

**LOCAL LAW NO. 3 OF 2021
COUNTY OF OTSEGO, NEW YORK**

A LOCAL LAW REPEALING LOCAL LAW NO. 1 OF 1989 AND
REPLACING IT WITH A LOCAL LAW AUTHORIZED BY SECTION 120-aa
GML REQUIRING, FOR ALL SOLID WASTE WITHIN THE COUNTY OF
OTSEGO, SOURCE SEPARATION AND SEGREGATION OF RECYCLABLE
OR REUSEABLE MATERIALS

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

Section 1. Short Title

This local law shall be known as the Otsego County Mandatory Source Separation and Recycling Law.

Section 2. Intent

The intent of this local law shall be to insure that source separation and segregation of recyclable and reusable materials occurs within the County of Otsego.

Section 3. Text

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1. FINDINGS; LEGISLATIVE INTENT

The Otsego County Board of Representatives finds and declares:

- A. The County restates and re-affirms below its Findings set out in local Law No. 1 of 1989. However, it has determined that, in order to provide for the continued efficient and effective administration and enforcement of the County's solid waste management system, it is appropriate to redraft and clarify that local law.
- B. The County faces an increasing threat to its environmental and economic well-being from the solid waste disposal crisis in the following ways:
 - a. The cost of solid waste disposal and recycling continues to increase;
 - b. The County does not own its own landfill or Material Recovery Facility (MRF), and thus relies on out-of-county landfills and MRFs and whatever rate they set;

- c. Landfills currently being used are filling rapidly and costs are expected to increase; and
 - d. The current system of keeping the recycling tipping fee less than the garbage tipping fee has not resulted in an increased recycling rate.
- C. The cost for recycling is currently higher than other waste. Increasing recycling tipping fees without recycling enforcement will only result in a lower recycling rate. In order to maintain and increase our recycling rate while reducing costs to taxpayers, the County must mandate recycling and charge accordingly.
- D. A significant amount of regulated recyclable material is being discarded in landfills.
- E. Since the dissolution of MOSA, the County has taken over solid waste management working with a private contractor.
- F. The County Board of Representatives adopted a Solid Waste Management Plan to address the solid waste crisis.
- G. Maximizing waste reduction, reuse, and recycling ensures attainment of both the state's recycling goals as set forth in the 1988 Solid Waste Management Act, and also the County's goals as set forth in said plan.
- H. In order to maximize reduction, reuse, and recycling, while controlling costs, the County wishes to adopt this Mandatory Source Separation and Recycling Law.
- I. The Mandatory Source Separation and Recycling Law addresses the solid waste disposal crisis by removing regulated recyclable materials from the solid waste stream, thereby reducing the required capacity of existing and proposed landfills; decreasing the flow of solid waste to landfills; increasing the life expectancy of existing and future landfills; allowing the County to adjust recycling disposal rates according to the actual cost without additional taxpayer subsidy; aiding in the conservation of valuable resources; preserving the health, safety and welfare of the public; and preserving the environmental quality of Otsego County.
- J. The Mandatory Source Separation and Recycling Law is consistent with the plan because the purpose of this local law is to:
 - a. Source separate all regulated recyclable materials, as defined in Section 3 of this Local Law, from the solid waste stream in Otsego County;

- b. Separate regulated recyclable materials into designated recyclable categories before such materials enter the Municipal Recycling System;
 - c. Account for all regulated recyclable materials through reporting requirements so that the County may measure its progress in more detail in attaining the state and County recycling goals;
 - d. Direct the flow of regulated recyclable materials so as to:
 - i. Ensure that such materials are not disposed of in a landfill or incinerator, but recycled; and
 - ii. Ensure the County can keep costs to taxpayers as minimal as possible while achieving the goals of the plan.
 - e. Ensure that separate regulated recyclable materials are properly and economically aggregated, processed, and sold or delivered to recycling markets or Material Recovery Facilities; and
 - f. Secure long-term, stable, and environmentally appropriate markets for the County and its municipalities to survive periods of market downturns.
- K. The Mandatory Source Separation and Recycling Law seeks to maximize recycling by:
- a. Maintaining a partnership effort between the County and the private sector;
 - b. Ensuring that a sufficient amount of regulated recyclable materials enters the County's Municipal Recycling System to result in a cost-effective, successful operation;
 - c. Ensuring that private sector recycling is in accordance with the County Solid Waste Management Plan and Article 27 of the Environmental Conservation Law.
 - d. Establishing a hauler licensing system and enforcement procedures to enforce licensing requirements; and
 - e. Regulating multifamily owners and managers, as well as the commercial and institutional sectors to require recycling.

