

**LOCAL LAW ADOPTING AMENDMENTS TO CHAPTER 9, ARTICLE V OF
THE CODE OF THE CITY OF POUGHKEEPSIE BY ADDING THERETO A
FEE BASED COLLECTION SYSTEM DESIGNED AND INTENDED TO
EQUALIZE AND APPORTION THE COST AND BENEFITS OF SOLID WASTE
COLLECTION SERVICE.**

(LL-12-3)

INTRODUCED BY CHAIRWOMAN JOHNSON

BE IT ENACTED, by the Common Council of the City of Poughkeepsie, in regular meeting convened a local law amending Chapter 9 of the Code of the City of Poughkeepsie entitled Garbage, Trash and Weeds, Article V, to provide as follows:

Article V Solid Waste Management

Section 9-60 Purpose, Legislative findings and Intent

(a) It shall be the purpose of this chapter to provide for the protection of the public health, safety and general welfare of the people of the City of Poughkeepsie by establishing rules and regulations governing the generation, separation, storage, collection, transportation, processing and disposal of solid waste within the City limits; regulating residential, institutional and commercial solid waste management; establishing regulations for licensure of commercial solid waste collectors; establishing rules and regulations governing the preparation, collection, transportation and disposal of recyclable items in accordance with state law; and providing for the proportionate distribution of the costs of regulation, collection and disposal of solid waste among those benefiting from the services provided by the City.

(b) The City of Poughkeepsie finds that financing the costs associated with the regulation, collection, removal and disposal of solid waste through *ad valorem* tax levy inequitably burdens taxpayers with the cost of providing general solid waste collection services benefiting the community as a whole, including organizations exempt from taxation.

(c) The City of Poughkeepsie also finds that funding waste collection services provided by the City through *ad valorem* levy disproportionately burdens certain taxpayers, resulting in the subsidization of the costs of the services provided to other residents and taxpayers.

(d) To equalize this disparity, and reduce the cost of providing waste collection services, the City finds that it is in the best interest of the City to adjust and reallocate the cost of solid waste collection and disposal by assessing a proportionate collection fee on all users of the City's solid waste collection services, and to extend fee-based waste collection services, to tax exempt organizations, and institutions, and to commercial, mixed-use and multiple residential users, thereby reducing the burden shared by all

taxpayers and limiting that shared burden to the costs of general services benefiting the City as a whole, continuing to fund the costs of such general services by *ad valorem* tax, and proportionally allocating the cost of individual collection and disposal services among the class of persons utilizing the City's solid waste collection and disposal services.

Section 9-61 Duties And Powers Of The Commissioner Of Public Works

The Commissioner of Public Works, in addition to other powers provided in this chapter, shall have the authority and responsibility to:

(a) Enforce all provisions of the applicable state and local laws regulating residential, commercial and institutional solid waste management, commercial solid waste collector licensure and recycling in the City of Poughkeepsie.

(b) Provide for the orderly administration of all applicable state and local laws regulating Solid waste collection and recycling in the City of Poughkeepsie.

(c) Promulgate rules and regulations regarding the methods of collection of Solid waste and recyclables for residential and commercial users in the City of Poughkeepsie.

(d) Add to or delete from the list of items to be recycled and establish rules and regulations regarding the separation, preparation, collection, transport and disposal of recyclables in accordance with state and local law.

(e) Abate any Solid waste-related health hazard or public nuisance and charge the property owner the cost of the abatement. Unpaid charges shall be the personal liability of the owner and shall be a lien upon the real property upon which such hazard or nuisance was found.

Section 9-62 Definitions

(a) For the purpose of this chapter, certain words and phrases shall be defined as set forth in this section unless it is apparent from the context in this chapter or from the context or definitions as set forth in the regulations that a different meaning is intended. Where not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. The word "shall" is always mandatory and not merely directory.

(b) As used in this chapter, the following terms shall have the meanings indicated:

ASHES – All the residue of the combustion of any type of solid fuel, such as wood, coke, charcoal or like substances.

CITY – The City of Poughkeepsie.

COMMERCIAL SOLID WASTE – solid waste originating in and around commercial establishments, industrial establishments and institutions.

