

County of Tioga

Local Law No. 2 of the Year 1992.

A Local Law establishing the Tioga County Recycling and Source Separation Law.

Be It Enacted by the Legislature of the County of Tioga as follows:

SECTION 1.0: TITLE

1.1 This Law shall be known as the "Tioga County-Recycling and Source Separation Law".

SECTION 2.0: DECLARATION OF PURPOSE

2.1 The Tioga County Legislature recognizes the importance of recycling as a cost-effective and environmentally sound method of solid waste management. It shall be the purpose of this law to establish standards and encourage maximum recycling practices on the part of each and every household, business, institution and governmental entity within Tioga County. It shall further be the purpose of the Tioga County's recycling and source separation law to establish, implement and enforce minimum recycling-related practices and procedures to be applicable to all waste generators within the County.

SECTION 3.0: AUTHORITY

3.1 This Local Law is hereby enacted pursuant to the authority granted by Section 10 of the Municipal Home Rule Law and Section 120-aa of the General Municipal Law of the State of New York.

SECTION 4.0: DEFINITIONS

4.1 Recycling materials or recyclables: Recyclable materials or recyclables shall mean any material for which economic markets exist for alternate uses and which can be reasonably separated from the solid waste stream and held for its material recycling or re-use value; and as designated from time to time by the County Legislature, including, but not limited to the following:

A. Corrugated Cardboard

Corrugated Cardboard boxes, containers and packaging which are cleaned of contamination of food wastes, adhesives, metals or plastics and which have been flattened, folded and securely tied in bundles no larger than 36 inches by 36 inches in size, or placed in paper bags in a secure manner, and weighing no more than 50 pounds. This does not include press board or kraft board.

B. Glass

Clean, green and amber glass jars, bottles and containers that have been rinsed and are cleaned of contamination of food wastes and other residue, and caps removed. This term excludes ceramic, window glass, auto glass, light bulbs, mirrors and kitchen ware.

C. Metal and Aluminum Cans

Containers must be cleaned and rinsed of contamination of food wastes and other residue. This term excludes aerosol cans, paint cans and metal containers that contained hazardous substances.

D. Newspaper

Shall mean all uncontaminated paper commonly referred to as newsprint and distributed at stated intervals, usually daily or weekly, having printed thereon news and opinions and containing advertisements and other matter of public interest, and shall include all supplements, comics and enclosures and comparable newsprint advertisements.

E. Plastics

Shall mean all containers made from high density polyethylene (HDPE) 2, or polyethylene terephthalate (PET) 1, including bottles having contained the following products: milk, water, juice, cooking oils, detergent, bleach, fabric softener, shampoo, conditioner, windshield washer, antifreeze and sode, and other plastic containers that may be designated as a recyclable material in accordance with this law, once economic markets exist.

F. Tires

Rubber tires from automobiles, trucks, farm machinery and any other motorized or similar vehicles.

G. White Goods

Major household appliances, including washing machines, dryers, stoves, dishwashers, water heater tanks, refrigerators, freezers and similar items, after removal of any compressors and dichlorodifluoromethanes.

H. Office Paper

High Grade Office papers including white copier, white ledger and computer paper. These items may be picked up from commercial waste generators. All other generators shall deliver said items to either a drop-off center or the transfer station.

I. Magazines

Magazines, glossy catalogs and other glossy paper.

J. Other Recyclables

Any additional items designated by resolution of the Tioga County Legislature.

4.2 County: Shall mean the County of Tioga.

4.3 Commingled: Shall mean source separated, non-putrescible, non-contaminated recyclable materials that have been placed in the same container.

4.4 Drop Off Center: A publicly operated facility where a person can deliver their recyclable materials.

4.5 Economic Markets: Refers to instances in which the full avoided cost of proper collection, transportation and disposal of source separated materials are equal to or greater than the cost of collection, processing, transportation and sale of said material less the amount received from the sale of said material.