2. STATUTORY AUTHORITY

This local law is adopted pursuant to §120-aa of the General Municipal Law, §10 of the Municipal Home Rule Law, and Article 27 of the Environmental Conservation Law.

3. DEFINITIONS

BOARD: The Otsego County Board of Representatives

COLLECTION: The pick-up or delivery of solid waste to a hauler at the point of generation.

COMMERCIAL SECTOR: Businesses, industries, and manufacturing enterprises operating for profit.

COMMINGLED PAPER: The process of mixing various categories of recyclable paper as specified by the County in the rules and regulations. See also "mixed paper."

COMMINGLED RECYCLING: The process of mixing various regulated recyclables as specified by the County in the rules and regulations.

COMPUTER PAPER: Clean, untreated or uncoated, white sulphite or sulphate papers, with or without colored stripes, manufactured for use in computer printers, which may or may not be imprinted with impact (non-laser) or laser printing, as specified by the County in the rules and regulations; excluding, however, ground-wood computer printout or other contamination.

CONSTRUCTION AND DEMOLITION DEBRIS (C&D): Uncontaminated solid waste resulting from the construction, remodeling, repair and demolition of utilities, structures and roads; and uncontaminated solid waste resulting from land clearing. Such waste includes but is not limited to bricks, concrete and other masonry materials, soil, rock, wood (including painted, treated and coated wood and wood products), land-clearing debris, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles and other roof coverings, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, empty buckets 10 gallons or less in size and having no more than one inch of residue remaining on the bottom, electrical wiring and components containing no hazardous liquids, and pipe and metals that are incidental to any of the above.

CONTAMINATION: The inclusion of substance(s) or condition(s) that render the otherwise recyclable or compostable materials, including regulated recyclable materials and yard waste, less marketable as specified by the rules and regulations.

CORRUGATED CARDBOARD: All clean, dry, brown paper board, referred to in industry as "old corrugated cardboard." This includes boxes, cartons or other containers or dividers made of either kraft, test liner or jute, with a center fluting between layers, commonly used for packaging, mailing, shipping or containerizing goods, merchandise or other material, or other cardboard as specified by the Department in the rules and regulations; excluding, however, non-cardboard materials, plastic, foam, or wax-coated or soiled cardboard.

COUNTY: The entire County of Otsego as constituted and existing under the laws of the state.

COMMITTEE: The Solid Waste and Environmental Concerns Committee established by the Otsego County Board of Representatives

DEPARTMENT: The Otsego County Solid Waste Department.

DESIGNATED RECYCLABLE CATEGORIES: The categories into which the regulated recyclable materials shall be separated as designated by the Department through rules and regulations.

DIRECTOR: The appointed Director of the Otsego County Solid Waste Department.

DISPOSAL: The post-collection delivery of solid waste to any location for processing, transfer, transportation, or any permanent disposition.

ELECTRONIC WASTE or E-WASTE: Any surplus, obsolete, broken, or discarded electrical or electronic devices, including but not limited to televisions, computer monitors, computer peripherals, electronic office equipment, telephones, and electronic entertainment devices as specified by the County in the rules and regulations.

GENERATOR: Any person or legal entity that produces solid waste including regulated recyclable materials requiring off-site disposal.

GLASS: All clean, empty glass containers made from silica or sand, soda ash and limestone, which are transparent or translucent, and are commonly used for the packaging or bottling of various products. These containers shall include all clear or colored glass bottles, jars, and jugs, as specified by the

County in the rules and regulations; excluding, however, pottery or ceramics, lead-based glass (such as crystal), plate glass, window or auto pane, mirrors, light bulbs, heat-resistant glass or ovenware, thermopane, laboratory glass, safety glass, or other contaminated glass.

HAULER: Any person engaged in the business of collecting, storing, and transporting solid waste, including recyclable materials, except where otherwise designated in this local law.

HOUSEHOLD HAZARDOUS WASTE: Household products that contain corrosive, toxic, ignitable, or reactive ingredients, including but not limited to pesticides, oil-based paints, solvents and certain batteries as specified by the County in the rules and regulations.

