

be source separated as required by the provisions of Article 6 of this local law, with the non-recyclable solid waste being deposited in clear or transparent plastic bags, each of which shall be tied and suitable for lifting, and placed in a container meeting the requirements set forth in §1-101(6) of this local law.

(3) All solid waste, including recyclable materials, to be disposed of directly at a County solid waste management facility shall be source separated as required by the provisions of Article 6 of this local law, with the non-recyclable solid waste being deposited in clear or transparent plastic bags, each of which shall be tied and suitable for lifting, and with the recyclable materials being prepared as required by this local law and the rules and regulations adopted hereunder.

(4) All persons using any County solid waste management facility will be required to adhere to the rules and regulations posted at such facility and abide by the instructions of the attendant(s) on duty.

(5) The County shall have no obligation to accept, receive or dispose of any solid waste or secondary materials not separated or prepared for collection in accordance with this local law and the rules and regulations adopted pursuant hereto.

(6) Where secondary materials are not placed or prepared for collection or disposal as required by this local law and the rules and regulations adopted hereunder, the person or hauler responsible for placing or preparing those materials for collection or disposal shall either remove the same or place and prepare them in compliance herewith.

(7) Every hauler possessing a valid permit from the County shall have the option to dispose of waste which it has collected or is transporting within the County at either the nearest County transfer station or at the County landfill, provided that it pays the applicable fees therefor.

(8) Every resident possessing a valid permit from a town within the County shall have the right to dispose of waste at any County transfer or shuttle station, provided that such resident pays such station's fees therefor.

(9) The County shall have no obligation to collect or pick-up any solid waste or secondary materials other than that which has or have been left at a County solid waste management facility in accordance with the requirements of this local law.

(10) All solid waste, including designated recyclables, generated in the County shall be disposed of only at a County solid waste management facility in compliance with the provisions of this local law and the regulations adopted hereunder, except as may be otherwise authorized by resolution of the Board of Supervisors or by a written permit issued by the Department.

§4-110. Prohibited Activities.

(1) No person shall burn or bury any solid waste in or on private or public property in the County, except as may be authorized pursuant to a valid permit issued by the New York State Department of Environmental Conservation, but shall cause the same to be collected or disposed of in the manner provided in this local law.

(2) No person shall engage in any scavenging of materials or wastes from any public or private property or container, or from any County solid waste management facility.

(3) No prohibited waste, and no waste likely to cause Essex County to violate any of the terms of its permit to operate a solid waste management facility, shall be

deposited at or delivered to any County solid waste management facility.

(4) No solid waste, including secondary materials, generated outside of or within Essex County shall be transported on the roads, streets or highways within the County except under permit issued pursuant to this local law; however, nothing herein contained shall be deemed to violate the Commerce Clause of the United States Constitution.

(5) No solid waste or prohibited waste generated outside Essex County shall be accepted and/or disposed of at any County solid waste management facility, or at any other solid waste management facility located in the County, unless the same is delivered pursuant to a written permit issued by the Department and authorized by resolution of the Board of Supervisors.

(6) No solid waste, including designated recyclables, generated in the County shall be transported or disposed of outside of the County, or transported to or disposed of at any non-County solid waste management facility located in the County, except upon permit issued by the Department pursuant to resolution of the Board of Supervisors.

(7) No person shall litter any public or private property within Essex County with any solid waste.

(8) No person or hauler shall dispose of any solid waste generated in the County at any place or places without a permit issued pursuant to Article 4 of this local law and other than as designated in the permit issued.

(9) No person or hauler shall dispose of any designated recyclables generated in the County at any place or places other than a County solid waste management facility, except as may be authorized by permit pursuant to the provisions of Article 6 of this local law.

(10) No person shall dispose of any solid waste, including designated recyclables, generated in the County other than at a County solid waste management facility, except upon permit issued by the Department pursuant to resolution of the Board of Supervisors.

(11) No person shall enter the County Landfill facility in Lewis, New York, for the purpose of depositing waste or recyclables thereat unless such person has been so authorized by the Department or is a hauler holding a valid permit under this local law.

(12) No hauler shall use or dispose of any waste at any shuttle station.

(13) No person other than a resident shall use or dispose of any waste at any shuttle station.

(14) No commercial waste or industrial waste shall be delivered to, disposed of, or deposited at any shuttle station.

§4-111. Disposal Fees.

(1) The County shall, by resolution of its Board of Supervisors, establish and amend a schedule of fees for disposal of wastes at County solid waste management facilities.

(2) Fees for the collection and/or disposal of wastes at any County solid waste management facility operated by one or more towns shall be established by the town board(s) of the town(s) operating the same, and nothing shall prohibit any town from establishing different fees for town residents and non-residents of that town.

(3) All persons disposing of wastes at any County solid waste management facility shall pay the fees established therefor.

