

**SPECIAL BUSINESS MEETING MINUTES
CITY OF BATAVIA
FEBRUARY 27, 2013**

The special business meeting of the City Council was held Wednesday, February 27, 2013 in the Council Chambers, One Batavia City Centre, Batavia, New York, with Council President Buckley presiding.

Present were Council President Buckley and Councilpersons Pacino, Briggs, Christian, Canale, Cipollone, Doeringer, Hawley and Russell.

Council President Buckley called the meeting to order at 7:00 PM.

Councilperson Briggs led the Invocation and the Pledge of Allegiance.

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The Council President assigned the regular agenda items.

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Unfinished Business

Jason Molino, City Manager, gave Council an overview of amendments needed to the 2013/14 budget in order to eliminate the Refuse and Recycling fund from the budget. He noted the increase in the General fund to cover costs for City facilities for private hauling; costs estimated to be \$15,000. He then noted that if Council wanted to consider additional time for residents to prepare for a transition to private hauling beyond the 3/31/13 that the cost would be \$85,000/month.

Councilperson Russell asked if the \$85,000 costs covered pickup and disposal. Mr. Molino indicated that it did. Councilperson Hawley said that he would like to see Council extend the ARC contract through 4/30/13, which would allow residents time to secure a private hauler. Councilperson Christian asked what the cost would be. Mr. Molino indicated that a 30 day extension would cost \$85,000 and would raise the tax rate from 8.95 to 9.14. Councilperson Hawley indicated that the increase would be approximately .17/1,000 of the assessed value. Councilperson Doeringer asked how the City handled dumpster disposal now. Mr. Molino indicated that disposal from City facility dumpsters was included in the current ARC contract. Councilperson Christian asked how the City was planning to advertise the change. Mr. Molino indicated that Administration was looking to send letters advising residents of the discontinuance of service and giving a list of collectors in the area. He also noted that Administration would

send a 2nd mailing closer to the end of the extended contract. Councilperson Russell said that if Council were to adopt the budget on 3/15/13 that that would only give residents 45 days to choose a private hauler. Councilperson Cipollone indicated that as the City is moving forward that residents could start looking now to secure a hauler. He noted that residents would have two months in order to secure collection. Councilperson Russell said that he didn't feel that 45 days would be long enough. Councilperson Doeringer asked about the adoption of the budget ordinance and the local law. Mr. Molino noted that if Council were to vote on the items after the 3/11 public hearing they would need to be unanimous voted in order to pass. He suggested that Council could look at adopting the items on 3/15 or 3/18. Council President Buckley asked if the \$85,000 fee was quoted by ARC. Mr. Molino indicated that it was. Councilperson Pacino wanted to know the timeline for the letter being sent by Administration. Mr. Molino indicated that the letter could go out the day after the items were approved. Council President Buckley indicated that he had a problem with only allowing 45 days. Mr. Molino indicated that he felt 45 days was an ample time frame. Councilperson Russell said that ample time may cost more but he wondered if 45 days was a reasonable amount of time. He noted that he would rather spend more with the onetime decision. Councilperson Christian asked what it would cost to extend through 5/31/13. Mr. Molino indicated the cost would be \$170,000. Councilperson Doeringer said that on a house assessed at \$100,000 that the resident would see an increase in taxes of \$16/month. Council President Buckley said that he was looking seriously at 5/31/13, which would give ample time. Councilperson Briggs said that she agreed with the 5/31/13 extension. Councilperson Christian said that she thought 45 days was plenty of time. Councilperson Pacino said that it would take time to notify residents of the change and that 5/31 would be better.

Motion of Councilperson Cipollone to amend expense in line 001.1620.0423 Contract Services from \$54,600 to \$69,600 (increase \$15,000). Seconded by Councilperson Hawley and approved unanimously.

Motion of Councilperson Russell to extend ARC contract thru 5/31/13. Therefore, increasing expenses in budget line items 001.8160.0423 (Contract Services) \$136,000 and 001.8160.0466 (Disposal) \$34,000 (increase \$170,000). Seconded by Councilperson Briggs and approved unanimously.

Mr. Molino then gave an overview of material changes to the Garbage and Refuse Code:

- Collection remains the same; bags must be securely tied and/or other options for garbage/recycling containers, no restrictions on sizes; to be determined by hauler.
- City is no longer responsible for refuse collection; property owner is responsible for removal and disposal of refuse.
- Recycling remains mandatory, but determined by hauler.
- Enforcement of excess garbage and refuse is same procedure in Chapter 96: Grass, Weeds and Debris.
- No longer can put garbage out 24 hours before collection; changed to no earlier than 6:00