INSTITUTIONAL SECTOR: Private or public organizations, such as schools, hospitals, prisons, religious establishments, and not-for-profit organizations, whose purpose is to provide for the public welfare.

MAGAZINE: A periodical containing a collection of articles, stories, pictures or other features.

MARKET: A business which buys, sells, or accepts recyclable materials, including regulated recyclable materials, or compost for the purpose of reuse as a product or in the manufacturing of new products.

MATERIALS RECOVERY FACILITY (MRF): A facility that accepts recyclable commingled materials that have already been separated at the source from municipal solid waste generated by either residential or commercial sources. Material is sorted to specifications, then baled, shredded, crushed, or otherwise prepared for shipment to market. Materials recovery facilities are either dual stream or single stream. A dual-stream MRF is where source-separated recyclables are delivered in a mixed-container stream (typically glass, ferrous metal, aluminum and other nonferrous metals, and PET [No. 1] and HDPE [No.2] plastics) and a mixed-fiber stream (including cardboard, newspaper, magazines, office paper, junk mail, etc.) Single stream is an MRF that accepts and processes all recyclable materials mixed together, both mixed container and mixed fiber.

METAL CANS: Clean, empty metal containers made of aluminum or tin-plated or zinc-plated steel, which are commonly used for packaging food,

beverages or other products, as specified by the County in the rules and regulations and are free of food, beverage or other contamination.

MIXED PAPER: Various categories of recyclable paper, including but not limited to white and colored paper used in printers, photocopiers and fax machines, white and colored ledger paper, carbonless copy paper, construction paper, office paper, undeliverable mail, mailed promotional letters/advertisements/circulars, magazines, catalogs, envelopes, newspaper, paperboard, soft-cover books, and hard-cover books with the cover removed as specified by the County in the rules and regulations.

MULTIFAMILY DWELLING GENERATOR: Solid waste generated from apartment complexes, condominium complexes, cooperative apartment complexes, recreational vehicle or trailer parks, hotels, motels, bungalow or resort colonies, or campgrounds.

MUNICIPALITY: Any county, city, town, village, improvement district, public authority, or other municipal corporation established by law.

MUNICIPAL RECYCLING SYSTEM: The entire County system as set forth in the County's Solid Waste Management Plan for maximizing reduction, reuse and recycling, including but not limited to purchasing any and all equipment, constructing and permitting solid waste management facilities and transfer stations, securing long-term, stable markets for the County and its municipalities, and educating the public on how to maximize reduction, reuse and recycling of the solid waste stream.

NEWSPAPER: All clean, dry paper commonly referred to as "newspapers" or "newsprint," not sunburned, and free from other contamination, and containing not more than the normal percentage of rotogravure and colored sections, as specified by the County in the rules and regulations.

NOT-FOR-PROFIT ORGANIZATION: Any corporation organized according to the New York State Not-for-Profit Corporation Law.

OFFICE PAPER: Clean, white or colored ledger, bond, writing, copier or other paper, with or without printing or writing, but free of glossy, treated, coated or padded stock, carbon, plastic, or other contamination, as specified by the County in the rules and regulations.

PAPER BOARD: Clean, flat, pressed, uncorrugated, stiff paper as specified by the County in the rules and regulations. Paperboard is also known as thin cardboard or greyboard and is used in products such as cereal boxes. Paperboard cannot be plastic or wax coated.

PERSON: Any natural person, individual, partnership, co-partnership, association, owner or manager of a business, commercial or industrial establishment, joint venture, corporation, trust, estate, institution, not-for profit organization or any other legal entity, including a municipality or any other waste generator.

PHARMACEUTICAL WASTE: Waste containing pharmaceutical substances, including expired, unused, spilt, and contaminated pharmaceutical products, drugs, vaccines, and sera that are no longer required and need to be disposed of appropriately. The category also includes discarded items used in the handling of pharmaceuticals, such as bottles or boxes with residues, gloves, masks, connecting tubing, and drug vials.

PLASTIC: All clean, empty containers made of the plastic resins specified by the County in the rules and regulations, including but not limited to plastic bottles or jugs having contained spring water, various beverages or foods, and excluding contamination.