COMMERCIAL SOLID WASTE AND/OR RECYCLABLE COLLECTOR - A person engaged in the business of collection, removal, transportation or disposal of commercial or institutional solid waste or recyclables with or without charge or payment.

COMMERCIAL SOLID WASTE MANAGEMENT - The purposeful, systematic control of the generation, separation, storage, collection, processing and disposal of commercial and institutional solid waste.

COMMERCIAL USER - An improved parcel of land which is designed for or occupied by or for commercial or business use.

CONSTRUCTION AND DEMOLITION DEBRIS – As set forth in 6 NYCRR Part 360, Regulations.

CURBSIDE – Beside both the paved public road and the driveway into a person's property, but not on the paved or traveled portion and not within the person's property on a private roadway more than five feet from the edge of the public street.

DEAD ANIMALS – Those that die naturally or from disease or are accidentally killed. It shall not include condemned animals or parts of animals from slaughterhouses or similar places (including custom slaughtering and private residential slaughtering), which are regarded as industrial waste.

DUMPSTER – A container which is used for the temporary storage of solid waste.

GARBAGE – Putrescible solid waste, including animal and vegetable waste resulting from the handling, selling, preparation, cooking or storing of foods. "Garbage" originates primarily in the home kitchens, stores, markets, restaurants, cafeterias and other places where food is stored, prepared or served. "Garbage" shall not include yard solid waste.

GLASS – Empty washed jars, bottles and containers of glass with rings and caps removed. This term may exclude ceramic ware, auto glass, mirrors, kitchenware, window glass and stained glass.

HAZARDOUS WASTE – A solid waste or combination of solid wastes which, because of its quantity, concentration or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible

illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed.

HOUSEHOLD RECYCLING CONTAINER – The container specified by regulation to be the container used by City residents to contain recyclable materials.

INDUSTRIAL WASTES – Includes the Solid waste that accumulated in or upon the land used for manufacturing, industrial, wholesale and slaughterhouse purposes and also includes sludge, chemical and hazardous waste. Such materials will not be collected by the City of Poughkeepsie.

INSTITUTIONAL SOLID WASTE – Solid waste originating in and around tax-exempt hospitals, not-for profit agencies and residential users, and public and/or private tax-exempt charitable, educational, philanthropic or religious institutions. All solid waste from institutions not included in this definition shall be considered commercial solid waste.

JUNK MAIL – Paper brochures and envelopes including window envelopes, office paper, FAX paper, letterhead stationery, writing paper and any paper received in the mail.

LAW – The City of Poughkeepsie's solid waste Management and Mandatory Recycling Law; this article.

LARGE HOUSEHOLD FURNISHINGS – Large and/or bulky articles used in the home and which equip it for living, including but not limited to chairs, sofas, tables, beds, mattresses and carpets.

MIXED RESIDENTIAL USE – A structure designed for and consisting of one or more residential dwelling units and a portion of which is devoted to business, professional or commercial use.

METAL CANS – Ferrous, nonferrous and composite cans and containers cleaned of any waste and labels. The term does not include these cans which are non-recyclable rubbish.

MULTIPLE RESIDENAL USER – A structure designed for and consisting of four (4) or more private residential dwelling units.

NONRECYCLABLE RUBBISH – solid waste components which cannot be reused or recycled.

OCCUPANT – An owner occupying premises which he or she owns or controls or a tenant or renter of such premises.

OWNER – The owner of premises within the City or another person who has agreed to be the owner's agent for purposes of fulfilling the owner's obligations under this article.

PERSON – One or more individuals, a partnership, corporation, firm, association, trust, estate or governmental entity or any other entity living within or conducting business within the City.

PLASTICS – Items manufactured from man-made thermoplastic polymers. The actual kinds of polymeric compounds and/or items and their preparation shall be set by regulation.

PREMISES/PARCEL – A building or group of buildings constituting a single property and the lot or parcel of land on which such building or buildings are located.

PRIVATE HAULER – Any person who removes solid waste from a person's place, for or not for a fee, with the person's consent.

RECYCLABLE CONTAINER PRODUCT – Includes but is not limited to glass, plastic and metal cans.

