

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City ofLIVINGSTON.....
Town
Village

Local Law No.3..... of the year 19 92

A local lawEstablishing a Source Separation and Recycling Law for the County of Livingst
(Insert Title)

Be it enacted by theBoard of Supervisors.....of the
(Name of Legislative Body)

County
City ofLIVINGSTON..... as follows:
Town
Village

See attached Local Law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION I. FINDINGS AND PURPOSE

1.01 The County finds that the removal of certain materials from the solid waste stream will decrease the amount of solid waste disposed of in landfills and aid in the conservation of valuable resources.

1.02 The County finds that the New York Solid Waste Management Act of 1988 requires all municipalities to adopt a local law or ordinance by September 1, 1992 requiring separation of recyclable and reusable material from solid waste.

1.03 The County finds that in order to protect the health, safety, and welfare of the people of the County, it is necessary for the County to enact this Local Law in order to encourage and facilitate the maximum recycling practicable on the part of every household, business and institution within the County.

1.04 The County declares that the purpose of this Local Law is to establish and implement recycling related practices and procedures to be applicable to all waste generators within the County.

SECTION II. DEFINITIONS

As used in this Local Law, the following terms shall have the following meanings:

2.00 County shall mean Livingston County, New York or any authorized county agency.

2.01 Commercial Waste Generator shall mean any business, governmental agency, municipality or other legal entity which produces solid waste requiring off-site disposal.

2.02 Drop Off Center shall mean a private or publicly operated facility to which a person can deliver their recyclables.

2.03 Materials Recovery Facility shall mean a private or public facility for receiving source separated recyclable materials and processing them into marketable commodities.

2.04 Permit shall mean a solid waste and recyclable collection permit issued by Livingston County.

2.05 Permit Rules and Regulations - Rules and regulations pertaining to permit holders.

2.06 Potentially recyclable materials - Materials that are or may be at a later date recyclable.

2.07 Recyclables shall mean any material designated from time to time by Livingston County provided that such material is not hazardous and can be reasonably separated from the solid waste stream and held for material recycling or reuse value.

2.08 Recycling Rules and Regulations - Rules and regulations pertaining to materials that will be recycled.

2.09 Residential Waste Generator shall mean any person or household which produces solid waste requiring off-site disposal.

2.10 Solid Waste shall mean all putrescible and nonputrescible solid waste, including, but not limited to, materials or substances discarded or rejected as being spent, useless, worthless, or in excess to owners at the time of such discard or rejection, or are being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or as industrial, commercial and agricultural waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation.

2.11 Source Separation shall mean the segregation of recyclable material from the solid waste stream at the point of generation for separate collection, sale or other disposition.

2.12 Waste Hauler shall mean all persons engaged in the commercial collection, transportation and/or disposal of solid waste and/or recyclables generated, originated or brought within the County.

SECTION III. PREPARATION OF RECYCLABLES FOR COLLECTION

3.01 Each commercial and residential waste generator in the County shall source separate recyclables from solid waste.

3.02 Each commercial and residential waste generator in the County shall provide for the removal of recyclables from the property on which they are generated either through a service provided by the municipality; or a private hauler; or by direct haul by the individual waste generator to a disposal location permitted by law.

3.03 Nothing in this Local Law is intended to prevent any waste generator from making arrangements for the reuse, private collection, sale or donation of recyclables.

3.04 Each waste generator shall provide for the source separation of recyclables in conformance with the Recycling Rules and Regulations as specified in Appendix I, and as further promulgated by the County.

SECTION IV. WASTE HAULERS

4.01 All waste haulers doing business in the County shall offer or caused to be offered to their customer's collection, transportation and disposal services for recyclables.

4.02 All waste haulers doing business in the County must obtain a permit issued by the County. Failure to obtain a permit shall prohibit any such waste hauler from conducting any commercial collection, pick-up, transfer, removal and/or disposal of solid waste and/or recyclables within the boundaries of the County.

SECTION V. ENFORCEMENT

5.01 Failure of a waste hauler to comply with this local law, and after notice and opportunity for a hearing as outlined in Section 7.04 of this law, shall result in suspension and/or revocation of permit and/or a fine of not less than \$50.00 nor more than \$500.00.

5.02 Upon receipt of a sworn complaint of any person alleging any violation of this Law, or upon determining on its own initiative that a violation of this law may exist, the County shall have the power and duty to conduct any investigation necessary to carry out the provisions of this law subject to the provisions of Section 7.04.

SECTION VI. ADMINISTRATION

The Recycling Rules and Regulations and Permit Rules and Regulations may be changed from time to time by resolution of the Livingston County Board of Supervisors. The revised Rules and Regulations shall be served on all permitted waste haulers and published once in the official paper of the County. The changes shall be effective 30 days after publication.