- pm prior to collection.
 - Removes all aspects of bulk items and recycling rules and regulations; private haulers will now determine.
 - Removes private hauler licensing. Never been enforced.
- 155-2 "Debris" added to list of definitions.
- 155-3 C (2) Container sizes were eliminated and will now be dictated by the collector.
- (3) A time limit for removing empty containers from the right of way was never specifically spelled out, and now is with this change to 24 hours.
- (4) This section previously indicated that it was permitted to place refuse at the curb 24 hours prior to the scheduled day of pickup. The change permits placement no sooner than 6:00 pm on the day prior to pickup.
- 155-4 A Removed, this section pertains to the City's responsibility for providing refuse collection. This section now requires property owners to be responsible for garbage removal and disposal.
- B The previous code did not specifically address the location for placement of refuse for pickup. It now identifies the location for containers in right of way not on sidewalk,
- C Removed, refuse removal not by city or city contractor.
- D Removed, refuse collectors to determine the number of containers.
- E This section now becomes "C" and provides for removal of refuse left at the curb. New violation notices and procedures will be as per 155-8.
- F Removed, the City is not providing collection at vacant parcels.
- G Removed, the City is not collecting bulk items.
- H Removed, the City is not collecting residential construction waste.
- 155-5 Removed, the city will not be licensing private collectors. This has been part of existing code, however it has never been enforced.
- 155-7 A Now 155-6 A, Added the words "parkway and public sidewalk" to be more

specific of locations even though this section already states "other public property."

- C Included the public right of way adjoining a parcel as the responsibility of the property owner to keep in compliance regarding refuse.
- 155-8 Removed this section, the' City will not be designating sites for disposal of waste.
- 155-10 NQW 155-8, Changed this section from "Excluded items" to Notice of violation, hearing and lien procedures" detailing notices and consequences for failure to comply. Same procedure and penalties as grass, weeds and debris code.
- 155-11 Now 155-9 A "private collector" added.
- 155-12 Removed, City not collecting refuse.
- 155-13 Removed, additional rules and regulation not required.
- 155-17 Removed, City no longer determines what will be recyclable material, hauler does.
- 155-19 Now 155-15 A Changes eliminate the requirement that recyclable materials be picked up on the same day as solid waste collection,
- C Removed, City does not need the waste haulers to maintain records or reports.
- 155-20 E,F Removed, penalties for persons taking recyclables from curb is no longer applicable as it is no longer City property.

Article III 155-21 through 155-27 has been removed as it pertains to recycling rules and regulations set by the City for City collection. This will now be determined by the private hauler.

Councilperson Cipollone asked if a resident didn't select a hauler could they use the transfer station in the Town of Batavia. Mr. Molino indicated that they could. Councilperson Doeringer asked about the removal of refuse on vacant land. Mr. Molino indicated that it would be the property owner's responsibility. Councilperson Russell asked about refuse originating outside the City. Mr. Molino indicated that this section is part of the current code. Councilperson Russell said that he thought if you lived outside of the City, but paid property taxes in the City, that you should be allowed to use refuse collection at the site. He said that he felt it was unjust to tell people that they can't. He also said that he would like to see the time moved back to 3 for

people that work nights. Councilperson Canale asked what would happen to residents that get behind in billing from hauler and their services are discontinued. Mr. Molino indicated the refuse collections are the resident's responsibility and the any violations would be handled with Code Enforcement. Councilperson Canale asked if the haulers would require a permit. Mr. Molino indicated that those sections had been removed. He then noted that Council may add to the Section at a later date, if deemed necessary. Councilperson Cipollone noted that those properties in violation would receive notification with the grass, weed, debris citation. Councilperson Canale asked about refuse at the curb that was creating a problem. City Attorney, George Van Nest, indicated that, that portion of the City code was not changing and that residents would have 48 hours to comply to Code Enforcement notification of violation.

Motion of Councilperson Russell to amend Section 155-3 C(4) to change placement no sooner than 3:00 pm on the day prior to pickup. Seconded by Councilperson Briggs and approved unanimously.

Motion of Councilperson Russell to remove Section 155-11 [9] Refuse originating outside the City and to remove references to Section [155-9] from Section 155-14 [10]. Seconded by Councilperson Cipollone and approved 8-1 with Councilperson Christian voting no.

Motion of Councilperson Russell to add Section 155-24 to reflect the effective date of 6/1/2013 for the Local Law. Seconded by Councilperson Christian and approved unanimously.

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New Business

#25-2013

RESOLUTION INTRODUCING 2013-2014 BUDGET ORDINANCE AND SCHEDULING A PUBLIC HEARING

Motion of Councilperson

WHEREAS, the City Manager prepared and submitted to the City Council a Proposed Budget for the 2013-2014 fiscal year on January 14, 2013 pursuant to Section 16.3 of the City Charter, copies of which were received by all members of the City Council and a copy placed on file in the City Clerk's Office; and

WHEREAS, a Public Hearing is required for compliance with the City Charter and the public hearing will be held on March 11, 2013 at 7:00 PM in the Council Board Room of City Hall.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Batavia that the 2013-2014 Budget Ordinance as amended is hereby introduced pursuant to Section 3.13 of the City Charter.

