

**LOCAL LAW INTRO. NO. -2023**

A LOCAL LAW amending Chapter 825 of the Laws of Westchester County entitled the "Westchester County Source Separation Law" to improve recycling, reduction and waste programs in the County of Westchester.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 825 of the Laws of Westchester County is amended to read as follows:

**Chapter 825**

**ARTICLE I. - SHORT TITLE AND STATEMENT OF PURPOSE**

**Sec. 825.01. - Short title.**

This shall be known as the "Westchester County Source Separation Law."

**Sec. 825.11. - Purposes.**

The purpose of this chapter is to promote the general health, welfare, and safety of citizens of Westchester County, to protect the environment and to manage the solid waste stream in Westchester County. This legislation is intended to implement existing state solid waste management policy, as declared in Title 1 of Article 27 of the New York State Environmental Conservation Law, under which the County has been designated as the official planning unit for all the solid waste generated and collected within its borders. This Chapter is an essential element of Westchester County's ~~state-approved~~ Ssolid Wwaste Mmanagement Pplan. The reporting requirements of this chapter will permit the County to have informational feedback to assess the effectiveness of its ~~state-approved~~ Ssolid Wwaste Mmanagement Pplan and to develop any necessary future solid waste management options. In addition, this Chapter promotes ~~is for~~

the purpose of reducing the need to dispose of Solid Waste generated in this County ~~through incineration or landfilling~~ by maximization of recycling and to comply with New York State General Municipal Law section 120-aa.

## ARTICLE II. - APPLICABILITY

### Sec. 825.20. - Applicability.

This chapter shall apply to every Waste Generator, Hauler, Recyclables Broker, and Municipality within the County of Westchester.

## ARTICLE III. - DEFINITIONS

### Sec. 825.30. - Definitions.

Unless otherwise expressly stated or unless the context or subject matter specifically requires a different meaning, the meanings of the following terms ~~which are~~ used in this chapter shall be as follows:

1. County shall means the County of Westchester.
2. Commissioner shall means the Commissioner of Environmental Facilities of the County of Westchester or their/his/her duly authorized ~~designee~~ representative.
3. Construction and dDemolition dDebris or (C&D) has the same meaning as ~~means in the Westchester County Solid Waste Licensing Law. un~~contaminated Solid Waste ~~resulting from the construction, remodeling, repair, and/or demolition of structures and roads, and un~~contaminated Solid Waste ~~consisting of vegetation resulting from land clearing and grubbing, utility line maintenance, and seasonal and storm related cleanup where such materials are unable to be processed as Yard Waste~~ excluding vegetative waste. Such waste includes, but is not limited to, bricks, concrete, and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and

~~components containing no hazardous liquids, and metals that are incidental to any of the above.~~

~~3.4.~~ Department shall mean the County of Westchester County Department of Environmental Facilities.

~~4.5.~~ Electronic Waste shall mean waste items, such as computers, computer peripherals, televisions, small scale servers, small electronic equipment, and wireless telephones, as further defined in New York State Environmental Conservation Law, Article 27, Title 26 and Article 27, Title 23\*2.

~~5.6.~~ Hauler shall mean any person, excluding municipalities, the County, and any County district, including, but not limited to, Refuse Disposal District No. 1 and all County sewer and water districts, who, for a fee or other consideration, collects, stores, transfers, transports, or disposes of Solid Waste, Recyclables, or Construction and Demolition Debris that is generated or originated within the County or brought within the boundaries of the County for disposal, storage, transfer, or processing.

~~6.7.~~ Household Hazardous Wastes (HHW) are materials found in residential wastes that would be regulated as hazardous wastes if they were generated outside of a household. These household wastes can be flammable, toxic, corrosive, or reactive and can be dangerous if handled improperly.

~~7.8.~~ Municipality shall mean any of the towns, villages, and cities located within Westchester County.

~~8.9.~~ Person shall mean any individual, firm, company, association, society, corporation, partnership, co-partnership, joint-stock company, trust, estate, governmental entity, or any other legal entity or legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural, where indicated by context.

~~9.10.~~ Rechargeable Batteries shall mean any battery included in Article 27, Title 18 of the New York State Environmental Conservation Law, and any other law or regulation related to rechargeable battery recycling.

10.11. Recycle shall means any method, technique, or process utilized to separate, process, modify, convert, treat, or otherwise prepare solid waste so that its component materials or substances may be beneficially used or reused.