(4) The Department may, in its sole discretion, permit haulers to pay for disposal of solid waste on a weekly, bi-weekly or monthly basis; and in such event, interest shall be charged at the rate of one and one-half percent (1½%) per month on all amounts unpaid within seven calendar (7) days of the date of the bill submitted by the Department.

(5) Pursuant to the provisions of County Law §226-b, all fees and interest imposed in accordance with this local law and the rules and regulations adopted hereunder shall immediately be and become a lien upon any and all real property of the person(s) owing the same, to be enforced and collected as provided in County Law §266.

ARTICLE 5. Yard Waste Disposal

§5-100. Prohibited Yard Waste Disposal.

No person shall:

- (1) mix or permit the mixing of yard waste with solid waste, or place yard waste out, for collection or disposal at a County solid waste management facility;
- (2) deposit yard waste at any authorized yard waste or compost site while the site is closed;
- (3) deposit yard waste in or upon any public property, or any private property owned by another person, in the County; or
- (4) burn yard waste, except pursuant to a valid permit issued by the New York State Department of Environmental Conservation.

§5-101. Authorized Yard Waste Disposal.

It shall be lawful to:

- (1) deposit yard waste at any authorized County yard waste drop-off site or any authorized compost site while such authorized site is open in accordance with the rules and regulations promulgated by the County and/or the Department;
- (2) compost yard waste on the lot where it originated, in a manner not creating a nuisance, as authorized by §5-102 of this article.

§5-102. Yard waste composting allowed; specifications.

- (1) Composting of yard wastes shall be permitted subject to the following requirements:
 - (a) yard wastes shall be composted in a stationary or rotating container constructed of wood, wire, metal or plastic, or any combination thereof, not exceeding 10' in length, 10' in width and 5' in height;
 - (b) the composting container shall be located in the back yard or some other area of the property, and shall be screened or fenced so that it is not readily visible off the lot;
 - (c) the composting container shall be maintained to minimize odors, and shall not be allowed to become a nuisance, to attract rodents, or to become a health or safety hazard.
- (2) All composted wastes not ready for use shall be contained in a separate holding unit or container.

ARTICLE 6. Recycling Of Secondary Materials Required**§6-100. Recycling Required.**

All persons, and every residence, residential unit, place of business, commercial establishment, and other place in the County shall recycle designated recyclables in the manner and at the times required by this local law and the rules and regulations hereunder.

§6-101. Source Separation of Designated Recyclables.

(1) All solid waste left for collection by any person, or which is delivered to a County solid waste management facility by any person or hauler, shall first be source-separated into designated recyclables and other waste as required by this local law, the rules and regulations hereunder, and any applicable federal or state law, prior to being left for collection or being delivered to such facility.

(2) Except as may be otherwise allowed by the Department, all designated recyclables shall be placed in separate containers, boxes, or plastic or paper bags, and shall not be mixed with any other waste, recyclable or otherwise.

§6-102. Collection and Disposal.

Recyclable materials shall be collected and disposed of in the same locations as non-recyclable solid waste.

§6-103. Ownership of Designated Recyclables.

Once any designated recyclables are placed in any public container, in any private container at the curb, at any County solid waste management facility, or otherwise at or near any curb, sidewalk or street for collection, such materials shall become the property of the County, and it shall be a violation of this local law for any person not authorized by the County to collect or cause to be collected any of such recyclable materials.

§6-104. Recycling Centers: Acceptance of Donated Recyclables.

(1) It shall be lawful for any qualified non-profit charitable organization to operate a recycling center for collection of recyclable materials provided that no compensation is paid by such organization to any person for delivery or receipt of such materials and the same are collected solely for fund-raising purposes.

(2) Nothing in this local law shall be deemed to prohibit any person from donating recyclable materials generated by such person to any qualified non-profit charitable organization which is operating a recycling center in accordance with subdivision (1) of this section.

§6-105. Disposition and Use of Recyclable Materials: Exceptions.

(1) Nothing in this local law shall be construed to prohibit any person from purchasing or obtaining secondary materials generated in the County when such person:

- (a) purchases or otherwise obtains such materials only for reuse in such person's own business, which business is of a nature separate and distinct from that of a recyclable materials dealer;

- (b) purchases such materials from a recycling center which makes no payment to the public for secondary materials and is collecting the same for fund-raising purposes;
 - (c) purchases or obtains such materials directly from the County; or
 - (d) is an authorized recyclable materials dealer possessing a valid permit pursuant to §6-106 of this local law.
- (2) Nothing in this local law shall be construed to prohibit any:
 - (a) person from purchasing, using, disposing of or selling recyclable materials other than designated recyclables generated in Essex County; or
 - (b) business from using, disposing of or selling recyclable materials, including designated recyclables, generated in such person's business in Essex County and which such business elects to self-market or cooperatively market outside of Essex County.

