

**LOCAL LAW NO. 3 FOR THE YEAR 2007 COUNTY OF FRANKLIN, NEW YORK**

**PROPOSED LOCAL LAW OF THE COUNTY OF FRANKLIN TO AMEND AND RESTATE LOCAL LAW #7 FOR THE YEAR 1992, AND ALL AMENDMENTS THERETO.**

BE IT ENACTED, by the Board of Legislators of the County of Franklin, New York as follows:

1. **LEGISLATIVE FINDINGS.** The Board of Legislators of the County of Franklin, hereby finds and declares:
  - a. The County of Franklin finds and declares that the proper management of Solid Waste is necessary to protect the public health, safety and general welfare of the residents of Franklin County and the environment.
  - b. Franklin County is vested with the responsibility of protecting the health, safety, welfare and environment of its citizens, consistent with state and federal requirements.
  - c. Since 1991 it has been the policy of the Board of Legislators of Franklin County to institute and facilitate an orderly program for the collection, transportation, treatment, and disposal of Solid Waste generated, originated or brought within Franklin County.
  - d. In 1991 the County of Franklin caused to be prepared a Solid Waste Management Plan for the environmentally responsible handling of Solid Waste and recyclable materials generated within the County of Franklin outside of that portion of the County which comprises the St. Regis Mohawk Indian Reservation. That plan incorporated the concept that all Solid Waste generated in the County would be managed in the County. The plan was updated on April 14, 2006 and approved by the NYS Department of Environmental Conservation on May 17, 2006.
  - e. The State of New York adopted Public Authorities Law Article 13-I, by which it created the County of Franklin Solid Waste Management Authority, a public benefit corporation.
  - f. The County of Franklin appointed the County of Franklin Solid Waste Management Authority (the "Authority") as its agent to develop a Solid Waste management system for Franklin County.
  - g. The County of Franklin Solid Waste Management Authority designed, financed built and operates a sold waste management system for the County of Franklin.
  - h. The Authority's integrated Solid Waste management system was designed and built based upon the assumptions of the Solid Waste Management Plan, including the assumption that all Solid Waste generated in the County would be disposed of at the Facility. Due to its size and location it cannot achieve certain economies of scale that benefit larger landfills. The Facility is located long distances from  
  
substantial populations centers, making it difficult to compete in a fee market

economy for out-of-county Solid Waste that must be transported long distances for disposal.

i. Using the flow control assumptions of the Solid Waste Management Plan, the system was structured to be financially self-supporting, without the use of tax money to subsidize its waste management and recycling program costs. The Authority's integrated Solid Waste management system is financially supported by a user fee system that is more equitable than taxes. Revenues needed to pay for the Authority's Solid Waste system are from user fees that are based on the amount of Solid Waste delivered to the Authority's facilities, rather than from tax revenues that are based on the assessed value of properties in the County. The user fee system is a much more fair and fiscally responsible method to pay for the Solid Waste system than taxes, because waste generators pay based on the amount of waste they dispose of and the Solid Waste system is structured to be self-sustaining.

j. The Authority has financed the construction of the waste management system by issuance of bonds. These bonds are secured, in part, by a Solid Waste Management Services Agreement between the Authority and the County, dated May 1, 1993. Pursuant to that Agreement the Authority is responsible for providing a Solid Waste Management Facility for the benefit of the residents of the County. In exchange the County guaranteed that it will provide certain financial payments to the Authority from real estate taxes if landfill revenues fall below certain specified levels.

k. Public Authorities Law section 2051-t (2), duly enacted by the New York State Legislature, empowered Franklin County to adopt and amend local laws imposing appropriate and reasonable limitations on competition with respect to collecting, receiving, transporting, delivering, storing, processing and disposing of Solid Waste or the recovery by any means of any material or energy product or resource therefrom, including local laws requiring that all Solid Waste generated, originated or brought within the County shall be delivered to a specified facility or facilities, and that such local law or laws shall take precedence over and shall supersede any inconsistent provisions of any local law enacted by a municipality within the County, relating to the disposal of Solid Waste in Franklin County.

l. In order to assure the economic viability of the Facility and to protect the citizens of the County from degradation of the environment and potential litigation for contamination, Franklin County's Local Law No. 7 of 1992 established and required a flow control regimen for Solid Waste generated within the County of Franklin.

