

Local Law Number 8 Of 2007

County Of Ulster

A Local Law Amending Local Law Number 8 Of 1991 Ulster County Mandatory Source Separation And Recycling Law

BE IT ENACTED, by the County Legislature of the County of Ulster, as follows:

ULSTER COUNTY MANDATORY SOURCE SEPARATION AND RECYCLING LAW

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SECTION 1. SHORT TITLE. This Local Law shall be known as the “Ulster County Mandatory Source Separation and Recycling Law.”

SECTION 2. FINDINGS AND LEGISLATIVE INTENT. The Ulster County Legislature finds that:

- (a) The County faces an increasing threat to its environmental and economic well-being from the solid waste disposal crisis.
- (b) The solid waste disposal; crisis is exacerbated by people discarding in landfills a significant amount of material that can be recycled.
- (c) The State Legislature, in order to resolve the solid waste disposal crisis, delegated to the Agency extensive authority, responsibility, and power to plan, construct, operate, maintain, and finance projects for the management of the County’s solid waste stream.
- (d) The County Legislature, in order to resolve the solid waste disposal crisis, established the Agency as the planning unit to prepare a Solid Waste Management Plan (the “Plan”) for the County and approved the Plan.
- (f) Maximizing waste reduction, reuse, and recycling ensures the attainment of not only the State’s recycling goals as set forth in the 1988 Solid Waste Management Act, but also the County’s recycling goals as set forth in the Plan.
- (g) In order to implement the Plan and maximize reduction, reuse, and recycling, the County wishes to adopt this Mandatory Source Separation and Recycling Law.
- (h) The Mandatory Source Separation and Recycling Law should, in part, address 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

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flow of solid waste to landfills; increasing the life expectancy of existing and future landfills; reducing the cost of solid waste disposal; aiding in the conservation of valuable resources; preserving the health, safety and welfare of the public; and preserving the environmental quality of Ulster County.

- (i) The Mandatory Source Separation and Recycling Law is consistent with the Plan because the purpose of this local law is to:
 - (1) source separated all regulated recyclable materials, as defined in Section 4, from the solid waste stream in Ulster County;
 - (2) separate regulated recyclable materials into designated recyclable categories before such materials enter the Satellite Aggregation Center System;
 - (3) account for all regulated recyclable materials through reporting requirements so that the County may measure its progress in attaining the State and County recycling goals;
 - (4) direct the flow of regulated recyclable materials so as (a) to ensure that such materials are not disposed of in a landfill or incinerator, but recycled and (b) to ensure the success of the Plan which the State has mandated and to which the County has committed a substantial amount of public funds;
 - (5) ensure that separate regulated recyclable materials are properly and economically aggregated, processed, and sold or delivered to recycling markets;
 - (6) secure long-term, stable, and environmentally appropriate markets for the county and its municipalities to survive periods of market downturns; and
 - (7) ensure that education and technical assistance are provided to all persons in the County on source separation and recycling.

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- (j) The Mandatory Source Separation and Recycling Law will be implemented by the Ulster County Resource Recovery Agency because the Agency has been delegated authority and responsibility to manage the solid waste stream and has been established as the planning unit for the County.
- (k) The Mandatory Source Separation and Recycling Law seeks to maximize recycling by:
 - (1) maintaining a partnership effort between the Agency and private sector;
 - (2) ensuring that a sufficient amount of regulated recyclable materials enters the County's Satellite Aggregation Center System to result in a cost-effective, successful operation.
 - (3) having the Satellite Aggregation Center System serve as the market of last resort; and
 - (3) ensuring that private sector recycling, which contributes to both County and State recycling goals, is in accordance with the County Solid Waste Management Plan and Article 27 of the Environmental Conservation Law.

SECTION 3. STATUTORY AUTHORITY. This Local Law adopted pursuant to Section 120-aa of the General Municipal Law, Section 10 of the Municipal Home Rule Law, Section 2050-t(3) of the Public Authorities Law, and Article 27 of the Environmental Conservation Law.

