

PART II – GENERAL LEGISLATION

Chapter 212 – Solid Waste

[Adopted as Local Law #1 of 1992, Replaced and Adopted as Local Law #1 of 2000]

[Amended and Adopted, December 27, 2012, as Ch. 212 of the Code]

Article I Collection, Removal Disposal of Solid Waste Sections 212-1 – 212-22

Article I Collection, Removal Disposal of Solid Waste

Section 212-1 – Findings and Purpose – The reduction of the amount of Solid Waste and conservation of recyclable materials is an important public concern because of the increasing cost of Solid Waste collection and disposal and its impact on the environment. The separation and collection of recyclable materials serves the general public’s interest in our Village by reducing the amount of Solid Waste and will otherwise comply with the Onondaga County Source Separation Law (Local Law No. 12 of 1989) and other applicable provisions of law. In 1988, in the interest of public health, safety and welfare and in order to conserve energy and natural resources, the State of New York enacted a New York State Solid Waste Management Act which established the following solid waste hierarchy: waste reduction, reuse, recycling and waste energy (See New York Environmental Conservation Law Section 27-0106) with land burial as a last resort only when refuse, recycling or waste-to-energy were unavailable. Section B-35 of the State Solid Waste Management Plan – 1997-1998 Update recommended that Onondaga County take immediate steps to develop environmentally acceptable facilities to manage the Solid Waste generated in the County. In December 1991, Onondaga County adopted a comprehensive Solid Waste Management Plan that was subsequently approved by the State Department of Environmental Conservation. The County Plan, applicable to municipalities within the County, preferred waste-to energy as a safe and sanitary alternative to the threat to the ground water supply and other liabilities posed by the burying of such waste. Those reasons are further delineated in Section 5 of the aforementioned County Plan. Public Authorities Law Section 2045-e (7) and (8) allows the Onondaga County Resource Recovery Agency to contract with municipalities for the delivery of such waste and, in furtherance thereof, to process such Solid Waste. In compliance with both the State and County Solid Waste Management Plans, the Village of Marcellus has determined that all Solid Waste, both residential and commercial, generated in our Village and destined for disposal in the State of New York, may not be disposed of at any place other than the Approved Disposal Site designated by the Village Board in Section 2 hereof. The basis of that determination is attached hereto as Exhibit A and incorporated by reference. This chapter will also establish and refine regulations requiring the licensing of municipal haulers and governing hauler services for the collection and disposal of Solid Waste materials. This chapter shall not (A) regulate or otherwise restrict any disposal of solid waste generated within the Village that is to be disposed of out-of-state or any handling or recyclable materials separated from the rest of the solid waste in accordance with Onondaga County’s Source Separation Law or (B) regulate the price, route

or service of any motor carrier with respect to the transportation of property prohibited by the Federal Aviation Administration Authorization Act of 1994, as amended (49 U.S.C.A. § 14501 et. seq.).

Section 212-2 – Definitions

Agency shall mean the Onondaga County Resource Recovery Agency.

Agency Facility shall mean any facility operated by or designated by the Agency. Agency Facilities include the Agency Transfer Stations at Ley Creek and Rock Cut Road, Rock Cut Road Waste-to Energy Facility, Agency Landfill (when built), Agency Yard Waste Composting Facilities at Jamesville and Amboy, Construction and Demolition Processing Facility at Ley Creek and Agency designated Materials Recovery Facilities.

Approved Disposal Site shall mean the Onondaga County Waste-to-Energy Facility on Rock Cut Road in the Town of Onondaga.

Construction and Demolition Debris shall mean discarded building material, concrete, stones, earth from excavations or grading and all other refuse material resulting from the erection, repair or demolition of buildings, structures or other improvements of property.

County shall mean the County of Onondaga.

County Designated Recyclable Materials shall mean those recyclables designated by the County of Onondaga and the Onondaga County Resource Recovery Agency pursuant to Local Law No. 12 of 1989, including the following:

Corrugated paper: Cardboard containers, boxes and packaging, including pizza boxes, which are cleaned of contamination by food wastes or polystyrene commonly called Styrofoam, and which have been flattened for transport.

Glass: Empty, washed glass jars, bottles and containers of clear, green and amber (brown) that contained food and drink, caps removed. This term excludes ceramic, window glass, auto glass, mirror and kitchenware.

Metal: All ferrous and non-ferrous metals, including: steel, aluminum and composite cans and containers (cleaned of food wastes) and empty aerosol cans that did not contain hazardous material. Scrap metal, wire, pipes, tubing, motors, sheet metal, etc. are recyclable but must be recycled through scrap dealers.

Newspapers, magazine, and catalogues: Includes common machine finished paper made chiefly from wood pulp used for printing newspapers, as well as glossy inserts, magazines and catalogues. All must be free of contaminants.

Office paper: All bond paper and also computer printout, stationary, photocopy and ledger paper of any color from all waste generators. Paper should, if possible, be free of tape, adhesives, labels, rubber bands, paper clips, binders and other contaminants. This term excludes carbon paper, chemical transfer paper and tyvek or plastic coated envelopes.

Plastics: All HDPE and PET type plastic bottles (#1 & #2), including empty, washed food, beverage, detergent, bleach and hair care containers with lids removed. This term excludes all photographic film, vinyl, rigid and foam plastic materials, as well as plastics numbered 3 through 7 and HDPE oil bottles, as well as #1 and #2 containers that are not bottles or contained hazardous material.

Beverage cartons: Includes gabled-topped paper cartons that contained milk and juice products.

Paperboard: Paper packaging as found in cereal, cracker and tissue boxes, etc. and toilet tissue and paper towel tubes.

Mixed paper: Includes discarded and bulk mail, computer paper, colored paper, greeting cards, wrapping paper and carbonless multi-part forms. Excludes any paper coated with foil or plastic.

Curb shall mean that street curb immediately in front of the property from which Solid Waste material and recyclables to be collected are generated or in the absence of an actual curb, that portion of the property that is immediately adjacent to the street.

Curbside Collection shall mean the use of collection receptacles for residential, commercial, and institutional Solid Waste generators and the regular periodic pick up and transfer of the contents of such receptacles by a Hauler at the location of a Waste Generator.

Eligible Household shall mean a household residing in a dwelling of four units or less and which is required to utilize Recycling Containers.

Hauler Any person, company or firm who engages in the collection, transportation, disposal or delivery of Solid Waste within our Village.

Hazardous Waste means:

- (1) Any waste (excluding Household Hazardous Waste) which is defined or regulated as a Hazardous Waste, Toxic Substance, Hazardous Chemical Substance or mixture, or

Asbestos (Regulated Waste) under federal state or local law, or under rules, regulations, policies or guidelines issued in relation thereof, as they may be amended from time to time including, but not limited to:

- (a) The Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sections 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984) and the regulations contained in 40 CFR Parts 260-281;
 - (b) The Toxic Substances Control Act (15 U.S.C. Sections 2601 et seq.) and the regulations contained in 40 CFR Parts 761-766;
 - (c) The State Environmental Conservation Law (Title 9 of Article 27) and the regulations contained in 6 NYCRR Parts 370, 371, 372, 373 (Subpart 373-3);
- (2) Radioactive materials which are source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. Sections 201 et seq.) and the regulations contained in 10 CFR Part 40; or
 - (3) Any other material that by Federal, State or Local Law, or under rules, regulations, policies, guidelines or orders having the force of law in relation thereto are regulated as harmful, toxic or hazardous to health and ineligible for processing at the Agency Facility.

Large Household Furnishings shall mean all other large and/or bulky articles actually used in the home and which equip it for living such as chairs, sofas, tables, beds or carpets.

Major Appliances shall mean a large and/or bulky household mechanism such as a refrigerator, washer, dryer, stove, furnace or hot water tank.

Materials Recovery Facility or MRF shall mean a private or public facility for receiving and processing Recyclables into marketable commodities.

Medical Waste means any Solid Waste that is generated in the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals.

Municipal Hauler License shall mean the license issued by the Village to a hauler as a prerequisite to performing Solid Waste collection services within the Village's municipal limits.

Person shall mean a natural person, association, partnership, firm, corporation, Limited Liability Company, trust, estate or governmental unit and any other entity whatsoever.

Recyclables shall mean those recyclable materials, including County Designated Recyclable Materials, which can be practically separated from non-recyclable waste for which reuse markets can be assessed for less than the cost of disposal.

Recycling Container shall mean the blue bin or other container supplied by the Agency, County, the Village or their designees for the use by Eligible Households within the Village. Such containers shall be exclusively for the storage of County Designated Recyclable Materials. Such containers shall at all times remain the property of the Agency.

Recycling Law shall mean the Onondaga County Source Separation Law, Local Law No. 12, adopted March 6, 1989, as subsequently amended.

Regulated Medical Waste means those medical wastes that have been listed in 6 NYCRR 364.9 paragraph (c)(1) and that must be managed in accordance with the requirements of that part.

Solid Waste means all materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including, but not limited to, garbage, refuse, residential, governmental, commercial, and/or light industrial refuse but shall not include recyclables, yard and garden waste, human wastes, rendering wastes, demolition wastes, residue from incinerators or other destructive systems for processing waste (other than now existing individual building incinerators, the residue from which is presently collected as part of normal refuse collection practices), junked automobiles, pathological, medical, toxic, explosive, radioactive material or other waste material which, under existing or future federal, state or local laws, require special handling in its collection or disposal.

System shall mean Onondaga County's Solid Waste Management System as operated by the Onondaga County Resource Recovery Agency and every aspect thereof, including, but not limited to, the Rock Cut Road Waste-to-Energy Facility, Agency Landfill (when built), Yard Waste Composting Facilities at Jamesville and Amboy, Construction and Demolition processing facility at Ley Creek and the Rock Cut Road and Ley Creek transfer stations.

Village shall mean the Village of Marcellus.

Village Board shall mean the Board of Trustees of the Village of Marcellus.

Village Clerk shall mean the Clerk of the Village of Marcellus.

Waste Generator shall mean any person who produces Solid Waste requiring off-site disposal.

Yard and Garden Waste shall mean garden waste, leaves, grass clippings, weeds and brush.

Section 212-3 – Requirement of Haulers to Obtain Municipal Hauler License – It shall be a precondition of doing business as a Hauler in the Village that the person/firm intending to conduct such business obtain a Municipal Hauler License and a Village sticker. An application on a form approved and provided by the village must be submitted to the Village Codes Enforcement Office in which the person satisfactorily shall be bound by the following provisions:

A. The Hauler will deliver all of the non-recyclable Solid Waste (residential and commercial) it collects within the village and destined for disposal in the State of New York to the Approved Disposal Site specified in Section 2 above. It shall be unlawful to unload or deposit any Solid Waste hauled from any premises within the limits of the Village and destined for disposal in the State of New York at any place other than the Approved Disposal Site specified by the Village in Section 2 above. Any Hauler failing to dispose of said Solid Waste at the Approved Disposal Site so designated shall be subject to having its license revoked.

B. The Hauler will supply a plan of operation for collection and transportation and which provides for a Recycling Plan as required by Onondaga County Local Law No. 12 of 1989 as it applies to Haulers, which it shall adhere to and comply with. The Hauler shall agree to provide for the collection of County Designated Recyclables in every waste hauler disposal agreement, written or oral, as part of its standard service to include the cost of such collection in its standard waste collection rates.

Section 212-4 – Distinctive Municipal Sticker

A. The Hauler shall attach a municipal sticker which must be visibly and securely affixed to the driver's side vent window or upper part of the driver's side of the windshield of each of the Hauler vehicles in operation.

B. No Hauler shall (1) duplicate or imitate a Municipal Sticker or (2) sell or transfer in any manner a Municipal Sticker.

Section 212-5 – Duration of Municipal Hauler License – Municipal Hauler Licenses issued pursuant to this chapter shall be effective for an annual term of January 1 through December 31 (one calendar year).

Section 212-6 – Revocation of Municipal Hauler License – The Village shall have the right to cancel any existing Municipal Hauler License upon thirty (30) days written notice to the Hauler if the Village shall enact legislation establishing a new system for collection of Solid Waste in the Village that is inconsistent with the continuation of said license. The Village shall revoke a Municipal Hauler License upon the happening of any or a combination of the following:

- A. Failure of the Hauler to comply with any provision of this chapter.
- B. Prior to any such revocation, the Hauler shall be notified by the Village of an opportunity for a hearing in the matter, which hearing shall be held not less than five days after the Hauler is notified in writing by the Village of the pending license revocation and the charges against it.
- C. All hearings shall be on a date and time and at a place determined by the Village. The hearing shall be informal and held before the Village Mayor or his/her designee.
- D. Compliance with technical rules of evidence shall not be required, and the decision of the Village Mayor or his/her designee shall be final.

Section 212-7 – Recycling Plan – The Village hereby adopts as its Source Separation Legislation, required pursuant to the General Municipal Law, Section 120-aa, the Onondaga County Source Separation Law (i.e. Local Law No. 12 of 1989) as adopted by the Onondaga County Legislature and subsequently amended under its terms.

- A. No Hauler shall dispose of County Designated Recyclable Materials picked up in our Village as Solid Waste nor shall any Hauler accept County Designated Recyclable Materials for disposal as Solid Waste.
- B. Recycling Containers shall at all times remain the property of the Agency or Village, as the case may be, and are provided for the use and convenience of Eligible Households in complying with this Chapter. No Hauler shall:
 - (1) Remove a Recycling Container from the Village;
 - (2) Willfully destroy a Recycling Container;
 - (3) Dispose of a Recycling Container other than by returning such container to the Village at a designated location; or
 - (4) Use a Recycling Container for other than the temporary storage of County Designated Recyclable Materials.

Section 212-8 – Imposition of Fees – The Village Board, may by resolution, designate and impose such other fees as it deems reasonable and appropriate in relation to the collection and disposal of any Solid Waste. After any such fees are imposed, the manner of implementation and collection shall be by regulation of the Village Board or its designee not inconsistent with the terms of the resolution imposing such fees. The Village Board by resolution also from time to time establish fees to defray expenses in connection with the fee for the Municipal Hauler License and administration of this Local Law. Fees shall be paid by the applicant at the time of application.

Section 212-9 – No Sunday Collection – Haulers shall not collect Solid Waste in the Village on Sundays, Thanksgiving or Christmas.

Section 212-10 – Insurance – Indemnity-Hold Harmless

A. In consideration of the Village issuing a Municipal Hauler License to an applicant, the applicant shall agree, upon the issuance of such License to the applicant, that the applicant shall indemnify, hold harmless and defend the Village and its officers and employees from and against any and all claims, demands, losses damages, costs payments, actions, recoveries, judgments and expenses of every kind, nature and description, including without limitation all engineers' and attorneys' fees, fines, penalties and clean-up costs resulting from any such claim, etc., arising out of or connected in any way with the applicant's acting as a Hauler or the applicant's involvement or participation in the collection, distribution or transportation of Solid Waste.

B. The Hauler, as a condition of obtaining a Municipal Hauler License, shall provide and maintain the following insurance coverage's at limits to be set from time to time by resolution of the Village of Marcellus Village Board:

- (1) Public liability (CGL) including contractual coverage
- (2) Automobile liability coverage for all owned, hired and non-owned vehicles and
- (3) Worker's Compensation coverage

C. The public liability policy aforementioned shall name the Village of Marcellus as an additional insured.

D. Each policy of insurance shall be endorsed to contain the following language: "The Village will be given 30 days prior written notification of any cancellation, non-renewal or modification of this policy which reduces coverage or limits at the following address: Village Hall, 6 Slocombe Avenue, Marcellus, New York, 13108.

E. Prior to the issuance of any Municipal Hauler License, the Hauler must provide to the Village Clerk proof of insurance coverage in a form to be determined from time to time by resolution of the Village Board.

Section 212-11 – Hours of Operation – Haulers shall not operate earlier than 7:00 a.m., nor later than 7:00 p.m.

Section 212-12 Removal of Uncollected Waste – Where certain Solid Waste, Recyclables and/or other Waste Materials were not collected because those materials were not placed or prepared by the Waste Generator in accordance with the provisions of this Chapter, the person who placed such materials for collection and the owner of the property adjoining the curb where such Waste Materials were placed shall remove those wastes from the location as soon as possible after the Hauler has refused collection and, in any event, by 6:00 p.m. on the designated collection day.

Section 212-13 – Restrictions on Use of Vehicles and Handling of Waste – The collection, removal, and carrying of Solid Waste, Recyclables and/or material, and the transportation of Solid Waste, paper, and Recyclables on any highway, street, alley, or lane of the Village must be done in covered vehicles. No Hauler shall throw or scatter or cause to be scattered or deposited or to escape from the vehicle any Solid Waste or Recyclables on the streets or public places.

Section 212-14 – Yard and Garden Waste Prohibited – Yard and Garden Waste may not be accepted for disposal at any Agency Facility but may be accepted for recycling at a yard waste composting facility of the Hauler's choice within the County or taken elsewhere.

Section 212-15 – Dumping/Draining Leachate Prohibited – Except as specifically permitted in this Chapter, no Hauler shall deposit or cause to be deposited or stored for more than one (1) day upon any property any Solid Waste and/or Recyclables, and dumping thereof is hereby prohibited. No leachate or other obnoxious or contaminating substance shall be allowed to drain from any Hauler vehicle on the public streets.

Section 212-16 – Accumulation/Storage of Solid Waste on Private Property – No Hauler shall suffer or permit Solid Waste to accumulate or remain upon private premises including extended storage in Hauler vehicles owned or operated by that Hauler so that the same shall emit odors or become offensive or dangerous to the public health or to any person or property.

