

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate new matter.

County
~~City~~ of Yates
~~Town~~
~~Village~~

LOCAL LAW 1-14 ENTITLED: SOLID WASTE MANAGEMENT LOCAL LAW

Be it enacted by the Legislature of the

County
~~City~~ of Yates as follows:
~~Town~~
~~Village~~

SOLID WASTE MANAGEMENT LOCAL LAW

Be it enacted by the Legislature of Yates County as follows:

Section I. Short Title.

This law shall be known as the Solid Waste Management Law.

Section II Purposes.

This law is adopted pursuant to Chapter 627 of the Laws of 1986 of the State of New York to:

- A. Institute a plan for the management of solid waste generated or originated in the County of Yates, to promote the safety, health and well-being of persons and property located therein; and to
- B. Implement the express policy of the State of New York authorizing the County of Yates to impose appropriate and reasonable limitations on competition to require that all solid waste generated or originated within the County's boundaries, subject to such exceptions as may be determined to be in the public interest, shall be delivered to a specified facility or facilities, and to
- C. Implement the express policy of the State of New York encouraging solid waste volume reduction through recycling.
- D. This local law supersedes Local Laws 2-90, 1-93.

Section III. Definitions.

Compostable Material is organic material which can be converted by natural means into a soil additive to provide humus and nutrients.

County means the County of Yates.

Designated Recyclable Materials means recyclable materials designated for single stream recycling by the Rules and Regulations promulgated pursuant to this law.

Economic market means the costs of recycling by proper collection, transportation, and disposal of materials in accordance with the rules and regulations promulgated pursuant to Section IV, less the amount received from the sale of any materials, are greater than the full avoided cost of collection, transportation and disposal of such material as Municipal Solid Waste.

Facility means any solid waste management-resource recovery facility employed beyond the initial solid waste collection process which is to be used, occupied or employed for or is incidental to the receiving, transporting, storage, processing or disposal of solid waste or the recovery by any means of any material or energy product or resource there from including recycling centers, transfer stations, processing systems, resource recovery facilities, sanitary landfills, plants and facilities for composting or land-spreading of solid wastes, secure land burial facilities, reprocessing and recycling facilities, surface impoundments and waste oil storage, incinerators, and other solid waste disposal, reduction or conversion facilities.

Hazardous Waste means

- Waste which appears on the list of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation pursuant to Section 27-0903 of the Environmental Conservation Law and the regulations there under or waste which exhibits any of the characteristics of hazardous waste identified in 6 N.Y.C.R.R. 371.3
- Special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended.
- As used in this law, Hazardous Waste does not include Household Hazardous Waste, as that material is classified as municipal solid waste in 6 N.Y.C.R.R. 371.1 (e) (2) (i).

Municipal Solid Waste means all solid waste, which is not household hazardous waste, designated recyclable material or unprocessable solid waste.

Person means any natural person, partnership, association, joint venture, corporation, estate, trust, association, county, city, town, village, improvement district, governmental entity or other legal entity.

Recyclable Material means any solid waste which can be recycled.

Recycled or Recycling means any method, technique or process utilized to separate, process, modify, convert, treat or otherwise prepare solid waste so that its component materials or substances may be beneficially used or reused as raw materials.

Solid Waste means all putrescible and non-putrescible solid wastes generated or originated within the County, including, but not limited to, materials, or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, or are being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded, have served their intended use, or are a manufacturing by-product, including, but not limited to, garbage, refuse, and other discarded solid materials, including solid waste materials, resulting from industrial, commercial and agricultural operations and from community activities, sludge from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material,

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, or hazardous waste as defined in this law.

Solid Waste Volume Reduction Program includes recycling programs, changes to the packaging portion of the waste stream to reduce solid waste generated, the activities and enterprises of scrap dealers, processors and consumers and other programs designed to reduce the volume of solid waste or enhance reclamation and recovery of materials. For purposes of this paragraph, such volume reduction programs shall not include the processing of waste for incineration, land filling or disposal by other means.

Single Stream Recycling – means recyclable materials from solid waste at the point of generation co-mingled for the collection, sale or other disposition.

Specified Facility or Facilities means a facility or facilities for certain solid wastes specified in the rules and regulations promulgated pursuant to Section IV(A) of this law.