§ 6-106. Recyclable Materials Dealers: Permits Required.

(1) All recyclable materials dealers shall, prior to purchasing, collecting or obtaining secondary materials generated in the County, apply for and obtain a permit from the County.

(2) All permit applications shall be in writing on a form prescribed and provided by the Department, shall be verified by the applicant, and shall contain such information as required by the County or the Department, including but not limited to the following:

- (a) the legal name and address of the applicant;
- (b) a detailed description of the area(s) in Essex County serviced by the applicant;
- (c) the type(s) of secondary materials, including designated recyclables, to be collected, transported and/or hauled by the applicant from each area identified pursuant to (b) above, the frequency of collection, the approximate amount of each type of secondary materials collected per collection, and the manner on which such materials shall be disposed of or used;
- (d) such other information as the Department or the County shall require.

(3) Permits for secondary materials other than designated recyclables shall be issued by the Department upon payment of the required fees therefor.

(4) Permits for secondary materials including designated recyclables shall be issued by the Department only pursuant to resolution of the Board of Supervisors and upon payment of the required fees therefor.

(5) In authorizing the issuance of a permit for secondary materials including designated recyclables, the Board of Supervisors may impose reasonable terms and conditions which may include but shall not be limited to the following:

- (a) requiring the permittee to collect and/or dispose of all designated recyclables in specified geographical areas so that the County will not be forced or required to collect and/or dispose of such materials;
- (b) requiring the permittee to pay an additional fee, in an amount to be determined by the Board of Supervisors, for the privilege of collecting

- and/or disposing of designated recyclables; and
- (c) such other terms and conditions as the Board may reasonably require.
- (6) Unless specifically authorized by the County permit, no recyclable materials dealer shall purchase, collect or otherwise obtain designated recyclables generated in the County for use in such dealer's business.
- (7) Each applicant shall be required to pay an initial application fee of \$100.00., together with a permit fee of \$100.00. Upon renewal of a permit there shall be paid a fee of \$100.00.
- (8) All permits shall expire annually on January 1st, unless renewed as provided in paragraph (9) below.
- (9) Renewal of existing permits issued to any recyclable materials dealer shall be made upon submission of a written application for renewal containing the information required by the Department and the payment of the fee therefor to the Department, and any permit so renewed shall be subject to the same terms and conditions as the original permit and to any additional requirements in effect at the time of the renewal.
- (10) The Department shall have the power and right to immediately revoke or suspend any permit issued pursuant to this local law upon:
- (a) any violation of this local law, or the rules and regulations thereunder, or any applicable federal or state law or regulation;
 - (b) any violation of the terms and/or conditions of an existing permit;
 - (c) discovery by the Department that material information provided by the permit holder in connection with his/her/its permit application(s) or renewal thereof was or is false, untrue or incorrect.
- (11) No permit issued under the provisions of this local law shall be transferred or assigned.
- (12) No permit shall be issued to or renewed for any person while: (a) any permit previously issued is under suspension, revocation, or review; or (b) where any expired permit was either revoked, or was suspended and the conditions for reinstatement were not met.

ARTICLE 7. Penalties For Violations.

§7-100. Administrative and Civil Penalties: Permit Holders.

- (1) The permit of any person hauler who violates any provision of this local law, or the rules and regulations promulgated and adopted hereunder, is subject to suspension and/or revocation by the Department or a Town for each such violation, and any such violator may be temporarily or permanently barred from using any County solid waste management facility.
- (2) In suspending or revoking any permit, the Department or any Town shall have the power and authority to impose reasonable terms and conditions for reinstatement or reissuance of such permit, with such suspension or revocation to continue until such time as each violation is remedied, if appropriate, and any such reasonable terms and conditions imposed by the Department or the Town are complied with.

(3) In reinstating or reissuing a permit that has been suspended or revoked, the Department shall have the power and authority to impose reasonable terms and conditions which must be fully complied with in order for such reinstated or reissued permit to remain valid.

(4) In addition to any other reasonable terms and conditions imposed in paragraphs (2) and/or (3) above, the Department and any Town shall be authorized to:

- (a) require any violator to pay all clean-up costs and for any and all damages to person or property resulting directly or indirectly from such violation;
- (b) subject any violator to the civil fines and/or criminal penalties prescribed in §7-101 and §7-102 of this article; and
- (c) require any violator to pay the disposal fees which would have been due the County or any Town had the violator complied with the provisions of this local law or the rules and regulations promulgated and adopted hereunder.

