

December 8, 2008

Operations Committee: 11-10-2008

RESOLUTION NO. 419-2008

**ADOPTING PROPOSED LOCAL LAW D (NO. 3) FOR THE YEAR 2008  
PROVIDING AN ORDERLY PROGRAM FOR THE COLLECTION, TRANSPORTATION,  
AND DISPOSAL OF SOLID WASTE AND RECYCLABLES IN ORDER TO PROMOTE THE  
SAFETY, HEALTH, WELFARE, AND CONVENIENCE OF THE  
CITIZENS OF ST. LAWRENCE COUNTY**

By Ms. Brothers, Chair, Operations Committee

**BE IT ENACTED**, by the Board of Legislators of the County of St. Lawrence, New York as follows:

**I. LEGISLATIVE FINDINGS**

The Board of Legislators of the County of St. Lawrence, upon consideration and in support of the adoption of Local Law D (No. 3) for the year 2008, hereby finds and declares:

1. The County in its capacity pursuant to Environmental Conservation Law § 27-0107 as the entity responsible for the preparation and implementation of a local solid waste management plan under the laws and rules of the State of New York, has determined that a comprehensive ordinance regulating the collection and disposal of solid waste generated within the County is in the public interest.
2. The safe and proper disposal of the solid wastes generated by the people of St. Lawrence County long been and remains a matter of serious public concern. On August 26, 1993, in order to provide for reliable, economical and environmentally sound long term waste disposal capacity for the County and the region, the County entered into a Solid Waste Management Participation Agreement with the Counties of Lewis and Jefferson, the City of Watertown, the Town of Rodman and the Development Authority of the North Country (DANC), which Agreement incorporated by reference a certain Solid Waste Management Agreement executed on October 1, 1986 by the aforementioned parties, with the exception of St. Lawrence County. The purpose of these agreements was to provide certain publicly owned solid waste disposal facilities by DANC for the use of the participating municipalities. Pursuant to these agreements, the Counties of St. Lawrence, Lewis and Jefferson, together with the City of Watertown, reciprocally pledged to deliver or cause to be delivered, all of the solid waste generated within their respective jurisdictions, subject to the provisions for waste reduction and recycling otherwise provided for by state and local law, to the facilities constructed and operated by DANC for their mutual benefit. The mutual promises by each of the participating municipalities and DANC serve to reduce the per ton costs of solid waste disposal to all citizens of the region.
3. In 1992 St. Lawrence County prepared a Comprehensive Solid Waste Management Plan approved by the New York State Department of Environmental Conservation on April 10, 1992. The County hereby reaffirms the objectives set forth in the plan, as amended, to reduce, reuse and recycle so much of the waste stream of St. Lawrence County as is feasible, and to landfill the remainder in an environmentally secure public landfill facility.
4. The County hereby finds that regulation to direct the flow of solid waste to facilities operated by the County is beneficial in several ways. First, such direction aids in planning for the County's

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future waste management needs by providing an accurate assessment of the type and quantity of waste generated by the people of St. Lawrence County. Second, said direction ensures that waste that is not recycled will be disposed of in an economical and environmentally secure manner at the public facilities provided by DANC. Third, said direction ensures that all persons engaged in the collection of solid waste within the County will be subject to the same uniform rules and fee structures. Fourth, said direction will ensure that the public waste system and facilities constructed to manage the waste of the County of St. Lawrence will receive both the wastes it was designed for and the revenues necessary to support itself from fees charged to users.

5. The County further determines that In order to provide for the safe and effective collection of solid waste and recyclables, it is in the public interest to establish a regulatory system for the granting of permits to collect and transport waste and recyclables within the County.
6. Pursuant to the above findings, the Board hereby adopts a Local Law regulating the disposal of solid waste in St. Lawrence County.