Unprocessable Waste means

- (a) dirt, concrete and other non-burnable construction material and demolition debris;
- (b) Refrigerators, washing machines and similar "white goods";
- (c) large items of machinery and equipment, such as motor vehicles and major components thereof (e.g., transmissions, rear ends, springs and fenders), agricultural equipment, trailers and marine vessels, or any other item of waste exceeding six feet in any one of its dimensions; and
- (d) Liquid waste, large concentrations of plastics other than polyethylene terephthalate (PET) and high density polyethylene (HDPE) containers, explosives, oil, sludge, highly inflammable substances, tires, ashes, contained gaseous materials, incinerator residue, and offal.

Waste generator means any person/persons or legal entity which produces waste requiring off-site disposal.

White goods: mean household appliance, including washing machines, dryers, stoves, dishwashers, water heater tanks, refrigerators, freezers and similar, after removal of any compressors and dichlorodifluoromethane.

Section IV. Powers of the Legislature/Delegation of Powers.

The Legislature shall exercise the following powers, and, except for promulgating and publishing rules and regulations may by appropriate resolution and action delegate to an employee or officer of the County such authority and powers subject always to the supervision of the Legislature, to:

- A. Following a public hearing, promulgate and publish rules and regulations from time to time which:
 1. Aid in identifying and defining categories of solid waste, including municipal solid waste, recyclable materials and unprocessable solid waste;
 2. Specify one or more facilities to which all municipal solid waste generated or originated in the County shall be delivered;
 3. Specify one or more facilities to which designated recyclable materials may be delivered subject to such exceptions as the Legislature or its designee may determine to be in the public interest;

4. Direct that municipal solid waste generated or originated within the County be delivered to or disposed of only at one or more specified facilities, and prohibit delivery to or disposal of a category of solid waste generated or originated within the County at one or more specified facilities.

In promulgating such rules and regulations, the Legislature shall consider the capacity, handling, disposal and marketing capabilities of available facilities, the geographical location of facilities and such other factors enabling the Legislature to determine that the public interest is served by the rule or regulation.

- B. Following a public hearing, promulgate and publish rules and regulations for a County-wide program to implement single stream of recyclable materials and encourage solid waste volume reduction and to maximize the opportunity for the reclamation and recovery of materials. The rules and regulations shall designate recyclable materials for which economic markets exist, to be single stream recycled and may reflect local differences in population density, accessibility and capacity of markets and facilities, collection practices and waste composition. In promulgating such rules and regulations, the Legislature shall consider other on-going, proposed or reasonably anticipated future solid waste volume reduction programs and shall not interfere with them.
- C. Approve, deny, suspend or revoke Solid Waste licenses or subject a license holder to reprimand, as provided in Section VIII.
- D. Following a public hearing, revise, amend, promulgate and publish rules, regulations and orders necessary to carry out the purposes of this law.
- E. In the event the Legislature delegates any of these powers to another, then that designee shall perform such delegated administrative functions, powers and duties under the supervision of the Legislature and on its behalf. Such designee shall report periodically to the Legislature. Nothing in this local law divests the Legislature of such functions, powers and duties.
- F. Whenever a public hearing is required pursuant to this Section IV, the Legislature shall fix by resolution the time and place of such public hearing and cause a notice thereof to be published at least once in the official newspaper or newspapers of the County, and in such other newspapers as the Legislature may direct. The first publication shall not be less than five (5) days nor more than twenty (20) days before the day designated therein for the hearing. Such notice shall specify the time, place and purpose of the hearing and that copies of the proposed, revised or amended rules, regulations or orders are available for review.

Section V. Waste Delivery and Disposal: Single Stream.

- A. Municipal Solid Waste generated or originated within the County shall only be disposed of as follows:
 1. All municipal solid waste generated or originated within the County must be delivered to a specified facility; and
 2. No facility shall receive municipal solid waste generated or originated within the County except as permitted under this law.
- B. No person shall dispose of solid waste along the roadside or on public or private property within the County, unless the owner of the property has given his consent, in which case the property owner assumes responsibility for proper disposal of the material.