4.6 Hazardous Waste:

A. Any "Hazardous Waste" as defined under the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 Et Seq., or "Hazardous Substance" as defined under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 Et Seq., or "Hazardous Waste" as defined under New York Environmental Conservation Law Section 27-0901 Et Seq., as each such law may be amended from time to time, and the regulations promulgated thereunder, and any analogous or succeeding federal, state or local law, rule or regulation and any regulations promulgated thereunder; and

B. Any other material which any Governmental agency or unit having appropriate jurisdiction shall determine from time to time cannot be processed at the facility because it is harmful, toxic or dangerous.

4.7 Materials Recovery Facility: A facility approved by the Department of Environmental Conservation of New York, for receiving and processing recyclable materials into marketable commodities.

4.8 Multiple Domicile Building and Complex: Shall mean an apartment building or complex, condominium complex or cooperative apartment which is occupied as the residence or home of three or more families living independently of each other.

4.9 Persistent Violator: A person who within six months has violated the provisions of this Law on three separate occasions.

4.10 Person: Shall mean any natural person, partnership, association, joint venture, corporation, estate, trust, association, county, city, town, village, school district, improvement district, governmental entity or other legal entity.

4.11 Private Waste Hauler: Any person who contacts or otherwise arranges with the waste generator to collect and transport recyclable and non-recyclable waste material for disposal and any individual waste generator who transports their own solid waste to the disposal or collection site.

4.12 Recyclable Container: Shall mean the bin or other container supplied by Tioga County or its designee for use by recyclers within the County. Such containers shall be used exclusively for the storage of recyclable materials. Such containers shall, at all times, remain the property of Tioga County or its designee.

4.13 Recycler: Shall mean those who deal with recyclable materials both as collectors, separators, processors and marketers.

4.14 Solid Waste: Shall mean all materials or substances discarded or rejected within the County of Tioga 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 or water pollution control facilities or water supply treatment facilities, rubbish, ashes, demolition and construction debris and offal, but not including, sewage and other highly diluted water carried material or substances and those in gaseous form, special nuclear or bi-product material within the meaning of the United States Atomic Energy Act of 1954, as amended, and waste which appears on the list of hazardous waste promulgated by the Commissioner of Environmental Conservation pursuant to Section 27-0903 of the Environmental Conservation Law of the State.

4.15 Solid Waste Manager: The Manager of the Solid Waste District appointed by the Solid Waste Commission, and/or the Tioga County Legislature.

4.16 Solid Waste Management Facility: Means any solid waste management-resource recovery facility employed beyond the initial solid waste collection process which is to be used, occupied or employed for or is incidental to the receiving, transporting, storage, processing or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including recycling centers, transfer stations, processing systems, resource recovery facilities, sanitary landfills, plants and facilities for composting or landspreading of solid wastes, secure land burial facilities, re-processing and recycling facilities, surface impoundments and waste oil storage, incinerators, and other solid waste disposal, reduction or conversion facilities.

4.17 Source Separation: The segregation of solid waste materials into recyclable materials and non-recyclable solid waste at the site of the waste generator.

4.18 Tioga County Solid Waste Commission: The Commission established by Tioga County under the provisions of Article 5-A of the County Law of the State of New York, or, in the event of its dissolution, the Tioga County Legislature.

4.19 Waste Generator: Any person/persons or legal entity which produces waste requiring off-site disposal.

SECTION 5.0: GENERAL PROVISIONS (WASTE DELIVERY AND DISPOSAL; SOURCE SEPARATION)

5.1 Solid waste generated or originated within the County which has been left for collection at the curb or which is to be delivered by the generator of such waste to a Solid Waste Management Facility shall be handled and disposed of as follows:

A. Prior to initial collection or transport, such solid waste shall be source separated into recyclable materials for which economic markets exist for alternate uses and which can be reasonably separated from the solid waste stream as defined in Section 4.0 and remaining solid waste.

B. Source separated recyclable material shall not be commingled with other solid waste during transportation, processing or storage following collection.

C. All recyclable materials set out for collection by a hauler shall be placed in recyclable containers defined in Section 4.12 or other container, and may be commingled. Once deposited in the containers, all recyclable material becomes the property of the County.

D. Recyclables to be picked up at curb-side by the hauler shall be designated by the Solid Waste Commission from time to time. All other recyclables shall be delivered to the Transfer Station.

5.2 It shall be a violation for a Waste Generator or Recycler to

- A. Attempt to dispose of recyclable material as waste;
- B. Fail to separate recyclable material by type when delivered to a material recovery facility.

