

**Section 9. B. Amended 10/16/09**

LOCAL LAW NO. 3 OF 2009  
COUNTY OF WASHINGTON, NEW YORK  
By Supervisors Brown, Scribner, Shay, Banks, Suprenant, Hurley

**A LOCAL LAW ESTABLISHING WASTE/RECYCLABLE MATERIAL HAULER LICENSING, VEHICLE IDENTIFICATION, AND HAULER REPORTING REQUIREMENTS**

**BE IT ENACTED**, by the Board of Supervisors of the County of Washington, New York, as follows:

**SECTION 1. Title.**

This Local Law shall be known as the Local Law Establishing Reporting Requirements for Assistance in for Recycling and Solid Waste Management.

**SECTION 2. Purpose.**

The purpose of this Local Law is to provide for the health safety and general welfare of the residents of Washington County by establishing a mechanism by which reliable and complete information can be obtained to assist County Officials in their continuing efforts to assess, understand and resolve difficulties currently confronting the County with regard to unacceptably high solid waste disposal costs and recycling program shortcomings. While the County is currently undertaking certain steps to control solid waste disposal costs and address recycling program deficiencies, it is anticipated that this Local Law will provide valuable insight as to the flow of solid waste and recyclables in and out of the County which in turn will allow County Officials to improve recycling programs, and provide information that may lead to the discovery of other approaches or reconsideration of known approaches that could ultimately further the goal of controlling and perhaps further minimizing solid waste disposal costs for residents of the County.

**SECTION 3. Applicability.**

The provisions of this Local Law shall apply to any hauler of residential and/or commercial solid waste and/or recyclable material that is generated or originated within the boundaries of the County of Washington for disposal, storage, transfer and/or processing.

**SECTION 4. Definitions.**

County - means the County of Washington.

Hauler - means any person who, for a fee or other consideration, collects, transports, transfers or delivers solid waste and/or recyclables that is generated or originated within the County of Washington for disposal, storage, transfer and/or

processing.

Hauler-Container - means any receptacle provided by a Hauler for the deposit of solid waste and/or recyclables. Such receptacles shall include but not be limited to front, side and rear load dumpsters, compactors, refuse cubicles, roll offs, shop box, open containers, garbage cans, and barrels.

Hauling Business - refers to the activities of haulers for a fee or other consideration as set forth in the definition of "Hauler".

Licensee - means any person holding a license issued pursuant to this Local Law.

Person – means any individual, public or private corporation, political subdivision, government agency, authority, department or bureau of the State, municipality, industry, partnership, association, firm, trust, estate or any other legal entity whatsoever. The masculine gender shall include the feminine, and the singular shall include the plural, where indicated by context.

Recycling Facility – (recyclables handling and recovery facility) means a solid waste processing facility, other than collection and transfer vehicles, at which nonputrescible recyclables are separated from the solid waste stream or at which previously separated nonputrescible recyclables are processed.

Recyclables - means solid waste that exhibits the potential to be used repeatedly.

Solid Waste - Solid waste means, any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 USC 1342, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, except as may be provided by existing agreements between the State of New York and the government of the United States. This definition shall not include any scrap or other material of value separated from the waste stream and held for purposes of materials recycling.

Superintendent - means the Washington County Superintendent of the Department of Public Works.

#### SECTION 5. License and Identification Requirements.

A. License Required. No person shall engage in or conduct a hauling business in the County of Washington unless licensed in accordance with the provisions of section 6 hereof.

B. Identification Decals Required. It shall be unlawful for any person to allow or permit a vehicle to be used or filled with solid waste and/or recyclables within Washington County without a county issued decal affixed thereon and without the Hauler's name and phone number appearing thereon.

SECTION 6. License Application/Procedures/Fees.

A. License Application Information. The application for a license under this Local Law shall be filed by the person engaged in a hauling business subject to the provisions of this Local Law with the Superintendent using a form to be prepared under the direction of the Superintendent and approved by majority vote of the Washington County Board of Supervisors Public Works Committee. The application shall contain or set forth:

- i. Name and address of the applicant; if an individual, the name under which he/she intends to do business; if a co-partnership, the name and residence address of each member thereof and the name under which the business is to be conducted; if a corporation, the name of the corporation and the name and residence address of each of the officers.
- ii. The place or places, including the complete address or addresses of the applicant's business office address, warehouse sites, buildings, sites, and/or sites where trucks and/or hauler-containers are stored and any other business site where the applicant plans to conduct business activities relating to the hauling of solid waste and/or recyclable materials generated or originating within Washington County.
- iii. Description of each motor vehicle and/or trailer used or planned to be used to haul solid waste and/or recyclable materials, which description shall include the following:
  - a. Year, make and model;
  - b. License plate number and state of registration;
  - c. Gross and tare vehicle weight;
  - d. The volumetric capacity in cubic yards of the motor vehicle and/or trailer;
  - e. Color of the vehicle and/or trailer; and
  - f. Name of owner and residence of the motor vehicle and/or trailer.
- iv. A certification that the applicant has in effect and shall maintain during the term of the license, liability insurance covering the vehicles and operators thereof subject to the licensing provisions hereof.
- v. A certification sworn and certified under penalty of criminal prosecution reading as follows :

THE UNDERSIGNED CERTIFIES UNDER PENALTY OF CRIMINAL PROSECUTION THAT THE INFORMATION PROVIDED AND/OR DISCLOSED IN THIS APPLICATION IS COMPLETE AND ACCURATE AS OF THE DATE THIS APPLICATION IS EXECUTED TO THE BEST OF THE UNDERSIGNED'S KNOWLEDGE AND BELIEF AND HAS BEEN PREPARED BASED ON A DILIGENT SEARCH OF ALL BUSINESS AND OTHER RECORDS IN THE POSSESSION AND CONTROL OF THE APPLICANT. THE UNDERSIGNED FURTHER CERTIFIES THAT HE/SHE HAS AUTHORITY OR HAS BEEN DULY AUTHORIZED TO COMPLETE THIS APPLICATION ON BEHALF OF THE APPLICANT.

B. License Term/Duration. A license issued pursuant to this Local Law shall be for a two (2) year term unless revoked or surrendered earlier. There shall be no apportionment or pro rata fee adjustments regardless of the length of the term of the license or whether the same is revoked or surrendered.

C. License Application Update/Corrections/Reporting Requirements. The Superintendent must be notified within thirty (30) days of any changes in the information set forth or contained in the application filed with the Superintendent. A Licensee or Registrant shall inform the Superintendent of:

- i. any other material change in the information submitted on the application for the license or registration; or
- ii. any change in the ownership composition of the Licensee, the addition or deletion of any Principal at any time subsequent to the issuance of the license; or
- iii. a Licensee shall have a continuing duty to immediately disclose and/or update the information provided to the Superintendent in its application annually, on the anniversary date of the issuance or renewal of the license or registration.

D. Licenses nontransferable. If a Licensee sells or transfers its hauling business or vehicle and/or container, the license or permit for said hauling business or said vehicle or container is void at the moment of sale or transfer and the licensee if the hauling business is sold, must surrender the license held for it to the Superintendent within ten (10) days or if a vehicle(s) or container(s) is sold or transferred, the Licensee must remove the County decal issued for said vehicle(s) or container(s).

E. License Fees. The fee for the license required by this Local Law shall be set by Resolution of the Washington County Board of Supervisors.

**SECTION 7. License - Standards for Issuance.**

A. Upon the receipt of a sufficient application for hauler's license, together with the fee required hereunder, the Superintendent shall a) make a record of such application; b) assign a distinctive number to such hauler commencing with legend "WC Hauler Number"; and c) issue a sufficient quantity permit decals for the hauler to place on all trucks and trailers used by the hauler in Washington County.

B. An application for a license shall be deemed insufficient by the Superintendent if any information required on the application has not been furnished.

C. Denial of license – upon denial by the Superintendent of a license, applicant may appeal to the Superintendent to review the determination. Upon further denial, applicant will be deemed to have exhausted administrative remedies.

**SECTION 8. Reporting Requirements.**

A. On forms to be prepared under the direction of the Superintendent and approved by majority vote of the Washington County Board of Supervisors Public Works Committee, after issuance of a license pursuant to this Local Law, the Licensee shall, unless exempted by subparagraph D hereof, provide written quarterly reports to the Superintendent, providing the following information:

- i. In cubic yards or tons, as specified on the Superintendent's reporting forms, the total quantity of Solid Waste and Recyclables collected during the reported quarter according to the type or class of account; the total quantity of materials that were processed, recycled, disposed of or delivered to a recycling facility during the reported quarter, the quantities of Recyclables that are delivered to each facility that transfers, stores, collects or processes Recyclables; the quantities of such Recyclables that could not be recycled or marketed but were disposed of as Solid Waste during the reported quarter; the total quantity of construction and demolition debris collected and the quantities that were recycled or delivered to a recycling facility or Recyclables broker during the reported quarter. The phrase "type or class of account" as used herein shall not be deemed to require disclosure of the name or identity of a particular customer but rather is intended to refer to a generic description, e.g. residential, industrial, commercial, etc. With the particular account type or class designations to be developed by the Superintendent in consultation with the Washington County Board of Supervisors Public Works Committee.
- ii. The place and location where solid waste and/or recyclables were disposed of including the name or identity and address of the disposal facility.
- iii. Any subcontracting of any portion of the Licensee's business, shall,

for reporting purposes, be treated as though done by Licensee itself.

B. Quarterly reports referred to in subparagraph A hereof shall be furnished for activity occurring during the following periods: January 1<sup>st</sup> - March 31<sup>st</sup>; April 1<sup>st</sup> - June 30<sup>th</sup>; July 1<sup>st</sup> - September 30<sup>th</sup>; and October 1<sup>st</sup> - December 31<sup>st</sup>. Quarterly reports shall be delivered and/or mailed to the Superintendent or designee not later than thirty (30) days following the end of the quarter.

