

County of Tioga

Local Law No. 5 of the Year 2023.

A Local Law establishing the Tioga County Mandatory Source Separation Law and repealing Local Law No. 1 of the Year 2020 entitled Tioga County Mandatory Source Separation Law.

Be It Enacted by the Legislature of the County of Tioga as follows:

SECTION 1: TITLE

Local Law No. 1 of the Year 2020 entitled Tioga County Mandatory Source Separation Law is hereby REPEALED and REPLACED with the establishment of Local Law No. 5 of the Year 2023 entitled Tioga County Mandatory Source Separation Law.

SECTION 2: PURPOSE

The purpose of this article is to encourage, facilitate, and mandate the source separation of recyclable materials on the part of each and every household, business, and institution within Tioga County. The Tioga County Legislature acknowledges that control of the collection, transportation, disposal of solid waste and recycling with emphasis on source reduction and reuse in the county is essential to the economy and general welfare of the citizens of Tioga County. The current version is intended to replace Local Law No. 1 of 2020 entitled Tioga County Mandatory Source Separation Law.

SECTION 3: AUTHORITY

This Local Law is hereby enacted pursuant to the authority granted by Section 10 of the Municipal Home Rule Law and Section 120-aa of the General Municipal Law of the State of New York.

SECTION 4: DEFINITIONS

- A. Terms as used or referred to in this article, unless a different meaning clearly appears from the context, are as defined in Title 6 Part 360 of the New York Codes, Rules and Regulations, Solid Waste Management Facilities, as amended.
- B. As used in this article, the following additional terms shall have the meanings indicated:

MATERIALS RECOVERY FACILITY (MRF) – A facility approved by the New York State Department of Environmental Conservation for receiving and processing recyclable materials into marketable commodities.

PUBLIC FACILITY — Any facility allowing public access, including but not limited to parks, recreational facilities, shopping centers, shopping malls, office buildings, restaurants, hospitals, schools, and churches.

SOURCE SEPARATION — That recyclables shall be maintained and placed for collection separately from refuse intended for disposal.

SOLID WASTE - All materials discarded as being spent, useless, worthless or in excess to the owners at the time of discard or rejection, including but not limited to garbage or refuse, but shall not include Recyclables, Yard and Garden Waste, human wastes, rendering wastes, major appliances, regulated medical waste, construction and demolition wastes, residue from incinerators or other destructive systems for processing waste, junked automobiles, tires, pathological, toxic, explosive, liquid, radioactive material or other waste material which, under existing or future federal, state or local laws, require special handling in its collection or disposal.

SUSTAINABILITY MANAGER - The manager of the Solid Waste Department appointed by the Economic Development & Planning Director, Economic Development & Planning Deputy Director, and/or the Tioga County Legislature.

WASTE COLLECTION SERVICES – Any person, company partnership or other entity providing collection or transfer of refuse and/or solid waste, including tires to a solid waste management facility.

WASTE GENERATOR – Any entity which generates solid waste.

WASTE HAULER – Any person, company, partnership or other entity engaged in the business of providing Collection Service pursuant to any contract, agreement, or other arrangement with any Waste Generator, where Solid Waste is collected for disposal at a permitted solid waste disposal or transfer facility, or a municipal department or other governmental division responsible for collection of Solid Waste from some or all Waste Generators in Tioga County.

SECTION 5: SOURCE SEPARATION REQUIREMENT

A. Every Waste Generator shall Source Separate, which means the segregation of County Recyclable Materials from non-recyclable Solid Waste at the point of generation by Waste Generators, and the

placement of County Recyclable Materials into Recycling Receptacles for collection and delivery to a Materials Recovery Facility or Recycling Facility.

Materials that must be source-separated include paper, corrugated cardboard, glass, metals, plastics, leaves, yard wastes, tires, batteries (wet and dry cell) and household hazardous waste. A detailed published list of materials to be curbside recycled will be on file with the Tioga County Legislature and may be updated from time to time.

- B. For the purpose of this article, the term "recyclable material" shall mean those materials that must be source separated, as defined in B, with the exception of household hazardous waste.
- C. Each and every waste hauler, public and private, providing waste collection services in the County of Tioga shall be required to provide curbside collection of source separated recyclables for all units serviced by the hauler.
- D. All public and private haulers are prohibited from commingling source separated recyclables with solid waste.
- E. Every Waste Generator shall deliver or arrange for the delivery of County Recyclable Materials to a Recycling Facility or make source separated County Recyclable Materials available for collection by a Waste Hauler/Recyclables Collector and ultimate delivery to a Materials Recovery Facility or Recycling Facility.