5.3 Effective August 1, 1992, except as set forth in paragraph C:

A. Loose, non-recyclable solid waste shall be deposited in secure containers, with lids. In the event the non-recyclable waste is first put into a paper bag and then into the secure container, the paper bag shall be left open at the top so the contents are visible when dumped by the hauler.

B. Where plastic bags are used for non-recyclable solid waste, for placement either in a secure container or at curb-side, the bags shall be clear or translucent, and the solid waste deposited in the same shall be done in such manner so that the bag's contents are clearly visible, to determine that recyclables or other prohibited materials are not contained therein.

C. Non-recyclable solid waste mechanically compacted in a household trash compactor may continue to be disposed of in bags commercially manufactured for such compactors until such time as clear or translucent plastic bags are manufactured and available.

SECTION 6.0: PRIVATE DROP-OFF FOR MULTI-DOMICILE BUILDING AND COMPLEXES

6.1 There is hereby established a program for the source separation and delivery to a recycling drop-off of recyclable materials from all residents of apartment buildings or complexes, condominiums, and cooperative apartments.

6.2 The owner of and manager of each multi-domicile building or complex within the County shall provide and maintain, in a neat and sanitary condition, recycling drop-off(s) to receive all recyclable materials generated by residents of the building or complex. In cases where condominium associations exist, the condominium association shall be responsible for provision and maintenance of the recycling drop-off(s). It shall be the tenant's

responsibility to separate designated recyclable materials from the solid waste and deposit the recyclables in the facilities provided by the owner.

6.3 The owner or manager of every multi-domicile building or complex which is occupied as the residence or home of nine or less families living independently of each other may undertake the disposal procedures set forth in Section 5.0 of this act.

6.4 The owner or manager of every multi-domicile building or complex which is occupied as the residence or home of ten or more families living independently of each other, or one who qualifies under Section 6.3, but chooses not to follow the procedures of Section 5.0, shall arrange for the collection for recycling of all recyclable material from said drop-off(s).

SECTION 7.0: UNLAWFUL ACTIVITIES

7.1 Effective September 1, 1992, it shall be unlawful for:

A. Any person, other than those persons authorized to collect any recyclable material which has been placed at the curb or roadside for collection or within a recycling drop-off pursuant to this law, or to scavenge or remove any articles from any containers.

B. 1. A waste generator or a recycler to attempt to dispose of recyclable material as waste.

2. It shall be a violation for a waste generator or recycler to fail to separate recyclable material by type when delivered to a material recovery facility.

C. Any person to violate or to assist in the violation of any provision of this law.

D. Any person to place or to cause to be placed any material other than a recyclable material in or near a recycling drop-off.

E. Any person to hinder, to obstruct, to prevent or to interfere with the County or any other authorized persons in the performance of any duty under this Local Law or in the enforcement of this Local Law.

F. Any person to commingle in a landfill or other solid waste management-resource recovery facility, any designated recyclables with solid waste.

G. Any person to operate a landfill or other solid waste management-resource recovery facility without adequate provisions for the collection of source separated recyclable materials.

H. To deliver or cause to be delivered hazardous waste to a material recovery facility.

I. Nothing in this Local Law shall be construed to prohibit recycling operations undertaken for the exclusive purposes of fund raising for non-profit organizations including, but not limited to, paper drives and beverage can collections to recover deposits, for such operations as the Boy Scouts, Girl Scouts, Churches, Schools, Civic Groups, Boys & Girls Clubs and the like.

SECTION 8.0: ADMINISTRATION

8.1 The administration of this law shall be the responsibility of the Tioga County Legislature. Said Legislature shall take action as it deems necessary and appropriate to effectuate the intent and provisions hereof.

8.2 The Tioga Solid Waste Commission and the Nichols Solid Waste Board, shall assist and advise the County in the implementation of this Legislation. They shall recommend to the Legislature materials to be added as recyclable materials as that term is defined in Section 4.0 and materials to be deleted from said designation because of the absence of economic markets. Nothing, however, shall prevent or inhibit the Legislature from adding to or eliminating materials from the definition of recyclable materials as the Legislature itself feels appropriate.

