

A LOCAL LAW PROVIDING FOR THE MANAGEMENT OF SOLID WASTE IN THE COUNTY OF ULSTER

BE IT ENACTED by the County Legislature of the County of Ulster as follows:

SECTION 1. Short Title. This Local Law shall be known and may be cited as the solid waste management law.

SECTION 2. Legislative Finding and Purposes. The Agency and the County have approved a Comprehensive Solid Waste Management Plan for the County, which provides for the planning, financing, acquisition, construction and operation of a system to dispose of or process Solid Waste generated or originated in, or brought within the County. The Comprehensive Solid Waste Management Plan was authorized by Article 27 of the Environmental Conservation Law of the State and Title 13-G of the Public Authorities Law of the State. The Comprehensive Solid Waste Management Plan was reviewed pursuant to Article 8 of the Environmental Conservation Law of the State, and the rules promulgated thereunder, and was approved by the State Department of Environmental Conservation. The Comprehensive Solid Waste Management Plan provides for the adoption of a local law providing for control over the flow of Solid Waste in the County. Authority for the adoption of this local law is specifically granted to this Legislature by S 2050-t (3) of the Public Authorities Law of the State.

The purpose of this local law is to assure that the system to be implemented for the disposal of Solid Waste will function properly, effectively, efficiently and in an environmentally sound manner so that the public health and safety will be protected and the environment will be improved.

This Legislature finds that in order to achieve the purposes set forth above it is necessary and proper to impose reasonable limitations on competition in accordance with the policy of the State expressed in S 2050-t (3) of the Public Authorities Law. This Legislature specifically finds that the limitations on competition set forth in Section 4 of this local law are appropriate and reasonable. This Legislature further finds that the Agency, created at the request of this Legislature for the purpose of managing Solid waste in the County, closely connected to the County, duly established as the local planning unit for Solid waste management in the County, and granted broad powers in Solid Waste management on behalf of the County as set forth in Title 13-G of the Public Authorities Law of the State, is the agency most capable of effectively performing the task of Solid waste management and exercising the powers described in this local law.

Finally, this Legislature finds that adequate standards governing such delegation to the Agency are set forth herein in that the Agency must exercise the powers delegated to it in the public interest as directly related to and limited by Title 13-G of the Public Authorities Law of the State and the policy set forth in S 27-0101 of the Environmental Conservation Law of the State.

SECTION 3. Definition. As used or referred to in this Local Law, unless the context otherwise requires:

1. "Agency" shall mean the Ulster County Resource Recovery Agency created under Title 13-G6 of the Public Authorities Law of the State. amended.
2. "Agency Executive Director" shall mean the Executive Director of the Ulster County Resource Recovery Agency.
3. "County of Ulster" shall mean the entire County of Ulster as constituted and existing under the Laws of the State of New York.
4. "Disposal of Solid Waste" shall mean the transporting or delivery of solid waste Solid to a Solid Waste Management Facility.
5. "Municipality" shall mean any county, city, town, village, improvement district or public corporation, or any combination thereof.
6. "Person" shall mean any natural person, partnership, association, joint venture, or corporation exclusive of a "public corporation".

7. "Solid Waste" shall mean all materials or substances discarded or rejected within the County 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, 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, source, special nuclear or by-product material within the meaning of the United States Atomic Energy Act of 1954, as amended, 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 of New York, and scrap or other material of value separated from the waste stream and held for purposes of materials recycling.

8. "Solid Waste Management Facility" shall mean any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for the collecting, 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 but not limited to recycling centers, transfer stations, baling facilities, rail haul or maritime facilities, collection vehicles, processing systems, resource recovery facilities, steam and electric generating and transmission facilities, including auxiliary facilities to supplement or temporarily replace such generating facilities, steam distribution facilities, and related plants and facilities, sanitary landfills, leachate treatment facilities, land spreading facilities, waste oil storage, reprocessing and recycling facilities, plants and facilities for compacting, composting or pyrolyzation of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in subdivisions four and five of Section 51-0903 of the Environmental Conservation Law of the State of New York.

SECTION 4. Disposal of Solid Waste. All Solid Waste generated or originated in or brought within into the County shall be delivered to Solid Waste Management Facilities designated by the Agency from time to time, which designation may include a determination that a particular Solid Waste Management Facility shall be the only facility used for the disposal of Solid Waste generated within all of, or a described area within, the County of Ulster or by a particular person or persons.