- C. Disposal of solid waste which is barred from all specified facilities by rules, regulations or orders promulgated pursuant to Section IV of this law, shall not otherwise be regulated by this law.
- D. No hazardous waste may be delivered to a specified facility.
- E. Designated recyclable materials shall not be commingled with other solid waste, and shall be handled as follows:
 - 1. Prior to initial collection or transport, designated recyclable materials shall be separated and prepared by the waste generator as provided in the rules and regulations promulgated pursuant to Section IV of this law.
 - 2. Designated recyclable materials shall not be commingled with other solid waste during collection, transportation or storage following collection. The Legislature may order such exceptions as it determines are in the public interest.
- F. Any recyclable materials generated or originated in the County may be delivered to a solid waste volume reduction program. All designated recyclable materials must be delivered to either a solid waste volume reduction program or a specified facility.
- G. Compostable material is not regulated under this law, unless it is treated as solid waste.

Section VI. Payment of Fees and License Requirement.

- A. Failure to pay fees and charges as established from time to time shall constitute a violation of this law.
- B. No Persons may engage in the business of collecting, transporting or handling solid waste generated or originated within the County without a solid waste license issued by the County pursuant to Section VII of this law, provided that only persons who collect, transport or handle solid waste for compensation shall be required to obtain a solid waste license.
- C. Persons engaged solely in recycling or a solid waste volume reduction program shall be required to obtain a solid waste license.

D. Section VII. Issuance and Conditions of Solid Waste License.

A. Solid Waste License Issuance.

- 1. Solid waste licenses must be obtained and renewed annually from the County.
- 2. Solid waste license applications may be denied if the applicant or licensee has been adjudged or administratively determined to have committed one or more violations of this law during the preceding calendar year.

B. Conditions of Solid Waste License.

Solid waste licenses and renewals may be subject to the following conditions as required by the regulations:

- 1. All licensees must comply with this law and the rules, regulations and orders promulgated pursuant to this law.

2. All licensees may be required to maintain records of municipal solid waste collected, transported or disposed of by the licensee in accordance with the rules and regulations which may include the following information:
 - a. the geographical source of the solid waste;
 - b. the quantity, by tons, of the solid waste;
 - c. the date of collection;
 - d. the date of delivery to a facility; and
 - e. the facility which received the solid waste.
3. Reports containing the information required in Section VII.B.2 of this section shall be compiled quarterly and delivered to the Legislature or its designee by the 20th day following the end of the quarter.
4. All licensees shall indemnify and hold harmless the County of Yates for any pending, threatened or actual claims, liability or expenses arising from waste disposal by the licensee in violation of this law.
5. Licensees shall offer collection services for designated recyclable materials in conformity with the regulations promulgated under Section IV.
6. Licensees shall not accept for collection solid waste which does not conform with the regulations promulgated under Section IV.

Section VIII. Approval Denial Suspension or Revocation of Solid Waste License.

- A. When the Administrator determines that a failure to comply with a solid waste license condition in Section VI I(B) of this law may have occurred it shall recommend to the Legislature that the solid waste license application be granted with conditions or denied, or the existing solid waste license be granted with conditions, suspended, revoked or its holder subjected to a reprimand.
Notice and an opportunity to be heard shall be provided prior to the denial of a solid waste license application, the suspension or revocation of a solid waste license, or the issuance of a reprimand.
- B. The County shall notify the affected solid waste license applicant or licensee of the alleged failure in writing. The notice shall include:
 1. a statement of the solid waste license condition allegedly violated, referring to the pertinent law, rule or regulation; and
 2. a short and plain statement of the alleged misconduct.

The notice shall be personally served or sent by certified mail to the applicant or licensee's last known address, at least ten (10) days after the County is notified of a violation. Said notice should give licensee 5 to 10 days to take corrective action and notify the County in writing of the action taken or the circumstances surrounding the violation.

If after the written notice no action is taken or correspondence received by the County a hearing will be scheduled. The County will notify the licensee/applicant in writing at least ten (10) days before the hearing date. The written notice shall include:

1. the statement of the solid waste license condition allegedly violated, referring to the pertinent law, rule or regulation; and
2. a short and plan statement of the alleged misconduct

C. Hearings.

1. Hearings shall be held before the Legislature or its designee within a reasonable period, which shall be at least ten (10) days after the service of the notice.

2. The applicant or licensee may be represented by counsel at the hearing, and may offer evidence and cross-examine witnesses.
3. Within twenty (20) days after the close of the hearing, the Legislature or its designee shall:
 - a. determine whether the alleged failure to comply with a solid waste license condition has occurred; and
 - b. if it is determined that such a failure has occurred, decide whether the solid waste license application shall be denied, or an existing solid waste license shall be suspended, revoked, or its holder subjected to a reprimand; and issue an order carrying out his decision; and
 - c. if it is determined that such a failure has not occurred, the legislature or its designee shall approve the issuance of a solid waste license.

