

CHAPTER 66

SOLID WASTE MANAGEMENT AND RECYCLING

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[Amended 12-20-05 as L.L. #4-2005]

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[HISTORY: Adopted by the Common Council of the City of Dunkirk on 8-20-1992 as L.L. #11-1992. Amendments noted where applicable.]

§ 66-1. Definitions.

Whenever used in this chapter, or in the rules and regulations duly adopted by the Director of Public Works, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following words shall have the respective meanings hereinafter set forth:

CITY - The City of Dunkirk.

COLLECTOR - Any person, other than the City, who picks up solid waste and transports that solid waste for hire to a solid waste disposal facility, recycling center, or transfer station for recycling or disposal.

COMMERCIAL WASTE - Solid waste generated by stores, offices, institutions, restaurants, warehouses, vehicle repair shops, gasoline stations, temporary residences and non-manufacturing activities at industrial facilities.

CONSTRUCTION and DEMOLITION DEBRIS - Uncontaminated waste resulting from construction, remodeling, repair and demolition of structures, road building, and land clearing; such wastes include, but are not limited to, bricks, concrete and other masonry materials, soil, rock, lumber, road spoils, paving material, and tree and brush stumps.

DISPOSAL - The act of transferring possession of discarded materials for the ultimate purpose of recycling, land burial or extraction of energy through incineration.

HAZARDOUS or TOXIC WASTE - Waste defined in Article 27-0903 of the New York Environmental Conservation Law, as amended, and the regulations thereunder, and in Section 1004 of the Federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §6903, and the regulations thereunder.

HOUSEHOLD HAZARDOUS WASTE - Household waste which, but for its point of generation, would be a hazardous waste under 42 U.S.C. §6903, or 6 NYCRR Part 371, including pesticides as defined in Article 33 of the Environmental Conservation Law.

HOUSEHOLD WASTE - Solid waste discarded from single or multiple dwellings.

INDUSTRIAL WASTE - Solid waste generated by manufacturing or industrial processes.

LARGE HOUSEHOLD FURNISHING - All large or bulky articles, excluding major appliances, actually used in the home and which equip it for living, such as chairs, sofas, tables, beds, sinks, and bathtubs.

MAJOR APPLIANCES - Large and/or bulky household mechanisms such as refrigerators, washers, dryers, stoves, ordinarily operated by gas or electric current.

NYSDEC - New York State Department of Environmental Conservation.

NYS DOT - New York State Department of Transportation.

PERSON - An individual, trust, firm, joint-stock company, corporation, partnership, association or any interstate body.

PERSON-IN-CHARGE - A natural person, association, partnership, firm or corporation that occupies, manages, uses or controls a premises.

RECYCLABLE MATERIAL - Any material designated, from time to time, by the Director of Public Works, which is separated from the waste stream and held for its material recycling or reuse value.

RECYLERS - Those who deal with recyclable material such as collectors, separators and marketers, including not-for-profit corporations and charitable corporations, which collect recyclables for fundraising purposes.

RECYLING CENTER - A facility where material, previously separated from the waste stream, is stored for its materials recycling or reuse value, or where such material is processed for reuse.

SOLID WASTE - As defined in 6 NYCRR Part 360.

SOLID WASTE DISPOSAL FACILITY - An area upon which solid waste is deposited for land burial or incineration.

SOURCE SEPARATION - The segregation of recyclable materials from the solid waste stream at the point of generation for separate collection, sale or other disposition.

STORAGE - The containment of solid waste for a period of over sixty (60) days in such a manner as not to constitute disposal of such waste.

VEHICLE TIRES - Tires from cars, trucks, and other vehicles.

YARD WASTE - Grass clippings, leaves, and cuttings from shrubs, hedges and trees, but excluding tree and brush stumps; yard waste does not include household waste or recyclable material, as defined herein.

§ 66-2. Prohibited Disposal of Solid Waste.

- A. No person shall place, throw or deposit or cause to be placed, thrown or deposited any solid waste upon any sidewalk, street, alley, lane, gutter or any public ground in the City or into any stream or upon the banks of any stream running through, or adjacent to, the City.

- B. No person shall place, throw or deposit or cause to be placed, thrown or deposited any solid waste upon the private property of another person.

§ 66-3. Receptacles.

- A. Every owner or occupant of any building, premises or place of business shall provide sufficient containers with close-fitting covers for receiving and holding solid waste.
- B. Container and contents shall not exceed sixty-five (65) pounds in weight. If a plastic bag is utilized in lieu of a rigid container, then the contents shall not exceed 15 pounds in weight.
- C. No person shall bury or openly burn or cause to be buried or openly burned, any solid waste within the City limits.
- D. It shall be unlawful to place or permit to remain anywhere in the City any solid waste or other material subject to decay, other than yard waste, in an uncovered container.

§ 66-4. Responsibility of Owner or Occupant.

- A. Solid waste and recyclable material must be brought to the curb by the owner or occupant no earlier than 9:00 PM of the day before scheduled collection.
- B. It shall be unlawful to permit the accumulation of solid waste on premises of the owner or occupant for a period of more than two (2) weeks.

§ 66-5. Construction and Demolition Debris.

Construction and demolition debris shall not be mixed with solid waste, and must be disposed of by the owner or occupant of the property at a site approved by the NYSDEC.

§ 66-6. Yard Waste.

- A. Yard waste may be disposed of in accordance with such rules and regulations as may be established by resolution of the Director of Public Works.
- B. Brush and shrubs shall not exceed four (4) feet in length and shall be bound in bundles not to exceed eighteen (18) inches in diameter and sixty-five (65) pounds in weight.

- C. Brush and shrubs shall be reduced in volume as much as possible and shall be compactly and firmly bound so as to permit safe and rapid handling.

§ 66-7. Tire Disposal.

Vehicle tires may be disposed of at a transfer station by any person, upon such terms and conditions as are established by the Director of Public Works.

§ 66-8. Large Household Furnishings.

Large household furnishings may be disposed of in accordance with such rules and regulations as may be established by resolution of the Director of Public Works.

§ 66-9. Major Appliances.

- A. Major appliances may be disposed of in accordance with such rules and regulations as may be established by resolution of the Director of Public Works.
- B. The City may pick up and dispose of one or more types of major appliances. The fee to be charged by the City will be \$10.00 for the first item, and \$5.00 for each additional item picked up at the same time.

§ 66-10. Commercial Waste.

Unless otherwise provided by the Common Council, persons generating commercial waste shall be responsible for contracting with a private collector for removal of commercial waste, solid waste and recyclables.

§ 66-11. Industrial Waste.

Persons generating industrial waste shall be responsible for contracting with a private collector for removal of industrial waste, solid waste and recyclables.

§ 66-12. Restrictions on Use of Vehicles.

- A. The collection, removal and carrying of solid waste on any highway, street, alley or lane of the City must be done in covered, watertight vehicles, which shall be in accordance with the rules and regulations of the City, NYSDEC, NYSDOT, and Chautauqua County.

- B. No solid waste or recyclable material shall be spilled or scattered along the streets or public places, and the vehicles used for the collection and transportation of such material shall not be allowed to stand along the public street for a longer time than shall be reasonably necessary for the loading of the same.

§ 66-13. Transport of Recyclable Materials Into City Prohibited.

It shall be a violation for nonresidents of the City to transport, or cause to be transported, recyclable materials into the City for disposal through a City-operated recycling program.

§ 66-14. Disposal of Solid Waste or Recyclables From Outside City Prohibited.

It shall be a violation for any resident of the City, owner, lessee or person in control of real property within the City to permit any person to bring in, place or deposit any solid waste or recyclables originating from outside the City on any real property owned or leased by him or her, or under his or her control, for the purpose of disposal or recycling under the City-operated solid waste disposal and recycling program.

§ 66-15. Use of Trash Receptacles on City Property Restricted.

It shall be a violation to place any materials into a trash receptacle located on City property, unless such waste was generated at that location. Permitted waste would include picnic waste.

§ 66-16. Materials Subject to Mandatory Recycling.

For the purpose of being able to react promptly to recycling requirements of Chautauqua County and the State of New York, the Director of Public Works is hereby empowered to adopt an official list of mandatory recyclable materials. The list may be changed from time to time. Failure to recycle materials on this official list, except where otherwise accepted by this chapter, shall be a violation of this chapter.

§ 66-17. Materials Preparation.

- A. The Director of Public Works is hereby empowered to adopt, rules and regulations pertaining to solid waste management in regard to materials, preparation requirements and such other rules and regulations as may be necessary to effectively and efficiently ensure sound management of this chapter.

- B. The provisions of this chapter shall incorporate by reference such rules and regulations as are in effect and compliance with the provisions of this chapter shall require compliance with such rules and regulations.
- C. The rules and regulations may be changed from time to time by the Director of Public Works.
- D. Failure to comply with the rules and regulations, except where otherwise accepted in this chapter, shall constitute a violation of this chapter.

§ 66-18. Exceptions To Source Separation Provisions.

The provisions for source separating waste need not be complied with when the person contracts with a private collector, and the private collector permits waste of all types to be mixed together in a dumpster or other suitable container which will then be properly separated and disposed of, or recycled, by the private collector.

§ 66-19. Alternate Disposal Methods.

- A. Nothing in this chapter shall be deemed to prohibit any person from contracting with a private collector for removal of waste and recyclables. The person who utilizes this alternate method shall still pay the fee set forth in Section 66-23D, *infra*, unless the person presents to the Director of Public Works not less than 15 days before the start of a calendar year, a written contract with a private collector, licensed to collect in the City.
- B. Nothing in this chapter shall be deemed to prohibit any person from disposing or causing to be disposed of waste and recyclables at a landfill or transfer station operated by the County of Chautauqua, or the County's duly designated representatives. Persons utilizing this alternate disposal method shall still be responsible to pay the fee set forth in Section 66-23D, *infra*.

§ 66-20. Source Separation Implementation.

- A. Each collector shall submit a plan for approval to the City not more than thirty (30) days after the adoption of this Local Law to provide for collection of solid waste and recyclable materials. Such plan shall include, but not be limited to, the description of the type of waste, frequency of collection, and provision for collecting and marketing recyclable material. Such a plan shall also propose a schedule of

implementation, which implementation shall take effect no later than January 1, 1993.

- B. The Director of Public Works shall approve the schedule of implementation for collection of recyclable material throughout the City.

§ 66-21. Solid Waste Collection.

- A. Effective January 1, 1993, any collector who collects solid waste in the City must possess a valid permit issued by the City.
- B. Any collector who wishes to collect solid waste must make application to the Director of Public Works for a permit on application forms to be provided by the Department of Public Works. An annual fee of \$100.00 plus \$25.00 per vehicle to be used in transporting the solid waste or recyclable materials to a solid waste disposal facility, recycling center or transfer station shall accompany the application for a permit to collect solid waste.
- C. Collectors shall annually submit an updated plan, as described in Section 66-20A, supra, with the permit application form referred to in § 66-21B, supra.
- D. If, after a hearing, the City deems that the collector operates in a manner not in compliance with the provisions hereof, or in a manner such as to cause a nuisance or hazard to the public, the City may suspend or revoke the collector's permit.
- E. A permit which has been revoked or suspended shall be surrendered forthwith to the Director of Public Works.
- F. Service of any notice, order or decision shall be made as follows:
 - 1. By mailing a copy of any notice, order or decision by certified mail, return receipt requested, and in a postpaid envelope, directed to the person affected thereby at the person's residence or business address;
 - or
 - 2. By leaving a copy of such notice, order or decision with the person, or the person's agent.

- G. Service of any notice shall be made upon the Common Council or Director of Public Works by mailing the notice in a postpaid envelope directed to the City Clerk and the Director of Public Works.
- H. The collector must operate in compliance with the following requirements:
1. The owners and operators of all vehicles used for the collection of solid waste shall:
 - (a) insure that there is no liquid spillage from the vehicle;
 - (b) insure that there is no spillage or blowing of solids from the vehicle;
 - (c) maintain the vehicle and keep it clean;
 - (d) affix the name of the owner or business on both sides of the vehicle and of a color contrasting with the background;
 - (e) insure that the vehicle is capable of discharging contents from a stationary position;
 - (f) guarantee that the vehicle is licensed and insured in accordance with all applicable federal, state and local laws, rules and regulations;
 - (g) insure that regular, reliable collection of solid waste and recyclable materials is provided to each customer.
 2. All vehicles used for the collection of solid waste shall be stored in a manner as not to create a nuisance.
 3. Collectors shall handle solid waste containers in a manner so that no solid waste is spilled during the transfer from the container to the collection vehicle, and so that the container is not damaged during such handling or as a result of such handling. Damage to containers not meeting the specifications set forth herein shall not be covered by this section.
 4. The collectors shall dispose of the solid waste at a site approved by the NYSDEC, or outside the state.

5. The collectors must provide reports to the Director of Public Works listing the quantity and types of solid waste and recyclable material handled by the collectors, on forms supplied by, and at a frequency determined by, the Director of Public Works.
- I. Storage of all solid waste by collectors shall be in containers which completely confine the material.
- J. The structure of the containers to confine the aforementioned solid waste shall be such that they:
 1. prevent the exit and entrance of insects, rodents or other animals;
 2. can be easily cleaned;
 3. will not crack when subject to cold temperatures;
 4. will not break or burst when lifted;
 5. are easily unloaded;
 6. shall be of sufficient integrity to confine such waste for a time determined by the Director of Public Works.
- K. All containers shall be kept in a clean and sanitary condition.

§ 66-22. Household Hazardous Waste Collection and Disposal.

- A. All household hazardous waste shall be placed in a container determined by the Director of Public Works.
- B. Household hazardous waste shall be delivered to such facility as the Director of Public Works shall designate, upon such terms and conditions as are established by the Director.

§ 66-23. Fee Schedule and Unit Assignment.

- A. Units for determining the proportionate share of residential solid waste disposal cost shall be as follows:
 - (1) Residential premises.
 - (a) A single-family dwelling unit within the City shall constitute one (1) unit.

- (b) Each family house, apartment house, mobile home or multiple dwelling shall consist of one (1) unit for each apartment or living quarters for such a separate family unit contained in or on such premises.
 - (2) Non-residential premises.
 - (a) All types of structures or facilities not designated in § 66-23A(1), supra, shall not be serviced by the City for purposes of solid waste disposal or recyclable material, except that the owner, occupant or tenant of such structures or facilities may apply for such services to the City Department of Public Works.
 - (b) The Public Works Director shall determine the requirements of the applicant for service and shall determine whether or not the City can effectively and economically provide service to the applicant. Should the Director find that service can be provided; the Director shall propose a fee for the service based on the amount of material to be removed, the frequency of the pickups to the applicant's facility, the cost of disposal of the materials, as well as any other factor relating to the provision of waste disposal service to the applicant.
 - (c) Upon acceptance of the proposed fee by the applicant and approval of the same by the Common Council, the City may provide service to the applicant. Such services may be terminated by the City on written notice should the City at its discretion determine that service can no longer be provided on an effective and/or economic basis to the City.
 - (3) Any fee structure approved herein shall be revised by the City at such times as the cost of disposal or other operating costs change but, in any event, not less than once per year.
- B. Following the effective date of this chapter, but in any event not later than January 15, 1990, and on or before January 1 of each year thereafter, the City Administration shall survey the City and assign to each structure, building and premises the number of units assigned each structure, building or premises. Once established, the structure, building or premises shall retain that unit assignment until such time as the City Administration changes such unit assignment or until such

unit assignment is changed by a court of competent jurisdiction. In the event that the use of a structure or building shall change or a new structure or building is constructed within the City eligible for service herein, the City Administration shall assign the units for each such change or new structure or building, which assignment shall take effect immediately upon the structure's or building's being occupied initially or being utilized in its new capacity.

- C. Review of unit assignment upon assignment of units in the City.
- (1) The City Administration shall make available at the office of the City Clerk a list by property owners as appears on the last tax roll of the City, with the unit assignment for each of said premises therein. The City Clerk shall publish in the official City newspaper notice that such list is available and open for public inspection. Any interested person may appeal such unit assignment to the City Administration on a form to be provided for such purposes.
 - (2) The City Administration shall, upon receiving such appeal, cause an inspection to be made of the premises and shall determine the exact nature and character of the premises so as to assign the correct number of units. In the event that the interested person is not satisfied with the determination of the City in this regard, he/she shall have legal review of the unit assignment according to the Civil Practice Law and Rules of the State of New York.
 - (3) The fact that a unit is vacant or unoccupied for any part of the year does not relieve responsibility for the unit charge set forth in Section 66-23D.
- D. The unit charge shall be One Hundred Forty Dollars (\$140.00) per unit, payable in quarterly installments, and shall be billed by the City and paid by the obligated party concurrently with the City's water and sewer bills. **[Amended 1-6-2004 as L.L. #1-2004; Amended 12-20-05 as L.L. #4-2005]**
- E. Effective January 1, 1993, any unpaid fees or charges shall be included with the annual tax levy, together with any interest and penalties thereon, in accordance with General Municipal Law Section 120-cc.

§ 66-24. Enforcement; Penalties For Offenses.

- A. The provisions of this chapter shall be enforceable by any peace officer, any police officer or any agent duly authorized by resolution of the Common Council.
- B. A person convicted of violating any provision of this chapter shall be guilty of a violation, which is punishable as follows:
- (1) For a first conviction, by a fine of Twenty-five Dollars (\$25.00) or imprisonment for fifteen (15) days, or both.
 - (2) For a second conviction within one (1) year, by a fine of Fifty Dollars (\$50.00), or imprisonment for fifteen (15) days, or both.
 - (3) For a third conviction within one (1) year, by a fine of One Hundred Dollars (\$100.00), or imprisonment for fifteen (15) days, or both.
 - (4) For a fourth and all subsequent convictions within one (1) year, by a fine not less than Two Hundred Fifty Dollars (\$250.00), or imprisonment for fifteen (15) days, or both.