RECYCLABLE PAPER PRODUCT – Includes but is not limited to newspapers, magazines, corrugated cardboard and craft paper.

RECYCLABLE RUBBISH – Those items which are marketable and which may include but not be limited to metal cans, glass, scrap metal, discarded newspapers, magazines, corrugated cardboard, plastic, white goods, yard waste and tires.

RECYCLERS – Those who deal with recyclable materials as collectors, separators and/or marketers. This term shall include not-for-profit corporations and charitable corporations which collect recyclables for fundraising purposes.

REGULATION – Any action or interpretation by the City permitted by this chapter.

RESIDENTIAL SOLID WASTE – Solid waste originating in and around residential premises, including all residential users and such multiple residential, mixed residential and/or commercial users may elect and be approved by the Commissioner to receive City solid waste collection services.

RESIDENTIAL USER – A residential property containing no more than three (3), single-family living units, which includes a single-family home or

apartments, townhouses, and/or condominiums having not more than three (3) living units.

SANITARY LANDFILL – Land used for the authorized depositing of solid waste by engineered methods. “Sanitary landfill” includes a type of operation in which wastes are deposited in and or on land by a plan utilizing the principles of engineering to confine the waste to the smallest practical volume, to cover it with a layer of earth at least at the conclusion of each day’s operation and to accomplish all this without creating nuisances or hazards to public health or safety.

SCAVENGING – The uncontrolled and unauthorized picking, sorting and removal of solid waste either before, during or following disposal.

SCRAP METALS – One-hundred-percent-metal objects, including but not limited to desks, bedsprings, bicycle parts, wheels, cast-iron sinks, metal car parts and other ferrous and nonferrous metals.

SOLID WASTE – Materials or substances which are discharged or rejected as being spent, useless, worthless or in excess by the owner at the time of such discard or rejection, and shall include garbage, yard waste, recyclable rubbish, white goods, large household furnishings and non-recyclable rubbish generated by any person. The term shall not include sewage, sludge or liquid-diluted material.

SOLID WASTE DISPOSAL FACILITY – Includes any fixed facility that is established, maintained and operated, either as its primary function or in support of some other facility or operation, for the transfer, treatment and/or disposal of solid waste. It includes but is not limited to any facility that is established for the purpose of transferring, baling, composting, incinerating, recycling, shredding or land-filling any solid waste or any combination of function thereof.

SOURCE SEPARATION – The separation as specified in the regulations of solid waste into recyclables and non-recyclables before it is placed for collection or taken to a recycler for disposal

SPECIAL WASTES – Hazardous wastes, including but not limited to those wastes that can cause severe injury or disease during the normal storage, collection and disposal cycle, including explosives, flammables, pathological and dangerous chemicals or combinations of chemicals and all hazardous waste and defined by the New York State Department of Environmental Conservation regulations, 6 NYCRR Parts 365 and 366, and all other related regulations. Such material will not be collected or disposed of by the City.

WHITE GOODS – Large and/or bulky articles used in the home and which equip it for living, including but not limited to refrigerators, washers, dryers, stoves and hot-water heaters ordinarily operated by gas, wood or electric current.

WRITTEN AUTHORIZATION (of the New York State of Department of Environmental Conservation) – Includes a valid permit issued to the applicant as written evidence of a verbal agreement existing between the applicant and the Department or written evidence of an existing exemption given by the Department.

YARD WASTE – Grass clippings, leaves, cuttings from shrubs, hedges and trees and garden solid waste. "Yard waste" shall not include stumps, large rocks or stones or large quantities of dirt or construction debris.

Section 9-63 Owner Duties And Responsibilities

The owner(s) of every premises within the City shall be responsible for compliance with the provisions of this chapter and shall remain responsible therefore regardless of the fact that this chapter may also place certain responsibilities on the occupants thereof and regardless of any agreements between owners or occupants as to which party shall assume such responsibility.