SECTION 4. DEFINITIONS. As used in this Local Law, the following terms shall have the following meanings:

“Agency” shall mean the Ulster County Resource Recovery Agency created under Chapter 936 of the Laws of 1986 of the State, as amended.

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“Charitable Organization” shall mean businesses, industries, and manufacturing enterprises operating for profit.

“Commercial Sector” shall mean businesses, industries, and manufacturing enterprises operating for profit.

“Composting” shall mean the process of aerobic, thermophilic decomposition by microbial degradation of solid organic constituents of solid waste to produce a stable, humus-like material called compost.

“Composting Facility” shall mean a solid waste management facility used to provide aerobic, thermophilic decomposition by microbial degradation of solid organic constituents of solid waste to produce a stable, humus-like material.

“Computer Paper” shall mean 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 Agency in the rules and regulations, excluding, however, ground wood computer printout or other contamination.

“Contamination” shall mean 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” shall mean all clean, dry brown, paperboard, referred to in industry as “old corrugated cardboard”. This induces boxes, cartons or other containers or dividers made of either kraft, test liner or jute, with a center fluting between layers, commonly used for packing, mailing, shipping of containerizing goods, merchandise or other material, plastic, foam, or wax-coated or soiled cardboard.

“County” shall mean the entire County of Ulster as constituted and existing under the Laws of the State.

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“Designated Recyclable Categories” shall mean the categories into which the regulated recyclable materials shall be separated as designated by the Agency through rules and regulations.

“Economic Market” shall mean instances in which the full avoided costs of proper collection, transportation, and disposal of source separated materials are equal to or greater than the cost of collection, transportation, and sale of said material less the amount received from the sale of said material.

“Generator” shall mean any person or legal entity that produces solid waste including regulated recyclable materials requiring off-site disposal.

“Glass” shall mean 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, green or brown glass bottles and jars, separated by color, as specified by the Agency in the rules and regulations, excluding, however, pottery or ceramics, lead-based glass (such as crystal) plate glass, auto pane, mirrors, light bulbs, heat-resistant glass or ovenware, thermopane, laboratory glass, safety glass, or glass of any other color or other contamination.

“Hauler” shall mean any person engaged in the business or activity of collecting, storing, and transporting regulated recyclable materials.

“Institutional Sector” shall mean 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.

“Mandatory Source Separation and Recycling Law” shall mean the Local Law No. 8 passed by the Ulster County Legislature on December 31, 1991.

“Market” shall mean 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.

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“Metal Cans” shall mean 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 Agency in the rules and regulations and are free of food, beverage or other contamination.

“Multi-Family Dwelling Generator” shall mean solid waste generated from apartment complexes, condominium complexes, cooperative apartment complexes, recreational vehicle or trailer parks, hotels, motels, bungalow or resort colonies, or campgrounds.

“Municipal Yard Waste Composting Facility” shall mean site(s) or area(s) designated by municipalities for the purpose of composting yard waste.

“Municipal Recycling Drop-Off Sites” shall mean sites or areas designated by municipalities as collection points for regulated recyclable materials.

“Newspaper” shall mean all clean, dry, paper commonly referred to as newspapers or newsprint, not sunburned and free from paper other than news or other contamination, and containing not more than the normal percentage of rotogravure and colored sections, as specified by the Agency in the rules and regulations.

“Not-for-Profit Organization” shall mean any corporation organized according to the New York State Not-for-Profit Corporation Law.

“Office Paper” shall mean 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 Agency in the rules and regulations.

“Person” shall mean 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.

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“Plastic” shall mean all clean, empty containers made of the plastic resins specified by the Agency in the rules and regulations, including, but not limited to, plastic bottles or jugs having contained spring water, various beverages or automotive fluids, and excluding contamination.

“Recycling Oversight Committee” shall mean the committee established and appointed pursuant to the Recycling Law.

“Recyclable Materials” shall mean any 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.

“Recyclables Handling and Recovery Facilities” shall mean a solid waste management facility, properly permitted under the New York State Department of Environmental Conservation rules and regulations, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream, or at which previously separated recyclables are collected.