REGULATED RECYCLABLE MATERIAL: Solid waste that exhibits the potential to be returned to the economic resource stream in the form of raw materials to be used in place of virgin materials in the manufacture of new products. Includes newspaper, office paper, mixed paper, glass bottles, jugs and jars, metal cans, plastic, corrugated cardboard, paperboard, and any other materials as may be designated by the County in accordance with this local law.

RESIDENTIAL GENERATOR: Solid waste generated from single- or multiple-family dwellings and other residential sources.

SELF HAULER: Any person who hauls or transports the regulated recyclable material it generates.

SOLID WASTE: All materials or substances discarded or rejected within the County of Otsego as being spent, useless, or worthless to the owners at the time of such discard or rejection, including, but not limited to: garbage,

refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous materials, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, source, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, and waste which appears on the list of hazardous waste promulgated by the Commissioner of Environmental Conservation pursuant to § 27-0903 of the Environmental Conservation Law.

SOLID WASTE MANAGEMENT FACILITY: Any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed for or is incidental to the collecting, receiving, transporting, storage, processing or disposal of solid waste as more fully defined in Public Authorities Law § 2050-b(16)

SOLID WASTE MANAGEMENT FACILITY OPERATOR: Any operator of a solid waste management facility approved by the County for delivery of source separated regulated recyclable material.

WEIGHT TICKET: Evidence provided from a solid waste management facility detailing solid waste and regulated recyclable material weight, date weighed, and vehicle identification.

4. ADMINISTRATION

This local law shall be put into effect, administered, and enforced by the County acting through the Department. In order to carry out this responsibility, the County, acting consistently with the purposes of this local law, shall be empowered to do the following:

- A. Establish, revise, amend, and repeal standards, practices, and procedures for the proper preparation, separation, collection, and disposal of solid waste.
- B. Establish, revise, amend, and repeal rules and regulations as it shall deem reasonable, necessary and proper to carry out the responsibilities and requirements of this local law.

- C. Designate solid waste management facilities within Otsego County, which may receive, aggregate, or process solid waste and regulated recyclable materials.
- D. Direct the flow of regulated recyclable materials to solid waste management facilities stations that receive, aggregate, or process regulated recyclable materials or compost yard waste.
- E. Add regulated recyclable materials to the solid waste stream based on market availability, technology and other factors.
- F. Alter or delete regulated recyclable materials to be removed from the solid waste stream based on market availability, technology and other factors.
- G. Establish reporting procedures to account for all recyclable materials, including regulated recyclable materials and yard waste, in the County.
- H. Secure long-term, stable markets for the recycling of regulated recyclable materials and sell or otherwise market the regulated recyclable materials.
- I. Investigate violations of this local law through the subpoena power of the Committee and others, issue warnings, seek civil and criminal penalties from the Committee or in a court of competent jurisdiction, issue temporary cease-and-desist orders, enter into consent agreements, and pursue the collection of penalties in accordance with § 18, 19, 20, and 21 of this Local Law.
- J. In addition to the regulated recyclable materials defined in § 3, the County shall be authorized to designate regulated recyclable materials to be separated from other solid waste.
- K. In addition to the regulated recyclable materials defined in § 3, the Department shall be authorized to remove previously designated regulated recyclable materials from the list of regulated recyclable materials.

5. PROGRAM ESTABLISHED

A program is hereby established within Otsego County for the mandatory source separation of regulated recyclable materials from the solid waste stream. Regulated recyclable materials established under this local law shall, as defined in §3, include the following: glass, metal, plastics, newspaper, corrugated cardboard, paperboard, and mixed paper. All persons shall separate regulated recyclable materials from solid waste before either setting out solid waste for collection pursuant to lawful procedure or

disposing of it in an authorized solid waste management facility.

6. PREPARATION AND SEPARATION OF REGULATED RECYCLABLE MATERIALS

- A. Upon the effective date of this local law, all persons in the County shall separate regulated recyclable materials from solid waste for the purpose of collection and recycling.
- B. The County, from time to time, may promulgate rules and regulations, specifying requirements for preparation and separation of regulated recyclable materials. The County will provide such rules and regulations to be posted online and at all County-owned solid waste management facilities.
- C. All persons shall prepare and separate regulated recyclable materials in accordance with the rules and regulations.