This Local Law shall be primarily administered by the County. The County shall be primarily responsible for the development and implementation of the Recycling Rules and Regulations (Appendix I) governing the separation, transportation and disposal of recyclables.

The County shall also be responsible for the permitting of waste haulers and enforcement of the Permit Rules and Regulations (See Appendix II) and the permit terms and conditions.

SECTION VII. PROCEDURE FOR ISSUANCE OF PERMITS

Section 7.01

In order for any waste hauler to qualify for a permit, the County shall first determine that such waste hauler has completed the permit application and signed a letter of certification, as hereinafter specified.

Any person seeking a permit shall file a permit application on a form provided by the County. This form shall contain or be accompanied by, at a minimum, the following information and items:

- a. Name of applicant, street address, and mailing address of principal place of business. Person or persons desiring a permit shall explain ownership interest. Partnerships, corporations or other business entities shall furnish names and mailing addresses of principal owners, officers, managers and supervisors who will be in charge of the operations within the County;
- b. A full description of all collection vehicles and equipment owned, leased, or controlled by the applicant which will be used in the collection, transportation and/or disposal of solid waste and/or recyclables generated, originated or brought within the County;

- c. Detailed listing of any previous or existing enforcement actions by any environmental regulatory agency for violations of rules relating to solid waste and/or recyclable handling, transport or disposal;
- d. A signed letter of certification, that the applicant has read and is familiar with the terms and conditions of the permit and the provisions of this Local Law; including the Recycling Rules and Regulations (Appendix I) and the Permit Rules and Regulations (Appendix II) that the applicant agrees to operate in accordance with such terms and conditions in the event a permit is issued, and that all the information provided by the applicant is factual.
- e. A signed letter of certification of ultimate disposal sites for recyclable materials as well as solid waste.

Section 7.02

Upon receipt of the permit application, the County shall review the application for completeness and accuracy. If a permit application is incomplete or inaccurate, the County shall notify the applicant forthwith. Upon satisfactory completion of the permit application, the County shall consider such application and either approve or deny each application.

Section 7.03 Permits

- a. When the denial, revocation, suspension or variance to terms and conditions of a permit is made by the County, it must be preceded by notice and an opportunity for hearing, pursuant to Section 7.04 of this law.
- b. When a permittee has made timely and sufficient application for the renewal of a permit with reference to any activity of a continuing nature, the existing permit does not expire until the application has been finally determined by the County, and in case the application is denied or the terms of the new permit limited, until the last day for seeking review of the order of the County.

Section 7.04 Contested cases, notices, hearings, records:

- a. In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. The hearing shall be conducted by a Hearing Board.

- b. A Hearing Board composed of three persons shall be appointed as needed by the Livingston County Board of Supervisors for arbitration of differences between the County and waste hauler or prospective waste hauler on matters concerning interpretation and execution of the provisions of this local law by the County.
- c. Two members of the Hearing Board shall be citizens of Livingston County; and at least one member shall be an attorney at law. The attorney at law shall be designated the Hearing Officer and preside at the hearing.
- d. The notice shall include:
 - 1. a statement of the time, place, and nature of the hearing;
 - 2. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - 3. a reference to the particular sections of the statutes and/or rules involved;
 - 4. a short and plain statement of the matters asserted. If the County is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.
- e. Opportunity shall be afforded all parties to respond and present evidence and arguments on all issues involved.
- f. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.
- g. The record in a contested case shall include:
 - 1. all pleadings, motions, intermediate rulings;
 - 2. evidence received or considered;
 - 3. a statement of matters officially noticed;
 - 4. questions and offers of proof, objections, and rulings thereon;
 - 5. proposed findings and exceptions;
 - 6. any decision, opinion, or report filed by the Hearing Board or the Hearing Officer presiding at the hearing;

7. all staff memoranda or data submitted to the Hearing Board in connection with their consideration of the case.
- h. Oral proceedings or any part thereof shall be transcribed on request of any party. However, each party shall pay for the costs of its own copy of such transcript if required.
 - i. A party may be represented at the hearing by an attorney. Failure to appear may result in an adverse ruling. A hearing may be combined with or separated from another hearing depending on whether such action will result in further delay, cost or prejudice. While the strict rules of evidence as applied in a courtroom need not be observed, witnesses must be sworn or give an affirmation and each party has the right to present its case and to cross-examine. The Hearing Officer has broad discretion to place documents in evidence.
 - j. The Hearing Officer shall file a report with the County within sixty (60) days from the date of the hearing. At the same time a final order stating the basis for the decision shall also be filed. Each party shall receive a copy of the executed final order. Each party may also review the report filed with the District.
 - k. Only the Hearing Officer may grant an adjournment.

SECTION VIII. APPEALS

Any person aggrieved by a decision of the County may seek judicial review and relief pursuant to Article 78 of the Civil Practice Laws and Rules.

SECTION IX. SEVERABILITY

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Local Law is for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Local Law.