D. Determination. Decisions and Orders.

1. Disposition may be made by stipulation, agreed settlement, consent order, default or other informal method.
2. A final determination, decision or order adverse to a party shall be in writing and shall include a statement of facts and reasons supporting the determination, decision or order.
3. The Legislature or its designee shall promptly notify the applicant or licensee in writing of its final determination, decision or order. Such determination, decision or order shall become effective fifteen (15) days after the date of service or mailing.

Section IX. Enforcement.

- A. Since public awareness of the need for, and benefits of, single stream recycling will grow with time and experience and since voluntary compliance with the requirements of this local law and any rules and regulations will most likely ensure the ultimate success of any recycling program, the Legislature or its designee is authorized to encourage such voluntary compliance by the use of informal enforcement or educational activities including, but not limited to, the providing of educational or instructional materials and similar notices to advise and inform members of the public.

B. Inspections and Appearance Tickets.

1. All portions of vehicles and containers used to set out, haul, transport or dispose of any category of solid waste, recyclable materials or hazardous waste, including such containers placed outside of residences, shall be subject to inspection to ascertain compliance with this law and the rules, regulations or orders promulgated pursuant to this law, by any police officer, peace officer and/or other public servants designated by the Legislature.
2. Police officers, peace officers and/or other public servants designated by the Legislature are hereby authorized and directed to issue appearance tickets for violations of this law or the rules, regulations, and orders promulgated pursuant thereto.

C. Penalties

1. Civil Sanctions. The County may commence a civil action to enjoin or otherwise remedy any failure to comply with this law or with the rules, regulations and orders promulgated pursuant to this law.
2. Criminal Penalties.
 1. In addition to the civil penalties provided above, any failure to comply with this law or the rules, regulations, and orders promulgated hereunder, shall be a violation as defined in Section 55.10 of the Penal Law.
 2. Any waste generator convicted of a violation shall be liable for a fine of

\$50 for a first violation, \$100 for a second violation, and \$250 for each succeeding violation.

3. Any person, other than a Waste Generator, convicted of a violation shall be liable for:
 - a. A fine of up to \$250 for the first violation during a single calendar year, and a fine of up to \$500 per violation for the second and any succeeding violations occurring during the same calendar year; or
 - b. Imprisonment for a term of up to 15 days per violation; or
 - c. Both a fine and imprisonment.
4. Any penalties or damages recovered or imposed under this law are in addition to any other remedies available at law or equity.

Section XI. Non-interference with Solid Waste Volume Reduction.

The County will not act in a manner, nor enter into any contract, that would interfere or have the effect of interfering with the implementation of on-going or proposed or reasonably anticipated future solid waste volume reduction programs, including but not limited to single stream recycling programs, changes to the packaging portion of the waste-stream to reduce solid waste generation, and the activities and enterprises of scrap dealers, processors and consumers, and shall also provide for the maximum opportunity for reclamation and recovery of materials. For purposes of this paragraph, such volume reduction programs shall not include the processing of waste for incineration, landfilling or disposal by any other means.

Section XII. Severability.

If any clause, sentence, paragraph, section, or part of this law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof involved in the controversy in which such judgment shall have been rendered.

Section XIII. Effective Date. The provisions of this law shall be effective immediately.

(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. 1 of 2014 of the (County)(City)(Village) of Yates was duly passed by the Legislature on **June 9, 2014**, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20__, and was (approved)(not approved)(repassed after (Name of Legislative Body) disapproval) by the _____ and was deemed duly adopted on _____ (Elective Chief Executive Officer*) 20__, 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 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20__, and was (approved)(not approved)(repassed after (Name of Legislative Body) disapproval) by the _____ and was deemed duly adopted on _____ (Elective Chief Executive Officer*) 20__. 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 _____ 20__, 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 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20__, and was (approved)(not approved)(repassed after (Name of Legislative Body) disapproval) by the _____ and was deemed duly adopted on _____ (Elective Chief Executive Officer*) 20__. Such local law was submitted to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20__, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide basis or, if there are 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.

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 20__ 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 _____ 20__, became operative.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, 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 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 there from 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: _____

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

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

County Attorney_____
Title

County
~~City~~ of Yates
~~Town~~
~~Village~~

Date: