

Chapter 228

COUNTY ROADS, HAULING ON

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[HISTORY: Adopted by the Broome County Legislature 6-17-2010 by L.L. No. 5-2010¹ (Ch. 100 of the 1991 Code). Amendments noted where applicable.]

§ 228-1. Statutory authority.

This chapter is enacted pursuant to the authority of Vehicle and Traffic Law § 385(15) authorizing a county to issue a special hauling permit (hereinafter "permit") to operate or move a vehicle, or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in § 385 on County roads or highways, similar to that permit issued by the State of New York relating to the state system of highways.

§ 228-2. Permit requirement.

- A. A vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in § 385 of Vehicle and Traffic Law, shall not be operated on County roads or highways unless a permit has been issued in accordance with the provisions of this chapter.
- B. The Commissioner of Public Works, Parks, Recreation and Youth Services (hereinafter the "Commissioner") of the County of Broome (hereinafter the "County") is hereby designated as the authority to receive applications for permits to operate or move a vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in § 385 on County roads or highways. Such permit can only be issued to applicants who are eligible for or are holders of valid New York State hauling permits issued by the New York Department of Transportation (hereinafter NYSDOT) pursuant to Title 17, Transportation, New York Code of Rules and Regulations Part 154. [Amended 11-8-2012 by L.L. No. 8-2012]

§ 228-3. Application form.

The Commissioner is hereby authorized to promulgate an application form requesting a permit. The application form shall include:

1. Editor's Note: This local law provided an effective date of 1-1-2011.

- A. A list of Broome County highway(s) to be used as hauling routes, if any, by the permit holder.
- B. Copies of valid New York State vehicle registrations for each vehicle.
- C. Copies of valid New York State special hauling permits, if any, for each vehicle.
- D. Proof of insurance as required by § 228-6 of this chapter.
- E. The Commissioner is authorized to issue regulations that require additional reasonable information on application forms. Any such regulations must be filed by the Commissioner with the Clerk of the Broome County Legislature.
- F. Designation of a permit fee as allowed by the State of New York Vehicle and Traffic Law.

§ 228-4. Permit form. [Amended 11-8-2012 by L.L. No. 8-2012]

The Commissioner is hereby authorized to promulgate the permit form to be issued upon review and approval of an application for a permit. In the event that the holder of a NYSDOT special hauling permit(s) presents proof (satisfactory to the Commissioner of Public Works, Parks, Recreation and Youth Services) that such holder, for itself, its agents and subcontractors, plans to use more than one vehicle, the weights or dimensions of which exceed the limitations provided in § 385 on County roads or highways, the holder of the NYSDOT special hauling permit(s) may elect to execute a County-wide road maintenance agreement in lieu of separate permits for each vehicle(s). Said road maintenance agreement shall conform to the minimum requirements of this chapter, shall be executed by the County and the permit holder, and shall include such additional terms as are reasonably required by the Commissioner, including but not limited to insurance, maintenance bond, hauling route designations, traffic schedules, inspections and road surveys. All of the vehicles specifically listed in such agreement, including those owned by the holder, its agents and subcontractors, shall be deemed to be covered by such agreement, and upon execution of the agreement, the Commissioner shall issue a blanket permit.

§ 228-5. Damage to County roads.

With the exception of normal wear and tear, the permit holder is responsible for all damages done to the roadways, ditches, curbs, sidewalks or other improvements and to public utilities in the roadway. Upon due notice being given to the permit holder and at the County option, the County may request the permit holder to repair all damages, or the County may arrange for the necessary repairs and charge the permit holder for all labor and materials at the prevailing rates.

§ 228-6. Insurance.

The permit holder must present proof satisfactory to the Commissioner that it has satisfied the insurance requirements of the State of New York Department of Transportation for a single vehicle special hauling permit.

§ 228-7. Indemnity and save harmless.

The permit holder will be required to agree to fully indemnify, defend, save and hold harmless the County of Broome and all of its departments, bureaus, divisions, boards, officers and employees from and against any and all claims, costs, damages, expenses, charges, risks, losses, lawsuits, judgments, executions, penalties, fines, assessments or any other liability of any type arising out of, occurring in connection with, or resulting from any and all activity to be performed by the permit holder pursuant to this permit.

§ 228-8. Stop-work orders.

The Commissioner shall have the right and authority to issue stop-work orders to those operating in violation of the terms of this chapter or contrary to the permit holder's application or conditions upon which its permit was issued.

§ 228-9. Revocation of permit.

Upon the violation of any provisions of this permit, the Commissioner may suspend any permit issued hereunder for no more than 30 days, and following a public hearing at which the permit holder shall have the right to appear and be heard, may revoke any permit on notice to the permit holder.

§ 228-10. Special conditions and exclusions.

- A. The permit shall not be assigned or transferred without the written consent of the Commissioner.
- B. The Commissioner shall be given one day's notice by said permit holder of the date when it intends to begin the activity authorized by the permit and prompt notice of its completion.
- C. The permit shall remain valid only for so long as the permit holder continues to hold a valid New York State hauling permit.
- D. The permit shall not authorize the holder to exceed the maximum gross weight limit authorized for crossing any weight-posted bridge.
- E. Due to the vital nature of the following vehicles in providing public services deemed necessary in preventing emergencies or in safeguarding the public health, safety and welfare, and since overweight vehicles may be required to perform these services, the following vehicles are granted exemptions from the permitting process of this chapter:
 - (1) Maintenance, repair and service vehicles owned and operated by the County of Broome or municipal corporations located in the County of Broome and on official County or municipal business.
 - (2) Maintenance, repair and service vehicles owned and operated by a utility company or authority and on official utility business.

- (3) Emergency vehicles and vehicles owned by New York or municipal corporations of New York.
- F. Nothing contained in this chapter shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agricultural and Markets Law.

§ 228-11. Penalties for offenses.

- A. Any person who shall operate or move a vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in § 385 of the Vehicle and Traffic Law, on County roads or highways without obtaining the permit required hereunder shall be guilty of a Class A misdemeanor, which shall be punishable by a fine not exceeding \$1,000.
- B. In addition to the above-prescribed penalties, the County Legislature may in its discretion maintain an action or proceeding in the name of the County in a court of competent jurisdiction to compel compliance with this chapter by injunction, abatement or otherwise compel cessation of each violation, and obtain restitution to the County for costs incurred by the County in remedying each violation, including but not limited to reasonable attorneys' fees.

ARTICLE IV
Sewage Disposal and Water Supply

§ 305-14. Definitions. [Amended 4-4-1978 by L.L. No. 3-1978]

As used in this article, the following terms shall have the meanings indicated:

CERTIFICATE OF APPROVAL — A written statement signed by the Commissioner of Health approving the water supply and/or sewage disposal facilities for any individual dwelling, school, place of business, industry, trade establishment, institution or other premises.

COMPLIANCE SCHEDULE — A written statement signed by the Commissioner of Health or his representative detailing the reasonable steps necessary to correct any violation of this chapter and detailing reasonable time periods necessary to complete such steps. Each such statement shall contain a space at the end of such written statement wherein the person so notified may execute said schedule and agree to the terms therein.

PRIVATE SEWAGE DISPOSAL SYSTEM — A sewage disposal system or facility that is not directly connected to an approved public or municipal sanitary sewerage system.

SEWAGE — Human excreta or the water-carried discharges of the human body and/or the liquid wastes from household, business, recreation, industry or trade establishments or other places, together with such groundwater infiltration and surface water as may be present.

§ 305-15. Sewage disposal systems; prohibited discharges. [Amended 4-4-1978 by L.L. No. 3-1978]

- A. No person shall construct, maintain or operate or allow to be constructed or maintained or operated any private sewage disposal system, privy or cesspool so as to expose or discharge the sewage or sewage effluent therefrom so as to endanger any source or supply of drinking water or so as to cause a public health nuisance without the permission of and treatment acceptable to the Commissioner. Such sewage disposal system, privy or cesspool shall be corrected in a manner acceptable to or recommended by the Commissioner or his representative.
- (1) In order to achieve flexibility in methods designed to achieve compliance with the State Sanitary Code, the Broome County Department of Law may and hereby is authorized to enter into written schedules of compliance with any person who shall have been found to have constructed, maintained or operated or who has allowed such construction, maintenance or operation of any private sewage disposal system, privy or cesspool in violation of the State Sanitary Code. Such compliance schedules shall specify the reasonable steps to be taken by said person to correct said violations and shall specify reasonable dates upon which said steps shall have been completed. When such schedules are issued, the person so notified may sign a copy of said schedule and return it to the Broome County Department of Law. Thereafter, any violation of the terms of said schedule shall be a separate violation of this chapter.
 - (2) Upon receipt of a compliance schedule, any person who contests the reasonableness of the steps to be taken or the reasonableness of the completion

dates therein may request, in writing, within 10 days of the issuance of said schedule, a hearing as to the tasks to be undertaken and the dates required for completion. At the option of the person requesting such hearing, that person may request a hearing before the Commissioner or his representative or may request that the Commissioner appoint an impartial hearing officer; said Hearing Officer shall be a local attorney admitted to the practice of law in New York State. The Commissioner, his representative or a duly appointed Hearing Officer, when requested, shall hold a hearing under the provisions of this chapter. The Commissioner, his representative or a duly appointed hearing officer, after a hearing, may rescind or modify the compliance schedule or direct that the original terms of the compliance schedule be carried out. If after a hearing, or where no hearing has been requested, the person so notified refuses to sign said compliance schedule, the Commissioner or his representative shall cause a copy of said compliance schedule to be personally served upon the person originally notified. Upon such personal service, the terms of the compliance schedule shall be in full force and effect as if personally executed by the person so served.