m. During and after 1993 certain federal case law led to a conclusion that "flow control" of in-county Solid Waste might violate certain provisions of the federal Constitution. As a result Local Law 7 of 1992 was not enforced, although it was never repealed. The Authority then began to operate its Solid Waste Management Facility in a free-market environment.

n. As a direct result, substantial amounts of Solid Waste generated in Franklin County have been disposed of in out of County facilities. In order to maintain economic viability, the Authority has been forced to replace this lost tonnage with Solid Waste obtained from outside of the County on the free market.

o. The US Supreme Court case of United Haulers Association, Inc et al vs

Oneida-Herkimer Solid Waste Management Authority, et al, decided on April 30, 2007, has made it clear that municipalities may enact flow control in order to direct all Solid Waste generated within municipal bounds to a municipally owned Solid Waste management facility.

p. There is a substantial risk that the Facility could become a charge to the taxpayers of Franklin County unless all Franklin County Solid Waste is directed to the Facility. This charge, paid for from tax revenues generated from ad valorem real property taxes, would be less equitable than a user based fee.

q. Substantial amounts of Solid Waste generated within the County are currently disposed of outside of the County. The most recently available figures from DEC show that approximately 8,000 tons of Franklin County Solid Waste are taken out of the County every year.

r. Requiring all Solid Waste generated within the County of Franklin to be disposed of at the Authority's Facility would benefit the citizens of the County of Franklin by ensuring a steady and reliable flow of Solid Waste and revenue to the Facility, and by ensuring that the environment of the County will not be impaired or degraded by improper disposal of Solid Waste. The value of these benefits is far in excess of any possible incidental burden on interstate commerce.

s. It is therefore the intent of the County of Franklin to re-institute and enforce flow control as it relates to Solid Waste generated within the County of Franklin

t. The County hereby declares it in the public interest to amend and restate Local Law Number 7 of 1992 which required the delivery of all Commercial Waste, Industrial Waste, Residential Waste and Construction and Demolition Debris generated within the County to the County of Franklin Solid Waste Management Authority Landfill for disposal, in order to include all such waste within the integrated system, for the long-term benefit of all participants of the system.

u. It is the intention of this Local Law to assist the Authority in the implementation of the Solid Waste management system by imposing appropriate and reasonable limitations on competition with respect to collecting, receiving, transporting, delivering, storing, processing, and disposing of Solid Waste generated, originated or brought within Franklin County.

v. It is the further purpose of this Local Law to encourage and facilitate the maximum recycling practicable on the part of every household, business and institution within Franklin County to reduce the burden on existing and future Solid Waste disposal facilities.”

## 2. **REPEAL OF PRIOR LOCAL LAW**

a. Local Law 7 of 1992 of the County of Franklin is hereby repealed.

## 3. **DEFINITIONS**

a. **Authority** shall mean the County of Franklin Solid Waste Management Authority.

b. **Board of Hearing** shall mean the board described in Article 6 of this local law.

c. **Board of Legislators** shall mean the duly elected County Board of

Legislators for Franklin County, New York.

d. **Commercial Waste Hauler** shall mean any Person which regularly or collects, stores or transports Solid Waste for remuneration other than or in addition to Solid Waste generated by the Hauler itself. Commercial Waste Haulers shall be those Persons designated as Commercial Waste Haulers by the Authority, in its sole discretion.

e. **Commercial Waste Hauler Permit** shall mean the permit issued pursuant to Section 5 (a) of this local law.

f. **Construction and Demolition Debris** shall mean Solid Waste resulting from construction, remodeling, repair and demolition of structures, roads, buildings and land clearing. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, soil, rock, lumber, road spoils, paving material and tree and bush stumps.

g. **Container** shall mean a container provided, or marked for identification, by a Waste Collector for use in the collection of Solid Waste and/or Recyclables within the County. Containers with a capacity equal to or greater than ten cubic yards shall be identified, marked and otherwise maintained in compliance with the regulations of the Authority.

h. **County** shall mean Franklin County, New York, a municipal corporation of the State of New York, with offices at Malone, New York.

i. **Designated Recyclables** shall mean recyclable materials, as specifically designated by the Authority by resolution and which shall be separated from the Solid Waste stream for collection and/or delivery to a materials recovery facility or other recycling facility, Transfer Station or Processor. The list of Designated Recyclables may be modified from time to time by resolution of the Authority. A current official list of Designated Recyclables shall be maintained by and be available from the Authority.