## II. DEFINITIONS

1. **Board of Hearing** shall mean the board described in Section IV of this local law.
2. **Commercial Waste Permit** shall mean the permit issued pursuant to Section III.1 of this local law.
3. **Construction and Demolition Debris** shall mean Solid Waste resulting from construction, remodeling, repair and demolition of structures, roads, buildings and land clearing. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, soil, rock, lumber, road spoils, paving material and tree and bush stumps.
4. **Container** shall mean a container provided by a Waste Collector for use in the collection of Solid Waste and/or Recyclables within the County.
5. **County** shall mean St. Lawrence County, New York, a municipal corporation of the State of New York, with offices at Canton, New York.
6. **County Facility** shall mean any transfer station or other facility for the receipt of solid waste and recyclables owned and operated, or caused to be operated, by the County.
7. **Department** shall mean the St. Lawrence County Solid Waste Department, its successors and assigns.
8. **Development Authority of the North Country (DANC)** shall mean the public Authority created by § 2703 of the Public Authorities Law of the State of New York with offices located in Watertown N.Y.
9. **Designated Recyclables** shall mean recyclable materials, as specifically designated by the Board of Legislators by resolution and which shall be separated from the Solid Waste stream and accepted at County Facilities.
10. **Hazardous Waste** shall mean those materials, substances, or wastes including, but not limited to, pesticides and containers used for pesticides, other waste which appears on the list or satisfies characteristics of hazardous waste promulgated by the New York State Commissioner of the Department of Environmental Conservation, and any other material, determined now or in the future, to be hazardous by State or Federal rule, regulation and/or statute.
11. **Infectious Waste** shall have the meaning specified in 6 NYCRR 360-1.2 as the same may be amended, superseded or replaced.
12. **Municipality** shall mean a County, Town, City or Village.
13. **Person** or **Persons** shall mean any individual, company, partnership, association, firm, corporation, municipality or any other entity.

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14. **Processor** shall mean a primary user of the particular material such as Recyclables, including but not limited to glass factories, de-tinners, plastic recovery facilities, paper mills or consolidators of such materials.
15. **Prohibited Materials** shall mean materials which shall not be accepted at a County Facility. The list of Prohibited Materials may be established and modified from time to time by resolution of the Board of Legislators.
16. **Recyclables** shall mean such material which under any applicable law or regulation, is not Hazardous Waste and which can be reasonably separated from the Solid Waste stream and held for its material recycling or reuse value.
17. **Refuse** shall mean putrescible and incidental non-putrescible Solid Waste including, but not limited to, animal, vegetable and paper waste. Refuse originates primarily in homes, businesses and restaurants, and has characteristics similar to that of Solid Waste collected and disposed of as part of normal residential and commercial collections in the County.
18. **Resident** shall mean any individual who is a legal resident of the County or any individual who is a temporary resident of the County.
19. **Residential Waste** shall mean Solid Waste generated from all houses, apartments and other residential dwellings, including, but not limited to, all single family dwellings and multifamily dwellings in the County.
20. **Solid Waste** shall have the meaning specified in 6 NYCRR Part 360-1.2 as the same may be amended, superseded or replaced.
21. **State** shall mean the State of New York.
22. **Transfer Station** shall mean a facility used for the consolidation of deliveries of Solid Waste by any Person in order to prepare such Solid Waste material for transport to a disposal facility.
23. **Waste Collector** shall mean any individual, association, partnership, firm, corporation, not-for-profit organization, or any other Person engaged in the business of collection, pickup, transfer, removal and/or disposal of Solid Waste and/or Recyclables for a fee.

### III. ADMINISTRATION

1. The Department, or its successor, shall be primarily responsible for all ministerial and administrative duties described or reasonably required by the terms of this local law.
2. The Department, or its successor, shall administer the program of registering and permitting all Waste Collectors and other Persons collecting, transporting or disposing of Solid Waste and/or Recyclables generated within the County. This includes the issuance, renewal, and revocation of all permits described in this local law.
3. The Department, or its successor, shall promulgate rules and regulations in connection with the operation of the County Landfill or any other Facility.
4. The Department, or its successors, shall issue warning notices and initiate proceedings pursuant to Section IV of this local law to prosecute violations of this local law.
5. The Department, or its successor, may encourage and conduct studies, investigations and research relating to various aspects of Solid Waste management as it deems necessary or as requested by the Board of Legislators or Committee.

### IV. STANDARDS AND REGULATIONS

1. Commercial Waste Permit Requirements
  - a) No Waste Collector shall collect, transport or dispose of Solid Waste and/or Recyclables generated within the County without obtaining a Commercial Waste Permit issued by the County. Each day during which a Waste Collector collects, transports or disposes of

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Solid Waste or Recyclables generated within the County without a Commercial Waste Permit shall be considered a separate violation of this Section.