- B. No persons shall discharge any sewage or sewage effluent into any watercourse or surface body of water in the Broome County Health District unless a permit therefor has been issued under the provisions of the Public Health Law or State Sanitary Code for such discharge, and such discharge shall be made in accordance with the requirements thereof.
- C. Any person who is engaged, in whole or in part, in the business of selling, constructing, maintaining, installing or cleaning septic tanks or private sewage disposal systems shall register that fact with the Department of Health. Such registration shall be on a form prescribed and furnished by the Commissioner. Reregistration may be required from time to time by the Commissioner or his representative, and such reregistration shall be when requested by the Commissioner or his representative. Any person who fails or refuses to so register shall be in violation of the Sanitary Code and shall be subject to the penalties set forth in § 305-41 of this chapter.
- D. Any person engaged in the business of water well drilling and/or water hauling for human consumption shall register that fact with the Department of Health. Such registration shall be made on a form prescribed and furnished by the Commissioner. Reregistration may be required from time to time by the Commissioner or his representative, and such reregistration shall be when requested by the Commissioner or his representative. Any person who fails or refuses to so register shall be in violation of the Sanitary Code and shall be subject to the penalties set forth in § 305-41 of this chapter.

§ 305-16. Approval required for sewage disposal systems.

- A. No person, either as owner or agent thereof, or lessee or tenant, shall undertake to construct or provide a system or facilities for the private disposal of waterborne sewage, domestic or trade wastes to serve any dwelling, school, institution or premises from which such wastes may be discharged without first having obtained preliminary approval of the proposed sewage facilities upon forms furnished by the Commissioner and upon a

determination by the Commissioner that said proposed sewage facilities will be adequate to serve the sewage disposal needs of the premises.

- B. The owner or his agent or the lessee or tenant who shall be in responsible charge of any dwelling, school, institution or premises for which a preliminary approval has been obtained shall have the system, when completed, left uncovered for inspection by a representative of the Broome County Health Department and/or municipal building inspector, provided that said inspector is approved by the Commissioner, who shall make final inspection and give final approval before backfilling and covering is carried out. If backfilling has been completed before final inspection, the owner or his agent will be required to have the work uncovered to permit such inspection. [Amended 4-4-1991 by L.L. No. 10-1991]
- C. A copy of the preliminary approval shall be issued by the Broome County Health Department and shall be supplied to the town planning board or other municipal agency charged with the responsibility of issuing building permits and to the owner or his agent.

§ 305-17. Approval required for private water supply.

- A. No person, either as owner or agent thereof, or lessee or tenant, shall undertake to construct or provide a system or facilities for the supply of water from a dug, driven or drilled well or from any other source to serve any dwelling, school, institution or premises without first having obtained preliminary approval of the proposed system from the Commissioner of Health. Such preliminary approval shall be granted upon the filing with the Commissioner of a description of the proposed facilities upon forms furnished by the Commissioner and upon a determination by the Commissioner that the proposed facilities will be adequate to serve the water supply needs of the premises.
- B. The owner or his agent or the lessee or tenant who shall be in responsible charge of any dwelling, school, institution or premises for which a preliminary approval has been obtained shall have the system, when completed, left uncovered for inspection by a representative of the Broome County Health Department and/or municipal building inspector, provided that said inspector is approved by the Commissioner, who shall make final inspection and give final approval before backfilling and covering is carried out. If backfilling has been completed before final inspection, the owner or his agent will be required to have the work uncovered to permit such inspection. [Amended 4-4-1991 by L.L. No. 10-1991]
- C. A copy of the certificate of approval shall be issued by the Broome County Health Department and shall be supplied to the owner or his agent.

§ 305-18. Exceptions.

- A. A certificate of approval shall not be required when a permit therefor has been issued by the State Commissioner of Health or the State Water Pollution Control Board.
- B. No certificate of approval shall be required for sewage and water facilities serving a building which is to be used solely for agricultural purposes.

§ 305-19. Penalties for offenses.

In addition to the penalties set forth in § 305-41 of this chapter, the Commissioner of Health shall, in his discretion, have the power to issue an order prohibiting occupancy of any premises until a certificate of approval has been obtained as here and before provided.

ARTICLE V
Air Pollution Control

§ 305-20. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AIR-CLEANING DEVICE — Any method, process or equipment which removes, reduces or renders less noxious air contaminants discharged into the atmosphere.

COMBUSTION INSTALLATION — A plant, equipment or device in which fuel is burned for the purpose of generating heat, steam or hot water.

COMBUSTION PRODUCTS — Particulate and gaseous contaminants created by the burning of any kind of material.

CONTROL EQUIPMENT — A device or process which is used to reduce the emission of smoke or gaseous or particulate contaminants.

FLUE-FED INCINERATOR — An incinerator served by a vertical charging flue.

FUEL — Solid, liquid or gaseous combustible material used primarily either to kindle or sustain fire or to produce heat, including refuse to be consumed in refuse-burning equipment.

GARBAGE — Waste resulting from the distribution, preparation and serving of foods.

INCINERATOR — Any device specifically designed for the destruction by burning of garbage or other combustible refuse or waste material.

MOTOR VEHICLE — Any vehicle deriving its motive power from the internal combustion of volatile hydrocarbon liquid compounds, whether gasoline, diesel fuel or other oil, and including but not limited to earthmoving and those moving by rail.

MULTIPLE CHAMBER DESIGN — Any incinerator consisting of two or more chambers to separate the charging chute from the flue for carrying the products of combustion to the atmosphere by employing adequate design parameters necessary for maximum combustion of the material burned.

OPEN FIRE — Any fire- or smoke-producing process wherein the combustion products are directly emitted into the atmosphere without passing through a stack.

PARTICULATES — Airborne material, except water, existing in a finely divided form as a liquid or solid at standard conditions, capable of being suspended in a gaseous system.

REFUSE — Garbage, rubbish and trade waste.

Chapter 317
SOLID WASTE

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[HISTORY: Adopted by the Broome County Legislature as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Fees and charges — See Ch. 257, Art. XIV.

Sanitary Code — See Ch. 305.

ARTICLE I

Landfill

[Adopted 9-10-1985 by L.L. No. 5-1985 (Ch. 179, Art. I, of the 1991 Code)]

§ 317-1. Definitions. [Amended 5-20-1993 by L.L. No. 9-1993]

- A. As used in this article, the following terms shall have the meanings indicated:
[Amended 3-16-2000 by L.L. No. 6-2000; 11-8-2012 by L.L. No. 8-2012]

CHARGEABLE TONNAGE — All material transported over Broome County facility scales for which a payment is assessed by Broome County to the transporting user of the facility.

COMMERCIAL USER — One generating or transporting solid waste in the course of business, earning a livelihood or other regularly income-producing service or activity. This includes, but is not limited to, the following commercial waste haulers and processors, contractors, small businesses, corporations and institutions.

DEPUTY COMMISSIONER — The Deputy Commissioner of Public Works, Parks, Recreation and Youth Services for the Division of Solid Waste Management.

RESIDENTIAL USER — One generating waste in the course of daily living and improvement of their own residence. This specifically excludes those hauling commercial waste or waste from commercial building and other contracting projects.

- B. Other terms, as used or referred to in this article, unless a different meaning clearly appears from the context, are as defined in Title 6 Part 360 of the New York Codes, Rules and Regulations, Solid Waste Management Facilities, as amended.