j. **Facility** shall mean any Solid Waste management facility or facilities owned and/or operated, or caused to be operated by the Authority that accepts or disposes of Solid Waste and/or Recyclables, including but not limited to landfills, transfer stations, materials recovery facilities, drop off centers, and resource recovery facilities.

k. **Farm** shall have the meaning specified in 6 NYCRR Part 360 - 1.2 as the same may be amended, suspended or replaced.

l. **Hazardous Waste** shall mean those materials, substances, or wastes including, but not limited to, pesticides and containers used for pesticides, other waste which appears on the list or satisfies characteristics of hazardous waste promulgated by

the New York State Commissioner of the Department of Environmental Conservation, and any other material, determined now or in the future, to be hazardous by State or Federal rule, regulation and/or statute.

m. **Industrial Waste** shall mean Solid Waste generated by manufacturing or industrial processes. Such waste may include, but is not limited to, the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastic and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products;

stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include oil or gas drilling, production, and treatment wastes (such as brines, oil, and fluids); or overburden, spoil, or trailing resulting from mining; or solution mining brine and insoluble component wastes.

n. **Landfill** shall mean the Landfill owned and operated by the Authority and located at Constable and Westville, New York, or any other landfill owned and/or operated, or caused to be operated, by the Authority.

o. **Open Dump** shall mean a Solid Waste disposal area which is not authorized to be operated under applicable Federal and State laws and regulations.

p. **Municipality** shall mean the County, and any Town, City, Village or School District within Franklin County.

q. **Person or Persons** shall mean any individual, company, partnership, association, firm, corporation, municipality or any other entity.

r. **Processor** shall mean a primary user of the particular material such as Recyclables, including but not limited to glass factories, de-tinners, plastic recovery facilities, paper mills or consolidators of such materials.

s. **Prohibited Materials** shall mean materials which shall not be accepted at the Landfill; provided, however, that the Authority may accept certain Prohibited Materials or designated components thereof at a Facility in the County pursuant to resolution of the Authority. The list of Prohibited Materials may be established and modified from time to time by resolution of the Authority. A current official list of Prohibited Materials shall be maintained by and be available from the Authority.

t. **Recyclables** shall mean such material from Commercial Waste, Industrial Waste and Residential Waste sources, including but not limited to Designated Recyclables, which under any applicable law or regulation, is not Hazardous Waste and which can be reasonably separated from the Solid Waste stream and held for its material recycling or reuse value. If, as a result of a change in law or any interpretation thereof by a court or governmental body of competent jurisdiction, Recyclables are not considered a component of or generated from Solid Waste, Recyclables shall, for purposes of this local law, nevertheless have the meaning specified in this definition. Also see the definition of Designated Recyclables for reference to a list of materials that the Authority requires to be

separated from the Solid Waste stream for collection and/or delivery to a materials recovery facility or other recycling facility, Transfer Station or Processor.

u. **Resident Waste hauler** shall mean any natural person who is a legal resident of the County or any individual who is a temporary resident of the County and who hauls Solid Waste generated solely by him/herself or immediate family or generated from not more than 4- one, two or three family homes owned by such person. Resident Waste haulers may only transport waste in a vehicle smaller than a one-ton capacity truck and any associated trailer. Corporations, partnerships and LLC's are not authorized to be treated as Resident Waste Haulers.

v. **Resident Waste Hauler Permit** shall mean the permit issued pursuant to

Section 4 (c) of this local law.

w. **Rules of Procedure** shall mean the rules used by the Hearing Board in enforcement hearings. Said rules shall be set by resolution of the Authority.

x. **Solid Waste** shall have the meaning specified in 6 NYCRR Part 360-1.2 as the same may be amended, superseded or replaced.

y. **Special Waste Hauler** shall mean any Hauler other than a Commercial Waste Hauler or a Residential Waste Hauler.

z. **Special Waste Hauler Permit** shall mean the permit issued pursuant to Section 4

(b) of this local law. aa. **State** shall mean the State of New York. bb.

**Transfer Station** shall mean a facility owned by the Authority for the consolidation of deliveries made by individual Residents of Solid Waste and/or Recyclables.

cc. **Waste Collector** shall mean any individual, association, partnership, firm, corporation, not-for-profit organization, municipality, educational institution or any other Person deemed by the Authority to be engaged in the collection, pickup, transfer, removal and/or disposal of Solid Waste and/or Recyclables.