Section 9-64 Public Collection And Disposal Of Solid Waste

- (a) The Department shall collect and dispose of all residential solid waste (including institutional, mixed residential and multiple residential users electing to receive and which qualify for City solid waste collection service) originating in the City, and, as further limited by this article, all solid waste from such commercial uses as may elect and qualify to receive City solid waste collection services. Such solid waste shall be stored and prepared for collection by property owners and occupants in accordance with the provisions in this chapter.
- (b) At the discretion of the Commissioner of Public Works, the Department may collect and dispose of commercial, institutional, multiple residence and mixed residential use solid waste originating in the City if the Commissioner determines that collection from such users can be accomplished using existing staff and equipment and without compromising the services provided by the City to residential users. The Department shall not collect industrial, infectious, or hazardous waste.
- (c) The Commissioner may promulgate regulations covering the items of collection of solid waste and the fees charged therefore, and such other matters pertaining to the public collection and disposal of solid waste as he/she may

deem necessary, provided that such regulations are not contrary to the provisions hereof.

- (d) The City shall collect residential solid waste originating in the City as defined by this chapter twice each week. All other collections will be made at a frequency determined by the Commissioner to be necessary consistent with the public health.
- (e) All residential users (excepting institutional residential users which do not elect to receive City waste collection services) will be provided with waste collection services by the City and shall pay for such services at the rates herein proscribed.
- (f) Commercial, institutional, multiple residential and mixed residential users, excepting those which elect to receive and are approved to receive City solid waste collection services, must provide for the lawful collection and disposal of solid waste and recyclables and must establish to the satisfaction of the Commissioner that a licensed commercial solid waste and/or recyclable collector is providing collection and disposal services for the user and that solid waste collection is being made at a frequency determined by the Commissioner to be consistent with public health requirements. Failure to provide for adequate collection and disposal services or to provide satisfactory proof to the Commissioner shall constitute a violation and shall be subject to penalties provided by Section 9-70 herein.
- (g) The Commissioner is authorized, after a time/volume study has been conducted of a mixed-residential, multiple residential, commercial and/or institutional use parcel, to enter into service agreements with such entities for the collection of solid waste and to assess a fee for collection services for that parcel based upon the amount of solid waste generated, consistent with the user fees proscribed by this Chapter and adopted annually by resolution of the City Common Council.

Section 9-65 Unpaid Waste Collection Fees

Unpaid waste collection fees shall be the personal liability of the owner(s) and shall be a lien upon the real property in connection with which solid waste collection is offered as and from the thirtieth day the month following the billing date for each quarterly installment and such indebtedness shall be subject to sale or assignment by the City to the extent permitted by law.

Section 9-66 Discontinuing Service Following Non-Payment Of Waste Collection Fees

The Commissioner may order the discontinuance of a multiple residence, mixed use residence, institutional and/or commercial user's public collection service when, after

due notice, the user has not paid user fees upon direct billing by the City or after such delinquent fees have become a lien upon the real property. Upon discontinuance of public collection service for nonpayment of user fees, the user must establish to the satisfaction of the Commissioner that a licensed commercial solid waste and/or recyclable collector will service the user.

Section 9-67 Solid Waste Collection Fund

The Commissioner of Finance shall establish and maintain a separate solid waste Collection Fund to record and control the financial activity related to the provisions of solid waste collection by the City. This fund shall be maintained on the same fiscal year as that of the City. Each year the Mayor, at the time of the submission of the annual budget estimate to the City Common Council, shall submit a statement of estimated revenues, expenditures and changes in the fund as well as the fund balance, for the current fiscal year, together with an estimate of expenditures for the next fiscal year. The Mayor shall also, at the same time, recommend a basic rate sufficient to meet the estimated expenditures for the next fiscal year, taking into consideration the estimated surplus or deficit accruing from the fund operations in the current year and other sources of revenue.

Section 9-68 Solid Waste Collection Fees

(a) Annual Determination of Fees:

The Mayor as a part of the budget process shall propose the fees charged by the City for solid waste collection and disposal services annually. A schedule of the annual collection fees shall be approved by the City Common Council by resolution and maintained on file in the Commissioner's office and the office of the City Clerk.

(b) Exemptions:

(1) Any person who because of age or disability shall qualify for exemption from City real property taxes based on an enhanced star exemption or low income tax exemption, shall be charged a reduced fee for solid waste collection and disposal services in the total sum of \$100.00 annually.