§ 317-2. Only Broome County waste to be accepted. [Added 5-20-1993 by L.L. No. 9-1993]

No solid waste generated or produced outside the County of Broome shall be accepted for disposal except upon the prior written approval of the County Executive. Waste accepted for disposal shall be the by-product of activity conducted within Broome County. Hauling by a Broome County permitted hauler for the purposes of disposal does not, in itself, constitute such an activity.

§ 317-3. Trespassing prohibited. [Added 5-20-1993 by L.L. No. 9-1993; amended 3-16-2000 by L.L. No. 6-2000]

No person shall be permitted to enter or remain within the confines of the landfill or other County-owned solid waste facility during operating hours without notifying the Division and receiving its acceptance, nor after closing hours and before opening hours as set and established from time to time by the Deputy Commissioner.

§ 317-4. Disposal to be in compliance.

It shall be unlawful to dispose of any solid waste in a County-owned and/or -operated solid waste disposal facility in any manner other than as directed and prescribed by this article.

§ 317-5. Permit required for commercial users; application; fees; issuance; exception for residential users. [Amended 12-5-1989 by L.L. No. 15-1989; 12-28-1989 by L.L. No. 2-1990; 5-20-1993 by L.L. No. 9-1993; 6-16-1995 by L.L. No. 7-1995; 11-21-1995 by L.L. No. 15-1995; 3-19-1998 by L.L. No. 4-1998; 9-30-1998 by L.L. No. 12-1998; 2-17-2000 by L.L. No. 4-2000; 3-16-2000 by L.L. No. 6-2000; 11-13-2006 by L.L. No. 7-2006; 4-21-2011 by L.L. No. 2-2011]

No person, firm or corporation, public or private, engaged in the transporting of solid waste shall be authorized to use any County-owned and/or -operated sanitary landfill site without first obtaining from the County of Broome a permit to use said site for the purpose of disposal of solid waste and paying a fee for such a permit as provided herein. An exception shall be made for residential users. Solid waste from residential users, such as municipal solid waste, construction and demolition debris, tires or oversized items shall be charged separately based on the tipping fees, with no permit required.

- A. Applications for permits shall be upon forms provided by the Division of Solid Waste Management. Each applicant shall state in such application his or her name, address, legal character (corporation, partnership or individual) and such other information as the Director of the Division of Solid Waste Management may require. No collections shall be made in areas outside the County of Broome except upon the prior written approval by the County Executive.
- B. A permit shall not be issued unless the applicant agrees, in writing, to the following hold-harmless clause, which shall be included as a part of the application form: "The permittee shall indemnify and hold harmless Broome County and any of its officers, agents and employees from all claims, demands, causes of action and judgments arising out of injuries to persons and property of whatever kind or nature as a result of the fault or negligence of the permittee, its employees or agents in the permittee's use of a County-owned and/or -operated sanitary landfill."
- C. Permits issued pursuant to this article shall be for a period of one year or less, beginning July 1; subject, however, to the revocation or suspension thereof as provided herein.

D. Fees for permits and permitted vehicles are as set forth in the Schedule of County Fees in Chapter 257, Fees and Charges, Article XIV, for the following.¹

- (1) An annual permitting fee per commercial user plus a charge per vehicle used by the commercial user for the purposes of transporting solid waste to the landfill shall be charged for the permits at the time the application is processed, or it may be billed.
- (2) The initial vehicle fee for any vehicle shall be issued on a prorated basis for the permit year remaining.
- (3) Commercial user scale-house pass will be replaced at a charge for each.
- (4) For commercial hazardous waste facility users located in Broome County, an annual permitting fee per commercial user shall be charged for the permits at the time the application is processed, or it may be billed.²
- (5) For commercial hazardous waste facility users located out-of-county, an annual permitting fee shall be charged for permits at the time of application, as authorized by intermunicipal agreement.

E. Suspension or revocation.

- (1) Every permit issued pursuant to this section shall be issued subject to compliance by the permittee with the operating regulations set forth in § 317-6 of this article or such additional regulations as may be added from time to time. Violation of said operating regulations or any other provisions of this article may be cause for revocation or suspension of the permit. One or more violations of the provisions of this article may, at the discretion of the Deputy Commissioner for the Division of Solid Waste Management, be cause for suspension of the permit for a period of up to four weeks. Such suspension shall take effect three days after receipt of written notice of such suspension by the permit holder. Three or more violations of any of the provisions of this article during any consecutive twelve-month period by the permittee or provision of false information in the permit application by the permittee may result in the revocation of the permit. Revocation of the permit shall be at the discretion of the Deputy Commissioner for the Division of Solid Waste Management. Such revocation shall become effective three days after receipt by the permit holder of such notice of revocation. Revocation may be for any period of up to and including one year from the date of revocation. At the end of the revocation period, the permittee must apply for a new permit.
- (2) In the event that the permit holder fails to concur in the determination of the Deputy Commissioner for the Division of Solid Waste Management to suspend or revoke such permit, the permit holder shall have the right to request a hearing. Such hearing shall be held five days after receipt of such request. In the event of a

1. Editor's Note: Amended at time of adoption of Charter and Code (see Ch. 1, General Provisions, Art. I).

2. Editor's Note: Former Subsection D(4), regarding an additional fee for New York State Department of Environmental Conservation (NYSDEC) Part 364 waste transport permit holders, was repealed 9-30-1998 by L.L. No. 12-1998, and subsequent subsections renumbered.

determination by such designee adverse to the permit holder, the permit holder shall have the right to appeal such determination on written submission to the Broome County Executive, whose decision in such matters shall be final and binding. Revocation or suspension of a permit shall be in addition to any other fines, penalties or forfeitures applicable to a violation of this article or any other applicable law.

- F. Commencing January 1, 1991, no permit application shall be approved until the applicant files a plan in compliance with the provisions of Article IV of this chapter, pertaining to source separation, and the rules and regulations promulgated pursuant thereunto, which states the applicant's plan for eliminating banned materials from disposal at any solid waste management or resource recovery facility and for reporting the tonnages diverted to other solid waste management facilities for the purpose of recycling, composting or alternative management.

§ 317-6. Operating regulations. [Amended 5-6-1986 by L.L. No. 2-1986; 12-18-1989 by L.L. No. 2-1990; 5-20-1993 by L.L. No. 9-1993]

- A. General. Any sanitary landfill site in the County of Broome designated by the Broome County Legislature for that purpose shall be operated in accordance with the following:
- (1) Any County-owned and/or -operated sanitary landfill shall be open at such hours established by the Deputy Commissioner for the Division of Solid Waste Management, except that they shall not be operated between 11:00 p.m. and 6:00 a.m. or on Sundays except by executive order in the event of an emergency. Open hours shall be posted at the entrance to the facility site. **[Amended 3-16-2000 by L.L. No. 6-2000]**
 - (2) No dumping shall be permitted at any other time in order that the operator at the landfill site will have the time to properly compact and cover the solid waste with a minimum six-inch compacted layer of earth or other approved cover material at the close of each day's operation.
 - (3) The disposal of solid waste shall be planned as an engineering project. The general supervision shall be provided by the Broome County Division of Solid Waste Management.
 - (4) The regulatory agency responsible for the compliance of the landfill with Title 6 Part 360 of the New York Codes, Rules and Regulations, Operating Permit, and this article shall be the Broome County Division of Solid Waste Management.
- B. Any County-owned and/or -operated landfill shall be operated in compliance with Title 6 Part 360 of the New York Codes, Rules and Regulations and the operating permit issued for that facility.
- C. The County-authorized operator of the landfill site shall be in full charge of all matters concerning dumping and placing of solid waste at the landfill. Failure to obey any direction of the landfill operator which is reasonable and consistent with the provisions

of this article, Article IV, pertaining to source separation, or the rules and regulations promulgated pursuant to either article shall be deemed a violation.