SECTION 9.0: ENFORCEMENT

9.1 The Solid Waste Manager or his designee or person in charge of any solid waste management facility shall refuse to accept for disposal any solid waste at said facility which solid waste contains recyclables as that term is defined herein.

9.2 Inspection and Appearance Tickets

A. Those portions of vehicles and containers used to haul, transport or dispose of recyclable materials, including such containers placed outside of residence, shall be subject to inspection to ascertain compliance with this law by any police officer, peace officer or any other public official designated by the County or municipality.

B. Police officers, peace officers and specified public officials are hereby authorized and directed to issue appearance tickets for violations of this law.

9.3 Criminal Penalties

A. Failure of a waste generator having any of the culpable mental states defined in Section 15.05 of the Penal Law of New York, to comply with the provisions of this law shall be a violation and shall be punishable by a maximum fine of fifteen dollars (\$15.00) for the first offense; thirty dollars (\$30.00) for the second offense within twelve (12) months; fifty dollars (\$50.00) for the third offense within twelve months, and one hundred dollars (\$100.00) for each subsequent offense within twelve months.

B. Failure of a private waste hauler having any of the culpable mental states defined in Section 15.05 of the Penal Law of New York to comply with this law shall be punishable to a maximum fine of two hundred fifty dollars (\$250.00) for the first offense; five hundred dollars (\$500.00) for the second offense within twelve (12) months, and one thousand dollars (\$1,000.00) for each subsequent offense within twelve (12) months.

9.4 Civil Penalties

A. In addition to the criminal penalties provided herein, the County may commence civil action to enjoin or obtain any available legal or equitable remedy, including the imposition of civil fines equal to those set forth in Sections 9.3(A) and 9.3(B) of this Local Law.

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

C. Notwithstanding any other provision, should an offender not make payable of a fine or penalty within thirty (30) days of imposition, said offender shall be banned from the use of all Tioga County Solid Waste and Recycling Facilities until payment is made.

9.5 Persistent Violators

A. Where it has been determined that a person has persistently violated this Local Law, the Solid Waste Commission shall have the right to impose a surcharge and/or suspend or revoke that person's right to use the Tioga County Solid Waste and Recycling Facilities or any other facilities operated under the supervision of that Commission.

B. Prior to the imposition of such surcharge and/or suspension or revocation, the Solid Waste Manager shall inform the person in writing of the reasons for the said action and the person may request a hearing before said Commission.

C. Notice shall be served in person or by ordinary mail sent to the person's last known address or the address set forth on any permit the person may

hold. Such notice shall state the Solid Waste Manager's intent to revoke, suspend, and/or impose a surcharge on the person and the effective date of a suspension, if any.

D. The person may request a hearing by serving upon the Solid Waste Commission a written request for a hearing, which request must be received by the Solid Waste Manager within seven (7) days from the date of service of the Solid Waste Manager's notice. Upon receipt of such demand, a hearing shall be scheduled and held at the County Office Building during regular business hours.

E. Upon the expiration of the seven (7) day notice period provided in this article, or the majority determination of the Hearing Board, the revocation, suspension and/or surcharge provided for in the notice or as modified by the Hearing Board, shall become effective.

F. The Hearing Board shall consist of the following persons:

1. The Chairman of the Solid Waste Commission or another member of said Commission, as appointed by the Chairman;
2. The Chairman of the Public Works Committee, or his designee;
3. The Commissioner of Public Works, or his designee;

G. A surcharge applied to a persistent violator shall not exceed five hundred dollars (\$500.00). Such surcharge must be paid in full before any permit issued may be re-instated.

SECTION 10.0: SEVERABILITY

If any clause, sentence, paragraph, section or part of this title shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof involved in the controversy in which such judgment shall have been rendered.

SECTION 11.0: EFFECTIVE DATE

This Local Law shall be effective throughout the County upon filing with the Secretary of State.

(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. 2 of 1992 of the (County) of Tioga was duly passed by the Tioga County Legislature on April 13, 1992, in accordance with the applicable provisions of law.

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.

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.

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.

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 , become operative.

*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.

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.

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date:

(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 Tioga

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.

Signature

Title

County of Tioga

City

Town

Village

Date: