

ARTICLE 72-100: THE STORAGE, COLLECTION, RECYCLING AND DISPOSAL OF SOLID WASTE

Section 72-101. Legislative Intent

The intent of this Local Law is to protect and promote the health, safety and welfare of the people of the Town of Busti by regulating the storage, collection, recycling and disposal of solid waste and shall be entitled "Solid Waste Management Local Law for the Town of Busti." It shall constitute Article 72 of the Town Code of the Town of Busti.

Section 72-102. Definitions

As used in this Local Law, the following terms shall have the following meanings:

(a) Collector: Any person who picks up solid waste and transports that solid waste for hire to a solid waste disposal facility, recycling center or transfer station for recycling or disposal; any person who picks up solid waste and transports that solid waste from more than three households to a solid waste disposal facility, recycling center or transfer station for recycling or disposal or any commercial, institutional or industrial generator who picks up solid waste and transports that solid waste to a solid waste disposal facility, recycling center or transfer station for recycling or disposal.

(b) Commercial Waste: Solid waste generated by stores, offices, institutions, restaurants, warehouses, and non-manufacturing activities at industrial facilities.

(c) Construction and Demolition Debris: Uncontaminated waste resulting from construction, remodeling, repair and demolition of structures, road building, 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 brush stumps.

(d) Town: The Town of Busti.

(e) Disposal: The act of transferring possession of discarded materials for the ultimate purpose of recycling, land burial or extraction of energy through incineration.

(f) Farm Hazardous Wastes: All containers containing pesticides and/or pesticide residue which can no longer be utilized for farm purposes.

(g) Hazardous or Toxic Waste: Waste defined in Article 27-0903 of the New York Environmental Conservation Law, as amended, and the regulations hereunder, and in Section 1004 of the Federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6093, and the regulations thereunder.

(g-1) Highway Superintendent: Town of Busti Highway Superintendent.

(h) Household Hazardous Waste: Household waste which, but for its point of generation, would be a hazardous waste under 42 U.S.C.

Section 6903, or 6 NYCRR Part 371, including pesticides as defined in Article 33 of the Environmental Conservation Law.

(i) Household Waste: Solid waste discarded from single or multiple dwellings, hotels, motels, campsites, public and private recreation areas, ranger stations, and other residential sources.

(j) Industrial Waste: Solid waste generated by manufacturing or industrial processes.

(k) Large Household Furnishings: All large or bulky articles, excluding major appliances, actually used in the home and which equip it for living, such as chairs, sofas, tables, beds, sinks, and bathtubs.

(l) Town Board: The Town Board of the Town of Busti.

(m) Major Appliances: Large and/or bulky household mechanisms such as refrigerators, washers, dryers, stoves, ordinarily operated by natural gas or electric current.

(n) Person: Any individual, institution, group of individuals, partnership, firm, corporation, association, state, county, city, town, village or improvement district.

(o) Recyclable Commercial and Industrial By-products: All materials which are a by-product of production utilized in production or sale after resale by a commercial enterprise or production enterprise.

(p) Recyclable Materials: Any material designated, from time to time, by the Town Board or Town Highway Superintendent which is separated from the waste stream and held for its material recycling or reuse value.

(q) Recyclers: Those who deal with recyclable material such as collectors, separators and marketers, including not-for-profit corporations and charitable corporations which collect recyclables for fundraising purposes.

(r) Recycling Center: A facility where material, previously separated from the waste stream, is stored for its material recycling or reuse value, or where such material is processed for reuse.

(r-1) Town Clerk: The Town Clerk of the Town of Busti.

(r-2) Residents: Persons who reside in and maintain their domicile in the Town of Busti (including the Village of Lakewood).

(s) Solid Waste: As defined in 6 NYCRR Part 360.

(t) Solid Waste Collection Point: An area at roadside or other designated area at which a person stores solid waste containers for collection.