- D. A maximum speed limit of 15 miles per hour shall be maintained on access roads within the landfill site. **[Amended 9-30-1998 by L.L. No. 12-1998]**
- E. All vehicles transporting solid waste to, entering and/or exiting the landfill site shall have loads appropriately covered or confined in the vehicle by use of tarpaulins, nets or other devices to prevent paper, litter and other substances from blowing out or falling from the vehicle. Vehicles traveling to and/or entering the landfill with loads not appropriately covered or confined shall be charged with a violation of this article. Vehicles exiting the landfill with loads not appropriately covered, such that paper, litter and/or other substances are blowing out or falling from the vehicle, shall be charged with a violation of this article. For permitted vehicles, three or more violations of this section during the term of the aforesaid permit shall result in revocation of the permit as provided under § 317-5. **[Amended 6-19-1997 by L.L. No. 6-1997]**
- F. All commercial users transporting solid waste to a County-owned and/or -operated sanitary landfill shall have the business name and phone number clearly displayed on the side of the vehicle with a minimum letter and number height of three inches.
- G. No material shall be burned at the sanitary landfill site, except as permitted by the New York State Department of Environmental Conservation. No person shall bring hot ashes or cause a fire to start at the landfill site.
- H. No person shall pick over, collect, rummage through or salvage material from solid waste at the landfill site unless authorized to do so by a contract approved by the Broome County Board of Acquisition and Contract or participating in a landfill designated give-back program. **[Amended 2-6-2013 by L.L. No. 3-2013]**
- I. In order to be accepted for management at the landfill, any asbestos waste, leaf/yard waste, pallets, tires and white goods shall be properly segregated from any other solid wastes brought to the landfill. **[Amended 9-30-1998 by L.L. No. 12-1998; 12-19-2002 by L.L. No. 2-2003³]**
- J. The following wastes, in addition to those listed in Title 6 Part 360 of the New York Codes, Rules and Regulations, Operating Permit, shall not be accepted for disposal at Broome County-owned and/or -operated sanitary landfill(s): **[Amended 9-30-1998 by L.L. No. 12-1998]**
 - (1) Large dead animals (e.g., horses and cows).
 - (2) Automobile or other vehicle bodies.
 - (3) Liquid wastes (containing less than 20% solids by weight), including septic tank pumpings.
 - (4) Potentially infectious biological and radioactive wastes.

3. Editor's Note: This local law provided an effective date of 1-1-2003.

- (5) Any other waste deemed to be detrimental to the safe operation of the solid waste disposal facility as determined by the Broome County Division of Solid Waste Management.

§ 317-7. Responsibility for control and operation. [Amended 12-28-1989 by L.L. No. 2-1990; 3-16-2000 by L.L. No. 6-2000]

The Deputy Commissioner for the Division of Solid Waste Management will be responsible for the proper operation, control and maintenance of any landfill owned and/or operated by the County of Broome.

§ 317-8. Host community to receive remuneration. [Added 5-20-1993 by L.L. No. 9-1993; amended 9-30-1998 by L.L. No. 12-1998]

Host communities shall receive remuneration in accordance with the Host Community Agreement dated December 1996.

§ 317-9. Fees and charges. [Amended 11-14-1986 by L.L. No. 10-1986; 3-22-1988 by L.L. No. 2-1988; 12-5-1989 by L.L. No. 15-1989; 11-13-1989 by L.L. No. 16-1989; 11-8-1990 by L.L. No. 14-1990; 4-4-1991 by L.L. No. 8-1991; 1-21-1992 by L.L. No. 1-1992; 5-21-1992 by L.L. No. 7-1992; 3-25-1993 by L.L. No. 8-1993; 5-20-1993 by L.L. No. 9-1993; 11-12-1993 by L.L. No. 13-1993; 4-21-1994 by L.L. No. 8-1994; amended 7-20-1995 by L.L. No. 8-1995; 11-21-1995 by L.L. No. 15-1995; 5-15-1997 by L.L. No. 2-1997; 1-22-1998 by L.L. No. 2-1998; 6-8-1998 by L.L. No. 7-1998; 9-30-1998 by L.L. No. 12-1998; 3-18-1999 by L.L. No. 6-1999; 12-16-1999 by L.L. No. 1-2000; 2-17-2000 by L.L. No. 4-2000; 4-20-2000 by L.L. No. 8-2000; 2-21-2002 by L.L. No. 4-2002; 11-21-2002 by L.L. No. 1-2003; 3-20-2003 by L.L. No. 3-2003⁴; 7-17-2003 by L.L. No. 5-2003; 4-21-2005 by L.L. No. 4-2005; 8-17-2005 by L.L. No. 5-2005; 4-21-2011 by L.L. No. 2-2011; 11-8-2012 by L.L. No. 8-2012 ; 12-19-2013 by L.L. No. 1-2014]

Fees and charges for use of the Broome County Landfill and the hazardous waste facility located at the Nanticoke Landfill are as set forth in the Schedule of County Fees in Chapter 257, Fees and Charges, Article XIV.

A. Landfill charges.

- (1) ⁵ Commencing January 1, 2014, the following charge(s) will apply at the County Landfill: **[Amended 12-19-2013 by L.L. No. 2-2014]**

- (a) Vehicle weight and vehicle load billed at a fee per ton; a portion of said fee shall be dedicated to a fund payable to the host communities of the landfill to be divided among the host communities as set forth in the Host Community Benefit Agreement dated December 1996.

4. Editor's Note: This local law provided an effective date of March 1, 2003.

5. Editor's Note: Original Subsection A(1), regarding charges for residential household waste bags, was repealed 3-19-1998 by L.L. No. 4-1998.

- (b) Entrance into a contract agreement guaranteeing a minimum of 30,000 tons deposited annually at the Broome County Landfill will be billed at a fee per ton.
- (2) The following separate charges will apply at the Broome County Landfill:
 - (a) Aggregate materials such as brick, stone, concrete, and asphalt, bulk metals and pallets: at the fee set per ton.
 - (b) Tires.
 - [1] With rim size up to and including 20 inches: fee per tire; bulk loads: fee per ton. Rims need not be removed.
 - [2] Larger sizes up to and including 42 inches in outside diameter: fee per tire; bulk loads: fee per ton. Rims need not be removed.
 - [3] All equipment tires and tires greater than 42 inches in outside tire diameter are not acceptable.
 - (c) Minimum municipal solid waste (MSW) charges:
 - [1] There shall be a minimum charge per weighed commercial vehicle, regardless of vehicle weight.
 - [2] There shall be a minimum charge per weighed residential vehicle, regardless of vehicle weight.
 - [3] There shall be a minimum charge per unit containing refrigerants such as freon.
 - (d) Leaf/yard waste, tree trunks and stumps. **[Amended 12-19-2013 by L.L. No. 2-2014]**
 - [1] Leaf/yard waste at a fee per ton.
 - [2] Tree trunks and stumps with a diameter greater than eight inches at a fee per ton.
 - (e) Glass aggregate. The following charges will apply to glass aggregate collected at the County Landfill:
 - [1] In-County sources that are cleaned and screened to 3/8 inch or less may be accepted at a fee per ton for use in various applications as a substitute for traditional aggregates. **[Amended 12-19-2013 by L.L. No. 2-2014]**
 - [2] Out-of-County sources that are cleaned and screened to 3/8 inch or minus may be accepted at a charge per ton; all other out-of-County glass may be accepted at a charge per ton for use in various applications as a substitute for traditional aggregates.

- (f) Tire shreds/chips. Tire shreds/chips collected at the County Landfill from in-County and out-of-County sources shall be accepted free of charge for use in various applications as a substitute for traditional aggregates.
- (g) Auto shredder fluff: charged per ton. To be accepted from in-County and out-of-County processors on an as-needed basis and used as an alternative daily cover material subject to rules and regulations as may be promulgated by the Division of Solid Waste Management from time to time, and provided the processor(s) furnish(es) documentation showing the fluff to have been tested and to be in compliance with applicable Department of Environmental Conservation requirements and/or the Environmental Conservation Law.
- (h) Backyard compost bins: per current pricing conditions.
- (i) Safety vests, at a per-vest charge.
- (j) Asbestos.
 - [1] Bagged friable asbestos and other similar particulate material: fee per ton.
 - [2] Bulk loads of friable asbestos: fee per ton with proper approvals and variances to be shown prior to acceptance.
 - [3] Nonfriable asbestos: fee per ton.
- (k) Waste-to-energy incinerator ash: fee per ton to be accepted under the direction of the Deputy Commissioner of Public Works for Solid Waste Management, who may enter into agreements with vendors and/or brokers as necessary and appropriate in order to receive this material as alternative cover for the landfill, and provided the processor(s) furnish(es) documentation showing the ash to have been tested and to be in compliance with applicable Department of Environmental Conservation requirements and/or the Environmental Conservation Law. **[Amended 12-19-2013 by L.L. No. 2-2014]**
- (l) The following separate charges will apply to recycling bins at the Broome County Landfill: **[Amended 12-19-2013 by L.L. No. 2-2014]**
 - [1] Yellow curbside recycling bins. All haulers will be charged a service fee of half the current cost per bin except for those haulers utilizing the County contracted recycling facility.
 - [2] Specialized thirty-two-gallon recycling bins; as per current pricing conditions.
- (m) Fees ranging from \$1 to \$100 that may differ from what is listed as standard tip fees will be considered on a case-by-case basis and would require approval of the Legislative Public Works and Transportation Committee. These exceptions will be on a limited basis and are based on market conditions. These exceptions will be limited to specific projects that would

have tonnages in excess of 2,000 tons (allowance of a fifteen-percent variance). **[Added 2-6-2013 by L.L. No. 3-2013]**