#### 4. **DISPOSAL OF SOLID WASTE**

a. **All Solid Waste To Be Disposed of At Authority's Facility.** All Waste Collectors and other Persons shall deliver all Solid Waste, including all Commercial Waste, Industrial Waste, Residential Waste and Construction and Demolition Debris generated within the County or brought within the County for disposal, other than Prohibited Materials, Designated Recyclables or Recyclables separated at the point of generation for separate collection, to the Landfill for disposal or, if permitted to do so in accordance with this Local Law and applicable Authority rules and regulations, to one of the Transfer Stations.

i. **Exceptions.** Notwithstanding the foregoing this rule shall not apply to:

(1) Construction and Demolition Debris disposed of on the generator's own property in compliance with all applicable laws and regulations.

(2) Yard waste buried, composted or burned on the generator's own property in compliance with all applicable laws and regulations.

(3) Solid Waste generated by Farms and buried on the farm where generated as permitted by law except in cases creating a public health nuisance.

(4) Solid Waste generated on the St. Regis Mohawk Indian Reservation.

b. **Permit Required.** All Persons collecting, storing, transporting or managing Solid Waste shall obtain the appropriate permit as hereinafter set forth.

#### 5. **DISPOSAL OF RECYCLABLES**

a. Recyclables May Be Disposed Of at Facility.

i. All Recyclables collected in the County or brought into the County for disposition shall either be delivered to a recycling drop-off point designated by the Authority or to a recycling facility duly permitted under the rules and regulations of the NYS Department of Environmental Conservation.

ii. There is no prohibition on the transfer out of the County of Recyclables for appropriate disposal.

(1) Notwithstanding the foregoing, if Recyclables are being transported out of the County for disposal at a location which is not permitted for the handling of Recyclables by the appropriate governing authority, then such Recyclables may only be disposed of at a recycling drop-off point designated by the Authority.

b. Permit Required. No Waste Collector or other Person shall dispose of Recyclables at an authorized facility in the County without a Commercial Waste Hauler Permit, Resident Waste Permit or Special Waste Permit, except that if the Authority does not require a Resident Waste Permit, then Residents may dispose of Residential Recyclables at a Facility by obtaining a Recycling Permit.

## 6. PERMIT APPLICATION AND ISSUANCE

### a. Commercial Waste Hauler Permit Requirements

i. Application for Permit. All applications for Commercial Waste Hauler Permits shall be in writing and shall contain such information as requested by the Authority, but at a minimum shall contain such information as set forth in this Local Law.

(1) Other than individuals, all Persons applying for Commercial Waste Hauler Permits shall submit adequate proof of the legal status of the entity seeking the permit.

(2) The Commercial Waste Hauler Permit applicant shall furnish the Authority with a list identifying the municipalities within which collection services are to be provided and detailing the number of residences, commercial establishments or other generators of Solid

Waste and/or Recyclables located in the County and serviced by the applicant. The identification numbers and cubic yard capacities of the vehicles, and of the containers that have a capacity equal to or greater than ten cubic yards, utilized in each collection area by the Commercial Waste Hauler Permit holder shall be included on aforesaid list. This list shall be prepared at a level of detail satisfactory to the Authority.

(a) After issuance of the Commercial Waste Hauler Permit this list shall be updated by the Commercial Waste Hauler Permit holder at each renewal of the permit and as requested by the Authority, but not more often than every three months.

(3) All Commercial Waste Hauler Permit information shall be sworn to.

(4) The applicant shall file with any application a Certificate of Insurance.

The Certificate of Insurance to be filed with the application shall be executed by a duly authorized and qualified representative of an insurance company, subject to verification and approval by the Authority. It shall show that there is insurance in effect of a kind and in an amount as required by the Authority, in its discretion from time to time.

(5) In the absence of any specification by the Authority the following insurance minimums shall apply: Proof of insurance shall evidence that said insurance

company has issued liability and property damage insurance policies covering, at a minimum, the following:

(a) All operations of the applicant or any other person, firm or corporation employed by him in collecting and/or transporting Solid Waste and/or Recyclables.

(b) The disposal of such Solid Waste and/or Recyclables to and within the designated and approved Landfill and/or Facility.

(c) Protecting the public and any person from injuries or damages sustained by reason of collecting and/or transporting Solid Waste and/or Recyclables.