- b) All applications for Commercial Waste Permits shall be in writing and shall contain such information as requested by the Department, but at a minimum, as set forth in this local law. Such applications shall include a list that identifies all vehicles that the applicant intends to utilize for the collection or transportation of Solid Waste and/or Recyclables in the County, along with the cubic yard capacity for each vehicle. The Department will assign an identification number for each vehicle, which may be the same number issued to the vehicle by DANC for use at DANC facilities. All Commercial Waste Permit information shall be verified by the applicant as required by this local law and the Department. The applicant shall pay the required permit fee as set forth in this local law.
- c) Each applicant other than a Municipality shall be required to pay a Commercial Waste Permit fee in an amount set by resolution of the Board of Legislators and amended as necessary from time to time. Municipalities shall not be required to pay permit fees identified in this Section III, but shall be required to comply with all other requirements of this Local Law.
- d) Upon receipt of the application and the payment of the Commercial Waste Permit fee, the Department shall thereupon issue the applicant a Commercial Waste Permit and vehicle decal so long as the applicant is otherwise deemed by the Department to be in compliance with this local law and related requirements of the Department. A Commercial Waste Permit shall expire on the next December 31 following the date of issue. Upon issuance of the Commercial Waste Permit the permit holder shall affix the vehicle decal to the inside rear bottom corner of the driver's window in each and every vehicle, on which shall be set forth clearly the official number of such Commercial Waste Permit and/or the license plate number of the vehicle to which the decal is affixed.
- e) Renewal of Commercial Waste Permits shall be in the same manner and subject to the same conditions as original Commercial Waste Permits, and also shall be subject to any additional requirements in effect at the time of application for renewal as specified by the Department or the Board of Legislators.
- f) Whenever satisfactory proof, such as by means of an affidavit, is submitted to the Department that a Commercial Waste Permit or decal issued for the purpose set forth in this local law has been lost or destroyed, the Department shall, upon payment by the applicant of a fee set by resolution of the Board of Legislators and amended as necessary from time to time, issue a new Commercial Waste Permit in lieu of the one that has been lost or destroyed.
- g) No Commercial Waste Permit issued pursuant to the provisions of this local law shall be transferable.
- h) Commercial Waste Permit holders who distribute waste containers or roll-off containers to customers in the County shall cause such containers to be clearly labeled, in letters not less than 4 inches in height, with the name and telephone number of the permit holder.
- i) The Department, pursuant to Section IV of this local law, shall have the power to suspend or revoke a Commercial Waste Permit granted or renewed pursuant to this local law for any violation of any provision of this local law or any applicable rule, regulation, code or ordinance relating to the collection, handling, hauling or disposal of Solid Waste and/or Recyclables including, but not limited to, those promulgated by the Department.
- j) All collection, transportation and/or disposal of Solid Waste and/or Recyclables shall be in strict conformance with the rules and regulations prescribed in this local law and as such rules and regulations may hereafter be amended or supplemented by the Department.

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- k) All vehicles used in the collection, transportation and/or disposal of Solid Waste and/or Recyclables shall be maintained in a sanitary condition the name of the Commercial Waste Permit holder shall be readily visible on all vehicles. Operation of vehicles shall be done in such a manner as to prevent spilling or loss of contents.
- l) Any Commercial Waste Permit issued pursuant to this local law shall be in the nature of a privilege subject to the terms and conditions set forth in this local law and as amended or supplemented by the Board of Legislators, and shall not be deemed to create a property interest with respect to the Commercial Waste Permit in the holder.
- m) All such Commercial Waste Permit requirements specified herein, including, but not limited to, Commercial Waste Permit fees may be amended or adjusted from time to time by resolution of the Board of Legislators.

2. Disposal of Solid Waste

- a) All Waste Collectors and other Persons shall deliver all Solid Waste and Construction and Demolition Debris generated within the County, other than Designated Recyclables or Recyclables separated at the point of generation for separate collection, to any of the following designated facilities:
  - i) County Facility at Ogdensburg (Arnold-Wagner Road);
  - ii) County Facility at Massena (Dump Road off Route 420 toward Winthrop);
  - iii) County Facility at Gouverneur (US Route 11);
  - iv) County Facility at Star Lake (Route 3);
  - v) Town of Parishville Facility
  - vi) Town of Colton Facility
  - vii) DANC Landfill, Rodman, New York

Commercial Waste Permit holders shall not dispose of any such Solid Waste at any other facility located within or outside of the County unless designated and permitted by the Department.