- (n) Construction and demolition debris. **[Added 12-19-2013 by L.L. No. 2-2014]**
 - [1] Construction and demolition debris: fee per ton.
 - [2] Reusable construction and demolition materials: fee per ton; as deemed acceptable and reusable by the Division of Solid Waste for distribution through the material reuse program.
- (3) Commencing January 1, 2014, the following separate charge shall apply at the Broome County Landfill: **[Amended 12-19-2013 by L.L. No. 2-2014]**
 - (a) Contaminated soils which can be used as an alternative daily cover, as appropriate, to ensure environmental health and safety: fee per ton.
 - (b) Contaminated soils which are accepted for disposal and buried at the Broome County Landfill: fee per ton.
- (4) Commencing January 1, 2014, the following charges shall apply at the hazardous waste facility located at the Broome County Landfill: **[Amended 12-19-2013 by L.L. No. 2-2014]**
 - (a) Residential waste from Broome County residents:
 - [1] On collection days: free.
 - [2] Non-collection day: fee per car load.
 - (b) Commercial waste: a charge per pound; a charge per pound for wastes containing PCBs.
 - (c) Out-of-County residential waste: a charge per pound, as authorized by intermunicipal agreement.
- (5) Commencing January 1, 2014, the following separate charge shall apply at the Broome County Landfill: **[Amended 12-19-2013 by L.L. No. 2-2014]**
 - (a) Stabilized sludge from municipal wastewater treatment facilities located in Broome County: fee per ton.
 - (b) "Stabilized sludge" means sludge that has been digested or otherwise treated to reduce putrescibility and odor, reduce pathogenic organisms and, except for lime stabilization, reduces the volatile solids content and must be dewatered to at least 20% solids.
- (6) Commencing May 1, 2002, the charges set forth in this section shall be waived for a one-day period per annum, per municipality within the County of Broome, to allow for municipal cleanup days. **[Amended 2-6-2013 by L.L. No. 3-2013; 12-19-2013 by L.L. No. 2-2014]**

- (a) Eligibility for this program shall be limited to Broome County municipalities and properties of the Broome County Land Bank.
 - (b) The applicable date for this one-day waiver shall be established by each individual municipality, by application, annually.
 - (c) Wastes eligible for this waiver shall include bulk items, white goods, scrap metals, wastes from illegal dump site cleanups and other wastes as may be generated by special, municipal-wide cleanup efforts. Wastes not eligible for this waiver include general municipal solid wastes, leaves and yard wastes and construction and demolition debris that are collected through the course of regular solid waste collection services.
 - (d) The amount of fee waiver for any applicant shall be limited to the tipping fee for disposal of eligible wastes resulting from the designated cleanup day. Specifically excluded from this waiver is reimbursement for costs associated with collection or transportation of the wastes, which shall be solely the responsibility of the municipality.
 - (e) The total cost of this fee waiver program shall not exceed \$30,000 per year.
 - (f) The Division of Solid Waste Management shall prepare appropriate regulations to implement the intent of this subsection, which regulations shall be filed with the Clerk of the Legislature.⁶
- (7) The charges set forth in Chapter 247, Article XIV, shall be waived for disposal of debris related to damage occurring during a natural or man-made disaster resulting in a declaration of a state of emergency by the County Executive.⁷
- (a) Eligibility for this program shall be limited to the property owners suffering damage due to such man-made or natural disaster.
 - (b) The person requesting a fee waiver shall file an application with the Division of Solid Waste Management on forms provided by the Division.
 - (c) The application for a waiver shall contain a certification from an appropriate code enforcement or emergency services official that the applicant qualifies for the fee waiver based on records of damage due to such natural or man-made disaster.
 - (d) The amount of the fee waived for any applicant shall be limited to the tipping fee for disposal of debris which is not covered by any insurance or local, state or federal emergency assistance.

6. Editor's Note: Original Subsection A(8), regarding the waiving of charges to allow for cleanup days, was renumbered as Subsection A(7) 9-30-1998 by L.L. No. 12-1998.

7. Editor's Note: Former Subsection A(7), regarding the waiving of charges for disposal of debris related to flood damage occurring during January of 1996, was repealed 9-30-1998 by L.L. No. 12-1998, which local law also provided for the renumbering of former Subsection A(8) as Subsection A(7).

- (e) The Division of Solid Waste Management shall prepare appropriate regulations to implement the intent of this subsection, which regulations shall be filed with the Clerk of the Legislature.
 - (8) Commencing January 1, 2014, the following separate charge shall apply at the Broome County Landfill: [Added 12-19-2013 by L.L. No. 2-2014]
 - (a) Industrial waste from facilities located in Broome County: fee per ton.
 - (b) "Industrial waste" means solid waste generated by manufacturing or industrial processes.
- B. Finance charges and collection costs.
- (1) For amounts invoiced hereinabove and which remain unpaid for a period of more than 30 days, an additional penalty of one 1 1/2% on the unpaid balance for each month or any fraction thereof that such amount remains unpaid. Accounts 60 days past due are subject to suspension. Accounts 90 days past due are subject to revocation.
 - (2) Any collection made by Broome County Security on returned checks or partial payments for past-due balances on permit user accounts or tipping fees shall incur a finance charge of \$20 in addition to the outstanding balance.
 - (3) Failure to pay any tipping fee is a violation of this article.
 - (4) Except as otherwise provided herein or by resolution duly adopted by the Broome County Legislature, there shall be no other County fee or charge for use of landfill sites operated in and for the County of Broome.

§ 317-10. Penalties for offenses. [Amended 12-28-1989 by L.L. No. 2-1990; 5-30-1990 by L.L. No. 6-1990; 5-20-1993 by L.L. No. 9-1993]

- A. A violation of any section of this article shall constitute a violation punishable by a fine not in excess of \$1,000 or imprisonment for a term not to exceed 15 days, or both.
- B. Each such violation shall constitute a new violation.
- C. In addition to the above, the violation of any section of this article shall be subject to a civil penalty imposed by the County of Broome in an amount not in excess of \$1,000 for each offense.
- D. In addition to the above-provided sections and penalties, Broome County may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this article.
- E. In addition to or in lieu of the above, permit holders may be subject to suspension or revocation of their permit pursuant to the provisions of § 317-5E of this article.

ARTICLE II

Solid Waste Management

[Adopted 10-15-1986 by L.L. No. 8-1986^s (Ch. 179, Art. II, of the 1991 Code)]

§ 317-11. Title.

This article shall be known and may be cited as the "Solid Waste Management Law."

§ 317-12. Purposes.

This article is adopted pursuant to Chapter 930 of the Laws of 1983 of the State of New York for the purpose of effectuating the management on a County-wide basis of all solid waste generated within or coming into from outside of the County of Broome in order to protect the public health and safety and to improve the environment by control of air, water and land pollution and carrying out the expressed solid waste disposal policy of the state to displace competition with regulation or monopoly public service.

§ 317-13. Definitions. [Amended 5-24-1988 by L.L. No. 5-1988]

As used or referred to in this article, unless the context otherwise requires, the following terms shall have the meanings indicated:

COMMERCIAL USER — One generating or transporting recyclable waste in the course of business, earning a livelihood or other regularly income-producing service or activity. This includes but is not limited to the following: commercial waste haulers and processors, contractors, small businesses, corporations and institutions. [Added 5-20-1993 by L.L. No. 9-1993]

COUNTY OF BROOME — The entire County of Broome as constituted and existing under the laws of the State of New York.

DEPUTY COMMISSIONER — The Deputy Commissioner of Public Works, Parks, Recreation and Youth Services for the Division of Solid Waste Management. [Added 3-16-2000 by L.L. No. 6-2000; amended 11-8-2012 by L.L. No. 8-2012]

DISPOSAL OF SOLID WASTE — The transporting or delivery of solid waste to a solid waste management - resource recovery facility.

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8. Editor's Note: Section 9 of this local law, as amended 5-24-1988 by L.L. No. 5-1988, read as follows: "This local law shall take effect following a public hearing before and approval by the County Executive in the manner provided by law. Section 4(B) of this local law shall be effective throughout the County no later than December 1990 and following a public hearing before and approval by the County Executive in the manner provided by law. The County Executive or his designee shall, within 90 days of the signing of this local law, file with the Clerk of the Broome County Legislature and of each municipality within the County a schedule for implementation of this local law, giving the date that this law will be effective in each town, city and village within the County. An adjustment and education period of 12 months from the effective date of this local law is hereby established. During such adjustment and education period, any violation of this local law shall not be subject to ordinary enforcement and penalties, but shall instead be handled as follows: i) Verbal warning or instruction to the person in violation; ii) Written warning or instruction to the person in violation; or iii) Meeting with person in violation to determine the reasons for such violation and to educate or assist such person to achieve compliance."

DROPOFF AREA — Any area designated from time to time by the County Executive or his designee (as hereinafter provided) where persons can bring recyclables for aggregation and further transport to a materials recovery facility.

MATERIALS RECOVERY FACILITY — A type of solid waste management - resource recovery facility, duly designated pursuant to this article, at which recyclables are aggregated and processed for eventual transportation to markets, where said materials can be beneficially reused or distributed for beneficial reuse.

MUNICIPALITY — Any county, city, town, village, improvement district (or a county, city, town or village acting on behalf of an improvement district), public corporation, municipal corporation, political subdivision, government agency or department or bureau of the state or federal government.

PERSON — Any natural person, individual, partnership, copartnership, association, joint venture, corporation, trust, estate or any other legal entity, inclusive of a municipality.

RECYCLABLES — That component of solid waste which may be reclaimed for further use, specifically those materials designated as recyclable in Article IV of this chapter.

RESIDENTIAL USER — One generating recyclable waste in the course of daily living and improvement of his own residence. This specifically excludes those hauling commercial recyclable waste. [Added 5-20-1993 by L.L. No. 9-1993]

SOLID WASTE — All solid materials or substances which are useless, unused, unwanted or discarded and which have no market or other value at their place of location, including garbage, refuse and other discarded solid materials, including solid waste materials resulting from industrial, commercial and agricultural operations and from community activities, but not including solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows or other common water pollutants or special nuclear or by-product material within the meaning of the 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 § 27-0903 of the Environmental Conservation Law of the State of New York.

SOLID WASTE MANAGEMENT - RESOURCE RECOVERY FACILITY or FACILITY — 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, storing, 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, sanitary landfills, plants and facilities for compacting, composting or pyrolyzation of solid waste, incinerators and other solid waste disposal, reduction or conversion facilities and resource recovery equipment and disposal equipment as defined in Subdivisions 4 and 5 of § 51-0903 of the Environmental Conservation Law of the State of New York.

§ 317-14. Disposal of solid waste; recycling. [Amended 5-24-1988 by L.L. No. 5-1988; 5-20-1993 by L.L. No. 9-1993; 12-19-2013 by L.L. No. 2-2014]

A. Designation of facilities; flow control.

- (1) The County Executive ("Executive") or his designee, which designee must be an officer or agent of the County, is hereby authorized and directed to designate, by written statement, from time to time, one or more solid waste management-resource recovery facilities to be used for the disposal of solid waste generated, originated or brought within the County of Broome, which designation may include a determination that a particular solid waste management-resource recovery facility shall be the only facility used for the disposal of solid waste generated, originated or brought within all of, or a described area within, the County of Broome or by a particular person or persons. Such written designation of a facility shall be filed with the Clerk of the Broome County Legislature and shall become effective within 60 days of filing, unless rescinded or modified by appropriate resolution of the Broome County Legislature.
- (2) In making such designation, the Executive or his designee shall give due consideration to the capacity of any 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 Executive or his designee to determine that the public interest is served by such designation. No person shall dispose of solid waste generated within or coming into from outside the County of Broome except at a solid waste management-resource recovery facility designated by the Executive or his designee in accordance with this section. The Executive or his designee is hereby authorized and directed to promulgate, in writing, such rules and regulations as he shall determine to be necessary to effectuate the purposes of this article, including the requirement that all private haulers of solid waste be licensed by the Executive or his designee. All acts and proceedings taken by the Executive or his designee pursuant to this article shall in all respects be consistent with the Environmental Conservation Law and other applicable laws and rules and regulations promulgated pursuant thereto. Rules and regulations promulgated pursuant to this section shall be in writing and filed with the Clerk of the Broome County Legislature, and they shall take effect within 60 days after filing, unless rescinded or modified by appropriate resolution of the Broome County Legislature.

B. Handling of recyclables.

- (1) General provisions.
 - (a) Recyclables generated or brought within the County shall not be accepted for disposition or handling at any solid waste management-resource recovery facility except at a materials recovery facility duly designated pursuant to this article.
 - (b) From the time that solid waste, including recyclables, is placed for collection at a roadside, dropoff area or other proper collection area, such solid waste, including recyclables, shall become the property of the County or its authorized agent. It shall be a violation of this article for any person without

authority of the County to collect, pick up, remove or cause to be collected, picked up or removed any solid waste, including recyclables, placed for collection at a roadside, dropoff area or other proper collection area. Each such collection, picking up or removal from a particular residence, business, dropoff area or other collection area shall constitute a separate and distinct offense in violation of this article.

- (c) Broome County dropoff areas or stations shall be for the sole use of residential users. Commercial generators shall not make use of these facilities. Unauthorized commercial use of dropoff areas or stations shall be considered a violation of Article III of this chapter pertaining to dumping.
- (d) All vehicles transporting recyclables to and/or entering a material recovery facility site shall have the recyclables appropriately covered or confined in the vehicle by the use of tarpaulins, nets or other devices to prevent papers, litter and other substances from blowing out or falling from the vehicle. Vehicles traveling to and/or entering such a facility with loads not appropriately covered or confined shall be permitted to unload the recyclable material at the facility and shall be charged with a violation of this article.

§ 317-15. Permit required: application; issuance; fees and charges. [Added 5-20-1993 by L.L. No. 9-1993]

No person, firm or corporation, public or private, engaged in the transporting of recyclables shall be authorized to use any County-owned and/or -operated material recovery facility without first obtaining from the County of Broome a permit to use said facility for the purpose of solid waste management.

- A. Applications for permits shall be upon forms provided by the Deputy Commissioner for the Division of Solid Waste Management. Each applicant shall state in such application his or her name, address, legal character (corporation, partnership or individual), including the area or areas of operation, and such other information as the Deputy Commissioner for the Division of Solid Waste Management may require. Areas of operation listed on the application shall not be varied, increased, decreased or in any other way altered during the period covered by the permit without the prior written consent of the Deputy Commissioner for the Division of Solid Waste Management. No collections shall be made in areas outside the County of Broome except upon the prior written approval of the County Executive. **[Amended 3-16-2000 by L.L. No. 6-2000]**
- B. A permit shall not be issued unless the applicant agrees, in writing, to the following hold-harmless clause, which shall be included as a part of the application form: "The permittee shall indemnify and hold harmless Broome County and any of its officers, agents and employees from all claims, demands, causes of action and judgments arising out of injuries to persons and property of whatever kind or nature as a result of the fault or negligence of the permittee, its employees or agents in the permittee's use of a County-owned and/or -operated MRF."
- C. Permits issued pursuant to this article shall be for a period of one year or less, beginning July 1; subject, however, to the revocation or suspension thereof as provided herein.

§ 317-16. Enforcement.

It shall be the responsibility of the Executive or his designee, in consultation with the County Attorney, to enforce the provisions of this article 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 of Broome as may be provided or authorized by law.

§ 317-17. Penalties for offenses.

Any person who violates this article shall be guilty of an offense and subject to a fine of not more than \$500 and/or imprisonment for not more than 15 days and/or suspension or revocation of collecting, receiving, transporting and/or disposing privileges in conjunction with solid waste within the County of Broome. Each and every act of disposal committed which is prohibited by § 317-14 hereof shall constitute a separate violation of this article.

§ 317-18. Precedence over other legislation.

Pursuant to Section 2047-t of Chapter 930 of the Laws of 1983 of the State of New York, this article takes precedence over and shall supersede any inconsistent provisions of any local law enacted by any municipality within the County of Broome.

ARTICLE III**Dumps and Dumping**

[Adopted 7-25-1991 by L.L. No. 11-1991 (Ch. 179, Art. III, of the 1991 Code)]

§ 317-19. Purpose.

- A. The purpose of this article is to prohibit the disposal of solid waste at any location other than facilities or sites authorized by the State of New York, County of Broome, City of Binghamton, or any town or village situated in the County of Broome.
- B. The Broome County Legislature acknowledges the growing costs associated with the disposal of solid waste and the resulting inclination of those who may seek to avoid such costs by depositing such material along highways, on vacant lots, on business sites, in private dumpsters and other places. Such activities are hereby deemed to pose an imminent hazard to the public health, safety and welfare of the residents of the County.
- C. The adoption and vigorous enforcement of this article is intended to be an effective deterrent to indiscriminate dumping of solid waste.