SECTION 6: PREPARATION OF RECYCLABLES AND OTHER SOURCE SEPARATED MATERIALS FOR CURBSIDE COLLECTION

- A. Nothing in this article is intended to prevent any waste generator from making arrangements for the reuse, private collection, sale or donation of recyclables; provided, however, that records shall be kept of all such collection of recyclables.
- B. From the time any person places any recyclable materials at or near any curb, sidewalk or street for purposes of collection by a waste hauler, those recyclable materials shall be considered the property of the waste hauler. No other person shall collect, pick up, remove or cause to be collected, picked up or removed any recyclable materials so placed for collection. Each such unauthorized collection, pickup or removal shall constitute a separate violation of this article.
- C. In the event that a hauler has refused to collect certain recyclable materials because they have not been placed or treated in accordance with the provisions of this article, the person responsible for initially placing those materials for collection may and shall remove those materials from any curb, sidewalk or street in accordance with the provisions of this article.

D. Placement of Recyclables

1. Recyclable materials shall be placed separately from any non-recyclable solid waste placed for collection. Recyclable materials should be prepared in conformance with County practices and standards established pursuant to this section.
 2. No person shall place any recyclable materials at or near any curb, sidewalk or street for purposes of collection unless the materials are prepared in conformance with County practices and standards established pursuant to this section.
 3. The Tioga County Sustainability Manager is hereby authorized and directed to designate, by written statement, from time to time, the practices and standards for preparation of recyclables for collection. Such written designation shall be filed with the Clerk of the County Legislature and shall become effective 90 days after filing. The Tioga County Sustainability Manager may solicit information and input from solid waste collectors, solid waste management facility operators, and other concerned parties prior to designating revised rules for preparation of materials.
- E. Waste haulers shall not be responsible for collection of waste materials, which have not been placed or prepared in accord with this article. In the event of non-collection of waste or recyclable materials, the hauler shall provide written notification of reason for non-collection.
- F. The responsible generator shall immediately remove and properly prepare and dispose of all materials refused for collection, taking all measures necessary to properly and legally restore all disturbed land and surface to the condition existing prior to deposition or reimburse the County or other municipal entity for the same.

Multifamily buildings and complexes.

- A. Apartment complexes, condominium complexes, cooperative apartments, hotels, motels and bungalow or resort colonies shall be required to establish a private drop off program for the source separation of recyclable materials for collection and transportation to a recycling facility where curbside collection is not practiced or desired.
- B. The owner and/or manager of every multifamily apartment building or condominium within the County shall provide and maintain, in a neat and sanitary condition, recycling drop off(s) to receive all recyclable materials generated by residents of the building or complex. In cases where a condominium association exists, the condominium association shall be responsible for provision and maintenance of the recycling drop off(s). It shall be the tenant's responsibility to separate designated recyclable materials from the solid waste and deposit the recyclables in the drop off(s) in the manner prescribed by facility management.

- C. The owner or manager of every multifamily building or complex shall arrange for the collection and/or transportation of all recyclable materials to a material recovery facility or secondary materials market.

Residential/commercial (institutional) and industrial waste and recyclables.

- A. All residential solid waste collected by either municipal or private haulers shall be source separated and delivered to an appropriate facility for disposition, as may be designated by the County.
- B. All commercial/industrial/institutional solid waste collected by either municipal or private haulers shall be source separated and delivered to an appropriate facility for disposition, as may be designated by the County.
- C. All recyclable commercial/industrial/institutional by-products shall be source separated and delivered to an appropriate facility for the express purpose of processing for sale to a secondary materials market. Nothing in this section shall prevent waste generators from marketing these materials directly to an end-use market, secondary materials market or secondary materials broker.

SECTION 7: PENALTIES

Penalties for Waste Generators.

- A. Failure to comply with this article by any person shall be an offense punishable as provided.
- B. Each day of violation of this article shall constitute a separate offense.
- C. The waste hauler shall maintain the right to refuse collection of solid waste and/or recyclables due to a lack of source separation or proper preparation on the part of the waste generator. In such a case, the hauler shall affix a notice to the waste material, which clearly states the reason for non-collection.
- D. Individuals convicted of a first offense under this article shall be subject to a fine of not less than \$25 and not more than \$50. Conviction of a second offense within one year of the first offense shall be punishable by a fine of not less than \$50 and not more than \$100. Conviction of subsequent offense(s) within one year of the first offense shall be punishable by a fine of at least \$100 and not more than \$200. In addition to the penalties listed above, anyone convicted of an offense under the provisions of this article shall be subject to a civil penalty to recover cost of enforcement and prosecution, including but not limited to attorneys' fees, court costs and site cleanup costs, if applicable.
- E. Any company, partnership, corporation, municipality or entity other than an individual person convicted of a first offense as provided for by this article shall be subject to a fine of not less than \$200 and not more than \$1,000. Conviction of subsequent offenses shall be punishable by a

fine of not less than \$1,000 and not more than \$2,000. Any such entity convicted of an offense under the provisions of this article shall also be subject to a civil penalty to recover the cost of enforcement and prosecution, including but not limited to attorneys' fees, court costs and site cleanup costs, if applicable. In addition, the County Attorney may also maintain an action or proceeding in the name of Tioga County in a court of competent jurisdiction to compel compliance with or to restrain by injunction such violation.

Penalties for Waste Haulers.

- A. Failure of any hauler to comply with this article shall be an offense punishable as provided.
- B. Each day of violation of this article shall constitute a separate offense.
- C. Violation of any section of this article shall be punishable by a fine not in excess of \$1,000. In addition, the violation of any section of this article shall be subject to a civil penalty imposed by the County to recover cost associated with enforcement and prosecution, including but not limited to reasonable attorneys' fees, court costs and site cleanup costs, if applicable. And, in addition, Tioga County may also maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this article.

SECTION 8: SOLID WASTE DISPOSAL ON PUBLIC FACILITIES AND PROPERTY

- A. All public facilities within Tioga County shall provide public refuse receptacles for solid waste disposal by facility users and employees. These receptacles shall only be utilized for solid waste generated onsite.
 - 1. Parks may, in lieu of providing separate public receptacles for refuse, require that park patrons take their refuse with them upon leaving the park. The municipalities shall post signs at all park entrances advising the public of the rule. Park patrons shall be responsible for removing refuse from the park and disposing of them in accordance with this article.
- B. There shall be provided separate public receptacles for recyclables. Such containers shall be clearly marked RECYCLE, and a list of recyclable items shall accompany said public refuse receptacle. There shall be an adequate number of clearly marked and accessible public receptacles for recyclable materials in order to facilitate recycling. These receptacles shall only be utilized for recyclables generated onsite.
- C. All recyclable materials shall be placed in separate public recycling receptacles. The responsibility to separate recyclables from non-recyclables shall be placed on the facility user.
 - 1. Parks may, in lieu of providing separate public receptacles for recyclables, require that park patrons take their recyclable materials with them upon leaving the park. The municipalities shall post signs at all

park entrances advising the public of the rule. Park patrons shall be responsible for removing recyclables from the park and disposing of them in accordance with this article.

2. Notwithstanding the provisions of the subsection, concession stands within the park providing food or other items packaged in recyclable containers shall provide both refuse and recyclable containers to conform to this section.

- D. It shall be a violation of this article for any person to place or to cause to be placed any material other than a recyclable in or near a public receptacle designated for recyclable materials.
- E. It shall also be a violation of this article for any person to place or to cause to be placed any recyclable material in or near a public refuse receptacle designated for non-recyclable materials.
- F. Any person, including employees of public facilities, convicted of a violation of this section shall be subject to a fine of up to \$50 or community service.
- G. The proprietor of any public facility convicted of a violation of this section shall be subject to a fine of up to \$200 or community service. Each day of violation shall constitute a separate offense.

SECTION 9: ENFORCEMENT & PERMITTING

- A. All provisions of this article shall be enforced by a municipal code enforcement official or other appropriate enforcement agencies.
- B. Permit Procedures for Haulers (Commercial, Business)
 - 1. No Hauler shall collect, transfer or dispose of solid waste and recyclable materials in Tioga County without possessing a current permit issued by the Sustainability Manager.
 - 2. An application for a solid waste/recycling permit shall be in writing and shall contain such information as required by the Sustainability Manager.
 - 3. The application shall be accompanied by the following:
 - a. Evidence of insurance, conforming with current NYSDEC and Tioga County requirements.
 - b. Payment of the administration fee payable to the Tioga County Treasurer and mailed to Tioga County Solid Waste, 56 Main Street, Owego, NY 13827.
 - 4. Within fifteen (15) business days of receipt of application, the Sustainability Manager shall, in writing, grant or deny the application, or require other further information and/or documentation. The Sustainability Manager may require additional information regarding the condition of the applicant's vehicles to ensure they will not leak during transit and are capable of transporting material in a covered condition. The permit may be withheld for reasons which include the failure to submit all required information, unsuitable condition of the

vehicle(s); any unresolved fines and/or the applicant's history of prior suspensions/violations.

5. Annual reporting is required by February 28th. If a hauler does not report their annual tonnages and supporting documentation, their permit will not be renewed until all past reporting documentation is submitted to the Sustainability Manager.
6. Permits shall expire annually on March 31st. Permits may be renewed pursuant to the provisions of this law.
7. Permits may be suspended or revoked by the Sustainability Manager pursuant to this local law.
8. Permit fees and or changes in permit fees shall be reviewed and approved by the Tioga County Legislature.
9. Termination of a permitted hauler's insurance automatically invalidates the hauling permits.
10. Permits shall not be transferable to another business without express written permission of the Sustainability Manager.
11. Permits may be suspended by the Sustainability Manager for the following:
 - a. If upon inspection, the hauler's vehicle is in such a condition as to allow leakage while in transit, or
 - b. If the body of the truck is not wholly enclosed and or the contents (load) are not secured with a cover or tarping mechanism or other appropriate load securing device, or
 - c. If the operation or unloading of vehicles is not conducted in a manner so as to prevent the premature spillage or loss of contents, or
 - d. If the hauler has failed to remedy the conditions leading to a suspension of a permit within the time specified in such order of suspension, or
 - e. Any other violation of law of these regulations.
12. Suspension or revocation of a permit will be followed by a written notice of such violation, addressed to the permittee. Within fifteen (15) days of the receipt of said written notice of suspension or revocation, the hauler must notify, in writing to the Sustainability Manager and the Finance Committee of the Tioga County Legislature and shall file petition stating the reasons and basis for said appeal.
13. Within fifteen (15) days of an appeal, the Finance Committee shall conduct a hearing, upon notice to the permittee to review the action of the Sustainability Manager with respect to suspension or revocation of a permit. The permittee shall present all witnesses and documents and shall be entitled to be represented by counsel at any stage of the proceedings. Said proceedings may be adjourned only once by right of the permittee; and all other

adjournments shall be determined by the members of the Committee. Within fifteen (15) days of said hearing, said appeals committee shall by written decision, affirm the actions of the Sustainability Manager, reinstate such permit, and/or take any other appropriate action. Permittee may continue to conduct hauling operations during the appeal period.

SECTION 10: REPORTING TO TIOGA COUNTY SUSTAINABILITY MANAGER

- A. All waste haulers, and any other person or entity that collects, transports and/or markets recyclables, must maintain monthly records of all recyclable material. These records must include the following:
 - 1. The total tonnage, by material, of recyclable material collected.
 - a) The total tonnage, by material, of recyclable material delivered to each and every materials recovery facility, secondary materials market, secondary materials broker or end-use market.
 - b) Weight slips from the broker or end-use market will fulfill this requirement.
- B. Reports containing the information required in this section shall be compiled and delivered to the Sustainability Manager on an annual basis. Reports shall be filed with the Sustainability Manager no later than February 28th of the subsequent year of filing.
- C. Each waste hauler shall retain for no less than five years the records and documents required pursuant to this article and shall make such documents available upon the request of the Sustainability Manager or law enforcement officers.

SECTION 11: PRIORITY

Pursuant to Section 1 of Chapter 675 of the Laws of 1982 of the State, this article takes precedence over and shall supersede any inconsistent provisions of any local law enacted by any municipality within the County.

SECTION 12: EFFECTIVE DATE

This Local law shall take effect January 1, 2024.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2023 of the (County) of Tioga was duly passed by the Tioga County Legislature on November 14, 2023, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. of 2023 of the (County) (City) (Town) (Village) of was duly passed by the on , 2023 , and was (approved) (not disapproved) (repassed after disapproval) by the and was deemed duly adopted on , 2023, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 2023 of the (County) (City) (Town) (Village) of was duly passed by the on , 2023, and was (approved) (not disapproved) (repassed after disapproval) by the on , 2023. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on , 2023, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 2023 of the (County) (City) (Town) (Village) of was duly passed by the on , 2023, and was (approved) (not disapproved) (repassed after disapproval) by the on , 2023. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of , 2023, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 2023 of the City of having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on , 2023, become operative.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2023 of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 2023, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.



Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: November 14, 2023

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

State of New York

County of Tioga

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature
Peter DeWind
Title County Attorney
County of Tioga
City
Town
Village

Date: November 14, 2023