- b) Solid Waste generated outside the County will not be accepted at County Facilities except pursuant to approval by the Board of Legislators.
- c) Anyone entering a County Facility to dispose of Solid Waste must adhere to the rules and regulations as posted and must follow the instructions of the attendant on duty.
- d) All Commercial Waste Permit holders may dispose of Solid Waste at County Facilities.
- e) Nothing within this local law shall be construed at any time to restrict the ability of the Department to refuse to accept Hazardous Waste or other Prohibited Materials at a County Facility.
- f) No Waste Collector or other Person shall dispose of Solid Waste at a County Facility unless such Person or entity shall pay the applicable tipping fee.
- g) Tipping fees at County Facilities shall be set by resolution of the Board of Legislators and amended as necessary from time to time.

**V. ENFORCEMENT**

1. Presumptions

There shall be rebuttable presumptions in the enforcement of this local law that:

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- a) The placement of any Container which is marked or identified with the name of any Waste Collector, at any location within the County, shall be presumptive evidence that said Waste Collector is providing solid waste collection services at said location within the County as of the date of said placement.
- b) Evidence of Solid Waste in a Container located in the County as described in Section IV(1)(a) above, and subsequent observation of the same Container empty, shall be presumptive evidence that Solid Waste was collected from the Container by the Waste Collector whose name is marked on the Container.
- c) The failure to deliver any Solid Waste to a facility designated by the department pursuant to Section III(3)(a) within three days of the collection of Solid Waste from any location within the County shall be presumptive evidence of a violation of Section III (3)(a) of this local law.

2. Administrative Sanctions

- a) Penalties and License Suspension/Revocation. The Department shall have the right to impose a civil penalty and/or suspend or revoke any Commercial Waste Permit if the holder of such permit violates any of the provisions of this local law or any rules, regulations or requirements of the Department that may be adopted and modified from time to time in accordance with this local law. Civil penalties shall be assessed in an amount sufficient to compensate the County for any injury suffered, or any costs incurred by the County as a result of the violation. Civil penalties, or suspension or revocation of a Commercial Waste Permit may be imposed only after service of a written notice of violation upon the permit holder and, if demanded, a hearing as provided for in this local law.
- b) Notice. Upon any violation of the provisions of this local law or any applicable rules, regulations or requirements of the Department, the Department may serve notice in person or by ordinary mail sent to the holder of any permit issued pursuant to this local law, at the address set forth in the permit application on file with the Department. Such notice shall state the Department's intent to revoke or suspend, and/or impose a civil penalty upon the permit holder. Any holder of a Commercial Waste Permit may demand a hearing as allowed by Section IV.2.a of this local law, by serving upon the Department a written request for a hearing; such request must be received by the Department within ten days of the date of service of notice. Upon receipt of such demand, a hearing shall be scheduled and held at the offices of the Department.
- c) If the holder of a Commercial Waste Permit served with Notice pursuant to subsection (b) above fails to demand a hearing within the ten-day notice period provided for in Section IV.2.b, the revocation, suspension and/or surcharge provided for in the notice, shall be effective.
- d) Hearings. Hearings pursuant to this Section IV (2) shall be conducted by a Board of Hearing. The Board of Hearing shall consist of three persons designated by the Board of Legislators. In any hearing conducted pursuant to this Section, the following shall apply:
  - i) A stenographic record shall be kept.
  - ii) The permit holder may be represented by counsel.
  - iii) Witnesses shall be sworn and subject to cross-examination.
  - iv) Evidence submitted shall be relevant and may include evidence as to the past performance of the permit holder. Hearsay evidence shall be admissible, but shall

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be accorded such weight as the Board of Hearing deems appropriate, consistent with its reliability.