§ 317-20. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DISPOSE — To discharge, deposit, inject, dump, spill, leak or place into or on any land or water or onto or in any receptacle or dumpster such solid waste or any constituent thereof.

OPEN DUMP — A solid waste disposal area which does not comply with required public health and environmentally controlled practices.

PERSON — Any individual, firm, public or private corporation, political subdivision, government agency, trust, estate or any other legal entity whatsoever.

SOLID WASTE — All putrescible and nonputrescible materials or substances that are discarded or rejected as being spent, worthless, useless 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, sludge from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal.

§ 317-21. Disposal of solid waste restricted; open dumps prohibited.

- A. No person shall dispose or attempt to dispose of solid waste in the County of Broome except at:

- (1) A disposal facility exempt from the requirements of 6 NYCRR 360 if its exempt status is unaffected by such disposal; or
 - (2) A disposal facility authorized to accept such waste for disposal pursuant to said Part 360 or to an order issued by the New York State Department of Environmental Conservation or a court having jurisdiction.
- B. There shall be no open dumps in Broome County. This shall not be construed as to prohibit disposal areas located in the property areas of a farm as otherwise permitted by law, except in cases creating a public health nuisance as defined in the Broome County Sanitary Code and such other state and local laws as may apply.

§ 317-22. Penalties for offenses; enforcement; disposition of fines.

- A. All provisions of this article are enforceable by the Broome County Security Department and/or the Broome County Sheriff's Department or their designee(s).
- B. Failure to comply with this article by any person or tenant in cases where a lease agreement gives specific responsibility for solid waste disposal to said tenant shall be an offense punishable as provided.
- C. Any person who commits a violation of § 317-21A and/or B and/or 317-15 is subject to arrest and punishment, upon conviction, as hereinafter provided:¹²
 - (1) First offense. Conviction of a first offense as provided by this article shall be punishable by a fine of not less than \$50 nor more than \$1,500, and/or a term of imprisonment not to exceed 15 days, together with restitution based on avoided disposal fees and cost of collection and hauling and/or community service. Violation of this provision shall be a violation as defined by Subdivision 3 of § 55.10 of the Penal Law of the State of New York.
 - (2) Second or subsequent offense. Conviction of a second or subsequent offense within five years shall be punishable by a fine of not less than \$500 nor more than \$2,500 and/or a term of imprisonment not to exceed six months, together with restitution based on avoided disposal fees and cost of collection and hauling, and/or community service. Violation of this provision shall be a misdemeanor as defined by Subdivision 2 of § 55.10 of the Penal Law of the State of New York.
 - (3) Conviction of any company, partnership, municipality or any entity other than an individual person shall be punishable by a fine of not less than \$500 nor more than \$2,500 and/or community service.
- D. Each day during which a violation continues may be deemed to be a separate violation.
- E. Enforcement shall be effected as follows: by a peace officer or police officer as provided by the Criminal Procedure Law of the State of New York.

12. Editor's Note: Amended at time of adoption of Charter and Code (see Ch. 1, General Provisions, Art. I).

- F. Civil enforcement. Notwithstanding the penalties set forth above, the Broome County Attorney may institute a civil action to obtain restitution to the County of Broome from such offender for the actual costs incurred in rectifying the program created by the aforesaid violation or improper disposal of solid waste or to abate, enjoin or otherwise compel cessation of the violation of any provision of this article, including but not limited to reasonable attorneys' fees and environmental testing.
- G. Disposition of fines. Any fines collected shall be split 50/50 with the municipality in which the violation occurred and with Broome County. The portion of fine made payable to the County of Broome shall be transmitted to the Broome County Director of the Office of Management and Budget to be placed in a dedicated fund for the express purpose of providing financial assistance in the cleanup of illegally disposed waste in the event that a violator cannot be identified. Applications for the use of these funds shall be directed to the appropriate committee as defined in the Rules of Order of the Broome County Legislature, which will have responsibility for allocation and administration of these funds.¹³
- H. Area of enforcement. This article shall be enforced in all municipalities within Broome County, including municipalities that have enacted ordinances regulating the disposal of solid waste.

ARTICLE IV

Source Separation

[Adopted 8-20-1992 by L.L. No. 10-1992; amended in its entirety 5-20-1993 by L.L. No. 9-1993 (Ch. 179, Art. IV, of the 1991 Code)]

§ 317-23. Title. ¹⁴

This article shall be known as the "Mandatory Source Separation Law."

§ 317-24. Purpose.

- A. The purpose of this article is to encourage, facilitate and mandate the source separation of recyclable materials on the part of each and every household, business and institution within Broome County.
- B. The Broome County Legislature acknowledges that recycling will decrease the flow of solid waste to landfills, aid in the conservation of valuable resources and reduce the required capacity or extend the useful life of existing and proposed solid waste management facilities.
- C. It further acknowledges that methods of solid waste management emphasizing source reduction, recycling, recovery and conversion of solid wastes are essential to the long-range preservation of the health, safety and well-being of the public, to the

13. Editor's Note: Amended at time of adoption of Charter and Code (see Ch. 1, General Provisions, Art. I).

14. Editor's Note: Local Law No. 9-1993 contained no text for this section.

economic productivity and environmental quality of Broome County and to the conservation of resources.

§ 317-25. Definitions.

- A. Terms as used or referred to in this article, unless a different meaning clearly appears from the context, are as defined in Title 6 Part 360 of the New York Codes, Rules and Regulations, Solid Waste Management Facilities, as amended.
- B. As used in this article, the following terms shall have the meanings indicated:

AUTHORIZED AGENT OF THE COUNTY — Refers to waste haulers permitted by Broome County.

PARTICIPATING HAULER — An authorized agent of the County that utilizes the Broome County Landfill exclusively for the disposal of solid waste it collects. [Added 9-20-2001 by L.L. No. 5-2001; amended 2-6-2013 by L.L. No. 3-2013]

PUBLIC FACILITY — Any facility allowing public access, including but not limited to parks, recreational facilities, shopping centers, shopping malls, office buildings, restaurants, hospitals, schools and churches.

SOURCE SEPARATION — That recyclables shall be maintained and placed for collection separately from refuse intended for disposal.

§ 317-26. Source separation required.

- A. Source separation shall be required of each and every generator within Broome County producing solid waste destined for a disposal facility within Broome County and by any generator outside of Broome County where such waste will be processed or disposed in a Broome County solid waste management facility.
- B. Materials that must be source separated include paper, corrugated cardboard, glass, metals, plastics, leaves, yard wastes, tires, batteries (wet and dry cell) and household hazardous waste. A detailed published list of materials to be accepted will be on file with the Broome County Legislature. [Amended 12-19-2002 by L.L. No. 2-2003¹⁵; 2-6-2013 by L.L. No. 3-2013]
- C. For the purpose of this article, the term "recyclable material" shall mean those materials that must be source-separated, as defined in § 317-26B, with the exception of household hazardous waste.
- D. Each and every waste hauler, public and private, providing waste collection services in the County of Broome shall be required to provide curbside or dropoff collection of source-separated recyclables for all units serviced by the hauler.

15. Editor's Note: This local law provided an effective date of 1-1-2003.

- E. All municipal and private haulers are prohibited from commingling source-separated recyclables with solid waste. **[Added 2-6-2013 by L.L. No. 3-2013]**

§ 317-27. Preparation of recyclables and other source-separated materials for curbside collection.

- A. Nothing in this article is intended to prevent any waste generator from making arrangements for the reuse, private collection, sale or donation of recyclables; provided, however, that records shall be kept of all such collection of recyclables.
- B. From the time any person places any recyclable materials at or near any curb, sidewalk or street for purposes of collection by a permitted hauler, those recyclable materials shall be considered the property of the County or its authorized agent. No person who is not acting under authority of the County or its authorized agent shall collect, pick up, remove or cause to be collected, picked up or removed any recyclable materials so placed for collection. Each such unauthorized collection, pickup or removal shall constitute a separate violation of this article.
- C. In the event that a hauler has refused to collect certain recyclable materials 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 may and shall remove those materials from any curb, sidewalk or street in accord with the provisions of this article.
- D. Placement.
- (1) Recyclable materials shall be placed separately from any nonrecyclable solid waste placed for collection. Recyclable materials should be prepared in conformance with County practices and standards established pursuant to this section.
 - (2) No person shall place any recyclable materials at or near any curb, sidewalk or street for purposes of collection unless the materials are prepared in conformance with County practices and standards established pursuant to this section.
 - (3) The Deputy Commissioner for Solid Waste Management is hereby authorized and directed to designate, by written statement, from time to time, the practices and standards for preparation of recyclables for collection. Such written designation shall be filed with the Clerk of the County Legislature and shall become effective within 90 days of filing unless rescinded or modified by appropriate resolution of the County Legislature. **[Amended 3-16-2000 by L.L. No. 6-2000]**
 - (4) The Deputy Commissioner shall solicit information from solid waste collectors, solid waste management facility operators and other concerned parties prior to designating revised rules for preparation of materials. **[Amended 3-16-2000 by L.L. No. 6-2000]**
- E. Waste haulers shall not be responsible for collection of waste materials which have not been placed or prepared in accord with this article. In the event of noncollection of waste or recyclable materials, the hauler shall provide written notification of reason for noncollection.