“Regulated Recyclable Materials” shall include newspaper, color-separated glass bottles and jars, metal cans, plastic bottles and jugs, corrugated cardboard, office paper and computer paper, and any other materials as may be designated by the Agency in accordance with this law.

“Residential Generator” shall mean solid waste generated from single or multiple-family dwellings and other residential sources.

“Rural Transfer Station” shall mean the location designated by each municipality as a municipal drop-off center for regulated recyclable materials, solid waste or yard waste.

“Satellite Aggregation Center System” shall mean 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 two Satellite Aggregation Centers, establishing a transportation network for regulated recyclable materials, securing

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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.

“Self Hauler” shall mean any person who hauls or transports the regulated recyclable material it generates.

“Solid Waste” shall mean all materials or substances discarded or rejected within the County of Ulster 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, 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 Section 27-0903 of the environmental conservation law.

“Solid Waste Management Facility” shall mean 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 Section 2050-b(16).

“Ulster County Resource Recovery Agency” shall mean the Agency established pursuant to chapter 936 of the session laws of 1986 and is referred to herein as “Agency”.

“Yard Waste” shall mean grass clippings, leaves, twigs, branches, lawn and garden wastes, weeds, brush, shrubbery clippings, clean wood and clean pallets as specified by the Agency in the rules and regulations, excluding treated painted or glued wood, construction and demolition wood, or other debris.

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SECTION 5. ADMINISTRATION. This Local Law shall be put into effect, administered, and enforced by the Agency. In order to carry out this responsibility, the Agency, acting consistently with the purposes of this local law, shall be empowered to do the following:

- a. Executes contracts.
- b. Establish, revise, amend, and repeal standards, practices, and procedures for the proper preparation, separation, collection, and disposal of regulated recyclable materials.
- c. 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 pursuant to Section 6.
- d. Designate solid waste management facilities within Ulster County which may receive, aggregate, or process regulated recyclable materials or compost yard waste.
- e. Direct the flow of regulated recyclable materials to solid waste management facilities that receive, aggregate, or process regulated recyclable materials or compost yard waste.
- f. Add regulated recyclable materials to the solid waste stream based on market availability, technology and other factors subject to Section 25.
- g. Alter or delete regulated recyclable materials to be removed from the solid waste stream based on market availability, technology and other factors subject to approval by a majority vote of the Recycling Oversight Committee.

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- h. Establish reporting procedures to account for all recyclable materials, including regulated recyclable materials and yard waste, in the County.
- i. Secure long-term, stable markets for the recycling of regulated recyclable materials and sell or otherwise market the regulated recyclable materials.
- j. Investigate violations of this law through the subpoena power of the hearing officer and others, issue warnings, seek civil and criminal penalties from the independent administrative hearing officer 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 Sections 19, 20, 21, 22, 23, and 24.

SECTION 6. RULES AND REGULATIONS. When specified in this local law, the Agency may, from time to time, promulgate rules and regulations consistent with the provisions of this local law in order to effectuate the purposes hereof. This procedure for rule making shall be as follows:

- a. The Executive Director must prepare and submit proposed rules and regulations to the Agency, the Community and Environmental Affairs Committee of the County Legislature, and to the Recycling Oversight Committee.
- b. The Agency may authorize notification of a hearing in the official newspaper of the County, as designated by the County Legislature.
- c. The notice shall be published at least thirty (30) days prior to the public hearing and shall (1) cite the statutory authority under which the rules and regulations are proposed, (2) give the date, time, and place of the public hearing, (3) state the proposed rules and regulations or synopses thereof, (4) give the name and address of the Agency representative to whom

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written comments may be submitted. The express terms of the proposed rules and regulations shall be available to the public on the date such notice is first given pursuant to this subdivision.