Section 212-17 – Outdoor Burning – No Hauler shall bury or burn any Solid Waste and/or Recyclables or cause to be buried or burned any Solid Waste and/or Recyclables, papers, trash, Hazardous Waste and/or materials within the limits of the Village, unless authorized to do so in writing by the Village Board.

Section 212-18 – Special Events – This chapter shall also apply to all special events held in the Village. The sponsor of said events shall be responsible for sorting all Solid Waste materials into appropriate containers or bags and making all arrangements for pickup and disposal of all Solid Waste materials. The Hauler may charge a fee to be determined by the Village Board for such pickups and disposal.

Section 212-19 – Penalties and Remedies for Violation

A. In addition to any revocation of the Municipal Hauler's License pursuant to Section No. 3 of this Local Law, each day's violation or failure to comply with the provisions of this chapter shall be considered a new and separate offense, and subject to the penalties set forth in Section 212-20.

B. In addition to the above-provided penalties and revocations, or in lieu thereof, the Village Board may also institute and maintain an action or proceeding in the name of

the Village in a court of competent jurisdiction to compel compliance with or to restrain by temporary restraining order, preliminary and/or permanent injunction any violation of this Local Law.

C. This chapter shall be enforced by the Village Code Enforcement Officer, Village Police Department, Village Building Inspector, Village Fire Inspector, Superintendent of Highways, Onondaga County Sheriff's Department, New York State Police, Department of Environmental Conservation Officers and all local law enforcement agencies.

Section 212-20 – Penalties – The failure of a Hauler to comply with the provisions of this chapter shall be considered a violation subject to the following specified fines for each offense pursuant to Section 80.05 (4) of the Penal Law as well as for corporate officers, directors, and officials except for corporations in their corporate capacity which shall be fined pursuant to Section 80.10 of the Penal Law. Each day's violation shall be considered a new and separate offense subject to a separate penalty as fixed below. Any fines collected under this chapter shall inure to the Village and shall be deposited in the Village General Fund to use, as it deems appropriate. These fines may be amended by resolution of the Village Board.

Section	Violation	Fine
3	Failure to obtain a Municipal Hauler License	\$250.00
3	Failure to deliver all Solid Waste collected within the Village and destined for disposal within New York State to the Village Approved Disposal Site	\$250.00 plus revocation
4a	Failure to attach a Municipal Sticker to the Hauler vehicle	\$250.00
4b	Duplication or imitating the Municipal Sticker or engaging in the selling of the Municipal Sticker	Revocation
7a	Accepting and/or Disposing of County Designated Recyclable Materials as Solid Waste	\$200.00
7b	Removing, destroying or disposing a Recycling Container or using same for other than storage of a County Designated Recyclable	\$150.00
9	Engaging in the collection of Solid Waste and/or Recyclables on Sundays, Thanksgiving or Christmas	\$50.00

Section	Violation	Fine
10d	Failure to notify the Village, 30 days prior written notice of any cancellation, non-renewal or modification of required insurance policy	\$50.00
11	Failure to comply with the designated hours of operation	\$200.00
12	Failure to remove uncollected Solid Waste improperly set out for disposal	\$100.00
13	Throwing, scattering, or allowing deposit of any Solid Waste and/or County designated recyclables or other waste upon the street	\$100.00
14	Engaging in the collection of Solid Waste and/or County Designated Recyclables in a non-covered vehicle.	\$100.00
15	Dumping or depositing any Solid Waste and/or Recyclables material upon any property. Draining Leachate from hauler vehicle	\$100.00
16	Allowing Solid Waste or other waste material and Recyclables to accumulate upon any property so that it becomes obnoxious, unsightly or offensive	\$250.00
17	Any Hauler engaging in the burial or private burning of Solid Waste and/or Recyclables, papers, trash, hazardous waste and/or materials within the limits of the Village	\$250.00

Section 212-21 – Severability – If any paragraph, section, sentence or portion of a sentence of this chapter shall be found and determined to be invalid, unlawful and/or unconstitutional, such determination shall not invalidate or void any other paragraph, section, sentence or portion thereof, and such other parts thereof shall remain in full force and effect unless and until legally revoked, modified and/or amended.

Section 212-22 – Revocation of Prior Local Law Regulating Collection, Removal, and Disposal of Solid Waste in the Village of Marcellus – In 1992, the Village of Marcellus enacted Local Law No. 1 regulating collection, removal and disposal of Solid Waste in the Village of Marcellus. That Local Law is repealed in its entirety and replaced and superseded by this chapter, effective upon the effective date of this enactment.

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