- F. The responsible generator shall immediately remove and properly prepare and dispose of all materials refused for collection, taking all measures necessary to properly and legally restore all disturbed land and surface to the condition existing prior to deposition or reimburse the County or other municipal entity for the same.

§ 317-28. Multifamily buildings and complexes.

- A. Apartment complexes, condominium complexes, cooperative apartments, hotels, motels and bungalow or resort colonies shall be required to establish a private dropoff program for the source separation of recyclable materials for collection and transportation to a recycling facility where curbside collection is not practiced or desired.
- B. The owner and/or manager of every multifamily apartment building or condominium within the County shall provide and maintain, in a neat and sanitary condition, recycling dropoffs to receive all recyclable materials generated by residents of the building or complex. In cases where a condominium association exists, the condominium association shall be responsible for provision and maintenance of the recycling dropoff(s). It shall be the tenant's responsibility to separate designated recyclable materials from the solid waste and deposit the recyclables in the dropoff(s) in the manner prescribed by facility management.
- C. The owner or manager of every multifamily building or complex shall arrange for the collection and/or transportation of all recyclable materials to a material recovery facility or secondary materials market.

**§ 317-29. Residential/commercial (institutional) and industrial waste and recyclables.
[Amended 2-6-2013 by L.L. No. 3-2013]**

- A. All residential solid waste collected by either municipal or private haulers shall be source separated and delivered to an appropriate facility for disposition, as may be designated by the County.
- B. All commercial/industrial/institutional solid waste collected by either municipal or private haulers shall be source separated and delivered to an appropriate facility for disposition, as may be designed by the County.
- C. All recyclable commercial/industrial/institutional by-products shall be source separated and delivered to an appropriate facility for the express purpose of processing for sale to a secondary materials market. Nothing in this section shall prevent generators from marketing these materials directly to an end-use market, secondary materials market or secondary materials broker.

§ 317-30. Penalties for waste generators.

- A. Failure to comply with this article by any person shall be an offense punishable as provided.
- B. Each day of violation of this article shall constitute a separate offense.

- C. The waste hauler shall maintain the right to refuse collection of solid waste and/or recyclables due to a lack of source separation or proper preparation on the part of the waste generator. In such a case, the hauler shall affix a notice to the waste material which clearly states the reason for noncollection.
- D. Individuals convicted of a first offense under this article shall be subject to a fine of not less than \$25 and not more than \$50. Conviction of a second offense within one year of the first offense shall be punishable by a fine of not less than \$50 nor more than \$100. Conviction of subsequent offense(s) within one year of the first offense shall be punishable by a fine of at least \$100 and not more than \$200. In addition to the penalties listed above, anyone convicted of an offense under the provisions of this article shall be subject to a civil penalty to recover cost of enforcement and prosecution, including but not limited to attorneys' fees, court costs and site cleanup cost, if applicable.
- E. Any company, partnership, corporation, municipality or entity other than an individual person convicted of a first offense as provided for by this article shall be subject to a fine of not less than \$200 and not more than \$1,000 and/or revocation of solid waste collection and disposal permits. Conviction of subsequent offenses shall be punishable by a fine of not less than \$1,000 and not more than \$2,000. Any such entity convicted of an offense under the provisions of this article shall also be subject to a civil penalty to recover the cost of enforcement and prosecution, including but not limited to attorney's fees, court costs and site cleanup costs, if applicable. In addition, the County Attorney may also maintain an action or proceeding in the name of Broome County in a court of competent jurisdiction to compel compliance with or to restrain by injunction such violation.

§ 317-31. Penalties for waste haulers.

- A. Failure of any hauler to comply with this article shall be an offense punishable as provided.
- B. Each day of violation of this article shall constitute a separate offense.
- C. Violation of any section of this article shall be punishable by a fine not in excess of \$1,000 and/or revocation of the hauler's landfill user's permit, or any combination thereof. In addition, the violation of any section of this article shall be subject to a civil penalty imposed by the County to recover cost associated with enforcement and prosecution, including but not limited to reasonable attorney's fees, court costs and site cleanup costs, if applicable. And, in addition, Broome County may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this article.

§ 317-32. Solid waste disposal on public property.

- A. All public facilities within the County of Broome shall provide public refuse receptacles for solid waste disposal by facility users and employees.

- B. There shall be provided separate public receptacles for recyclables. Such containers shall be clearly marked RECYCLE, and a list of recyclable items shall accompany said public refuse receptacle. There shall be an adequate number of clearly marked and accessible public receptacles for recyclable materials in order to facilitate recycling.
- C. All recyclable materials shall be placed in separate public recycling receptacles. The responsibility to separate recyclables from nonrecyclables shall be placed on the facility user.
- (1) Parks may, in lieu of providing separate public receptacles for recyclables, require that park patrons take their recyclable materials with them upon leaving the park. The municipalities shall post signs at all park entrances advising the public of the rule. Park patrons shall be responsible for removing recyclables from the park and disposing of them in accordance with this article.
- (2) Notwithstanding the provisions of the subsection, concession stands within the park providing food or other items packaged in recyclable containers shall provide both refuse and recyclable containers to conform to this section.
- D. It shall be a violation of this article for any person to place or to cause to be placed any material other than a recyclable in or near a public receptacle designated for recyclable materials.
- E. It shall also be a violation of this article for any person to place or to cause to be placed any recyclable material in or near a public refuse receptacle designated for nonrecyclable materials.
- F. Any person, including employees of public facilities, convicted of a violation of this section shall be subject to a fine of up to \$50 or community service.
- G. The proprietor of any public facility convicted of a violation of this section shall be subject to a fine of up to \$200 or community service. Each day of violation shall constitute a separate offense.

§ 317-33. Enforcement.

All provisions of this article shall be enforced by the Broome County Security Division or may be enforced by a municipal code enforcement official or other appropriate enforcement agencies.

§ 317-34. Reporting to Deputy Commissioner. [Amended 3-16-2000 by L.L. No. 6-2000]

- A. All waste haulers, and any other person or entity that collects, transports and/or markets recyclables, must maintain monthly records of all recyclable material. These records must include the following: [Amended 12-19-2013 by L.L. No. 2-2014]

- (1) The total tonnage, by material, of recyclable material collected.
 - (a) The total tonnage, by material, of recyclable material delivered to each and every materials recovery facility, secondary materials market, secondary materials broker or end-use market.
 - (b) Weight slips from the broker or end market will fulfill this requirement.
- B. Reports containing the information required in this section shall be compiled and delivered to the Deputy Commissioner for the Division of Solid Waste Management on an annual basis. Reports shall be filed with the Deputy Commissioner no later than January 31 of the subsequent year of filing.
- C. ¹³ Each waste hauler shall retain for no less than five years the records and documents required pursuant to this article and shall make such documents available upon the request of the Deputy Commissioner or law enforcement officers.

§ 317-35. Acceptance of source-separated materials by County facilities; tipping fee. [Amended 9-20-2001 by L.L. No. 5-2001; amended 12-19-2013 by L.L. No. 1-2014]

Upon payment of any tipping fee imposed by the County, the County shall accept any materials source-separated pursuant to this article at a designated solid waste management facility or through special collections, including but not limited to household hazardous wastes. The tipping fee imposed shall be as indicated in the Schedule of County Fees in Chapter 257, Fees and Charges, Article XIV; provided, however, that the tipping fee shall be waived for participating haulers.

§ 317-36. Priority.

Pursuant to Section 1 of Chapter 675 of the Laws of 1982 of the state, this article takes precedence over and shall supersede any inconsistent provisions of any local law enacted by any municipality within the County.

13. Editor's Note: Former Subsection C, regarding an annual collection vehicle permit, and Subsection D, regarding the permit sticker, were repealed 12-19-2013 by L.L. No. 2-2014. Said local law also redesignated former Subsection E as Subsection C.