- d. The Executive Director shall conduct a public hearing and, upon request of the Community and Environmental Affairs Committee of the County Legislature, appear before that Committee and the Recycling Oversight Committee in public session to discuss the proposed rule making.
- e. The Executive Director shall prepare the record of the public hearing and a document responding to the comments received at the public hearing.
- f. The record of public comment and the response document shall be made available for public review and submitted to the Agency.
- g. The Agency shall make such changes and modifications in response to public comment as it deems appropriate and shall adopt the final rules and regulations by resolution.
- h. The Executive Director shall publish the final rules and regulations, or synopses thereof in the same manner as the proposed rules and regulations, no less than ten (10) days after the Agency adopts the final rules and regulations. The final rules and regulations shall take effect twenty (20) days after publication.

SECTION 7. PROGRAM ESTABLISHED. A program is hereby established within Ulster County for the mandatory source separation of regulated recyclable materials from the solid waste stream. Regulated recyclable materials initially established under this local law shall, as defined in Section 4, include the following: newspaper, color-separated glass bottles and jars, metal cans, plastics bottles and jugs, corrugated cardboard, office paper, and computer paper. All

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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.

SECTION 8. 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 purposed of collection and recycling.

(b) The Agency, from time to time, may promulgate rules and regulations pursuant to Section 6 specifying requirements for preparation and separation of regulated recyclable materials.

(c) All persons shall prepare and separate regulated recyclable materials in accordance with the rules and regulations.

SECTION 9.PREPARATION AND SEPARATION BY MULTI-FAMILY DWELLINGS OF REGULATED RECYCLABLE MATERIALS.

(a) All residents of multi-family dwellings must source separate regulated recyclable materials from solid waste according to Section 8. and the rules and regulations promulgated thereunder, and deposit the regulated recyclable materials in the receptacles and/or collection area(s) provided therefore by the lessor, owner, or manager.

(b) Lessors, owners, or managers of multi-family dwellings must establish a program which facilitates the multi-family resident to source separate regulated recyclable materials, and 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 multi-family 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).

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(c) By March 1, 1992 and every year thereafter, lessors, owners, or managers of all multi-family dwellings of five (5) units or more, shall submit to the Agency for approval a Multi-Family Dwelling Recycling Plan implementing Section (b). Such a plan shall include:

- (1) Location of multi-family dwelling and number of units;
 - (2) Collection system for regulated recyclable materials once the residents have deposited such materials in the receptacles and/or collection area(s);
 - (3) Provisions for publicizing recycling program; and
 - (4) Implementation date of September 1, 1992.
- (d) The Agency, from time to time, may promulgate rules and regulations pursuant to Section 6 for additional information and implementation of the Multi-Family Dwelling Recycling Plan.
- (e) All multi-family residents, lessors, owners, or managers shall report as required pursuant to Section 16.

SECTION 10. COMMERCIAL AND INSTITUTIONAL SECTOR RECYCLING.

(a) All commercial and institutional sector generators shall prepare and separate regulated recyclable materials according to Section 8 and the rules and regulations promulgated thereunder.

- (b) All commercial and institutional sector generators of ten (10) employees or more shall submit a Commercial/Institution Solid Waste Reduction and Recycling Plan to the Executive Director. The plan will remain on file with the Agency. All commercial and institutional sector generators shall submit revisions as applicable. Such a plan shall include:

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- (1) Organization Identification including a general description of the business, its location and type of operation and the number of employees;
- (2) Waste Composition analysis including an identification of the amounts of recyclable and non-recyclable materials in their solid waste stream;
- (3) Waste Reduction and Recycling Practices including an identification of waste reduction efforts, present recycling, potential recycling, and waste exchanges, and
- (4) Waste Disposal for residual waste including an identification of materials in the organization's waste stream that will not be reduced or recycled and disposal methods.

(c) The Agency, from time to time, may promulgate rules and regulations pursuant to Section 6 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 Section 16.

SECTION 11. 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:

- (1) all costs of separating, preparing, processing, transporting and marketing such materials are directly and fully absorbed by the generators and no public

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funds contribute to such separation, preparation, processing, transporting or marketing.

