

Village of Bergen, New York
Local Law #1 of 2015
“Sanitation Law”

§1 – Purpose. The Board of Trustees has determined that it is in the interest of the health, safety and general welfare of the residents of the Village of Bergen to institute weekly collection of refuse and recyclable materials for residential property within the Village of Bergen. The Board of Trustees has further determined that weekly collection of refuse and recyclable materials for residential property will greatly improve the appearance of the Village, provide cost savings to most residents of the Village and generally enhance the quality of life for those who live in the Village. In order to effectuate these goals, the Board of Trustees hereby determines that rules and regulations are necessary to provide for the clean, orderly and sanitary means of refuse and recyclable materials collection. The Village of Bergen Board of Trustees finds it to be in the public interest to provide, or cause to be provided, this service and to impose a user fee as a special assessment on residential property, for the purpose of defraying the costs associated with providing for such collection and disposal of refuse and recyclable materials once a week from the residential property in the Village of Bergen.

§2 – Administration; Applicability.

A. The Board of Trustees of the Village of Bergen and/or its designated representative shall have the responsibility for the operation and for the collection and disposal of refuse and recyclable materials from residential property in the Village of Bergen as more particularly set forth in this Local Law. The Board of Trustees and/or designated representative are hereby empowered to make and publish regulations implementing this Local Law concerning such matters relating to the storage, collection and disposal of refuse and recyclable materials, the location of refuse containers and totes and all other matters relating to the storage, collection and disposal of which it deems advisable, provided that such regulations are not contrary to the provisions of this Local Law.

B. The provisions of this Local Law shall only apply to residential property within the Village of Bergen and shall not apply to non-residential property. Owners of non-residential property shall be solely responsible for arranging for collection and disposal of refuse and recyclable materials generated at non-residential property owned by such owner, including, without limitation, entering into contractual agreements with private waste haulers for such collection and disposal. Notwithstanding the foregoing, nothing contained in this Local Law shall be deemed to prohibit residential property owners from entering into a contractual agreement with a private waste hauler for the collection and disposal of refuse and/or recyclable materials generated by that person or at property owned by that person; provided, however, that entering into such contractual agreement with a private waste hauler shall not be deemed to exempt such residential property from the provisions and requirements of this Local Law.

§3 - Definitions. As used in this Local Law, the following terms shall have the meanings indicated:

A. **BOARD** - The Board of Trustees of the Village of Bergen, New York.

- B. **BULK ITEMS** - Large items and materials, including furniture; house furnishings; large appliances, such as refrigerators, stoves, washing machines and clothes dryers; and automobile or other motor vehicle tires.
- C. **COLLECTIBLE YARD WASTE** - Tree branches not exceeding two inches in diameter, twigs and shrubs, hedge clippings, grass and leaves.
- D. **DUPLEX RESIDENCE** - A building or parcel of land having exactly two (2) dwelling units.
- E. **DWELLING UNIT** - One or more rooms designed for occupancy by one family for cooking, living and sleeping purposes.
- F. **HAZARDOUS SUBSTANCE** - Any hazardous or toxic substance material or waste which is or becomes regulated by any local or state governmental authority or the United States Government.
- G. **INDUSTRIAL WASTE** - Waste generated by manufacturing or industrial process.
- H. **MULTIFAMILY RESIDENCE** - A building or parcel of land having three (3) or four (4) dwelling units.
- I. **NEWSPAPERS** - Newsprint, not including glossy magazines or materials.
- J. **NON-RESIDENTIAL PROPERTY** – Any building or parcel of land, or a portion thereof, used for business or commercial enterprises or a governmental use or institutional use or a building containing more than four (4) dwelling units.
- K. **OWNER** – The owner of the building or parcel of land as set forth in the tax records of the Village of Bergen.
- L. **PERSON** - One or more individuals or any partnership, corporation, firm, association, trust, estate or governmental entity and any other entity whatsoever.
- M. **RECYCLABLE MATERIALS** - Clear, brown and green glass bottles, jugs, and jars; newspapers and other mixed papers; tin cans; plastic or high-density polyethylene (HDPE) containers, such as those used for milk, oil, detergents, apple cider, etc. Recyclable materials does not include plate glass, broken glass, window glass, or any other type of glass not specified in this definition, copper, stainless steel, and brass, or recyclable materials unsuitable for recycling because of secondary household use.
- N. **RECYCLING TOTES** - A plastic container with a capacity of eighteen (18) gallons available from and/or provided by the Village of Bergen.
- O. **REFUSE** – Materials or substances discharged, discarded or rejected as being spent,

useless, worthless or in excess by the owner at the time of such discard or rejection resulting from the normal day-to day operation of dwelling unit, including (i) food wastes, including, but not limited to, table cleanings; fruit, vegetable and animal parings and scraps; decaying or spoiled vegetable, animal and fruit matter; and fallen fruit; (ii) any paper, plastic, cardboard or other materials used to wrap, cover or contain food, other than certain HDPE or glass containers defined in this section as recyclable materials, and any other household waste resulting from the use, consumption and preparation of food; or (iii) miscellaneous waste material, including rags, drugs, health aids and material (other than infectious wastes), sweepings, rubber, leather, cloth, clothing, paper (other than newspapers), waste materials from normal maintenance and repair activities, crockery, shells, dirt, filth, wood, glass (other than certain glass bottles defined in this section as recyclable materials), brick and other similar waste materials. "Refuse" does not include recyclable materials, bulk items, collectible yard waste, rubble, hazardous substances, industrial waste or any other material not covered under this definition.

- P. **REFUSE TOTES** - A plastic wheeled container with a capacity of ninety-six (96) gallons available from and/or provided by the Village of Bergen.
- Q. **RESIDENCE** - A building or parcel of land having exactly one (1) dwelling unit.
- R. **RESIDENT** - A person residing in a residence.
- S. **RESIDENTIAL PROPERTY** – Collectively, residences, duplex residences and multifamily residences.
- T. **RUBBLE** - Waste material typically resulting from construction, demolition and major renovation activities, including, but not limited to, waste cement, concrete, masonry, bricks, tiles, Sheetrock, plaster, shingles, lumber, telephone poles, railroad ties, wooden pallets, doors and door frames, windows and window frames and similar material.
- U. **UNIT CHARGE** – The fixed rate or fee as annually determined by the Board to be assessed per dwelling unit for purposes of calculating the user fee for each residential property.
- V. **USER FEE** – A special assessment charged to each residential property in the Village of Bergen for the collection of refuse and recyclable items within the Village of Bergen, at the rates determined by the Board and current contract in accordance with this Local Law.

§3 – Collection of Refuse; Applicability.

A. The Board shall be responsible for collecting or causing the collection of, on a regular basis, only those waste materials which constitute refuse generated by residential property within the Village of Bergen.

B. The Board shall also be responsible for collecting or causing the collection of any additional waste materials generated by residential property which the Village may announce will be collected on particular days or during particular time periods. These additional waste materials may include, for example, bulk items and collectible yard waste. The Board shall be responsible for collecting or causing the collection of any such waste materials only on the or during the time periods announced by the Board.

C. The Board shall not be responsible for collecting any waste materials which have been placed or prepared in ways that do not comply with all the provisions of this Local Law. In particular, the Board shall not be responsible for collecting waste materials consisting of refuse and recyclable materials mixed together, waste materials not placed in the Village-provided tote, or recyclable materials which have not been placed or prepared in accordance with this Local Law, nor shall the Board be responsible for the collection of waste materials generated other than from residential property of the Village of Bergen.

§4 - User Fee Established. All owners of residential property shall hereafter be responsible for the payment of a user fee for the collection of refuse and recyclable items within the Village of Bergen. Such fees shall be in amounts designed to recoup part or all of the reasonably calculated costs incurred by the Village in providing and administering the collection and disposal of refuse and recyclable materials as described in this Local Law, taking into consideration the amount charged by any third-party private contractor utilized by the Village for such refuse and recycling collection. Such fees shall be assessed against the residential property as a special assessment as described in §5 hereinbelow, and shall be levied and collected in the same manner as provided in Article 5 of the Village Law for the levy and collection of real property taxes.

§5 – User Fee; Totes; Schedule.

A. Commencing on the Effective Date of this Local Law, and continuing on an annual basis, the Board shall determine the unit charge applicable for the upcoming year and the user fees shall be calculated as follows:

- (1) Each residence shall be assessed a user fee equal to one (1) unit charge.
- (2) Each duplex residence shall be assessed a user fee equal to one (1) unit charge;
- (3) Each multiple residence shall be assessed a user fee equal to two (2) unit charges.

B. Each residential property shall be provided with one (1) refuse tote and one (1) recycling tote per unit charge (i.e., each residence and duplex residence shall be provided with one (1) refuse tote and one (1) recycling tote, and each multiple residence shall be provided with two (2) refuse totes and two (2) recycling totes).

C. In the event that any owner requires either additional or replacement refuse totes

or recycling totes, they shall be purchased directly through the Village of Bergen at a cost to be determined by the Village.

D. All user fees imposed pursuant to this Local Law shall be billed on an annual basis on real property tax bills by the Village to the owner or such other person designated by the owner to receive the real property tax bills. All such user fees shall be due and payable contemporaneously with the Village real property taxes for such residential property and, to the extent outstanding, shall accrue penalties as provided in New York State Village Law § 5-518, Subdivision 4, as may from time to time be amended. All outstanding delinquent amounts may be assessed as a lien against the real property in accordance with the provisions of New York State Village Law § 5-518, as may from time to time be amended.

E. Notwithstanding anything contained in this Local Law to the contrary, the nature, structure and/or amount of the user fee is subject to change from time to time by resolution of the Board.

§6 - Procedure for changing user fees.

- A. The Board shall conduct a public hearing prior to any material change in the nature, structure, calculation or payment schedule of any fees as set forth herein. Such hearing shall be pursuant to notice published in an official newspaper of the Village not less than ten (10) days before such hearing. The proposed amendments to in the nature, structure, calculation or payment schedule of the user fees shall be available for public inspection at least ten (10) days prior to the public hearing, and notice of the same shall be set forth in the aforesaid published notice of hearing.
- B. Following the public hearing, the Board shall be free to adopt such resolution. Upon adoption of such resolution, notice of its adoption shall be published in an official newspaper of the Village and a copy of such changes to the nature, structure, calculation or payment schedule shall be made available for public inspection at the Village Clerk's office. Following publication of the notice of adoption of any amendment of the nature, structure, calculation or payment schedule set forth herein, any person aggrieved thereby may, within fifteen (15) days after such publication, apply to a court of record for an order of certiorari to review such assessment. The user fee shall be deemed final and conclusive on each owner unless such owner makes such application within fifteen (15) days after publication.
- C. The procedures set forth in this article for amendment of the nature, structure, calculation or payment schedule of the user fees are intended to supersede any conflicting procedure set forth in the New York State Village Law, including but not limited to those procedures set forth in New York State Village Law § 22-2200.
- D. Nothing in this article shall be construed as prohibiting those subject to the user fees provided herein from contracting with entities other than the Village of Bergen for the removal of refuse and recyclable materials; provided, however, that such separate contract shall not exempt such residential property from the provisions and requirements of this Local Law, including, without limitation, payment of the user fee.

§7 - Regulations regarding refuse and recyclable materials preparation and collection.

A. Each person who places items at the curb for collection and disposal by the Village of Bergen shall separate refuse from recyclable materials and shall prepare the same for collection and disposal in accordance with rules and regulations as prescribed by the private contractor designated to collect same by the Board.

B. Refuse shall be placed and fit wholly in refuse totes and recyclable materials shall be placed and fit wholly in recycling totes; provided, however, that recyclable materials which are too large for inclusion in a recycling tote shall be piled, packed or bundled together and firmly tied so as to be easily handled by one person. The preparation of refuse and recyclable materials shall otherwise be subject to the rules and regulations as prescribed by the private contractor designated to collect same by the Board.

C. All refuse and recyclable materials shall be placed at or within three feet of the curb or public street line for collection no earlier than 5:00 p.m. on the day before collection.

D. All totes shall be removed from the curb or street by 9:00 a.m. on the day following collection. No containers shall be kept or stored in the front yard of any premises unless the particular nature of the property makes such storage a practical necessity as determined by the Village. In such an event, the totes shall be kept in a neat and orderly manner so as not to draw attention to them from the passing public. In addition, when the storage of containers in a location other than the front yard imposes a physical hardship upon the residents of the premises as a result of age or physical infirmity, the Village may, in its discretion, allow storage in the front yard, provided that containers are kept in the manner set forth above.

E. All totes shall be kept in a proper state of repair and kept in sanitary condition and the contents kept in such condition that they may be readily removed.

F. The following items shall not be considered acceptable for collection by the Village:

- (1) Hazardous substances or dangerous materials such as poisons, acids, caustics, infected materials, explosives, ashes or radioactive materials;
- (2) Industrial waste;
- (3) Motor oil, car batteries and tires;
- (4) Televisions, computers, monitors and other electronic devices and components;
- (5) Tree limbs, tree stumps or vegetative material other than collectible yard waste; or
- (6) Materials which have not been prepared in accordance with the provisions of this Local Law.

G. When certain refuse and/or waste materials have not been collected because those materials were not placed or prepared in accordance with the provisions of this Local Law or

were not otherwise subject to collection by the Village, the person who placed such materials for collection and the owner of the real property adjoining the curb, sidewalk, alley or street where such waste materials were placed shall remove those wastes from that location as soon as possible after the collection has been refused and, in any event, by 9:00 p.m. on the designated collection day. The failure to remove any uncollected waste material by 9:00 p.m. on the designated collection day shall constitute a violation of this Local Law.

§8 – Additional regulations.

The Board may, by resolution, adopt additional regulations regarding the implementation and administration of this Local Law.

§9 - Enforcement. It shall be the duty of the Village of Bergen Code Enforcement Officer and/or any other duly authorized official to administer and enforce the provisions of this Local Law.

§10 - Penalties for offenses. Any person who violates or neglects to comply with any provision of this Local Law shall be subject to the following penalties:

- A. A fine of \$50 for the first violation;
- B. A fine of \$100 for the second violation;
- C. A fine of \$200 for the third and each subsequent violation;
- D. Each day that the violation exists shall constitute a separate and distinct violation;
- E. In addition to the above fines, the Village shall have the discretion to refuse to collect materials which are improperly separated, bundled or prepared for collection.

§11 - Severability; when effective.

- A. Should any section, clause or provision of this article be declared to be invalid by a court of competent jurisdiction, the same shall not affect the validity of this article as a whole or parts thereof, other than the part so declared to be invalid.
- B. This Local Law shall take effect twenty days after it is filed as provided in Section Twenty-Seven of the Municipal Home Rule Law.