**Seconded by Councilperson
and on roll call**

**ORDINANCE #001-2013
AN ORDINANCE ADOPTING THE 2013-2014 BUDGET AND DETERMINING THE
AMOUNT OF TAX TO BE LEVIED ON ALL REAL PROPERTY FOR THE 2013-2014
FISCAL YEAR**

BE IT ENACTED, by the Council of the City of Batavia, New York:

SECTION 1. The proposed Budget for 2013-2014, submitted by the City Manager pursuant to Sections 16.3, 16.4, and 16.5 of the City Charter on January 14, 2013, as amended, setting forth the estimates of revenues and expenditures for the fiscal year 2013-2014 of the various funds of the City of Batavia, namely, General Fund, Water Fund, Sewer Fund and Workers' Compensation Fund is hereby approved and that the several amounts allowed as estimated expenditures be and are hereby appropriated to the use of the several departments of the City of Batavia for the purpose set forth in each estimate in the proposed budgets for the fiscal year 2013-2014.

SECTION 2. The City Council does hereby finally ascertain, fix, and determine that the entire amount necessary, proper, and legal be raised by tax to defray the expenditures of the City of Batavia for the fiscal year of 2013-2014 is \$4,796,182.00.

SECTION 3. The sum of \$4,796,182 the entire amounts heretofore ascertained, fixed, and determined as necessary, proper, and legal be raised by tax to defray the expenditures of the City of Batavia for the fiscal year 2013-2014, be and the same is hereby levied on all the real property subject to taxation by the City of Batavia according to valuation upon the assessment roll for the fiscal year 2013-2014.

SECTION 4. The amounts to be raised by taxation as hereby stated for City purposes is hereby a warrant upon the Clerk-Treasurer to spread and extend such levies upon the current assessment tax roll and to collect the same.

SECTION 5. The budget summaries, as filed in the Clerk-Treasurer's Office of the various funds of the City of Batavia, are made a part hereof and are hereby declared to be part of the Ordinance.

SECTION 6. This Ordinance shall become effective April 1, 2013.

Budget Summaries

General Fund

	\$
General Fund - Capital Reserves	123,500.00
	\$
City Council	53,470.00
	\$
City Manager	177,510.00
	\$
Finance	129,853.00
	\$
Administrative Services	230,000.00
	\$
Clerk/Treasurer	122,230.00
	\$
City Assessment	141,300.00
	\$
Legal Services	206,215.00
	\$
Personnel	587,260.00
	\$
Engineering	34,000.00
	\$
Elections	23,365.00
	\$
Public Works Administration	109,440.00
	\$
City Facilities	242,110.00
	\$
Information Systems	66,800.00
	\$
General Fund – Contingency	250,000.00
	\$
Police	3,891,125.00
	\$
Fire	3,853,289.00
	\$
Control of Dogs	1,335.00
	\$
Inspection	319,740.00
	\$
Vital Statistics	17,700.00
	\$
Maintenance Administration	195,360.00

	\$
Street Maintenance	606,315.00
	\$
Public Works Garage	516,570.00
	\$
Snow Removal	577,290.00
	\$
Street Lights & Traffic Signals	279,875.00
	\$
Sidewalk Repairs	75,000.00
	\$
Community Development	25,000.00
	\$
Economic Development	10,000.00
	\$
Council on Arts	2,250.00
	\$
Parking Lots	42,350.00
	\$
Parks	668,420.00
	\$
Summer Recreation	60,840.00
	\$
Youth Services	158,805.00
	\$
Medical Insurance	7,440.00
	\$
Historic Preservation	2,395.00
	\$
Community Celebrations	13,300.00
	\$
Planning & Zoning Boards	3,200.00
	\$
Storm Sewer	230,020.00
	\$
Refuse & Recycling	79,900.00
	\$
Street Cleaning	153,460.00
General Fund - Debt	\$
Service/Bonds	546,418.00
	\$
Install Pur Debt - Municipal Lease	7,198.00
Gen. Fund – Debt Srvc-Energy	\$

Lease	69,007.00
	\$
Gen. Fund – Other Gov't Debt	92,559.00
General Fund - Transfer/Other	\$
Funds	286,530.00
	\$
TOTAL	15,289,744.00

Water, Wastewater & Workers Comp Funds **PROPOSED 2013/14**

	\$
Water Administration	2,314,060.00
	\$
Pump Station & Filtration	1,354,070.00
	\$
Water Distribution	436,100.00
	\$
Water Fund – Medical Insurance	1,130.00
	\$
Water Fund Contingency	31,700.00
	\$
Water Fund - Debt Service/Bonds	28,023.00
	\$
Install Pur Debt – Municipal Lease	3,999.00
Water Fund– Debt Srvc-Energy	\$
Lease	16,467.00
Water Fund – Transfers for Cap	\$
Proj	64,398.00
Water Fund - Transfer to Other	\$
Funds	288,920.00
	\$
Water Fund - Capital Reserve	55,200.00
	\$
TOTAL	4,594,067.00

	\$
Wastewater Administration	291,360.00

	\$
Sanitary Sewers	431,816.00
	\$
Wastewater Treatment	870,440.00
	\$
WW Fund Contingency	28,636.00
	\$
WW Fund – Medical Insurance	760.00
	\$
WW Fund - Debt Service/Bonds	154,193.00
WW Fund - Debt Srvc-Energy	\$
Lease	6,830.00
	\$
Install Pur Debt – Municipal Lease	28,792.00
WW Fund – Transfer to Other	\$
Funds	28,310.00
	\$
WW Fund – Transfer/Capital Fund	580,000.00
	\$
WW Fund - Capital Reserve	118,860.00
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TOTAL	\$ 2,539,997.00
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	\$
Workers' Compensation	410,700.00
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TOTAL	\$ 410,700.00
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TOTAL	\$
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AMENDED

#25-2013

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Seconded by Councilperson Russell and on roll call approved unanimously.