- (2) a minimum of thirty (30) days' written notice of intent to Directly Sell or to cease Directly Selling Regulated Recyclable Materials is provided to the Agency prior to implementing such option; and
 - (3) 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 Executive Director of the Agency.

SECTION 12. COLLECTION AND DISPOSAL OF REGULATED RECYCLABLE MATERIALS.

(a) No person shall collect or dispose of regulated recyclable materials except as directed by the Agency pursuant to this local law and the rules and regulations promulgated pursuant to Section 6 or, if the Agency has not acted, the Municipality.

(b) All solid waste management facilities, whether public or private, shall provide adequate facilities for the acceptance of regulated recyclable materials.

(c) The Agency is authorized to promulgate rules and regulations pursuant to Section 6 regulating the collection and disposal of regulated recyclable materials.

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SECTION 13. 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 Agency pursuant to this local law and the rules and regulations promulgated pursuant to Section 6.

(b) The Agency is authorized to promulgated rules and regulations pursuant to Section 6. regulating collection, transportation, and disposal of regulated recyclable materials by haulers.

(c) All haulers shall collect, transport, maintain, and dispose of regulated recyclable materials (1) separated from the solid waste stream and (2) in a condition specified in the rules and regulations promulgated pursuant to Section 6.

(d) Source separated regulated recyclable materials shall be transported and delivered only to a solid waste management facility(ies) designated by the Agency that receives, aggregates or processes regulated recyclable materials. If no facility is designated, the hauler may deliver the regulated recyclable materials to a recycling facility or market of its choice.

(e) All haulers shall report as required pursuant to Section 16.

SECTION 14. PREPARATION, SEPARATION AND DISPOSAL OF YARD WASTE.

(a) All persons shall separate yard waste from solid waste for the purposes of collection and composting.

(b) Each Municipality within the County may provide, or obtain rights in, a yard waste composting facility for the disposal of yard waste.

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(c) Yard waste may be composted at a composting facility designated by the Municipality or at a solid waste management facility that receives and composts yard waste as may from time to time be designated by the Agency. If no facility is designated, the hauler of yard waste may deliver the yard waste to a private composting facility

(d) This section shall not prohibit private composting or on site disposal in compliance with any existing law of yard waste by any person.

(e) The Agency may, from time to time, promulgate rules and regulations pursuant to Section 6 for the preparation, separation, collection, and disposal of yard waste.

(f) All yard waste shall be prepared, separated, collected and disposed according to the rules and regulations.

SECTION 15. OWNERSHIP, DIRECTION AND CONTROL OF REGULATED RECYCLABLE MATERIALS.

(a) Except as set forth in Section 11, once regulated recyclable materials are set out for collection, placed in Agency containers, or deposited in the Municipal Recycling Drop-Off Sites or Satellite Aggregation Center System, all such materials become the property of the County, and the Agency 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 law.

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SECTION 16. REPORTING REQUIREMENTS.

(a) All persons shall report information as designated by the rules and regulations promulgated by the Agency pursuant to Section 6.

(b) The Agency may, from time to time, pursuant to Section 6 promulgated rules and regulations requiring the reporting on regulated recyclable materials, recyclable materials being studied as possible regulated recyclable materials, regulated recyclable materials directly sold or donated pursuant to Section 11, categories of solid waste as designated by the Agency or any other information needed to further the purposes of this law, 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.

SECTION 17. COUNTY HOUSEHOLD RECYCLING CONTAINERS.

It shall be a violation for any person to: (1) remove a County recycling container from the County; (2) to take, without authorization, a County recycling container; (3) dispose of a County recycling container other than by returning such container to the issuing Municipality; and (4) use such container for other than the temporary storage of regulated recyclable materials.

SECTION 18. 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 or yard waste in accordance with this law or any rules and regulations promulgated pursuant to Section 6.

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(b) Any person to dispose of any solid waste generated in Ulster 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 Agency in the rules and regulations.

(e) Any person to dispose or cause to be disposed of regulated recyclable materials or yard waste 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 regulated recyclable materials to a solid waste management facility not designated by the Agency.