11.12. Recyclables shall means the following materials:

- (a) Newsprint: Newspapers as purchased, including any glossy inserts.
- (b) High-grade paper: Includes high quality paper such as letterhead, copier paper, typing paper, tablet sheets, computer printout paper, and all paper of similar quality. This term shall not include carbon paper, self-carbonizing paper, coated or glossy paper, envelopes with intact windows or adhesive labels. Residential waste generators are permitted to commingle high-grade paper with newsprint; however, nonresidential waste generators are required to separate high-grade paper from newsprint. Glass: Glass jars, bottles, and containers of clear, green or amber (brown) color, used to store food or beverages only, which ~~must~~shall be empty and rinsed clean. This term excludes ceramics, window or automobile glass, mirrors, and light bulbs.
- (c) Metals: All ferrous and nonferrous food and beverage containers, including steel, aluminum, and bimetal, which shall be empty and rinsed clean.
- (d) Bulk metals: Large metal fixtures and appliances, including white goods such as washing machines, refrigerators (after Freon has been removed), etc. This term excludes metal containers utilized to store flammable or volatile chemical materials, such as fuel tanks.
- (e) Plastics: All plastics with resin identification codes 1 through 7, including food, beverage, detergent, and shampoo containers and caps, which shall be empty and rinsed clean. This term excludes all plastic film (e.g., dry cleaning bags, and packaging materials), plastic bags, vinyl, all large rigid plastics (e.g., toys, pools, and furniture), non-coded small rigid plastics (e.g., toys, clothing hangers, tableware, and utensils), plastic foam materials (e.g., hot beverage cups, trays, and packaging materials), containers that held potentially hazardous materials (e.g.,

motor oil, solvents, and pesticides), and building materials (e.g., piping, and bathroom and kitchen fixtures).

- (f) Yard ~~W~~waste: Leaves collected during the fall only.
- (g) ~~Vehicular~~ Lead-Acid Vehicular ~~b~~Batteries: ~~Lead acid batteries~~ Batteries used in automobiles and heavy equipment as defined in New York State Environmental Conservation Law § 27-1701; excludes single use non-lithium ion household batteries (e.g., for flashlights, radios, cameras, etc.).
- (h) Used ~~M~~motor ~~O~~oil: The type used in gasoline and diesel vehicle and equipment engines, delivered in an uncontaminated container, as defined in New York State Environmental Conservation Law § 23-2307.
- (i) Cardboard including corrugated cardboard containers, which must be cleaned of excessive amounts of contaminants such as adhesives, metals and plastics; cereal boxes, tissue boxes, paper towel rolls, or any other noncorrugated materials made from cardboard.
- (j) Cartons: Food or beverage container including gable-top containers, typically made of waxed paperboard or paperboard lined with plastic and/or aluminum, and typically used as a container for milk, juice, broth, and/or soup.

~~12.13.~~ Recyclables ~~B~~roker shall means any person, excluding municipalities, the County, and any County district, including but not limited to Refuse Disposal District No. 1 and all County sewer and water districts, who, for a fee or other consideration, collects, picks up, separates, processes, markets, transports, stores or otherwise handles Recyclables exclusively, if those recyclables were generated or originated within the County or brought within the boundaries of the County for disposal, storage, transfer, or processing, excluding those persons who are required to accept beverage containers under § 27-1007 of the New York State Environmental Conservation Law or persons who redeem containers under said law, and those persons who are required to accept Used ~~M~~motor ~~O~~oil, ~~and Lead-Acid~~ ~~v~~Vehicular ~~b~~Batteries, paint, or any other material accepted -free of charge for recycling under applicable state law, whether or not the State program includes a fee collected at the time of product purchase, provided that this

exclusion shall only apply to ~~the aforementioned activities which~~ that are governed by state or county law. A ~~R~~Recyclables ~~B~~Broker may collect, separate, process, store, transport, or otherwise handle ~~S~~Solid ~~W~~Waste contaminants that are collected with ~~R~~Recyclables, provided that the ~~R~~Recyclables ~~B~~Broker has taken reasonable precautions to prevent the introduction of such contaminants.

~~13.14.~~ Separate Collection shall means that any municipality, hauler, or recyclables broker who collects, transports, or stores ~~s~~Solid ~~W~~Waste or ~~r~~Recyclables shall keep source-separated ~~R~~Recyclables separate from ~~S~~Solid ~~W~~Waste during collection, transportation, and storage, except for ~~R~~Recyclables that are mixed with ~~s~~Solid ~~W~~Waste in construction and demolition debris ~~and~~ identifiable bagged ~~R~~Recyclables mixed with bagged ~~S~~Solid ~~W~~Waste, provided that ~~R~~Recyclables are later separated for recycling.

~~14.15.~~ Solid Waste shall means all putrescible and nonputrescible materials or substances that are discarded or rejected as being spent, useless, worthless, or in excess to their owners at the time of such discard or rejection, including but not limited to garbage, refuse, commercial waste, rubbish, ashes, incinerator residue, and ~~C~~Construction and ~~D~~Demolition ~~d~~debris. "Solid waste" shall not be understood to include ~~R~~Recyclables as defined in this chapter.

~~15.16.~~ Source Separation shall means the segregation of ~~r~~Recyclables from ~~S~~Solid ~~w~~waste at the point of waste generation for separate collection, sale, or other disposition.

~~16.17.~~ Waste Generator shall means any person within Westchester County who produces or is responsible for ~~s~~Solid ~~w~~waste or ~~r~~Recyclables ~~in Westchester County~~ requiring disposal.

~~17.18.~~ Residential waste generator shall means a ~~W~~Waste ~~G~~Generator who resides in a single- or multifamily dwelling within Westchester County, whose waste is generated from household functions, ~~such as including, but not limited to cooking, or cleaning, etc.~~

~~18.19.~~ Nonresidential waste Generator shall mean all waste generators other than ~~R~~Residential ~~W~~Waste ~~g~~generators.