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Install Pur Debt – Municipal Lease	28,792.00
WW Fund – Transfer to Other	\$
Funds	28,310.00
	\$
WW Fund – Transfer/Capital Fund	580,000.00
	\$
WW Fund - Capital Reserve	118,860.00

	\$
TOTAL	2,539,997.00

	\$
Workers' Compensation	410,700.00

	\$
TOTAL	410,700.00

	\$
TOTAL	23,019,508.00

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**#26-2013
RESOLUTION INTRODUCING A LOCAL LAW AMENDING §155, SOLID WASTE,
OF THE BATAVIA MUNICIPAL CODE AND PROVIDING FOR PUBLIC NOTICE
AND HEARING**

Motion of Councilperson

BE IT RESOLVED, that Local Law No. 3 of the Year 2013 entitled “**LOCAL LAW NO. 3 OF THE YEAR 2013 CITY OF BATAVIA TO AMEND §155, SOLID WASTE, OF THE BATAVIA MUNICIPAL CODE**” be introduced before the City Council of Batavia, New York; and

BE IT FURTHER RESOLVED, that copies of the aforesaid proposed Local Law be laid upon the desk of each member of the City Council by the City Clerk; and

BE IT FURTHER RESOLVED, that the City Council hold a public hearing on said proposed Local Law in the Council Board Room, Second Floor, One Batavia City Centre, Batavia, New York, at 7:00 p.m. on Monday, March 11, 2013; and

BE IT FURTHER RESOLVED, that the City Clerk publish or caused to be published a public notice in the official newspaper of the City of said public hearing at least three (3) days prior thereto.

**Seconded by Councilperson
and on roll call**

**LOCAL LAW NO. 3 OF THE YEAR 2013
CITY OF BATAVIA**

**A LOCAL LAW TO AMEND §155, SOLID WASTE, OF THE BATAVIA MUNICIPAL
CODE**

Be It Enacted by the City Council of the City of Batavia, New York as follows:

Section 1.

Chapter 155.

ARTICLE I

Garbage and Refuse

155-1 Title

This chapter shall be known and may be cited as the "City of Batavia Garbage and Refuse Ordinance."

155-2 Definitions

As used in this chapter, unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

CONSTRUCTION WASTE

Waste from building construction, alterations or repair, dirt from excavations or similar waste products from construction sites.

DEBRIS

Any form of garbage, trash, recyclables, appliances, construction waste, yard waste, bulk items or any other refuse.]

EXCLUDED ITEMS

~~Building demolition and construction wastes from nonresidential properties and lawn and yard waste material.~~

GARBAGE

Animal wastes, fish, fowl, fruit, vegetable matter and such similar wastes incident to the preparation, cooking and serving of food and the handling, storage and sale of food and produce products.

LAWN AND YARD WASTE MATERIAL

Leaves, grass, garden clippings, hedge trimmings, weeds, brush and tree branches.

PRIVATE COLLECTOR

Any person offering to collect and dispose of refuse materials from private properties for financial remuneration.

REFUSE

Solid waste products and materials incident to housekeeping and the conduct of commercial enterprises, including, but not limited to, garbage, paper, cartons, boxes, wood, discarded furniture, metal, tin cans, glass, dirt, ashes and similar solid waste products. The term "refuse" shall be inclusive of all other terms therein defining any other wastes but shall exclude, however, all excluded items as herein defined.

RUBBISH OR TRASH

All other miscellaneous solid waste materials and refuse from housekeeping and commercial enterprises other than garbage and excluded items as herein defined.

155-3 Refuse storage prior to collection

A. Accumulations.

(1) Refuse shall not be permitted to accumulate on any private or public property within the City in such manner as would tend to create a nuisance, health menace or in any manner be injurious to the health or welfare of the inhabitants of the City.

(2) It shall be unlawful and a violation of the article for any person, corporation, association, etc., being the owner, tenant or person, etc., in title and/or in possession of real property to accumulate and/or store, for any purpose whatsoever, used vehicle tires exceeding, in the cumulative, 1,000 cubic feet.

B. Containers. All containers shall be a plastic trash bag or any other type of metal or plastic container that is suitable for the storage of solid waste, which will not deteriorate or break apart when wet. This definition shall specifically exclude cardboard, wood, paper or paperboard containers.

C. Regulations and restrictions.

(1) All solid waste shall be stored in containers.