(h) Any solid waste management facility to accept solid waste unless the regulated recyclable materials are separated therefrom.

(i) Any person not authorized under this local law to remove regulated recyclable materials once set out for collection or brought to a Municipal Recycling Drop-Off Site or Satellite Aggregation Center System.

(j) Any person to fail to report as required by this law or the rules and regulations.

(k) Any person to knowingly make a false material statement or representation in any report required under this local law.

(l) Any person to violate, cause, or assist in the violation of any provision herein.

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SECTION 19. ENFORCEMENT.

(a) The Agency, acting through the Executive Director, is delegated the authority and responsibility to enforce this local law by investigating possible violations through the subpoena power of the independent administrative hearing officer provided for hereunder and the Courts; seeking civil or criminal penalties for violations of this local law or the rules and regulations promulgated pursuant to this local law in a Court of competent jurisdiction or from the independent administrative hearing officer provided for hereunder; issuing Temporary Cause and Desist Orders; and collecting penalties pursuant to this local law.

(b) The Agency shall employ a dedicated Recycling Compliance Officer(s) who will also act as Recycling Educator. The duties of the Recycling Compliance Officer(s) shall include: (1) coordination of efforts to educate the public and private sector as to the standing recycling/source separation laws and regulations, (2) the responsibility to answer and record all complaints regarding possible violations of this law, and (3) inspection of sites to determine compliance with this law. The Recycling Compliance Officer will report at least quarterly with the Recycling Oversight Committee. The Recycling Compliance Officer will report monthly to the Agency board.

(c) The Executive Director may issue written warnings that include educational material on how to properly comply with this local law.

(d) The Ulster County Health Department shall issue licenses to haulers to collect and transport regulated recyclable materials pursuant to the Sanitary Code and its rules and regulations. The Agency, Acting through the Executive Director, may include provisions in the haulers' license as provided by the Sanitary Code and its rules and regulations and may seek enforcement of the Sanitary Code or its rules and regulations.

(e) Notwithstanding anything in this local law or in the Ulster County Sanitary Code to the contrary, no hauler shall be issued a license pursuant to the Sanitary Code to collect, transport, and/or dispose of solid waste unless the

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hauler also collects and transports regulated recyclable materials in accordance with this local law.

(f) Notwithstanding anything in this section to the contrary, this local law may be enforced by the Sheriff of the County or any police agency of the State or any Municipality of the County.

SECTION 20. INDEPENDENT ADMINISTRATIVE HEARING OFFICER.

(a) An independent administrative hearing officer is hereby created, established and authorized to issue orders assessing civil penalties for violations of this local law.

(b) The officer shall be appointed by the County Legislature to serve at the pleasure of the County Legislature.

(c) The Executive Director and/or the Recycling Compliance Officer(s) as complainant may institute a proceeding with the officer seeking an order assessing civil penalties for the violation of this local law.

(d) The officer has the authority to require the attendance of witnesses or the production of documentary evidence by subpoena.

(e) Before issuing an order assessing a civil penalty, the officer shall give to the person to be assessed such penalty written notice of the proposed order and an opportunity to request a hearing on the proposed order.

(f) The written notice shall include, at a minimum, (1) a concise statement of the factual basis for the violation; (2) the amount of the civil penalty that is proposed to be assessed; (3) the provisions of the local law alleged to have been violated; (4) the right to request a hearing on the material facts and/or the amount of the civil penalty; (5) a copy of the rules of the hearing procedures.

(g) The hearing shall provide a reasonable opportunity to be heard, cross-examine witnesses, and present evidence free from interference,

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coercion, restraint, discrimination, or reprisal, and the respondent shall have the right to be represented by a person of his/her choice at any stage of the hearing and proceedings.

(h) If the respondent fails to appear at the hearing without good cause being shown and the Executive Director presents a prima facie case against the respondent, the respondent may be found in default. The motion for default and a proposed default order shall be served by the officer on all parties, and the

defaulting party shall have twenty (20) days from service to reply to the motion. The proposed default order may be set aside for good cause should in accordance with the civil practice law and rules. Default by the complainant shall result in the dismissal of the complaint with prejudice.

(i) In determining the amount of the civil penalty, the officer, in accordance with Section 21, shall consider the seriousness of the violation(s); any history of such violations; good faith efforts to comply with the applicable requirements; the number of individual generators the violator employs, services, represents, or is otherwise responsible for; the economic impact (benefit or harm) resulting from the violation(s); the economic impact of the penalty; the Executive Director's recommendation for a penalty; and such other factors as justice may require. Civil penalties shall constitute a judgment as that term is defined in the Civil Practice Law and Rules which may be enforced in accordance with that statute.

(j) The officer may establish rules for discover, administration and implementation of this section, and procedures for conducting hearings and other proceedings.

(k) Any person against whom a civil penalty is assessed under this section may obtain judicial review of such assessment.

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SECTION 21. PENALTIES.

(a) Criminal Penalties: Any person who violated this local law shall be guilty of a violation and subject to a fine not to exceed one thousand dollars (\$1000) per day per violation and/or up to five days imprisonment.

(b) Civil Penalties: Any person who violated this local law shall be liable to pay a civil penalty. If a decision of liability is made by a hearing officer or a Court competent jurisdiction, a civil penalty shall be assessed of not more than one thousand dollars (\$1000) per day per violation and/or suspension or revocation of collection or disposal privileges in conjunction with solid waste and/or regulated recyclable materials disposed within the County, and/or any other just and equitable remedies available at law.

(c) Each and every act prohibited hereunder shall be deemed a separate violation of this local law.

(d) All fines and penalties shall become due and payable to the Agency.

SECTION 22. COLLECTION.

If any person fails to pay an assessment of a civil penalty, the Agency 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, attorney's fees and costs for collection proceedings and a quarterly non-payment penalty for each quarter during which such failure to pay persists. Such non-payment penalty shall be in an amount equal to twenty (2) percent of the aggregate amount of such person's penalties and non-payment penalties which are unpaid as of the beginning of such quarter.

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SECTION 23. CONSENT AGREEMENT AND ORDER.

(a) The Executive Director and Respondent or Defendant may confer concerning settlement.

(b) The Executive Director and Respondent or Defendant shall forward a written consent agreement and a proposed consent order to the hearing officer or District Attorney or Court of competent jurisdiction, as the case may be, whenever settlement or compromise is proposed. The consent agreement shall state that, for the purpose of the proceeding, respondent (1) admits the jurisdictional allegations of the complaint, (2) admits the facts stipulated in the consent agreement or neither admits nor denies specific factual allegations contained in the complaint; and (3) consents to the assessment of stated penalty. The consent agreement shall include any and all terms of the agreement, and be signed by all parties or their representatives.

(c) No settlement or consent agreement shall dispose of any proceeding without a consent order from the hearing officer or Court of competent jurisdiction. In preparing such an order, the hearing officer or Court may require that the parties to the settlement appear before him/her to answer inquires relating to the consent agreement or order. All settlements are due and payable to the Agency.

SECTION 24. TEMPORARY CEASE AND DESIST ORDER.

(a) Upon receipt of evidence that an emergency exists, the Agency, acting through the Executive Director, may issue a Temporary Cease and Desist Order immediately suspending and restraining such activity causing or contributing to the emergency before the holding of a hearing.

(b) The person suspended or restrained shall have an opportunity to an expedited hearing within 5 days of the Agency order before the hearing officer on the question of whether an emergency exists.

(c) If the hearing officer determines that such an emergency exists, he/she shall schedule a full hearing to be held in accordance with Section

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20 at least twenty (20) days after the expedited hearing. If the hearing officer determines that an emergency does not exist, he/she shall annul the Agency Order.

(d) The Agency Order shall be in effect pending the completion of the expedited and full hearing, however the case may be.

SECTION 25. ADDITION OR REMOVAL OF REGULATED RECYCLABLE MATERIALS.

(a) In addition to the regulated recyclable materials defined in Section 4, the Agency, subject to Section 26, shall be authorized to designate regulated recyclable materials to be separated from other solid waste.