- v) Findings of fact shall be made by a majority of the Board of Hearing, in writing, upon a preponderance of the evidence.
  - vi) Upon a finding that a violation is proved, the Board of Hearing, by majority vote, shall impose such civil penalty, or order such suspension or revocation of the Commercial Waste Permit, as it deems appropriate. The determination of the Board of Hearing shall be final, and shall be subject to judicial review.
- e) Any Person who is ordered to pay a civil penalty for a violation of the provisions of this local law shall pay such penalty in full before any permit issued pursuant to this local law can be renewed or reinstated, unless otherwise ordered by the Board of Hearing.

3. Civil Enforcement. The County may enforce the orders and decisions of the Board of Hearing in a civil court of competent jurisdiction of the State of New York, including, but not limited to actions for declaratory and injunctive relief.

4. Enforcement Guidelines

The Department may establish and modify from time to time enforcement guidelines that have been adopted, and that may be amended from time to time, by resolution of the Board of Legislators with regard to any provision of this local law.

## **VI. EFFECTIVE DATE**

This article is effective upon passage by the St. Lawrence County Board of Legislators and filing with the Department of State pursuant to the Municipal Home Rule Law.

## **VII. SEVERABILITY**

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

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Ms. Brothers moved to adopt Resolution No. 419-2008, seconded by Mr. Forsythe and Mr. Morrill. Mr. Morrill said he is in favor of the Local Law as this is a business that is capital intensive with high fixed costs. He said we need to keep waste down so extra cells do not need to be created. He said it is beneficial to the citizens of St. Lawrence County to pass this law.

Mr. House said this is a complex issue and he would like to see what happens after negotiations are complete. Mr. House moved to table Resolution No. 419-2008, seconded by Ms. Perry, and failed by a roll call vote with seven (7) no votes, five (5) yes votes (Cobb, FitzRandolph, House, Perry, and Turbett), and three (3) Legislators absent (Burns, Girard, and Nichols).

Mr. FitzRandolph asked if, by passing this law, Casella would not be able to use the transfer station. Chair Turbett said he believes it is stated in the letter. Ms. St. Hilaire said number two

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of Section Four – Standards and Regulations – clarifies that question. She said she spoke to Mr. Bisnette about this. She said if the Solid Waste Department allows the other facility, it could continue to collect waste there. Mr. FitzRandolph asked Mr. Bender to verify. Mr. Bender said they were looking for a way to continue to operate and he believes that language is correct. If a facility were looking for permission to dispose of waste at any other facility within or outside of the County, Mr. Bender would come to the Board and to make that statement. Mr. Lekki arrived at 5:00 and clarified the language. Mr. Nichols also arrived at 5:00. Mr. FitzRandolph said he is ambivalent about this but not because he doesn't think it's a good idea. He said it will send a bad message if we defeat this and he feels uneasy about the process, given that there are negotiations in process. Ms. Perry will vote against this because, in the previous contract, extra tonnage was something the two parties came to agreement amicably and everyone has benefitted from that. It's something that is not a condition of the relationship. Also, she highlighted the fact that this decision will impact private employers and, according to them, will impact them negatively. She said this will result in higher costs, which will be passed on to our constituents. Mr. House said he believes competition is a necessary part of business and, without competition businesses will not look at the bottom line.

Mr. Nichols said he is in favor of flow control. He said he has heard comments about the letter from Casella. He said the extra tonnage was sent to DANC because that was one of the terms of negotiations and was helpful in finalizing the deal. The extra tonnage may have impacts on the cost of the landfill to the County. He said his hope in the past was that he would not have to place a landfill in someone's backyard but, according to DANC, the extra tonnage cuts down on the life of the landfill and that will increase our costs if we have to find another landfill. He said he wants long term stability. He said the prices went down due to cost cuts and he explained the complicated process that the County went through to cut those costs. He said if we vote for flow control it locks in the cost and signing a Flow Control Law does not mean we are doomed to higher costs. He said the folks from DANC assured us that they can provide long term, low cost. He said Jefferson County is desperate for solid waste and if we don't vote in favor of flow control, we may lose a portion to them. He said we have a responsibility to honor the terms of the contract.

Resolution No. 419-2008 was adopted by a voice vote with eight (8) yes votes, five (5) no votes (Cobb, FitzRandolph, House, Perry, and Turbett), and two (2) Legislators absent (Burns and Girard).