(2) All containers shall be maintained in a clean, watertight and good condition. All containers kept or placed out of doors, other than plastic garbage bags, shall be provided with tight-fitting lids or covers [that are securely attached to the container.] All plastic bags shall be securely tied. ~~No container or plastic garbage bag shall exceed 35 gallons in volume or 50 pounds in weight.~~

(3) Except when set out for collection, containers shall be located either indoors, in a completely enclosed structure or facility, or in the rear of premises ~~hidden~~ [obstructed] from view from any adjacent street and/or sidewalk. [Within 24 hours of waste collection, emptied containers shall be returned to an approved storage location.]

(4) No refuse shall be placed at curbside [before 6:00 pm on the day] ~~more than 24 hours~~ prior to scheduled collection.

155-4 Refuse collection

~~A. City's responsibility. The collection of refuse in the City shall be the responsibility of the City which shall make periodic refuse pickups throughout the City from refuse cans provided by property owners or tenants as may be provided by contract with a collector for the City or B. A.~~

Location of containers. Containers [placed in the right of way for collection] shall [not occupy] ~~be placed~~ [any portion of the street or public sidewalk.] ~~for collection in locations as may be designated by the Department of Public Works or as provided by contract for collection.~~

~~C. — Disposal. Disposal of refuse so collected shall only be in such a manner specified by resolution of the Council or contract with a collector awarded by the Council.~~

~~D. — Limitations on refuse pickup. Residential and commercial collections of refuse shall be limited to five containers, as defined in § **155-3B**, per week.~~

~~E. [B] Excess garbage and refuse. In the event that more than five containers as set forth in § **155-33B** are placed for collection, garbage, trash, recyclables, appliances, construction waste, yard waste, bulk items or other refuse placed for collection is not removed within 24 hours of placement, the Director of Public Works or his/her designated representative shall notify, by regular mail and by affixing to the front door, any such persons that they are in violation of this section.~~

~~the event that bulk items are not disposed of properly with the required tags or labels as set forth in Subsection **G** herein; the excess or bulk items will not be picked up by the City or its designee. The Department of Public Works will immediately notify in person or by first class mail the owner or the owner's executor, legal representative or agent, at the last known address of the same as shown by the records of the City Assessor, that the owner must remove the excess garbage, refuse, rubbish, trash or bulk items, at the owner's expense, within the following time periods: 48 hours from the receipt of notice if personally delivered or affixed to the front door; or 48 hours from deposit of the notice by first class mail. Upon the expiration of the time period herein, the City is authorized to employ a private contractor or utilize City forces to pick up and dispose of the excess garbage, refuse or bulk items. The cost of this disposal, plus a sum of \$50 as an administrative charge, shall be charged to the owner and an invoice shall be sent by first class mail by the City Clerk. If not paid within 30 days, the charge shall be a lien against the real property of the owner to the same extent as City taxes, and shall be included in the general tax roll and enforced in the same manner as other City taxes.~~

~~F. — Vacant land. Vacant land which does not contain a building is not eligible for collection, and the owner thereof can not use such a parcel to increase the limits set forth in Subsection **D** herein.~~

~~G. — Bulk items.~~

~~(1) — Individual items of refuse, rubbish and trash, as well as metal items which can be recycled and may require a special collection all as hereinafter stated, will be collected from residential units by the City or its designee if each item is marked with the appropriate number of officially designated tags, labels or stickers as herein described. Businesses must make their own arrangements for disposal of these items. The cost for the tags, labels or stickers shall be as set from time to time by resolution of the City Council, and they may be purchased at locations designated by the City Manager.~~

~~(2) The bulk items are as follows:~~

~~(a) One tag, sticker or label for televisions, computers, chairs (single seat), three rolls of carpet or padding which are tied no larger than four feet in length than 50 pounds, tables, metal cabinets (over 50 pounds), and other small furniture items weighing less than 50 pounds.~~

~~(b) Two tags, stickers or labels for box springs, mattresses, couches (two or more seats/cushions), large furniture items, including dressers, chests, desks and other similar items weighing 50 pounds or more; white goods, including stoves, freezers, refrigerators, hot-water heaters, air conditioners, clothes washers or dryers, dishwashers, furnaces and other similar appliance items, toilets, bathtubs or sinks weighing more than 50 pounds, large garden equipment (7 horsepower or larger), including riding lawn mowers and snowblowers and other similar items.~~

~~(c) The City reserves the right to reject any items which are too large or heavy for pick up by the City or its designees.~~

~~H. Residential construction waste.~~

~~(1) Small quantities of construction waste generated by residential property owners may be set out for collection by the property owner as long as the waste meets the general criteria for refuse collection in §§ 155-3 and 155-4A and B.~~

~~(2) Construction waste must be placed in containers. No loose construction waste will be collected.~~

~~(3) No contractor-generated construction waste will be collected. It is the responsibility of any contractor generating such waste to remove and dispose of the construction waste in a sanitary and safe manner, and in accordance with applicable state and federal regulations, at his own expense.~~

~~**155-5 Private refuse collection**~~

~~A. License required; regulations. Persons may be licensed, as private collectors to collect refuse, other than garbage at no cost to the City, provided that such collection is performed in accordance with the provisions of this chapter. and any regulations adopted pursuant hereto and produces no objectionable conditions in or on the streets of the City.~~

~~B. Application. Private collectors shall apply to the City Manager for a license before engaging in the refuse collection business, and if such application is approved by the City Manager, a license shall be issued by the Clerk-Treasurer.~~

~~C. Fee. The fee for a private collector's license shall be as set from time to time by resolution of the City Council.~~

~~D. Term; display. Each license shall be issued for the calendar year only, regardless of the date of issuance. The collector's license shall be publicly displayed on each vehicle so licensed.~~

155-6-5 Private rubbish collection vehicles

Every vehicle used to collect and remove rubbish or trash in the City ~~by a licensee under this chapter~~ shall be constructed and equipped as follows:

- A. Construction of the vehicle shall be such that trash or rubbish loaded thereon shall be securely contained.
- B. The vehicle shall be equipped with a permanently attached cover either of rigid construction or a fabric material.
- C. The vehicle shall be equipped with sides of rigid material, either wood or metal, of such type so as to securely contain trash and rubbish.
- D. The vehicle shall be equipped with a solid tailgate or rear doors of rigid construction of a height equal to the sides of the truck which, when closed, shall securely hold or contain all trash or rubbish.

155-7 6 Illegal disposal of items

A. It shall be unlawful for any person to deposit, dump, scatter or leave any garbage, lawn and yard waste material, refuse, rubbish, trash, hazardous waste, recyclables or any other materials or items of any kind or nature, upon private property or any portion thereof, or upon any public street, parkway, public sidewalk, alley, parking lot or other public property; except pursuant to the terms and conditions for the proper disposal of items in the relevant portions of the City of Batavia Municipal Code, and except upon approved public disposal sites as may be designated by the Council, and except where certain of these materials are used in a normal manner for improving property by grading, filling, fertilizing or resurfacing.

B. It shall be a violation of this section concerning private property or any portion thereof without regard to whether or not the person in violation owns the property in question or without regard as to whether or not the person in question has permission from the owner of the private property if the violator does not own the same.

C. The property owner of private property shall be legally responsible for any violation of any provision of this chapter, including violations located within the public right of way immediately adjoining their property. ~~the Batavia Municipal Code regarding the proper disposal of items as set forth in Subsection A herein by any occupant or tenant of the owner's property.~~

~~155-8~~ Disposal sites

~~The Council may from time to time designate a site or sites for disposal of one or more types of material to be maintained and operated for the exclusive use of the residents of the City and private collectors of trash or rubbish licensed by the City. Any person making use of the disposal site for dumping of refuse may be required by the City's employees or its agents to furnish evidence that he or she is a resident of the City or representative of a business located in the City for whom he or she is handling refuse for disposal.~~

155-9 7 Disposal site use restrictions

- A. All dumping or depositing of refuse at any City disposal site shall be done only at the direction of and in the manner prescribed by the City's employees or its agents. Dumping shall be confined to such area or areas as may be designated.
- B. It shall be unlawful for any person or persons to dump or deposit any refuse at the disposal site except on the days and during the hours designated by resolution of Council. The days and hours when dumping is permitted shall be conspicuously posted at the disposal site.
- C. It shall be unlawful for any person to start a fire at the disposal site.
- D. No salvaging or scavenging shall be permitted on the disposal site.

~~155-10~~ 8 Excluded items Notice of violation, hearing and lien procedures.

A. Notice. When the Director of Public Works or his/her designated representative deems it necessary, he/she shall notify, by regular mail and by affixing to the front door, any such persons that they are in violation of this section. Said notice shall be in substantially the following form:

	TO THE OWNER AND OCCUPANTS OF PROPERTY IN THE CITY OF BATAVIA:
	Please take notice that you are hereby required to remove all garbage, trash, recyclables, appliances, construction waste, yard waste, bulk items or other refuse and debris from the private property and/or the public right

	<p>of way immediately adjoining the private property owned or occupied by you, and to comply with the ordinance of the City of Batavia relative to Garbage and Refuse. In the event of your failure to remove such debris, the Director of Public Works or his/her duly designated representative may cause such debris to be removed, and the actual cost of removal plus \$250 for inspection and other additional costs in connection therewith, shall thereupon become and be a charge and lien upon your property and shall be collected the same as other taxes upon your property.</p>
	<p>Where a violation occurs more than once during the same calendar year with respect to the same parcel of property, a surcharge of \$100 shall be added to the above costs and expenses. Where multiple properties are referenced in a notice, decision and/or order, the surcharge of \$100 shall apply to each separate parcel of property.</p>

B. Failure to comply with notice.

(1) If the provisions of the foregoing subsections are not complied with within two days of the date of mailing and by affixing to the front door of the notice hereinbefore provided for, the Director of Public Works or his/her duly designated representative may remove the debris. The actual cost of such removal, plus \$250 for inspection and other additional costs in connection therewith, shall be billed to the property owner, a copy of which shall be forwarded to the City Clerk/Treasurer by the Director of Public Works or his/her duly designated representative. Thirty days after the billing date, all unpaid charges will become and be a lien upon the property on which said debris was located and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes levied and assessed against such property, or the same may be collected by suit against the owner or owners in the name of the City.