SECTION X. EFFECTIVE DATE

This Local Law shall become effective on September 1, 1992.

Date

Approved By

[sw494]

APPENDIX I
RECYCLING RULES AND REGULATIONS

Waste Delivery and Disposal; Source Separation

- A. Solid waste generated or originated within the County which has been left for collection or which is delivered by the generator of such waste to an authorized facility shall be handled and disposed of as follows:**
- i. Recycled materials will be separated into recyclable categories and collected in separate containers as required by the facility, waste hauler, or processing center.**
 - a. The following materials are considered recyclable for residential waste generators: clear, green, brown container glass; #1 & #2 plastic containers; ferrous cans; newspaper; corrugated cardboard; aluminum cans,**
 - b. The following materials are considered recyclable for commercial waste generators: corrugated cardboard, metal scrap.**
 - ii. No recycling facility shall receive recyclable materials generated or originated within the County except as permitted by law.**

Collection of Recyclables

- A. Only persons acting under the authority of a waste hauler shall collect, pick up, remove or cause to be collected, picked up or removed, any recyclable materials placed for collection; each such unauthorized collection, pick up or removal shall constitute a separate violation of this law. However, where the waste hauler has refused to collect recyclable materials because they have not been separated, placed or treated in accordance with the provisions of this law, the person responsible for initially placing those materials for collection may and shall remove those materials from any curb, sidewalk, streetside or other designated collection place.**

- B. Nothing herein shall prevent any person from making arrangements for the reuse, private collection, sale or donation of recyclable materials; provided that recyclable materials to be privately collected, sold or donated shall not be placed curbside or at any other designated collection place on or immediately preceding the day for collection of such recyclable materials.

Reporting Requirements

- A. All persons engaged in the collection of recyclable materials including waste haulers shall provide quarterly reports to the County on the quantity and types of recyclable materials collected and the recycling facility to which the recyclable materials were transported, together with the quantity of solid waste collected and the facility to which the materials were disposed.

APPENDIX II

PERMIT RULES AND REGULATIONS

Terms and Conditions of Permit

- A. Any permit issued pursuant to these Rules and Regulations shall be subject to, and include as a part thereof, the following terms and conditions:
- i. A permit shall be valid for a term of one (1) year and renewed in accordance with the provisions set forth in these Rules and Regulations.
 - ii. The permit holder agrees to comply with all applicable Federal, State, County and local laws, ordinances, requirements, rules and regulations governing the collection, transport of recyclables and solid waste;
 - iii. The permit holder agrees to comply with all requirements of this Local Law and the rule and regulations promulgated by the County, or other municipalities.
 - iv. The permit holder agrees to respond, in writing and in not more than ten (10) days, to (a) any requests by the County for additional information and/or (b) any and all complaints of charges by the County of alleged violations by the permit holder of any of the terms and conditions of the permit;
 - v. The permit holder agrees to appear before the County to defend himself against any and all complaints or charges of violations of these Rules and Regulations;
 - vi. The permit holder must maintain separate monthly records of solid waste and recyclable materials collected, transported or disposed of which include the following information:
 - a. the municipality or geographical area and number of households in which the solid waste or recyclable material was generated;
 - b. the quantity, by ton, of solid waste and of each type of recyclable materials collected;
 - c. the quantity, by ton, of each type of recyclable materials delivered to each recycling facility; and

- d. the quantity, by ton, of solid waste delivered to each facility;
- e. location of ultimate disposal facility
- vii. Reports containing the information required in paragraph vi of this section shall be compiled and delivered to the Livingston County Solid Waste Department for each quarterly reporting period.
- viii. The permit holder shall indemnify and hold harmless Livingston County for any pending, threatened or actual claims, liability or expenses arising from collection and disposal by the permit holder in violation of this law.
- ix. The permit holder shall offer or cause to be offered collection services for Recyclable Materials to all customers for whom they provide Solid Waste collection services, unless otherwise authorized by the Rules and Regulations.
- x. The permit holder shall enact a user fee (per/bag) tag system of billing and offer the system to all customers. All charges for services regarding recycling will be included in the user fee for refuse.
- xi. All permit holders shall leave recyclables that have not been prepared properly and communicate to generator the problem with the material's preparation.
- xii. All permit holders are required to follow the requirements of the recycling rules and regulations.
- xiii. The permit holder is deemed to have given the County consent to inspect all portions of vehicles and/or containers used in the collection, transportation and/or disposal of solid waste and/or recyclables. Such inspections may be made without notice to permit holder and as often as deemed necessary by the County.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 1992 of the (County)(City)(Town)(Village) of Livingston was duly passed by the Board of Supervisors on July 22, 1992, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Virginia O'Amis
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

Date: 7-29-92

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Livingston

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Daniel J. [Signature]
Signature
County Attorney
Title

County
City of Livingston
Town _____
Village _____

Date: 7-29-92