#### ARTICLE IV. - PROVISIONS APPLICABLE TO WASTE GENERATORS

**Sec. 825.40. - Provisions applicable to ~~w~~Waste Ggenerators.**

1. Every ~~w~~Waste Generator in Westchester County shall be responsible for the source separation of ~~s~~Solid ~~w~~Waste and Recyclables at the point of generation. Waste Generators shall source-separate additional materials designated as Recyclables by a local Mmunicipality pursuant to § 120-aa of the General Municipal Law, if that ~~m~~Mmunicipality provides or causes to be provided collection of such materials for the Wwaste Generator, or a location within that Mmunicipality for delivery of such materials by the ~~w~~Waste Generator. With respect to Household Hazardous Materials, Electronic Waste, Lithium-Ion Batteries, Freon and/or Mercury Containing items, and any other material regulated by State law requiring special disposal, Waste Generators shall source separate those materials and ensure safe and proper disposal. Waste Generators shall not be required to source-separate Recyclables contained in Construction and Demolition ~~d~~Debris, provided that such debris is brought to a facility where Recyclables can be separated from the nonrecyclable Solid Wwaste. ~~All waste generators shall commence source separation on September 1, 1992.~~
2. Each Wwaste Generator shall provide for the removal of those separated Recyclables ~~which that~~ the Wwaste Generator is required to source-separate pursuant to subsection 1- above from the property on which they are generated either through service provided by a Mmunicipality, by a Hhauler or a Recyclables ~~b~~Broker, or by taking these materials directly to a Recyclables transfer, storage, or processing location. Materials that are subject to State, County, or Local Law allowing for recycling free of charge (whether or not a fee is assessed at the time of product purchase or by tax) shall be ~~Used motor oil shall be delivered by private individuals to appropriate those designated recycling locations. service stations required to accept this material free of charge in accordance with New York State Environmental Conservation Law § 23-2307. Used vehicular batteries shall be delivered by private individuals to retailers who sell such batteries and who are required to accept such batteries for recycling free of charge in accordance with New York State Environmental Conservation Law § 27-1701 or to scrap recycling facilities which accept this type of used battery for recycling.~~



3. Each waste generator shall be required to prepare those Rrecyclables ~~which that~~ the Wwaste Ggenerator is required to source-separate pursuant to subsection 1-~~above~~ in the manner prescribed in the definition of ~~¶~~Rrecyclables in section 825.30 of this chapter, or if no particular manner of preparation is specified for a specific ~~¶~~Rrecyclable material in said definition of Rrecyclables, then according to any ordinance, regulation, or rule of the County Refuse Disposal District, or the entity providing Recyclables collection services, municipality that provides recyclables collection services to that waste generator, ~~or if such collection services are provided by a hauler or recyclables broker, then according to the directions of the hauler or recyclables broker.~~ If a Wwaste Ggenerator utilizes direct haul, Rrecyclables shall be prepared in the manner prescribed by the Rrecyclables transfer, storage or processing facility to which the Wwaste Ggenerator delivers such materials.
4. Every Wwaste Ggenerator shall be obligated to ensure that those Rrecyclables ~~which that~~ the wWaste Ggenerator is required to source-separate pursuant to subsection 1-~~above~~ are placed in the location designated for Rrecyclables collection by the Hauler municipality in which the waste generator is located. ~~If no such ordinance exists or is applicable, but the waste generator utilizes a hauler or ¶ or Recyclables bBroker to collecting its Solid Waste and Rrecyclables, then the waste generator shall place its recyclables in any location designated by the hauler or recyclables broker for recyclables collection.~~
5. In the case of multi-tenant buildings, the owner of such building is responsible to provide the following: appropriate container(s) to hold source-separated materials for the entire building separate from the container(s) where the building's Ssolid Wwaste is stored; a mechanism for disposal of source-separated Rrecyclables, unless ~~¶~~Municipal collection is provided; and an educational program for tenants on the manner in which source-separated materials are to be prepared for collection.
6. Nothing in this chapter shall be construed to prohibit private composting of food, garden, and yard waste by a Wwaste gGenerator on the wWaste gGenerator's own property, or to engage in a County, municipal, or private recycling program for those materials.
7. Exemption: wWaste gGenerators who are unable to comply with the requirements of this section for good cause shown (e.g., old age, or mental or physical infirmity, etc.). Exemptions shall be granted solely at the discretion of the Ccommissioner. A person who



applies for an exemption may be required by the Commissioner to supply documentation of the reason(s) supporting the application. Said person shall be required to simultaneously file a copy of the request for exemption, along with all supporting documentation submitted to the Commissioner with the Mmunicipality in which the said person is located. The mMunicipality shall have the right to submit written objections to the Commissioner regarding a request for exemption by a person within that mMunicipality's jurisdiction within twenty (20) days of receipt of its copy of an exemption request. The eCommissioner shall consider a mMunicipality's objections prior to making ahis determination. The Commissioner shall advise the mMunicipality of his~~is~~the determination when rendered. ~~The eCommissioner shall maintain and regularly update a list of such exempt wWaste Generators, which shall be made available to the officials charged with enforcing the terms of this chapter.~~

**Sec. 825.41. - Mercury Disposal prohibitions and Source separation.**

(a) Definitions.

- i. **Authorized Recycling Facility** shall mean any ~~of the~~ recycling facility licensed and or permitted to operate in Westchester County pursuant to all applicable laws, rules and regulations~~ies on the list of authorized facilities furnished by the Department, the County Department of Health or the County Department of Weights and Measure~~Consumer Protection.
- ii. **Manometer or mMercury gGauge** shall mean an instrument containing mercury used to measure the pressure of gas.
- iii. **Mercury bBarometer** shall means a mercury-containing instrument used to measure atmospheric (or barometric) pressure.
- iv. **Mercury Thermometer** shall means a non-digital instrument containing mercury that is used to measure temperature.

- v. **Mercury Thermostat** shall means a non-electronic device, containing one or more mercury tilt switches, that regulates temperature in an enclosed area by controlling heating, cooling or ventilation equipment.
- vi. **Silent Wall Switch** shall means a mercury-containing light switch, manufactured prior to 1991, mounted on a wall which does not make an audible "click" sound when activated.
- vii. **Household Hazardous Chemical Waste Collection Program** shall mean any municipal program designed for the purpose of collecting source separated products, including those containing mercury, for proper disposal apart from the conventional waste stream, whether permanent or periodic, including but not limited to the Household Material Recovery Facility (H-MRF).

(b) **Mercury Disposal Prohibitions.** A person may not knowingly dispose of a Mercury Barometer, Mercury Gauge or Manometer, Mercury Thermometer, Mercury Thermostat or Silent Wall Switch, in:

- i. Solid Waste;
- ii. Wastewater disposal systems, including home septic systems; or
- iii. A landfill, incinerator, waste-to-energy facility, or other solid waste disposal facility, except an Authorized Recycling Facility or a Household Hazardous Chemical Waste Collection Program.

(c) **Source Separation.**

- i. Every Waste Generator in Westchester County shall separate ~~mercury~~ Mercury Barometers, Mercury Gauges or Manometers, ~~mercury~~ Mercury thermometers Thermometers, ~~mercury~~ Mercury thermostats Thermostats, and ~~silent~~ Silent wall Wall switches Switches from Solid Waste at the point of generation.
- ii. After proper separation of Mercury barometers, Mercury Gauges or Manometers, Mercury Thermometers, Mercury Thermostats or Silent Wall Switches, each person who discards that waste shall deliver that waste to an Authorized Recycling Facility that is legally authorized and permitted to accept

that waste pursuant to this section. Residential Waste Generators may additionally deliver that waste to a Household Hazardous~~chemical~~ Waste Collection Program.

- iii. ~~The Department shall make available a regularly updated listing of authorized recycling facilities on the official website of the County.~~

#### **Sec. 825.45. - Unauthorized Confiscation of Certain Recyclables.**

Except for authorized employees or agents of a ~~m~~Municipality; or authorized employees or agents of Haulers or ~~r~~Recyclables ~~b~~Brokers licensed by the Westchester County Solid Waste Commission utilized by a Waste Generator to collect ~~r~~Recyclables pursuant to a written service contract required by section 826-a.402 of the Laws of Westchester County, it shall be unlawful for any person to remove and transport by motor vehicle any amount of ~~r~~Recyclable paper, cardboard, and/or commingled plastic/glass/metals/cartons that have been placed in the location designated for Recyclables collection for collection or removal by such Municipality or licensed Hauler or Recyclables ~~b~~Broker. This section shall not apply to individuals who ~~the~~ remove~~at~~ or transport ~~o~~f items intended to be re-used by the individual for personal, non-commercial, use.: ~~(1) cardboard, if for personal use; and (2) bulk metals or other types of used household/consumer goods.~~

#### **ARTICLE V. - PROVISIONS APPLICABLE TO HAULERS AND RECYCLABLES BROKERS**

##### **Sec. 825.50. - Provisions applicable to Haulers and Recyclables ~~b~~Brokers.**

1. Haulers and ~~r~~Recyclables ~~b~~Brokers shall provide regular, reliable, and separate collection of ~~r~~Recyclables to any customer to whom they provide ~~r~~Recyclables collection services.
2. Haulers and Recyclables ~~b~~Brokers shall deliver any Recyclables that they have collected or picked up to a Recyclables transfer, storage, or processing facility. In the event that a market for a particular ~~r~~Recyclable or class of ~~r~~Recyclables collapses or that delivery to a transfer, storage, or processing facility would create a severe economic hardship to a Hauler or

~~r~~Recyclables ~~B~~roker, the ~~e~~Commissioner may, ~~in his sole discretion,~~ grant a temporary waiver to the requirements of this subsection, only upon a written application for waiver from the ~~H~~hauler or ~~R~~ecyclables ~~b~~roker setting forth with specificity the facts and reasons in support of such application. Waivers shall be for a specific period of time and shall be rescinded earlier, if the ~~C~~ommissioner, ~~in his sole discretion,~~ determines that the reasons for granting the waiver no longer exist.

3. Each Hauler and Recyclables Broker shall furnish an annual report regarding its collection activities by the deadline provided by the Department. Such report shall be on the form provided by the Department and shall include, but not be limited to: quantities of all Solid Waste and/or Recyclables hauled in the preceding calendar year and the end disposal location of the material. Notwithstanding the foregoing, each Municipality within Refuse Disposal District #1 shall provide written notification to the Department of any changes to the hauling plan for the Municipality.

## **ARTICLE VI. - PROVISIONS APPLICABLE TO MUNICIPALITIES**

### **Sec. 825.60. - Provisions Applicable to mMunicipalities.**

1. For the purposes of fulfilling its responsibilities as the designated "planning unit" under the authority of New York State Environmental Conservation Law § 27-0107, the County ~~must~~ shall coordinate and analyze the recycling efforts of all the mMunicipalities ~~within its borders to see~~ ensure that the recycling goals for the entire County, as set forth in the County's ~~state approved~~ Solid Waste mManagement plan, are met. ~~The C~~ommissioner ~~shall prepare an annual report on the recycling programs of Westchester's municipalities, based on information obtained under the reporting requirements of this section and any other relevant information available to him, to assess the effectiveness of the M~~municipalities' recycling programs ~~in meeting the County's state approved solid waste management plan recycling goals and to suggest any measures that may need to be taken, if the plan's recycling goals are not being met.~~
2. Each Mmunicipality within the County shall provide, or cause to be provided, the regular, reliable, and separate collection of Recyclables from those Waste generators to which the Mmunicipality provides, or causes to be provided, Solid Waste collection services.

3. ~~Each such m~~Municipality shall furnish a response to the request for an annual report regarding its collection activities by the deadline provided by the Department. At minimum, each Municipality shall provide information related to the types and quantities of Recyclables collected and recycled, including yard waste, during the prior year; whether the materials were collected through municipal or contract collection; the tonnages of each recyclable material delivered to each particular recyclables broker or other market for recyclables. Notwithstanding the foregoing, each Municipality within Refuse Disposal District #1 shall not be required to report the tonnages of those recyclables which are being delivered to a Refuse Disposal District #1 Facility. In addition, each Municipality shall provide written notification to the Commissioner or a his-designee of any changes to the hauling plan for the Municipality. ~~the commissioner with a plan to provide, or cause to be provided, such separate collection and recycling of recyclables, on a form to be provided by the commissioner. Such plan shall include, but not be limited to:~~

4. If upon review of the annual reports submitted by the Municipalities, the Commissioner; in his sole discretion; determines that the waste management and/or recycling percentages for the District and/or County fall below the goals of the County's Solid Waste Management Plan and/or the State waste management goals, a Municipality or Municipalities may be required to submit a plan for increasing participation in recycling efforts and/or addressing waste management goals. The Department shall review plans submitted and work with the Municipality to assist in education and participation rates.

~~(a) A written schedule for the collection and delivery of recyclables, including frequency of collection, and the identification of the marketplace for collected recyclables;~~

~~(b) A separate and distinct section setting forth a plan for the collection and disposition of recyclable yard waste;~~

~~(c) A report on reduction and reuse techniques to be implemented by the municipality, including public education efforts.~~

~~All such plans shall be submitted to the commissioner for his review and use in the manner set forth herein. Municipalities shall submit their plans to the commissioner by September 30, 1992. The commissioner shall transmit the required form for municipal plans to each municipality in the County by certified mail, return receipt requested.~~

- ~~3. Each municipality within the County shall furnish annual recycling reports to the commissioner documenting the types and quantities of recyclables which were collected and recycled by that municipality either through municipal or contract collection in the previous year and identifying the tonnages of each recyclable material delivered to each particular recyclables broker or other market for recyclables. There shall be a separate section in the report for yard waste that was collected and recycled in the prior year. In addition, after a municipality's recycling goals are set pursuant to subsection 5.a. of this section, subsequent annual recycling reports shall contain a municipal recycling plan update that addresses the municipality's progress or lack of progress in meeting its annual recycling goals, and any revisions to its municipal recycling plan necessary to achieve its annual recycling goals that the municipality intends to make and the proposed timetable for implementing any such revisions. The annual recycling report must be submitted on or before March 1 of each year. The commissioner shall provide forms for these reports to each municipality on or before January 15 of each year. Municipalities utilizing the County's materials recovery facility are exempt from reporting on the tonnages of those recyclables which are being delivered by the municipality to said facility. However, any municipality utilizing the materials recovery facility, who is not meeting its recycling goals set pursuant to subsection 5.a. of this section, shall still be required to address how it intends to improve the collection rate of materials delivered to the materials recovery facility in its recycling plan update.~~
- ~~4. For the purposes of this section, municipalities shall not be required to plan for or report on the recycling of used motor oil and vehicular batteries.~~
- ~~5. With respect to the plans and reports filed pursuant to subsections 2. and 3. above, the role of the commissioner shall be as follows:~~

  - ~~a. Commencing with the date of adoption of this chapter and concluding no later than the end of calendar year 1993, the commissioner shall review, evaluate and comment upon the municipal plans and annual reports that he receives during this period and shall establish annual recycling goals for each municipality that shall be substantially in accordance with the recycling goals set forth in the County's state approved solid waste management plan for the planning period covered by the County's state approved solid waste management plan. The commissioner shall confer with and accept comment from~~



~~each municipality prior to setting the municipality's annual recycling goals. A municipality's recycling plan goals may only be revised if necessitated by a state-approved amendment to the County's solid waste management plan. Enforcement of such revised goals pursuant to subsection 5.c. below shall not occur until a municipality has been given a reasonable time to amend and implement its recycling plan to meet such revised goals.~~

~~b. In the event that the annual recycling reports filed by municipalities in 1994, pursuant to subsection 3. above, indicate that a given municipality has not reached its past recycling goals set pursuant to subsection 5.a. above, then by June 1, 1994, the commissioner shall review, evaluate and comment upon said municipality's annual recycling report for the purpose of assisting said municipality in reaching its annual recycling goals. By August 1, 1994, such noncomplying municipalities shall advise the commissioner in writing of the revisions to its recycling plan which it has implemented or intends to implement to achieve compliance with its annual recycling goals and a proposed timetable for implementation, unless the municipality presents evidence to the commissioner demonstrating current compliance with its recycling goals and that it can reasonably be expected to meet its future recycling goals. The revisions to a noncomplying municipality's recycling plan shall be reasonably designed to bring that municipality into compliance with its past annual recycling goals and also shall be reasonably designed to meet its future annual recycling goals. If a noncomplying municipality either fails to submit such a revised plan to the commissioner or fails to demonstrate to the commissioner that it is now in compliance with its municipal recycling goals and can reasonably be expected to meet its future recycling goals, then, by September 1 of that year, the commissioner may find that municipality in violation of this subsection 5.b., subject to the procedures of section 825.80 of this chapter.~~

~~e. In the event that the annual recycling reports filed by municipalities in or after the year 1995, pursuant to subsection 3. above, indicate that a given municipality is not meeting its annual recycling goals and has not implemented measures reasonably designed to reach its recycling goals, then, by June 1 of that year, the commissioner shall review, evaluate and comment upon said noncomplying municipality's annual recycling report and any municipal recycling plan revisions contained in said report. By August 1 of that year, the noncomplying municipality shall submit a plan to the commissioner reasonably designed to reach its recycling goals,~~



~~unless the municipality presents evidence to the commissioner demonstrating current compliance with its recycling goals and that it can reasonably be expected to meet its future recycling goals. By October 1 of that year, the commissioner and the noncomplying municipality must concur upon said noncomplying municipality's plan to achieve compliance, unless the commissioner has determined that evidence submitted by said municipality demonstrates current compliance with its recycling goals and the reasonable expectation that this municipality will meet its future annual recycling goals on or before September 1 of that year. However, in the event that the commissioner does not issue such a determination of compliance and the commissioner and the noncomplying municipality fail to agree upon such a revised recycling plan by October 1 of that year, then the commissioner may find the municipality to be in violation of this subsection, subject to the procedures set forth in section 825.80 of this chapter, if the commissioner either demonstrates that the municipality's recycling plan is not reasonably designed to achieve compliance with that municipality's current and future recycling goals established pursuant to subsection 5.a. of this section or that the municipality has not taken the necessary steps to implement its recycling plan and if the commissioner also demonstrates that one or both of these factors is the primary cause for the municipality's failure to meet its recycling goals.~~

## ARTICLE VII. - NONRESIDENTIAL WASTE GENERATOR PLAN REQUIREMENTS

### Sec. 825.70. - Nonresidential Waste Generator Plans.

1. Except for Mmunicipalities, all Nonresidential Waste Generators who own a or operate a building or buildings commonly containing more than 100 employees, patients, or students during a 24-hour period, including, but not limited to commercial establishments, institutions, and school districts ("Reporting Nonresidential Waste Generators"), shall be required to establish a Source Separation Plan that includes ~~provide the following plan to the commissioner:~~
  - (a) A plan to provide for Source separation of Recyclables; and

- (b) A written schedule for the collection by or delivery of Ssource-Separated Recyclables, which shall include identification of the Hauler, Recyclables Broker or market, collection mechanism, and anticipated volumes of materials.
- ~~2. The commissioner shall provide the required form for such plan to all reporting nonresidential generators.~~
- ~~23. Reporting nonresidential waste generators shall submit their current source separation plan to the commissioner no later than October 1, 2008. New reporting nonresidential waste generators must submit their plan within six (6) months of the commencement of operations in Westchester County. All reporting Nonresidential Waste Generators have a continuing obligation to update such plan as necessary and submit ~~to the plan to the Department upon request. of the Department.~~ every three (3) years. The Commissioner also has the authority to require an update of the plan as ~~s/he or she deems~~ necessary.~~
- ~~34. In the event that a commercial establishment, institution, or school district utilizes more than one location, only one Source Separation Plan ~~plan~~ need be ~~developed~~ submitted in accordance with subsection 3 above, provided that such plan identifies activities at each location, unless such location's Source Separation Plan ~~plan~~ is prepared by a building owner pursuant to subsection 5. below, in which case only the owner's name need be identified.~~
- ~~45. In the event that a commercial establishment, institution, or school district is located within a multi-tenant building and there are over 100 employees in such building, it shall be the responsibility of the owner of such building to comply with this section.~~

Sec. 825.70-A.- Nonresidential Waste Generator Source Separation.

1. Every Nonresidential Waste Generator with areas open to the public or visitors shall have separate disposal receptacles for Solid Waste and for Recycling that are clearly marked and identifiable. All such separate disposal receptacles shall be placed in close proximity next to each other and shall be available on each floor, in each area, and in any food service area accessible to the public and/or visitors.

2. The separate disposal receptacles for Recycling shall be either single stream (pulp/paper and comingled/bottles/cans/cartons together) or dual stream (separate disposal receptacles for pulp/paper and separate disposal receptacles for comingled bottles/can/cartons), based upon the Nonresidential Waste Generator's Source Separation Plan to manage recyclables.

~~4.3.~~ Nonresidential Waste Generators may determine the size, shape, material, and color of any separate disposal receptacle, so long as the receptacles are clearly marked and identifiable so as to avoid the improper mixing of Solid Waste and Recyclables. The Department shall make available to any Nonresidential Waste Generator signage files for the clear demarcation of the separate disposal receptacles.

~~2.4.~~ Nonresidential Waste Generators (their lessee, assigns, operators, managers, etc.) shall comply with reasonable requests for access made by the Department or its Solid Waste Inspectors during the performance of inspections of areas referenced in this section.

## **ARTICLE VIII. - PENALTIES AND ENFORCEMENT**

### **Sec. 825.80. - Penalties and enforcement.**

1. Any person found guilty in a court of competent jurisdiction of failure to comply with any applicable provisions of this Chapter or with any emergency regulation of the Commissioner duly issued under this Chapter shall be guilty of an offense punishable as follows:
  - a. For the first violation, a warning or a fine up to \$100.00;
  - b. For the second violation, a fine of up to \$500.00;
  - c. For the third violation, a fine of up to \$750.00;
  - d. For the fourth and succeeding violations, a fine of up to \$1,000.00.
2. In lieu of, or in addition to, the criminal enforcement provisions and penalties of subsection 1. above, each such compliance violation shall be subject to a civil penalty as follows:

- a. For the first violation, a warning or a fine up to \$100.00;
- b. For the second violation, a warning or a fine of up to \$500.00;
- c. For the third violation, a warning or a fine of up to \$750.00;
- d. For the fourth and succeeding violations, a warning or a fine of up to \$1,000.00.

Each day of a continuing violation shall constitute a separate violation and shall be subject to a separate fine and/or civil penalty.

3. In addition to any other penalties prescribed in this section, the County Attorney may maintain an action in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of the provisions of this Chapter or of ~~the~~ regulations of the Commissioner duly issued pursuant to this Chapter.
4. Except for warnings, which may be issued by any ~~police officer or~~ duly appointed County or municipal enforcement officer, the civil penalties recited in subsection 2- of this section shall only be imposed either by a court of competent jurisdiction or by the Commissioner, without first resorting to the courts, pursuant to the following administrative hearing procedure:
  - a. Upon the issuance of a notice of violation and hearing, the Commissioner shall cause to be held a hearing before a hearing officer selected by the Commissioner, unless a person charged with such violation admits liability by returning the notice of violation with payment of the proposed penalty and by signing the admission of liability on said notice.
  - b. A formal hearing shall be on due and adequate notice to the party concerned and shall be set down for a date certain. A notice of violation and hearing shall be served by the Commissioner upon the alleged violator by certified mail, return receipt requested or by personal service. "Personal service" shall be defined as set forth in the New York State Civil Practice Law and Rules.
  - c. A notice of violation and hearing shall include notification of the following:
    - i. The time and place of the hearing;
    - ii. A list of all alleged violations complained of, with specific reference to the provisions and sections of the law, rule, or regulation involved, and a summary of the alleged facts supporting each alleged violation;

- iii. The respondent's right to present evidence;
  - iv. The respondent's right to examine and cross-examine witnesses;
  - v. The respondent's right to be represented by counsel;
  - vi. That a respondent's failure to appear shall constitute a default by the respondent, and that the hearing may proceed in the respondent's absence and a determination made based solely upon evidence submitted by the Commissioner; and
  - vii. That a respondent may waive ~~their~~~~his or her~~ right to such hearing by signing an admission of liability on the notice of violation and hearing and by remitting payment of the assessed penalty.
- d. The hearing officer may grant an adjournment upon request of any party to the proceeding, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a date certain.
- i. If an adjournment is requested in advance of the hearing date, such request shall be presented to the hearing officer, in writing, and shall specify the reason for such request.
  - ii. In considering an application for adjournment of a hearing, the hearing officer shall consider whether the purpose of the hearing will be affected or defeated by the granting of such adjournment.
- e. To aid in the administration of this chapter, the Commissioner, or any hearing officer designated by the Commissioner~~him or her~~ in a particular proceeding, may issue subpoenas in the Commissioner's name requiring the attendance and giving of testimony by witnesses and the production of books, papers and other evidence for any hearing or proceeding conducted under this section. Service of such subpoena(s), enforcement of obedience thereto, and punishment for disobedience thereof, shall be had as and in the manner provided by the New York State Civil Practice Law and Rules relating to the enforcement of any subpoena issued by a board or committee.
- i. It shall be the responsibility of the party requesting the issuance of a subpoena to effect service thereof.

- ii. The hearing officer may add a party to the proceeding upon due and adequate notice to both the party to be added and the parties named in the proceedings.
- f. On the return date of a hearing, the hearing officer shall note the appearances of the persons attending the hearing. Witnesses shall be sworn and testimony shall be recorded either by a certified stenographer or by use of an electronic recording device. Prior to the commencement of the hearing, the hearing officer may conduct a settlement conference. Should the Department and the respondent reach a settlement of which the hearing officer approves, the hearing officer shall dispense with the hearing and shall issue a report and recommendation to the Commissioner that the settlement be approved.
- g. All hearings shall be open to the public. Testimony shall be transcribed upon the request of any interested party. The party requesting the transcript shall pay the costs and expenses in connection therewith.
- h. The hearing officer shall not be bound by the strict rules of evidence in the conduct of a hearing, but ~~the his or her~~ findings of fact shall be founded upon a fair preponderance of the evidence presented at the hearing. The hearing officer shall admit and consider any evidence of mitigation offered by the alleged violator.
- i. After the conclusion of a formal hearing, the hearing officer shall prepare and issue a report containing a summary of the evidence, findings of fact, conclusions of law and recommendations(s) to the Commissioner.
- j. The recommendations of the hearing officer may include, but shall not be limited to the appropriate penalty in the event the Commissioner finds a violation has occurred, or the submission of a recommendation that the Department enter into a stipulation of settlement upon agreement by all parties to the proceeding~~be incorporated in a commissioner's decision and order.~~
- k. Upon the conclusion of a formal hearing and after consideration of the hearing officer's report and recommendations and any evidence of mitigation, the Commissioner shall make a decision based on a fair preponderance of the evidence and shall execute an order carrying such decision into effect, or issue a stipulation of settlement upon agreement of all parties to the proceeding.

- l. The order of the ~~e~~Commissioner may include, but shall not be limited to, the assessment of civil penalties, as provided by this chapter; the issuance of the approval of a stipulation of settlement, which has been agreed to by all parties to the proceeding and which shall include, but not be limited to, a plan and schedule to remedy the condition which that caused the violation, if such measures are necessary and appropriate to correct the violation,; and suspended penalties.
  - m. —If the ~~C~~ommissioner determines that the hearing record is not sufficient to make a final determination, the ~~C~~ommissioner may direct a rehearing or require the taking of additional evidence and may rescind or affirm, in whole or in part, a prior determination after such hearing.
  - n. The ~~C~~ommissioner shall cause to be served upon the respondent, copies of the hearing officer's report and the ~~C~~ommissioner's final determination and order or Stipulation of Settlement. Service shall be made in the manner prescribed for the service of a notice of hearing.
5. Where any violation of this chapter causes an expense to the County or to a ~~m~~Municipality enforcing this chapter pursuant to subsection 6: ~~b~~Below, such expense may, in the discretion of the ~~C~~ommissioner, be separately collected by a civil suit against the violator, ~~brought by the County Attorney in the name of the County~~ in a court of competent jurisdiction.
  6. Municipalities may enforce this ~~C~~hapter within their jurisdiction against ~~W~~waste ~~G~~enerators, ~~H~~aulers and ~~R~~ecyclables ~~B~~rokers. A ~~M~~municipality that chooses to enforce this ~~C~~hapter shall designate in writing to the Commissioner the a local enforcement official, who shall have all the powers of the ~~C~~ommissioner ~~and the County Attorney~~ related to enforcement under this section, and shall provide quarterly reports of all enforcement activity. If a ~~M~~municipality enforces a violation of this ~~C~~hapter and undertakes the entire enforcement of a particular offense and/or civil violation of this chapter, then 100 percent of the fines collected in that enforcement proceeding shall be retained by the enforcing ~~M~~municipality. Municipalities may not enforce this ~~C~~hapter against any person against whom the County has already proceeded against for the same or substantially similar violation or violations.



## ARTICLE IX. - EMERGENCY RULEMAKING AUTHORITY AND PROCEDURES

### Sec. 825.90. - Emergency rulemaking authority and procedures.

1. In the event of an emergency which affects the life, safety, health, environment, or welfare of the citizens of this County and circumstances require prompt action to remedy the emergency, the Commissioner may promulgate emergency regulations without the approval of the Board of Legislators, which shall be published in their full text immediately on the Department's website, in one or more newspapers of general circulation designated by the Clerk of the Board of Legislators for this purpose and filed with the Clerk of the Board of Legislators. An emergency regulation shall expire at either the end of the emergency or 45 days after publication, whichever comes first. ~~An emergency regulation may only be extended beyond 45 days with the approval of the majority of the Board of Legislators.~~
2. A compilation of all emergency regulations promulgated pursuant to this section shall be maintained in the office of the Commissioner and shall be available for inspection by any interested party during regular business hours.

## ARTICLE X. - ADMINISTRATION

### Sec. 825.101. - Administration.

The Westchester County Source Separation Law shall be administered and enforced by the Commissioner. Enforcement by Municipalities is also authorized under the limitations set forth in section 825.80, subsection 6-, of this Chapter.

## ARTICLE XI. - SEVERABILITY

### Sec. 825.110. - Severability.

If any clause, sentence, paragraph, subdivision, section or part of this chapter or the application to any person or circumstance be adjudged by any court of competent jurisdiction invalid or unconstitutional, that order or judgment will not affect, impair or invalidate the

remainder thereof but will be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this chapter, or its application to the person or circumstance directly involved in the controversy in which that order or judgment is rendered.

§2. This Local Law shall take effect immediately.

Sdk/Mjr-7/14/23