(2) Any person who shall fail, neglect or refuse to comply with the provisions of any notice herein provided for or who shall resist or obstruct the Director of Public Works or his/her duly-designated representative or his employees in the cutting and removing of debris shall, upon conviction thereof, be subject to a penalty as hereinafter provided, and each day on which such violation continues shall constitute a separate offense.

C. Upon receipt of a hearing request, the Director of Public Works shall set a date, time and place for the same as soon as practicable. The Director shall cause written notice to be given to a representative of the City Inspection Department and to the person requesting the hearing not less than 10 days prior to said scheduled hearing date.

D. At the date, time and place specified in the notice, the City Manager or his designee shall serve as the Hearing Officer and shall conduct the hearing. The hearing shall be conducted informally by the Hearing Officer, and oral or documentary evidence pertinent to the facts and issues raised by the City Inspection Department and other interested parties shall be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. All parties to the hearing shall be afforded a fair hearing providing the basic safeguards of due process, including, but not limited to, the right to counsel, the right to cross examine witnesses, the right to present relevant evidence as well as the right to review adverse evidence.

E. Following the close of the hearing, the Hearing Officer shall make a decision and order as to whether a violation of this chapter has occurred and, if so, the manner and time limits within which the same shall be corrected and/or what charges and costs should be assessed. Such decision and order shall be made in writing, and a copy shall be delivered to each participant in the hearing either personally or by first-class mail.

F. Where a violation occurs more than once during the same calendar year with respect to the same parcel of property, a surcharge of \$100 shall be added to the above costs and expenses. Where multiple properties are referenced in a notice, decision and/or order, the surcharge of \$100 shall apply to each separate parcel of property.

G. In lieu of the foregoing, the Director of Public Works or his/her designated representative may issue and serve an appearance ticket for violation of this chapter to persons within the City of Batavia returnable in the City Court.

~~Excluded items, as herein defined, are neither garbage and refuse nor recyclables. They shall not be placed at curbside for collection, nor shall they be collected by the City, its employees, agents and contractors. It is the responsibility of the owner, occupant or resident of premises within the City to provide for their safe disposal. It shall be a violation of this article to place any excluded items in with garbage and refuse or recyclables.~~

155-11 9 Refuse originating outside the city

A. No person shall bring in, place or deposit or cause to be brought into, placed or deposited in the City of Batavia any garbage, refuse, rubbish, trash, ~~excluded items, recyclables as defined in § 155-22 of Article III~~, hazardous waste and/or material originating outside the City of Batavia for the purpose of disposing of the same in the City or for the purpose of having the same collected by private collector, the City, its employees, agents or contractors.

B. No person who is a resident of the City of Batavia or owner, lessee or person in control of real property within the City shall permit any person to bring in, place or deposit any garbage, refuse, rubbish, trash, excluded items, recyclables, as defined in § 155-22 of Article III, hazardous waste and/or material originating outside the City on any real property owned or leased by him or her or under his or her control, whether for accumulation or collection.

~~155-12 Unauthorized removal or refuse~~

~~No person other than an authorized employee or agent of the City shall disturb or remove any refuse placed for collection unless authorized by the owner, tenant or occupant of the premises from which the refuse originated.~~

155-13 Additional rules and regulations

~~The Director of Public Works may prepare and publish such additional rules and regulations, not inconsistent herewith, as may be necessary for the effective enforcement and administration of the provisions of this article. A violation of any such rules shall be punishable as a violation of this article.~~

155-14 10 Penalties for offenses

A. Any violation ~~person violating any provision~~ of this article other than § ~~155-11~~ 155-9 ~~hereof~~ shall be punishable by a fine of not more than \$250 or imprisonment ~~in the county jail~~ for not more than 15 days, or both, for each day the violation exists.

B. Any person violating § ~~155-11~~ 155-9 hereof shall be guilty of an unclassified misdemeanor and shall be punished for each conviction by a fine of not less than \$500 and not more than \$1,000. In addition, any violation of said section shall be punishable in the court's discretion by imprisonment of not more than 30 days, or by both such fine and imprisonment.

C. Each commission or omission of a single act under § ~~155-11~~ 155-9 shall constitute a separate violation of this article. Each day of a separate violation shall constitute a separate offense, which may be punished and prosecuted as such.

ARTICLE II

Separation and recycling

155-15 11 Findings and purpose

A. The City finds that the removal of certain materials from the solid waste stream will decrease the amount of solid waste disposed of in landfills and aid in the conservation of valuable resources.

B. The City finds that the New York Solid Waste Management Act of 1988 requires all municipalities to adopt a local law or ordinance by September 1, 1992, requiring separation of recyclable and reusable material from solid waste.