(d) The certificate shall specifically evidence the following minimum amounts of insurance coverage based upon the number of vehicles permitted for hauling waste in Franklin County which shall remain in effect for the term of the permit, and shall provide that written notice shall be given to the Authority thirty (30) days prior to any change in the conditions of the certificate or any expiration or cancellation thereof:

- (e) Commercial Haulers with one, two or three permitted trucks
  - (i) Public Liability Insurance – 1) Per Person.....100,000
  - 2) Per Accident.....300,000
  - (ii) Property Damage – 1) Per Accident..... 50,000
- (f) Commercial Haulers with four or more permitted trucks
  - (i) Public Liability Insurance – 1) Per Person.....250,000
  - 2) Per Accident.....500,000
  - (ii) Property Damage – 1) Per Accident..... 50,000

(6) The application shall contain a signed credit application on the form prescribed by the Authority.

(7) At the option of the Authority, a bond may be required from the applicant, in a reasonable amount as determined by the Authority, conditioned upon the compliance of the applicant with this Local Law and all rules and regulations of the Authority.

- ii. Issuance of Permit. Upon receipt of the completed application and all attachments and the payment of the appropriate fee, the Authority may thereupon issue the applicant a Commercial Waste Hauler Permit so long as the applicant is otherwise deemed by the Authority to be in compliance with this Local Law and related requirements of the Authority and not to present an unreasonable risk of substantial future violation of the provisions of this Local Law.
- iii. Expiration Of Permit. A Commercial Waste Hauler Permit shall expire on such date as the Authority may set by regulation.
- iv. Renewal Of Permit. Renewal of Commercial Waste Hauler Permits shall be in the same manner and subject to the same conditions as original Commercial Waste Hauler Permits, and also shall be subject to any additional requirements in effect at the time of application for renewal as specified by the Authority.



b. **Resident Waste Hauler Permit Requirements**

- i. Permit May Be Required. At the option of the Authority, Resident Waste Haulers may be required to obtain a Resident Waste Hauler Permit from the Authority's office or at a Transfer Station. If so required, such permit shall be displayed on the rear window of the delivery vehicle.
- ii. Application For Permit. An application for a Resident Waste Hauler Permit shall contain such information as the Authority may require, from time to time, but shall include the following at a minimum:
  - (1) Name, address, telephone number of applicant.
  - (2) A list identifying the address of every residence in Franklin County for which Solid Waste will be transported and proof of the ownership of such residences by the applicant. In addition the list shall contain a description of every vehicle to be permitted.
    - (a) After issuance of the Special Waste Hauler Permit this list shall be updated by the Permit holder at each renewal of the permit and as requested by the Authority, but not more often than every three months.
  - (3) All Resident Waste Hauler Permit information shall be sworn to.
  - (4) The application must be accompanied by the appropriate fee.
- iii. Issuance of Permit. The Authority may thereupon issue the applicant a Resident Waste Hauler Permit so long as the applicant is otherwise deemed by the Authority to be in compliance with this Local Law and related requirements of the Authority and not to present an unreasonable risk of substantial future violation of the provisions of this Local Law.
- iv. Expiration Of Permit. A Resident Waste Hauler Permit shall expire on such date as the Authority may set by regulation.

c. **Special Waste Hauler Permit Requirements**

- i. Permit May Be Required. At its discretion the Authority may require Special Waste Haulers to obtain a Special Waste Permit for the collection, transportation and/or disposal of Solid Waste generated within the County at the County Landfill.
- ii. Application For Permit. An application for a Special Waste Hauler Permit shall contain such information as the Authority may require, from time to time, but shall include the following at a minimum:
  - (1) Name, address, telephone number of applicant.
  - (2) Proof of legal entity, for applicants other than individuals.
  - (3) A list identifying the municipalities within which collection services are to be provided and detailing the number of residences, commercial establishments or other generators of Solid Waste and/or Recyclables located in the County and serviced by the applicant. The identification numbers and cubic yard capacities of the vehicles, and of the

containers that have a capacity equal to or greater than ten cubic yards, utilized in each collection area by the Special Waste Hauler Permit holder shall be included.

(a) After issuance of the Special Waste Hauler Permit this list shall be updated by the Permit holder at each renewal of the permit and as requested by the Authority, but not more often than every three months.

(4) All Special Waste Hauler Permit information shall be sworn to.