#### SECTION 9. Inspections/Audits.

A. Vehicles used in the collection or transportation of solid wastes within the County shall be subject to reasonable inspection by the County or its agents for purposes of determining compliance with the terms of licenses and this Local Law and for the purposes of data collection. Failure to allow inspection shall be a violation of this Local Law.

B. All solid waste generated within the County and set at a designated **public** area for collection by a hauler, and all solid waste deposited at facilities owned or operated by the County shall be subject to inspection without notice by the County or its agents, for purposes of ensuring compliance with this ordinance and for the purposes of data collection. Failure to allow inspection shall be a violation of this Local Law.

C. All Licensees shall be required to retain records providing backup data for the reporting requirements set forth herein and those records subject to inspection/audit for a minimum of three (3) years and/or until audited by a representative of the County.

#### SECTION 10. Penalties and Enforcement.

A. Any person found guilty by a court of competent jurisdiction of engaging in or conducting a hauling business without a duly-issued license, or any Licensee found guilty by a court of violating any term of the terms and conditions of its license, or violation of any provision of this Local Law shall be guilty of an offense punishable by a fine not exceeding Five Thousand Dollars (\$5,000) per offense and/or by imprisonment not exceeding six (6) months or both. Each week of a continuing violation shall constitute a separate offense or violation and shall be subject to a separate fine and/or civil penalty.

B. 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 violations of the provisions of this Local Law and request a civil penalty not exceeding Five Thousand Dollars (\$5,000).

C. Haulers licensed pursuant to this law will be notified, in writing, of any perceived violations of this law. They will have ten (10) business days from receipt of the Notice of Violation to remedy the violation or make contact with the Superintendent to make plans for modification. Failure to remedy the violation or make plans to remedy the violation will result in the actions as set forth in paragraphs A and B.

## SECTION 11. Confidentiality.

A. Public access to government records is mandated by the New York State Freedom of Information Law (FOIL), Public Officers Law, Article 6, Section 84-90. It is recognized that information contained in license applications and the quarterly or annual reports required hereunder may include technical, financial, or other information which a license Applicant, or Licensee believes is not required to be disclosed under FOIL.

B. Applicants or Licensees who believe that any information contained in license or registration applications, quarterly or annual reports, or any other information required to be provided by the Superintendent is not required to be disclosed under FOIL shall underline all such information in red ink and shall provide a separate written explanation of the grounds for their belief, which clearly identifies each underlined section of the application or report to which such explanation applies. Neither the Superintendent nor Washington County shall have any liability for disclosure of information that is not properly identified in the manner required by this subsection.

C. In the event that a third party requests information that has been identified and underlined as set forth in subparagraph B, above, the Applicant or Licensee shall be advised of such request. The Applicant or Licensee shall then have an opportunity to fight the FOIL request on their own behalf.

D. Nothing herein shall be construed as imposing any liability upon the Superintendent or upon Washington County where disclosure has been made in good faith pursuant to a reasonable interpretation of applicable law, or where disclosure was mandated by the order or judgment of a court of competent jurisdiction or the order of any government agency or authority having lawful jurisdiction.

## SECTION 12. Severability.

If any provision of this Chapter or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without regard to the invalid provision or application and to this end provisions of this law are declared to be severable.

## SECTION 13. Implementation for Existing Haulers

A. Within thirty (30) days after the Effective Date of enactment of this Local Law, the Superintendent shall publish notice at least once in the official newspaper designated by the Board of Supervisors pursuant to County Law Section 214, and thereby notify all persons who conduct, or intend to conduct, activities which shall require Licensee under this Local Law that they must submit an application for Licensee on or before January 1, 2010, or be subject to fines and/or civil penalties of up to Five Thousand Dollars (\$5,000) per day for conducting unlicensed activities thereafter. The public notice shall notify those persons performing activities or intending to perform activities in Washington County which

require a license pursuant to this Local Law that a license is required, and that all such persons must apply for a such license on or before January 1, 2010 in accordance with the provisions of this Local Law. The public notice shall also state all application and other fees which shall be due and payable in connection with the submission of such application.

B. By January 1, 2010, all persons who engage in or conduct a hauling business in the County must submit an application for license to the Superintendent and provide all of the information required of Applicants under this Local Law, in order to be considered for issuance of a license. With regard to applications submitted to the Superintendent during the period beginning on the Effective Date of this Local Law and ending on January 1, 2010, the Superintendent shall issue its final determination as to each such application no later than March 31, 2010.

C. With respect to those persons who submitted a timely application for a license, and have paid the required fee, as determined by the Superintendent, the Superintendent shall issue such persona temporary license, which temporary license shall be valid beginning on the date of issuance and until either (i) ninety (90) days after such application has been denied or (ii) until a license has been issued pursuant to the provisions of this Local Law, whichever occurs sooner. Notwithstanding the above, all temporary licenses issued pursuant to this subsection shall terminate on or before March 31, 2010.

D. With respect to haulers, licenses issued pursuant to this Local Law shall be valid as of the date of issue.

SECTION 14. Exceptions.

This law shall not regulate those haulers of waste water within the County.

SECTION 15. Effective Date. This Local Law shall take effect immediately and upon filing in the Office of the Secretary of State.