7. PREPARATION AND SEPARATION OF REGULATED RECYCLABLE MATERIALS AT MULTIFAMILY DWELLINGS

- A. All residents of multifamily dwellings must source separate regulated recyclable materials from solid waste according to §6 and the rules and regulations promulgated thereunder, and deposit the regulated recyclable materials in the receptacles and/or collection area(s) provided therefor by the lessor, owner, or manager.
- B. Lessors, owners, or managers of multifamily dwellings must establish a program which facilitates the multifamily resident to source separate regulated recyclable materials, which must include providing, in a neat and sanitary condition, receptacles and/or collection area(s) to receive all regulated recyclable materials generated by residents of the multifamily dwelling. In cases where a condominium association exists, the condominium association shall be responsible for provision and maintenance of the receptacles and/or collection area(s).
- C. All lessors, owners, or managers of multifamily dwellings of five collective units or more, wherever located within Otsego County, shall sign and agree to the County Multifamily Solid Waste Reduction and Recycling Plan. The signed plan will remain on file with the County.

- D. The County, from time to time, may promulgate rules and regulations for additional information and implementation of the Multifamily Dwelling Recycling Plan.
- E. All multifamily residents, lessors, owners, or managers shall report as required pursuant to §15.

8. COMMERCIAL AND INSTITUTIONAL SECTOR RECYCLING

- A. All commercial and institutional sector generators shall prepare and separate regulated recyclable materials according to §6 and the rules and regulations promulgated thereunder.
- B. All commercial and institutional sector generators of 20 employees or more shall sign and agree to the County Commercial/Institutional Solid Waste Reduction and Recycling Plan. The signed plan will remain on file with the County.
- C. The County, from time to time, may promulgate rules and regulations for additional information and implementation of the Commercial/Institutional Solid Waste Reduction and Recycling Plan.
- D. All commercial and institutional sector generators shall report as required in §15.

9. PRIVATE DISPOSAL OF REGULATED RECYCLABLE MATERIALS

- A. Nothing shall prevent any commercial sector generators of regulated recyclable materials from directly selling to markets the regulated recyclable materials they generate so long as:
 - a. All costs of separating, preparing, processing, transporting and marketing such materials are directly and fully absorbed by the generators and no public funds contribute to such separation, preparation, processing, transporting or marketing;
 - b. The generators comply with all reporting requirements of this local law and the rules and regulations promulgated hereunder.
- B. Private not-for-profit or charitable organizations may receive donations of regulated recyclable materials from generators as part of an announced fund-raising event, provided that they request and receive the prior written approval of the County.

10. COLLECTION AND DISPOSAL OF REGULATED RECYCLABLE MATERIALS

- A. No person shall collect or dispose of regulated recyclable materials except as directed by the County pursuant to this local law.
- B. All solid waste management facilities, whether public or private, shall provide adequate facilities for the acceptance of regulated recyclable materials.
- C. The County is authorized to promulgate rules and regulations regulating the collection and disposal of regulated recyclable materials.

11. COLLECTION AND DISPOSAL OF REGULATED RECYCLABLE MATERIALS BY HAULERS

- A. No hauler shall collect, transport, or dispose of regulated recyclable materials except as directed by the County pursuant to this local law.
- B. The County is authorized to promulgate rules and regulations regulating collection, transportation, and disposal of regulated recyclable materials by haulers.
- C. All haulers shall collect, transport, maintain, and dispose of regulated recyclable materials separated from the solid waste stream.
- D. Source-separated regulated recyclable materials and solid waste shall be transported and delivered only to a solid waste management facility designated by the County that receives, aggregates or processes regulated recyclable materials. If no facility is designated, the hauler may deliver the solid waste and regulated recyclable materials to a recycling facility, landfill, or market of its choice.
- E. All haulers shall advise customers of requirements for recycling.
- F. All haulers shall provide customers with an ability to source separate regulated recyclable materials.
- G. All haulers shall report as required pursuant to § 15.

12. WASTE HAULER LICENSE REQUIREMENTS (EFFECTIVE DATE JAN. 1 2022)

- A. No hauler shall collect, transport or dispose of solid waste and/or regulated recyclable materials generated within the County without obtaining a hauler license issued by the County, acting through the

Department. Licenses issued pursuant to this local law shall be in the nature of a privilege subject to the terms and conditions set forth in this local law and shall not be deemed to create a property interest with respect to the license in the holder thereof.

- B. The County, acting through the Department, shall be authorized to issue a hauler license to qualified applicants upon submission of a written application containing such information as may be required by the County for administrative purposes, including, but not limited to, the following:
- a. The name and address of the applicant, specifying, in the case of any corporation, the names and addresses of each officer and director thereof.
 - b. If the applicant conducts business under a trade name or if the applicant is a partnership, the application for a license must be accompanied by a copy of the trade name or partnership certificate duly certified by the Clerk of the county in whose office the certificate was filed.
 - c. The experience of the applicant in the business of collection and disposal of refuse and similar material.
 - d. The number of collection vehicles to be operated by the applicant and a description of each such vehicle, including the ownership of the vehicle, the make, year, model of chassis and body type, the cubic capacity or tare weight, and color of vehicle, the current New York State registration number, and the community or communities in which the vehicle will operate. All vehicles shall be marked with the name of the licensee. The County, acting through the Department, shall be authorized to issue identification numbers for each vehicle, to be marked or affixed thereto.
 - e. The location of any and all terminals proposed to be used by the applicant for the storage of licensed vehicles.
 - f. The name, address and telephone number, both day and night, of the applicant or the person in charge of the business.
 - g. Any other relevant information the County may require.
- C. Additional requisites for obtaining and holding a license.
- a. Insurance. Before a license may be issued by the County, acting through the Department, each applicant shall file with the County

proof of the following insurance coverage, consisting of a certificate of the insurance carrier:

- i. Workmen's compensation and disability insurance or proof of exemption.
 - ii. Certificate of liability insurance
- D. Term of license. Each license issued pursuant to this section shall be valid for a maximum of two (2) years. The first term will begin on January 1st, 2022 and will end on December 31st, 2023. Terms will reset at the beginning of each even year.
- E. Licenses not transferable. Licenses issued pursuant to this local law shall not be transferable or assignable by the licensee. Changes in ownership or control of a licensed entity shall be reported to the County within 10 days.

13. REGULATION AND CONTROL OF COLLECTION, TRANSPORTATION AND DISPOSAL

All solid waste and regulated recyclable material generated within the County of Otsego shall be delivered for disposal to a Solid Waste Management facility designated by the County. The County hereby intends to regulate and control the collection, transportation and disposal of all solid waste within the municipalities within the County and to establish standards and promulgate regulations to accomplish such control. The County's designation may include a determination that a particular Solid Waste Management facility shall be the only facility used for the disposal of solid waste generated within all of, or a described area within, the County of Otsego or by a particular person or persons.

14. OWNERSHIP, DIRECTION, AND CONTROL OF REGULATED RECYCLABLE MATERIALS

- A. Except as set forth in §9, once regulated recyclable materials are set out for collection or deposited in the municipal recycling drop-off centers or municipal recycling system, all such materials become the property of the County, and the County shall direct and control the processing, transporting and marketing of that property.
- B. The County does not assume ownership of improperly prepared regulated recyclable materials, including those in an improper condition, container, or location.

- C. Improperly prepared regulated recyclable materials must be removed by the generators and properly prepared and separated according to this article.

15. REPORTING REQUIREMENTS

All persons shall report information as required by the Department such as: amount and type of regulated recyclable materials discarded, regulated recyclable materials directly sold or donated pursuant to §9, information categories of solid waste as designated by the County or any other information needed to further the purposes of this article, including information needed to study possible economic markets, track flow of regulated recyclable materials, or monitor progress in meeting the state and County recycling goals.

16. UNLAWFUL ACTS

It shall be unlawful for:

- A. Any person to fail to separate, prepare for collection, collect, transport, or dispose of regulated recyclable materials in accordance with this article.
- B. Any person to dispose of any solid waste generated in Otsego County unless such regulated recyclable materials have been removed from such solid waste.
- C. Any person to place regulated recyclable materials at other than a designated location.
- D. Any person to alter regulated recyclable materials or fail to maintain these materials in the condition specified by the County in the rules and regulations.
- E. Any person to dispose of or cause to be disposed of regulated recyclable materials in a landfill, incinerator, or any other solid waste disposal facility.
- F. Any hauler to collect, transport, store, or deliver regulated recyclable materials that contain solid waste.
- G. Any hauler to deliver solid waste or regulated recyclable materials to a solid waste management facility not designated by the County.
- H. Any hauler to fail to provide customers with an ability to source separate regulated recyclable materials.
- I. Any solid waste management facility to accept solid waste unless the regulated recyclable materials are separated therefrom.