(b) In addition to the regulated recyclable materials defined in Section 4, the Agency, subject to Section 26, shall be authorized to remove previously designated regulated recyclable materials from the list of regulated recyclable materials subject to the approval of the Recycling Oversight Committee.

(c) If removal of the regulated recyclable material is based upon the lack of an economic market for the material in accordance with Section 120-aa of the General Municipal Law, the Agency shall conduct such studies as it deems necessary and proper to establish the lack of an economic market, and shall state specifically in the notice of its action removing the regulated recyclable material, the grounds for its action and all studies upon which its determination is based. Such designation or removal shall be made in writing, published in the Environmental News Bulletin and the official newspapers of the County as designated by the County Legislature, and shall take effect thirty (30) days after such publication.

SECTION 26. RECYCLING OVERSIGHT COMMITTEE.

(a) A recycling oversight committee consisting of one member of the Agency designated by the Agency Board to serve as a non-voting, ex-officio member and not more than eleven (11) voting members to be appointed by the

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County Legislature is hereby created and established for the following purposes
i) advising the Agency on the addition of materials from the definition of regulated recyclable materials; (ii) approving the removal of materials from the definition of regulated recyclable materials; (iii) advising the Agency and the County Legislature on the progress made towards meeting the percent reduction goals established in the Solid Waste Management Act of 1988 and the Plan; (iv) advising the Agency on the adoption, repeal or amendment of rules and regulations provided for in Section 6 of this Local Law; and (iv) such other matters as the Agency may suggest. The members of the recycling oversight committee to be appointed by the County Legislature shall consist of an appointee from the following:

- (1) Town Supervisor's Association;
- (2) City of Kingston;
- (3) Community and Environmental Affairs Committee of the Ulster County Legislature;
- (4) Ulster County Environmental Management Council;
- (5) Commercial Waste Hauling Industry;
- (6) Municipal Recycling Coordinators;
- (7) Commercial or Institutional Sector;
- (8) Multi Family Dwelling Interest.

Additionally the County Legislature shall appoint three (3) at-large community members with interest and concern which may include students but shall not include members that fall into previously mentioned categories.

(b) The appointment in Subsection (a) of this Section, other than the Agency appointment, shall be for a three year term from the date of appointment. No member shall serve more than two full three year terms. Should a member no longer be eligible to serve due to a change in their employment status, appointed or elected status, or interest that member shall serve until the point that they are replaced by the County Legislature. The replacement member shall serve out the original member's term. Upon completion of the term, the replacement member will then be eligible for no more than two full three year terms. The chairman shall be elected by the members of the recycling oversight

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committee at its first regular meeting, and the Committee shall adopt operating by-laws as they deem appropriate.

- (d) The Committee shall meet at least quarterly, and the majority of the members shall constitute a quorum. Any recommendation issued by the Committee shall be approved by a majority of its membership.
- (e) The Agency shall request and receive the recommendation of the Committee before its order the addition of any material from designation as a regulated recyclable material, except that if such recommendation is not received within thirty (30) days after written request by the Agency, it may act without such recommendation. The Agency shall request and receive the approval of the Committee before its order the removal of any material from designation as a regulated recyclable material, except that if such approval is not received within ninety (90) days after written request by the Agency, it may act without such approval.

SECTION 27. SEPARABILITY.

If any section, provision, or part thereof, in this Local Law, or the application thereof to any person or circumstances, is adjudged invalid or unconstitutional by a Court of competent jurisdiction, then such adjudication shall not effect the validity of the remainder of the Local Law as a whole or any sections, provisions, or part thereof, not so adjudged invalid or unconstitutional

and the application of the Local Law or any section, provision or part thereof, to other persons or circumstances shall not be affected by said adjudication.

SECTION 28. PRIORITY.

(a) Pursuant to Section 1 of Chapter 936 of Laws of 1986 of the State of New York, this Local Law shall take precedence over and supersede any

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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.

SECTION 29. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.