(5) The application must be accompanied by the appropriate fee.

iii. Proof Of Insurance May Be Required. The Authority may, at its sole discretion, require certain Special Waste Permit holders to provide proof of insurance in a form and amount satisfactory to the Authority before such Special Waste Permit holder may dispose of Solid Waste and/or Recyclables at the Landfill or any other Facility.

iv. Issuance of Permit. The Authority may thereupon issue the applicant a Special Waste Hauler Permit so long as the applicant is otherwise deemed by the Authority to be in compliance with this Local Law and related requirements of the Authority and not to present an unreasonable risk of substantial future violation of the provisions of this Local Law..

v. Expiration of Permit. The permit shall be for such term as applied and paid for by the Holder. It is anticipated that most Special Waste Hauler Permits will be issued for not more than one week.

## 7. ADMINISTRATION

a. The Authority, or its successor, shall be primarily responsible for all ministerial and administrative duties described or reasonably required by the terms of this Local Law.

b. Nothing within this Local Law shall be construed at any time to restrict the ability of the Authority to refuse to accept Hazardous Waste or other Prohibited Materials at the Landfill or any other Facility.

c. Any Waste Hauler Permit issued pursuant to this Local Law shall be in the nature of a privilege subject to the terms and conditions set forth in this Local Law and as amended or supplemented and subject to the rules and regulations of the Authority, and shall not be deemed to create a property interest with respect to the Waste Hauler Permit in the holder.

d. Permit Nontransferable. No Waste Hauler Permit issued pursuant to the provisions of this Local Law shall be transferable.

## 8. OTHER RULES

a. Littering

i. It shall be unlawful for any person, whether acting as owner, lessee, agent, tenant or otherwise, to throw, cast, deposit or place, or to cause, permit to run, drop, remain or to be thrown, cast or deposited, scattered or spilled by the wind, any Solid Waste, including as a passenger in, owner of, or driver of any car, truck,

automobile, boat, bicycle or any other vehicle, in or on any public highway, street, alley, sidewalk, park, public building, dumpster or other container owned, leased or otherwise controlled by another person and for which public use is not authorized, or in any running water, body of water, land adjoining any highway or street, or in or on any other land, public or private in the County except at such places designated or lawfully established by the New York State Authority of Environmental Conservation or the Authority provided, however, that Solid Waste may be temporarily kept in reasonable quantities in suitable cans, bags, vessels, tanks, dumpsters, and/or containers which are watertight with tightly fitting covers, but only in such manner as to prevent same from being scattered, dropped or spilled by the wind. Nothing in this subsection shall be construed as to prohibit the depositing of animal manure or fertilizers upon any property for the purpose of cultivation or improvement.

b. No Open Dumps.

i. There shall be no Open Dumps in the County. This shall not be construed as to prohibit disposal areas located within the property boundaries of a Farm for Solid Waste generated from that Farm as otherwise permitted by law except in cases creating a public health nuisance.

c. No Burn Barrels

i. Burn Barrels are prohibited in Franklin County. Solid Waste may not be disposed of by burning, except for grass, leaves, and brush.

9. **ENFORCEMENT**

a. Presumptions. The following shall be rebuttable presumptions in the enforcement of the administrative and criminal provisions of this Local Law:

i. The placement or presence of any Container which is marked or identified with the name of any Waste Collector, at any location within the County, shall be presumptive evidence that said Waste Collector is providing Solid Waste collection services at said location within the County as of the date of said placement or presence.

ii. Evidence of Solid Waste in a Container and subsequent observation of the same Container empty, shall be presumptive evidence that Solid Waste was collected from the Container by the Waste Collector whose name is marked on the Container.

iii. The failure to deliver any Solid Waste to a Facility within three days of the collection of Solid Waste from any location within the County shall be presumptive evidence that the Solid Waste was disposed of at a location other than a Facility.

iv. Service upon any Person in a manner consistent with the requirements of this Local Law shall be presumptive evidence that such notice was received by that Person.

b. Enforcement By Administrative Sanctions and Criminal Proceedings

i. The provisions of this Local Law may be enforced by either administrative sanctions or criminal proceedings or both.

ii. For purposes of both administrative sanctions and criminal proceedings, each day during which a violation continues shall be deemed to be a separate violation.

c. Administrative Sanctions

i. Notice of Violation

(1) Upon any violation of the provisions of this Local Law or any regulations of the Authority promulgated hereunder, the Authority may serve Notice of the violation on the person to be charged.