(u) Solid Waste Disposal Facility: An area upon which solid waste is deposited for land burial or incineration.

(v) Source Separation: The segregation of recyclable material from the solid waste stream at the point of generation for separate collection, sale or other disposition.

(w) Transfer Stations: Those facilities where persons and collectors, as defined herein, transfer possession of solid waste to the owner of the transfer stations for disposal or recycling.

(x) Unsatisfactory Solid Waste Disposal Facility: A solid waste disposal facility which does not conform with the rules and regulations set forth in Part 19 of the New York State Sanitary Code, Title 6 of the Official Compilation of the Codes, Rules, and Regulations of the State of New York, or the applicable provisions of this Local Law.

(y) Vehicle Tires: Tires from cars, trucks, and other vehicles.

(z) Yard Waste: Grass clippings, leaves, cuttings from shrubs, hedges and trees, but excluding tree and brush stumps; yard waste does not include household waste or recyclable material, as defined herein.

Section 72-103. Submission of Household/Commercial Waste Collection Plan

1. Each collector, as licensed by the Town hereunder, shall submit a plan for approval of the Town not more than thirty (30) days after the adoption of this Local Law to provide for collection of household and commercial waste and recyclable materials. Such plan must demonstrate that regular, reliable collection of household waste commercial waste, household hazardous waste, large household furnishings, major appliances, and recyclable material will be provided to each property, person or entity served by the collector. Such a plan shall also propose a schedule of implementation, which implementation shall take effect no later than December 1, 1991.

2. The Town Board shall approve the schedule of implementation for collection of recyclable material throughout the Town.

3. Effective September 1, 1991 persons, other than collectors, who dispose of solid waste at all transfer stations shall separate such solid waste in accordance with such rules and regulations as are promulgated by the Highway Superintendent.

4. No person shall dispose of household waste, commercial waste, household hazardous waste, large household furnishings, major appliances, or recyclable material in the Town of Busti, except as follows:

(a) The transfer station presently owned by the Town, together with such other solid waste disposal sites as may either prior to, or subsequent to, the enactment of this Local Law, be established, licensed, or contracted with, by the Town Board, are hereby designated as the solid waste disposal sites to be used by all persons within the Town. Disposal at these Town-owned sites shall be regulated by rules promulgated by the Highway Superintendent, the permits issued by NYSDEC, and other applicable regulations.

(b) The sites established, licensed, or contracted with by the Town shall be for the exclusive use of residents of the Town; however, the Town reserves the right to contract with other municipalities for the use of such sites by persons within those municipalities

or to make such facilities available to such persons for a charge to be determined by the Town Board.

(c) Except as provided for in Section 72-103.4 (b), supra, any person who shall transport solid waste from outside the Town, and dump or discharge the same at the aforementioned sites presently owned by the Town of Busti, shall be subject to the penalties imposed for the violation of this Local Law.

(d) In order to facilitate the conservation of vital natural resource through recycling, persons shall dispose of such solid waste as is authorized herein, at the transfer stations, by separating the recyclables into such containers as are authorized for recyclable material by the Highway Superintendent.

(e) Recyclable materials, including but not limited to, discarded newspapers, cardboard, glass, metals, and batteries shall be separated from non-recyclable material as designated by the Highway Superintendent and placed in such containers as are designated by the Highway Superintendent.

(f) The recyclable materials referred to in paragraph 72-103.4 (e), supra, shall be prepared by persons in accordance with such rules and regulations as are promulgated by the Highway Superintendent.

(g) Solid waste which is collected by collectors, excluding commercial and industrial waste, construction and demolition debris, household hazardous waste, farm hazardous waste, and vehicle tires, shall be delivered to facility designated by the Highway Superintendent which facility may be located outside the Town of Busti.

(h) Persons may dispose of the waste referred to in Section 72-102 B; C; F; G; H; I; J; K; M; S; Y and Z, supra, plus recyclables as defined in Sections (2) and P, supra, at licensed facilities outside the Town of Busti without approval of the Highway Superintendent.