- J. Any person not authorized under this article to remove regulated recyclable materials once set out for collection or brought to a municipal recycling drop-off center or municipal recycling system.
- K. Any person to fail to report as required by this article or the rules and regulations.
- L. Any person to knowingly make a false material statement or representation in any report required under this article.
- M. Any person to violate, cause, or assist in the violation of any provision herein.

17. ENFORCEMENT

- A. Presumptions: The following shall be rebuttable presumptions in the enforcement of the administrative and criminal provisions of this law:
 - a. The placement of a solid waste or recycling container that is marked or identified with the name of a hauler holding or required to hold a license for the collection of solid waste pursuant to this article at any location within the County shall be presumptive evidence that such hauler is providing solid waste collection service at said location.
 - b. Evidence of solid waste or regulated recyclable material in a container located in the County as described in subsection A(a) above, and subsequent observation of the same container empty, shall be presumptive evidence that solid waste was collected from the container by the hauler whose name is marked on the container.
 - c. Evidence of servicing of a location by a hauler through photographic, video, or written materials (i.e. contracts or other agreements) shall be presumptive evidence that such hauler is providing solid waste collection service at said location.
 - d. The failure to deliver any solid waste or regulated recyclable material to a County-designated Solid Waste Management facility within three days of the collection of solid waste from any location within the County shall be presumptive evidence of a violation of this section.
 - e. Weight tickets provided by solid waste management facility operators will be used to confirm whether or not a waste hauler has

delivered source separated recyclable material to a designated solid waste management facility.

B. Administrative Sanctions

- a. Haulers: The County, acting through the Department, shall be authorized to issue fines or to deny an application or suspend or revoke a hauler license issued pursuant to this local law where one or more of the following situations is found to exist:
 - i. That the hauler has failed and refused, without reasonable cause, to collect and dispose of solid waste or regulated recyclable material, except in a situation where a contract has been lawfully terminated.
 - ii. That the hauler has failed to provide customers with an ability to source separate regulated recyclable materials.
 - iii. That the hauler has not separated the regulated recyclable material from other solid waste in any vehicle used by the hauler for hauling.
 - iv. That the hauler has failed to account or pay, without reasonable cause, any disposal bills to the County or Solid Waste Management Facility Operator.
 - v. That the hauler is insolvent or has made a general assignment for the benefit of creditors or has been adjudged as bankrupt, or a money judgment has been secured against it upon which an execution has been returned wholly or partly unsatisfied.
 - vi. That the hauler has violated any of the provisions of this local law as it currently exists or may be amended from time to time.
 - vii. That the hauler has ceased to operate as a private refuse collector for which a license was previously issued.
 - viii. That the hauler has been convicted of a felony or misdemeanor which, in the judgement of the County, reasonably relates to the fitness or desirability of such a person to hold a license.
 - ix. That the hauler has failed to abide by any rule or regulation promulgated by the County and implemented in furtherance of its administrative or enforcement efforts.

- b. Multifamily Dwellings: The County, acting through the Department, shall be authorized to issue fines where one or more of the following situations is found to exist:
 - i. That the lessor, owner, or manager of a multifamily dwelling fails to establish a program which facilitates the multifamily residents to source separate regulated recyclable materials according to § 7.
 - ii. That the lessor, owner, or manager of a multifamily dwelling fails to abide by the County Multifamily Solid Waste Reduction and Recycling Plan as outlined in §7.
 - iii. That the condominium association fails to provide and maintain receptacles and/or collection area(s) for source separate regulated recyclable materials as outlined in §7 of this Local Law.
- c. Commercial and Institutional Sector: The County, acting through the Department, shall be authorized to issue fines where one or more of the following situations is found to exist:
 - i. That the commercial or institutional generator fails to prepare and separate regulated recyclable materials according to §8 and the rules and regulations promulgated thereunder.
 - ii. That the commercial or institutional generator fails to abide by the County Commercial/Institutional Solid Waste Reduction and Recycling Plan as outlined in §8.
- d. Penalties for Offenses:
 - i. Haulers:
 - 1. A first violation will result in a warning letter issued to the Hauler;
 - 2. A second violation will result in a fine up to \$500;
 - 3. A third violation will result in fine up to \$1000; and
 - 4. A fourth violation will result in suspension or revocation of the Hauler License.
 - ii. Multifamily Dwellings (Lessors, owners, managers)
 - 1. A first violation will result in a warning letter issued to the lessor, owner, or manager;
 - 2. A second violation will result in a fine up to \$500;
 - 3. A third violation will result in a fine up to \$1000; and

