the provisions of this ordinance and to administer the recycling programs established herein. The Director of said Department may adopt and promulgate, amend and repeal rules and regulations implementing this ordinance in order to carry out and enforce the intent and purposes thereof.

(b) The City of Niagara Falls, the Administrator and the City's authorized agent shall not be required to collect any waste material which has not been separated and secured pursuant to the provisions of this ordinance or the applicable regulations of the City of Niagara Falls.

924.15. NON-INTERFERENCE WITH EXISTING CONTRACTS.

(a) Nothing contained in this ordinance shall be construed to interfere with or in any way modify the provisions of any existing contract in force in the City on the effective date of this ordinance.

(b) No renewal of any existing contract upon the expiration of the original term thereof and no new contract for the collection, transportation, processing or purchase of solid waste or recyclables shall be entered into after the effective date of this ordinance, unless renewal of such contract shall conform to the requirements of this ordinance.