5. It shall be a violation of this Local Law for any person, without authority from the Town of Busti, to collect, pick-up, remove or cause to be collected, picked-up, or removed, any solid waste and recyclable material placed at the transfer station or other designated area, and each such collection, picking up or removal from one or more premises shall constitute a separate and distinct offense in violation of this Local Law.

6. A person may dispose of their recyclable materials by selling or donating the materials to recyclers, but these recyclables may not be picked up at the transfer station.

7. It shall be a violation of this Local Law for any person to place, at the transfer station for collection any can or container, other than one which contains household waste, commercial waste or recyclable material.

8. Collectors, as well as commercial and industrial authorities, are hereby prohibited from disposing of solid waste or recyclables at any transfer station or recycling center operated by the Town.

Section 72-104. Legislative Authority

The Town Board has the power to:

(a) Formulate, adopt, promulgate, amend and repeal rules and regulations in furtherance of this Local Law for controlling the storage, collection, recycling and disposal of solid waste in the Town of Busti.

(b) Control the storage, collection, recycling and disposal of solid waste in accordance with the provisions of this Local Law, and of the rules and regulations promulgated pursuant hereto.

(c) Hold hearings, subpoena and compel the attendance of witness and the production for examination of any book, paper or item relating to the matter under investigation.

(d) Make findings of fact and determinations.

(e) Make, modify, or cancel orders affecting the control of the storage, collection, recycling or disposal of solid waste.

(f) Request the Town to institute civil actions, proceedings or hearings to compel compliance with the orders of the Town Board, and with the provisions of this Local Law and the rules and regulations promulgated pursuant hereto.

(g) Prepare and issue criminal information or otherwise institute criminal proceedings against persons found to be in violation of this Local Law.

(h) Fix fees for licenses and renewals thereof.

(i) Delegate the issuance of licenses and renewals thereof to the Town Clerk.

(j) Cancel, suspend, or revoke licenses after a hearing.

(k) Take such other action as it may deem necessary, proper, or desirable, to enforce the provisions of this Local Law, or any of the rules and regulations promulgated pursuant hereto.

Section 72-105. Hearings

All hearings held pursuant hereto shall be upon not less than ten (10) days notice to the person involved, and shall be held at a time and location specified by the Town Board.

Section 72-106. Solid Waste Dumping

It shall be unlawful for any person to dump, throw, deposit, place or cause to be dumped, thrown, deposited or place or allow to be thrown, dumped, deposited or placed in any location within the Town of Busti, any solid waste or any noxious material, except at those solid waste disposal facilities, transfer stations, or recycling center established, licensed, or contracted with, by the Town Board.

Section 72-107. Solid Waste Disposal Facility

1. No person shall operate a solid waste disposal facility, except in accordance with the Town of Busti Solid Waste Management Plan.
2. It shall be unlawful within the Town of Busti to dump, throw, deposit, place or cause or allow to be dumped, thrown, deposited or placed any solid waste, hazardous waste or radioactive waste, or noxious material from any source located outside the Town of Busti.
3. The provisions of this Section are in addition to any rules and regulations required for such facilities by federal and state regulations, including, but not limited to, 6 NYCRR Part 360.
4. Industrial hazardous waste facilities, as defined and regulated in 6 NYCRR Part 361, are prohibited in the Town.
5. Hazardous waste management facilities, as defined and regulated in 6 NYCRR Part 373, are prohibited in the Town.
6. Low-level radioactive waste disposal facilities, as defined and regulated in 6 NYCRR Part 382, are prohibited in the Town, as are radioactive waste disposal facilities of any kind.

Section 72-108. Solid Waste Collection

1. Any person, except for an individual who collects solid waste generated by the individual, the individual's immediate family, or from property owned by any individual, who collects solid waste in the Town, after September 1, 1991, must possess a valid license issued by the Town Board.
2. Any person who wishes to collect solid waste must make application to the Town Board for a license and application forms to be provided by the Town Board. An annual fee of \$100.00 plus \$25.00 per vehicle to be used in transporting the solid waste to a solid waste disposal facility or transfer station, whether located within or outside of the Town of Busti, shall accompany the application for a license to collect solid waste.
3. Collectors shall annually submit an updated plan, as described in Section 72-103.1, supra, with the license application form referred to in Section 72-108.2, supra.
4. If, after a hearing, the Town Board deems that the collector operates in a manner not in compliance with the provisions hereof, or in a manner such as to cause a nuisance or hazard to the public, the Town Board may suspend or revoke the collector's license.
5. The collector must operate in compliance with the following requirements:
 - (a) The owners and operators of all vehicles used for the collection of solid waste shall:
 - (i) insure that there is no spillage liquid from the vehicle;

- (ii) insure that there is no spillage or blowing of solid waste from the vehicle;
- (iii) maintain the vehicle and keep it clean;
- (iv) affix the name of the owner or business on both sides of the vehicle in letters not less than 4" high, and of a color contrasting with the background;
- (v) insure that the vehicle is capable of discharging contents from a stationary position.

(b) All vehicles used for the collection of solid waste shall be stored in a manner as not to create a nuisance.

(c) Collectors shall handle solid waste containers in a manner so that no solid waste is spilled during the transfer from the container to the collection vehicle, and so that the container is not damaged during such handling or as a result of such handling. Damage to containers not meeting the specifications set forth herein shall not be covered by this section.

(d) The collectors shall dispose of the solid waste:

- (i) outside of Town of Busti; or
- (ii) at a solid waste disposal facility established, licensed, or contracted with by the Town of Busti and
- (iii) in accordance with the rules and regulations as promulgated by the Highway Superintendent or Town Board.

Section 72-109. Solid Waste Containers

1. Storage of all solid waste by collectors shall be in containers which completely confine the material.

2. The structure of the containers to confine the aforementioned solid waste shall be such that they;

- (a) prevent the exit and entrance of insects, rodents or other animals;
- (b) can be easily cleaned;
- (c) will not crack when subject to cold temperatures;
- (d) will not break or burst when lifted;
- (e) are easily unloaded;
- (f) shall be of sufficient integrity to confine such waste for a time determined by the Highway Superintendent.

3. All containers shall be kept in a clean and sanitary condition.

Section 72-110. Residential, Commercial and Industrial Construction Demolition Debris Disposal

1. Residential, commercial and industrial, and construction and demolition debris may not be disposed of at the transfer stations.

2. Such debris shall be disposed of at such sites as are approved by the Town Board and the New York State Department of Environmental Conservation, provided, however that the same may only be located within that portion of the CAMP District as defined by the Town of Busti Zoning Code, Section 91-430 set aside for said purposes, and, provided further, that such debris was generated solely from a source located within the Town of Busti.

Section 72-111. Residential Yard Waste Disposal

1. Residential yard waste, not otherwise disposed of at the site of origination, shall be disposed at compost sites designated by the Highway Superintendent or at other sites as allowed by 6 NYCRR Part 360. Such yard waste shall be disposed of in accordance with such rules and regulations as are promulgated by the Highway Superintendent.

2. Where allowed by law or regulation, this Section shall not prohibit private or municipal composting of yard waste.

Section 72-112. Commercial and Industrial Waste and Commercial and Industrial Recyclable Material

1. All commercial, residential and industrial waste collected by private collectors shall be delivered to the appropriate facility designated by the Town Board, whether within or outside of the Town of Busti and shall not be disposed of at any Town solid waste collection point or transfer station.

2. All commercial and industrial recyclable materials designated for disposal at a designated facility shall be packaged and collected in a manner approved by the operator of such facility, and delivered to a facility designated by the Town Board.

3. The materials collected by the metal industry, recyclers, and their agents, as well as the materials that they separate and market shall be exempt from this Local Law. Any waste which the individuals mentioned herein tender for municipal collection shall not include recyclables.

4. Recyclable industrial and commercial by-products may be sold or donated by an industrial and/or commercial enterprise to any scrap metal enterprise or recycler; however, such materials cannot be placed at a solid waste collection point or transfer station for collection by such scrap metal enterprise or recycler.

5. Scavenging is hereby prohibited.

Section 72-113. Large Household Furnishings and Major Appliances Disposal

Large household furnishings and major appliances may be brought to a transfer station by any person for disposal or recycling by the Town, upon such terms and conditions as are established by the Highway Superintendent.

Section 72-114. Tire Disposal

Vehicle tires may be disposed of at a transfer station by any person or collector, upon such terms and conditions as are established by the Highway Superintendent.

Section 72-115. Household Hazardous Waste and Farm Hazardous Waste Collection and Disposal

1. Household hazardous waste and farm hazardous waste shall be placed in a container determined by the Highway Superintendent.
2. Household hazardous waste and farm hazardous waste shall be delivered to such facility as the Highway Superintendent shall designate.

Section 72-116. Decal

Each person who disposes of solid waste at a transfer station shall display a decal on the right windshield or passenger's Window or rear window of the vehicle used to transfer solid waste, which decal shall be purchased from the Town for a sum to be set by the Town Board. Decals shall be issued annually by the Town Clerk for the period commencing July 1.

Section 72-117. Suspension or Revocation of License

1. The Town Board may suspend or revoke a license for violation of the provisions of this Local Law, or of the rules and regulations promulgated hereunder.
2. Suspension or revocation of a license shall become final five (5) days after service of a notice hereof upon the holder of a license.
3. The holder of the license or other aggrieved party affected by such suspension or revocation may request a hearing by the total membership of the Town Board to reconsider its action, by serving upon the Town Clerk, a request for reconsideration within thirty (30) days following the service of the notice of suspension or revocation, which shall set forth the reasons for such request. Unless the Town Board orders that the license lie suspended or revoked during the pendency of the reconsideration, such suspension or revocation shall be stayed by effective service of such notice of reconsideration until final determination by the Town Board.

Section 72-118. Surrender of Licenses

A license which has been revoked or suspended shall be surrendered forthwith to the Town Board.

Section 72-119. Service of Notice, Order or Decision

1. Service of any notice, order or decision shall be made as follows:

(a) by mailing a copy of such notice, order or decision in a postpaid envelope directed to the person affected thereby at the persons residence or business address, or

(b) by leaving a copy of such notice, order or decision with the person, or the, person's agent.

2. Service of any notice shall be made upon the Town Board or Highway Superintendent by mailing the notice in a postpaid envelope directed to the Town Clerk.

Section 72-120. Enforcement/Penalties

1. Failure to comply with this Local Law, except Section 72-107.3, 72-107.4 and 72-107.5 by any person, or tenant in cases where a lease agreement gives specific responsibility for solid waste disposal to such tenant, shall be an offense punishable as provided herein:

(a) Conviction of a first offense as provided by this Section shall be punishable by a fine of up to \$100.00, and in addition, anyone convicted of first offense hereunder shall be liable to pay a civil penalty of \$50.00.

(b) Conviction of any additional offenses shall be punishable by a fine of up to \$500.00, or imprisonment of not more than 1-5 days, or both, and in addition, anyone convicted of an offense hereunder shall be liable to pay a civil penalty of \$100.00.

2. Violation of Sections 72-107.3, 72-107.4 and 72-107.5 hereof shall be an offense punishable by a fine of up to \$10,000, or imprisonment of not more than 30 days, or both. Each day of violation shall constitute a separate offense.

Section 72-122. Effective Date

This Local Law shall take effect immediately.

Adopted June 24, 1991.