4. Subsequent violations will result in a fine up to \$1500 for each violation.
- iii. Commercial and Institutional Sector
 1. A first violation will result in a warning letter issued to the Generator;
 2. A second violation will result in a fine up to \$500;
 3. A third violation will result in a fine up to \$1000; and
 4. Subsequent violations will result in a fine up to \$1500 for each violation.
 - iv. All fines and penalties shall become due and payable to the County
- C. Procedure. Whenever, in the judgement of the Director of the Department, sufficient evidence exists to support a determination that an application for a hauler license should be denied, or that a license held by any hauler should be suspended or revoked, or that civil penalties should be imposed pursuant to this local law, the County, acting through the Department, shall serve written notice of such fine or suspension or revocation, and/or the amount of a civil penalty imposed, upon the hauler or owner, lessor, or manager of a multifamily dwelling, together with notice of the effective date of such suspension, revocation or penalty, which date shall be not less than 20 days from the date of such notice. Written notice of suspension or revocation of a hauler license shall be served personally or by certified mail, return receipt requested, addressed to such hauler's last-known address. Such notice shall contain factual allegations sufficient to inform the hauler of the nature and circumstances of the violation charged, and shall further inform the hauler of the right to a hearing to contest the suspension, revocation and/or penalty. The hauler may invoke the right to a hearing by serving a written demand for hearing upon the Solid Waste and Environmental concerns Committee of Otsego County, located at 197 Main Street, Cooperstown, New York, at any time prior to the effective date of the suspension, revocation or penalty, and service of such demand shall serve to stay such suspension, revocation or penalty pending the determination of the Solid Waste and Environmental Concerns Committee, pursuant to the procedures set forth in § 19 of this Local law. Actions for further review shall be determined by filing a proceeding pursuant to New York State Civil Practice Law and Rules, Article 78.

- D. Notwithstanding anything in this section to the contrary, this article may be enforced by the Sheriff of the County or any police agency of the state or any municipality of the County.

18. RECOVERY OF ASSESSED PENALTIES; NONPAYMENT PENALTY

If any person fails to pay an assessment of a civil penalty, the County may bring a civil action in an appropriate court to recover the amount assessed (plus interest) at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be. Such person shall be required to pay, in addition to such amount and interest, attorneys' fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20% of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

19. CONSENT AGREEMENT AND ORDER

- A. The Department and respondent or defendant may confer concerning settlement.
- B. The Department and respondent or defendant shall forward a written consent agreement and a proposed consent order to the Committee or District Attorney or court of competent jurisdiction, as the case may be, whenever settlement or compromise is proposed.
- C. The consent agreement shall state that, for the purpose of the proceeding, the respondent:
- a. Admits the jurisdictional allegations of the complaint;
 - b. Admits the facts stipulated in the consent agreement or neither admits nor denies specific factual allegations contained in the complaint; and
 - c. Consents to the assessment of the state penalty.
- D. The consent agreement shall include any and all terms of the agreement and shall be signed by all parties or their representatives.
- E. No settlement or consent agreement shall dispose of any proceeding without a consent order from the Committee or court of competent jurisdiction. In preparing such an order, the Committee or court may require that the parties to the settlement appear before him/her to answer

inquiries relating to the consent agreement or order. All settlements are due and payable to the County.

20. EFFECT ON OTHER LAWS

- A. Pursuant to Public Authorities Law §2050-A of the State of New York, this local law shall take precedence over and supersede any inconsistent provisions of any local law enacted by any municipality within the County.
- B. A municipality may adopt and enforce its own local law which, at a minimum, must be procedurally and substantively as comprehensive as this local law.
- C. Except for Section 12 which shall be effective January 1, 2022, this law shall be effective immediately upon filing with the Secretary of State of the State of New York.

Offered by the Solid Waste and Environmental Concerns Committee