(5) The decision of the Department or a Town to suspend or revoke any permit, or to impose a temporary or permanent bar on the use of any County solid waste management facility, or to impose reasonable terms and conditions under paragraphs (2) and (3) of this section, shall be subject to review by the County Board of Supervisors, or a designated committee thereof, pursuant to paragraphs (6) and (7) of this section provided that the following procedure is complied with:

- (a) the person shall serve a written verified petition within ten (10) days of such decision upon the Clerk of said Board setting forth in detail all facts upon which the petitioner will rely in challenging such decision;
- (b) service of such petition shall be made by personal service upon such Clerk;
- (c) failure to timely serve a petition shall render the decision of the Department final and binding, and the same shall not be subject to judicial review;
- (d) the allegations of the petition shall be deemed denied without the necessity of a written answer being interposed.

(6) Within fourteen (14) days after the service of the petition, unless otherwise agreed between the petitioner and the Chairman of the Board of Supervisors, the Board of Supervisors or a designated committee thereof shall conduct a hearing at which the petitioner shall present evidence and witnesses in support of the petition.

(7) The determination of the Board of Supervisors or the designated committee thereof on such petition shall be rendered in writing within fifteen (15) days after the close of evidence, and the original such determination shall be filed with the Clerk of the Board of Supervisors and with a certified copy thereof with notice of such filing being sent to the petitioner by regular mail.

(8) The determination of the Board of Supervisors or the designated committee thereof after such hearing may be reviewed by the Supreme Court of Essex County in a proceeding commenced pursuant to Article 78 of the Civil Practice Law and Rules provided that such proceeding is commenced within thirty (30) days of the filing of such determination with the Clerk of the Board. Failure to timely commence such a proceeding

shall render such determination final and binding upon the petitioner.

(9) Should the determination of the Board of Supervisors be reversed or modified through any proceeding commenced pursuant to paragraph (8) of this section, in no event shall the County, or any officer or employee thereof, be liable for any damages of any kind or nature whatsoever arising out of the suspension or revocation of any permit, or from the imposition of any temporary or permanent bar from the use of any County solid waste management facility, or from the imposition of terms and conditions under paragraphs (2) and (3) of this section.

§7-101. Civil Fines.

(1) In addition to the administrative and civil penalties for permit holders provided in §7-100, and to the criminal penalties set forth in §7-102, of this article, the Chairman of the Board of Supervisors, or his/her designee, shall have the power to impose a civil fine of:

- (a) not more than \$500.00 for the first violation, and \$1000.00 for each subsequent violation, of this local law and/or of the rules and regulations adopted hereunder; and
- (b) an amount equal to the fees, if any, that the County would have received had the violator complied with this local law and/or the rules and regulations adopted hereunder.

(2) In all cases not involving permit holders, in addition to the criminal penalties set forth in §7-102, of this article, the Chairman of the Board of Supervisors, or his/her designee, shall have the power to impose a civil fine of:

- (a) not more than \$500.00 for the first violation, and \$1000.00 for each subsequent violation, of this local law and/or of the rules and regulations adopted hereunder; and
- (b) an amount equal to the fees, if any, that the County would have received had the violator complied with this local law and/or the rules and regulations adopted hereunder.

(3) Where the County commences an action or proceeding to enforce the provisions of this local law, or the rules or regulations hereunder, and/or to recover the fines and penalties imposed thereby, the County shall also be entitled to recover of the violator reasonable attorneys fees and expenses incurred in connection with such litigation, as well as the amount of fees, if any, that the County would have received had the violator complied with this local law and/or the rules and regulations adopted hereunder.

(4) Whenever a person is found to have willfully violated the provisions of this local law, or the rules and regulations hereunder, the fines and penalties imposed hereby shall be trebled.

§7-102. Criminal Penalties.

Each violation of this local law, and/or of any rule or regulation adopted pursuant hereto, shall constitute a misdemeanor punishable by:

- (1) a fine of not more than five hundred dollars \$500.00 for the first violation, and of not more than one thousand dollars (\$1,000.00) for each subsequent violation;
- (2) by imprisonment for a period not exceeding ten (10) days for the first

violation, and of not more than thirty (30) days for each subsequent violation; or
(3) by both such fine and imprisonment.

§7-103. Fines and Penalties to be a Lien.

Pursuant to the provisions of County Law §226-b, all civil, administrative and criminal penalties imposed in accordance with this local law and the regulations adopted hereunder shall immediately be and become a lien upon any and all real property of the person(s) against whom the same are levied, to be enforced and collected as provided in County Law §266.

§7-104. Compromise of Violations.

Notwithstanding any other provision of this Article, the Department may, in its discretion, compromise and settle any violation of this local law upon such terms and conditions as it deems reasonable and proper under the circumstances.

ARTICLE 8. Repeal of Prior Law; Effective Date

§8-100. Repeal of Prior Law.

Local Law No. 5 of 1988 is hereby repealed in its entirety and replaced hereby.

§8-101. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.