(2) Any residential user eligible for STAR tax exemption from City real property taxes, upon demonstrating that only one unit of a two or three unit residential parcel is occupied as their residents, all other units being permanently vacant, after certification to the Commissioner and inspection, pursuant to regulations promulgated by the Commissioner and approved by resolution of the City Common Council, shall pay only the annual base unit fee.

(c) For Profit Mixed Residential, Multi-Residential and Commercial Users:

The annual fee shall be based upon that user's proportional share of the cost of waste collection services not funded by *ad valorem* tax, the formula for which shall be determined annually by the Commissioner, recommended to the Mayor, and adopted by resolution of the City Common Council. The Commissioner, consistent with the formula adopted by the City Common Council, is authorized to negotiate fees pursuant to Section 9-64(g) of this Chapter, based on volume and time requirements for collection, provided that such fees shall in all instances cover at a minimum the costs of providing the service.

(d) Not-For-Profit Institutional Users:

The annual fee shall be based upon that user's proportional share of the total cost of waste collection services, the formula for which shall be determined annually by the Commissioner, recommended by the Mayor, and adopted by resolution of the City Common Council. The Commissioner, consistent with the formula adopted by the City Common Council, is authorized to negotiate fees pursuant to Section 9-64(g) of this Chapter, based on volume and time requirements for collection, provided that such fees shall in all instances cover at a minimum the costs of providing the service.

Section 9-69 Removal of residential waste

No person other than the City of Poughkeepsie shall collect or transport any residential waste, garbage, trash, ashes or recyclables generated by any residential property originating within the City, provided that a private collector, may collect, transport and dispose of such residential waste or recyclables generated by any residential structure or complex located on a single site that consists of in excess of 30 dwelling units under common ownership or under the control of a single condominium or cooperative corporation. The storage, collection and transportation of all residential waste or recyclables, whether collected by the City or by a licensed private hauler, shall be in accordance with this Code, the regulations of the Commissioner and all other applicable laws, codes or regulations.

Section 9-70 Severability

Should any section, paragraph, sentence, clause, phrase or provision in this chapter be declared unconstitutional or invalid for any reason, the remainder of the chapter shall not be affected thereby and shall remain in full force and effect.

Section 9-71 Penalties for offenses

(a) Failure to comply with the terms of this Article shall be a violation as defined by the Penal law of the State of New York and shall be punishable by a fine not exceeding \$1000 or imprisonment not exceeding 15 days for each day a violation, or by

both such fine and imprisonment, or by penalty not less the \$350 nor more then \$1000 for each day a violation to be recovered by the City in a civil action.

(b) A separate offense shall be deemed committed on each day during or on which noncompliance with the terms of this Article occurs or continues unabated after the time limit set for abatement of the violation.

(c) Any person issued a notice of violation pursuant to any provision of this Article shall be subject to an administrative fee of \$50, and such administrative fee shall be charged against the land upon which the notice of violation was issued as a municipal lien or such administrative fee shall be added to the tax rolls as an assessment or levied as a special tax against said property or recovered in a civil suit against the person to which the notice of violation was issued.

SECONDED BY COUNCILMEMBER RICH

Local Law LL-12-3		Yes/Aye	No/Nay	Abstain	Absent
<input checked="" type="checkbox"/> Accepted <input type="checkbox"/> Accepted as Amended <input type="checkbox"/> Tabled	Councilmember Herman	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Councilmember Mallory	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Councilmember Perry	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Councilmember Solomon	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Councilmember Parise	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Councilmember Boyd	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Councilmember Rich	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Councilmember Johnson	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Submitted to Council: December 17, 2012 Council Action: Approved Roll call vote taken: Yes <u>X</u> No _____ Ayes _____ Nays _____ Abstain _____ Absent _____ Approved by Mayor on <u>12/17/12</u> Mayor's Signature <u>[Signature]</u>	I hereby certify the foregoing to be a true and correct copy of a Local Law duly adopted at a regular meeting of the Common Council held <u>December 17, 2012</u> <u>[Signature]</u> City Chamberlain
--	---