(a) The person to be charged shall be the Permit Holder. If the violator is a Waste Hauler who has not been required to obtain a permit then the persons who may be charged shall be the owner of the residence which generated the Solid Waste, the driver of the vehicle transporting the Solid Waste, and the owner(s) of any business employing the driver or owning the vehicle.

(b) Notice shall be given in person or by ordinary mail. In the event of Notice being sent to the holder of any permit issued pursuant to this Local Law, it may be mailed to the address set forth in the permit application on file with the Authority. In addition, if any person to be noticed has filed a Bond with the Authority, a copy of the Notice shall be mailed to the Bond Company, by regular mail at the address set forth on the Bond.

(c) Such Notice shall state the place date and time of the violation and shall notify the person of the right to a hearing. The Notice shall state the penalty sought to be imposed. At the option of the Authority, the Notice may temporarily suspend the right of the Person to haul Solid Waste within the County or to dispose of Solid Waste at the Facility. If the Notice contains such a temporary suspension, then, at the option of the Authority, it may also set forth a fee upon the payment of which the temporary suspension will be voided. Such fee shall not exceed the maximum monetary administrative penalty which could be imposed upon the Person after a decision upholding the violation(s) set forth in the notice. If such fee is paid and a monetary administrative penalty is subsequently imposed, such payment shall be a credit against the penalty. However, no amount shall be due back to the Person if the fee paid exceeds the monetary administrative penalty.

ii. Hearing on Violation.

(1) Demand for Hearing. Any accused violator may demand a hearing by serving upon the Authority a written request for a hearing. Such request must be received by the Authority within ten days of the date of service of Notice. If no hearing is demanded, then the violations set forth in the notice shall be deemed proved.

(2) Upon receipt of such demand, a hearing shall be scheduled and held at the offices of the Authority, or at such other location as the Authority may designate.

(3) The hearing shall be conducted before a Hearing Officer. The Hearing Officer shall be selected by the Authority, but may not be a regular employee of the Authority or the County.

(4) The violation may be prosecuted by the Attorney for the Authority, or by such other officer as the Authority may designate. The accused violator may represent him or herself or be represented by an attorney, if such Person so chooses.

(5) A stenographic record of the hearing shall be made. The expense of such record shall be the responsibility of the Authority.

(6) Within 30 days from the date of the hearing the Hearing Officer shall make a determination as to whether the Violations described in the Notice have been proved or not proved. The Hearing Officer shall send a copy of such decision to the accused violator and the Authority Board, in writing, along with a recommendation as to any administrative penalty to be imposed.

iii. The proven charges, along with the administrative penalty recommendation of the Hearing Officer (if a hearing was demanded) and the record of the hearing shall be forwarded to the Authority for determination of an appropriate penalty by the Authority Board. The Authority Board shall make its decision as to the administrative penalty within two months of the time that such information is forwarded to it.

iv. In determining the administrative penalty to be imposed, the Authority Board shall take into account the severity of the violation, the impact upon the County, the Facility, the Authority and the environment, and any past violations. The Authority Board may impose any penalty duly authorized by the Regulations of the Authority, as amended from time to time.

v. Administrative sanctions or actions, as they relate to an affected permit holder, may be judicially reviewed pursuant to Article 78 of the Civil Practice Law and Rules, if an appropriate petition is filed no later than 30 days after final administrative action concerning the action complained of.

d. Criminal Sanctions

i. Each violation of this Local Law or any of the regulations promulgated hereunder shall be punishable as a misdemeanor by fine not to exceed \$5000.00 and/or imprisonment not to exceed 60 days.

e. Injunction.

i. Notwithstanding any other enforcement mechanism set forth herein, the Authority is authorized, in its discretion to apply to any Court of suitable jurisdiction to obtain injunctive relief to prevent the violation of this Local Law, or any regulations or rules duly adopted pursuant to this Local Law.

#### 10. SEVERABILITY

a. If any part of this Local Law, as originally enacted or as amended from time to time, is found to be illegal, or its application to any Person or circumstance is held invalid, the remainder and the application of its provisions to Persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall remain in full force and effect.

#### 11. EFFECTIVE DATE

a. This law shall take effect immediately upon its adoption by the Board of Legislators, completion of any publication requirements, and filing with

the Secretary of State.