In making any such designation, the Agency shall give due consideration to the capacity of any Solid Waste Management Facility so designated, the size and population of the area or person or persons to be served and such other factors as shall enable the Agency to determine that the public interest is served by such designation. No person shall dispose of Solid Waste generated within or coming into the County except at a Solid Waste Management Facility designated by the Agency in accordance with this Section.

SECTION 5. Exceptions. The Agency may make such exceptions to the requirements of Section 4 as it, from time to time, may determine to be in the public interest.

SECTION 6. Rules and Rulemaking. The Agency is hereby authorized and directed to promulgate such rules and regulations as it shall determine to be necessary to effectuate the purpose of this local law. The procedure for rulemaking shall be as follows:

- a. The Agency Executive Director must prepare and submit proposed rules and regulations to the Agency and to the Community and Environmental Affairs Committee of this Legislature.
- b. The Agency shall authorize notification of a hearing in the official newspapers of the County, as designated by this Legislature.

- c. The notice shall be published at least 30 days prior to the public hearing and shall (1) cite the statutory authority under which the rules and regulations are proposed, (2) give the date, time and place of the public hearing, (3) state the proposed rules and regulations thereof, (4) give the name and address of the Agency representative to whom written comments may be submitted. The express terms of the proposed rules and regulations shall be available to the public on the date such notice is first given pursuant to this subdivision.
- d. The Agency Executive Director shall conduct a public hearing and, upon request of the Community and Environmental Affairs Committee of this Legislature, appear before that Committee in public session to discuss the proposed rule making.
- e. The Agency Executive Director shall prepare the record of the public hearing and a document responding to the comments received at the public hearing.
- f. The record of public comment and the response document shall be made available for public review and submitted to the Agency.
- g. The Agency shall make such changes and modifications in response to public comment as it deems appropriate and shall adopt the final rules and regulations by resolution.
- h. The Agency Executive Director shall publish the final rules and regulations, or synopses thereof in the same manner as the proposed rules and regulations, no less than 10 days after the Agency adopts the final rules and regulations. The final rules and regulations shall take effect 20 days after publication.

SECTION 7. Enforcement. It shall be the responsibility of the Agency, acting through its Executive Director, in consultation with Agency Counsel, the County Department of Health, and such other departments of County government as it may deem necessary, to enforce the provisions of this local law and all rules, regulations and designations made pursuant thereto. Such enforcement shall be by such legal or equitable proceedings, including, without limitation, a proceeding for specific performance, brought in the name of the County as may be provided or authorized by law.

The County Health Department shall assist in the enforcement of this local law by, inter alia, revoking the licenses issued pursuant to the County Sanitary Code to Persons who collect, transport or dispose of Solid Waste in violation of this local law. Such revocation proceeding shall be carried out in accordance with the County Sanitary Code.

SECTION 8. Environmental Compliance. All acts and proceedings taken by the Agency pursuant to this local law shall, in all respects, be consistent with the Environmental Conservation Law and other applicable laws and rules and regulations promulgated pursuant thereto.

SECTION 9. Penalties. Any person who violates this local law shall be guilty of a violation and subject to a fine of not more than One Thousand (\$1, 000) Dollars and/or imprisonment for not more than five (5) days and/or suspension or revocation of collecting, receiving, transporting and/or disposing privileges in conjunction with Solid Waste within the County. Each and every act of disposal committed which is prohibited by Section 4 hereof shall constitute a separate violation of this local law.

SECTION 10. Priority. Pursuant to Title 13-G of the Public Authorities Law of the State, this local law takes precedence over and shall supersede any inconsistent provisions of any local law enacted by any municipality within the County.

SECTION 11. Separability. If any section, provision, or part thereof, in this local law, or the application thereof to any person or circumstances, is adjudged invalid or unconstitutional by a court of competent jurisdiction, then such adjudication shall not affect the validity of the remainder of the local law or the validity of the local law as a whole or any sections, provision or part thereof, not so adjudged invalid or unconstitutional and the application of the local law or any section, provision or part thereof to other persons or circumstances shall not be affected by said adjudication.

SECTION 12. Effect of Local Law. Nothing in this local law shall be construed to supersede prior local laws enacted by the County regarding the non-importation of Solid Waste into the County or to authorize the construction of a Solid Waste incinerator whether or not the incineration of solid waste is in connection with a waste-to-energy.

SECTION 13. Effective Date. This local law shall take effect immediately.

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