C. The City finds that in order to protect the health, safety and welfare of the people of the City, it is necessary for the City to enact this article in order to encourage and facilitate the maximum recycling practicable on the part of every household, business and institution within the City.

D. The City declares that the purpose of this article is to establish, implement and enforce recycling related practices and procedures to be applicable to all waste generators within the City.

155-16 12 Definitions

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

AUTHORIZED FACILITY

A public or private facility or facilities where recyclables may be delivered for disposal, including but not limited to dropoff centers, materials recovery facilities or other such public or private facilities designated by the Director of Public Works. ~~pursuant to the recycling rules and regulations.~~

CITY

City of Batavia, New York.

COUNTY

Genesee County, New York.

PERSON

Natural persons and all other legal entities, including corporations.

RECYCLABLES

Any material so designated from time to time by the City, County, New York State, federal government or by the Director of Public Works pursuant to the recycling rules and regulations, provided that such material is not hazardous and can be reasonably separated from the solid waste stream and held for material recycling or reuse value.

RECYCLING RULES AND REGULATION

~~Those rules and regulations promulgated pursuant to § 155-17 of this article.~~

SOLID WASTE

All putrescible and nonputrescible solid waste, including but not limited to materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, or are being accumulated, stored or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or as industrial, commercial and agricultural waste, sludges 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, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation.

SOURCE SEPARATION

The segregation of recyclable material from the solid waste stream at the point of generation for separate collection, sale or other disposition.

WASTE GENERATOR

A. **RESIDENTIAL WASTE GENERATOR**

— Any person owning and/or occupying a "single-family private dwelling," as said term is defined in § 4 of the New York State Multiple Dwelling Law, that produces solid waste requiring off-site disposal.

B. NONRESIDENTIAL WASTE GENERATOR

— Any person owning and/or occupying a "two-family private multiple dwelling" or a "multiple dwelling," as said terms are defined in § 4 of the New York State Multiple Dwelling Law, as well as owner(s) and/or occupant(s) of all other businesses, governmental agencies, municipalities and other legal entities.

WASTE HAULER

All persons engaged in the commercial collection, transportation and/or disposal of solid waste and/or recyclables generated, originated or brought within the county.

155-17 13 Administration; rules and regulations

A. The City Manager or his designee shall be primarily responsible for all ministerial and administrative duties described or reasonably required by the terms of this article. The City Council, among other things, is hereby authorized and directed to develop, promulgate, implement and modify recycling rules and regulations governing the separation, collection, transportation and disposal of recyclables.

B. The recycling rules and regulations shall, among other things:

- (1) Identify, define, expand and amend categories of recyclables to be source-separated and/or subject to special handling requirements;
- (2) Identify one or more authorized facilities to which recyclables may be delivered, subject to such expectations as the City Council may determine to be in the public interest;
- (3) Establish a program to implement and enforce source separation which may reflect local differences in population density, accessibility and capacity of markets and facilities, collection practices and solid waste composition; and
- (4) Prescribe all other rules and regulations reasonably required by the terms of this article.

C. In promulgating and enforcing such recycling rules and regulations, the City Council shall use such discretion as necessary to carry out the provisions of this article. When exercising such discretion, the City Council shall consider, among other things:

- (1) Existing source-separation, recycling and other resource recovery facilities and practices in the area;

(2) Expense incurred or to be incurred by waste generators and waste haulers to comply with such recycling rules and regulations;

(3) The capacity, handling, disposal and marketing capabilities of available facilities; and

(4) Other factors affecting the public interest.

155-18 14 Preparation of recyclables for collection

A. Each waste generator in the City shall source-separate recyclables from solid waste as provided in the recycling rules and regulations and comply with all applicable rules and regulations for such source separation as specified therein.

B. Each waste generator in the City shall provide for the removal of recyclables from the property on which they are generated either through a service provided by a municipality, or a private hauler, or by direct haul by the individual waste generator to an authorized facility specified by the City Council. pursuant to the recycling rules and regulations.

C. Nothing in this article is intended to prevent any waste generator from making arrangements for the reuse, private collection, sale or donation of recyclables; provided, however, that such recyclables shall be placed at curbside or at any other designated collection place only on the day the same is designated for collection by the City or after 7:00-6:00p.m. on the day before the City's designated collection day. Recyclables placed at curbside for collection by other than the City of Batavia, or by its duly authorized agent, shall be placed in containers differing in color from City distributed refuse containers so as to be readily distinguishable from containers used for curbside pickup of recyclables by the City or by its duly authorized agent. All collections of recyclables by other than City employees or agents shall be reported to the City Manager as required by the recycling rules and regulations.

~~D. From the time recyclables are placed at the curb by a waste generator for collection, they shall become the property of the City of Batavia. It shall be a violation of this article for any person without authority from the City of Batavia to collect, pick up, remove or cause to be collected, picked up or removed any recyclables from curbside. Each such collection, pickup or removal from any one premises shall constitute a separate and distinct offense in violation of this article.~~

155-19 15 Waste haulers

A. All waste haulers in the City shall offer or cause to be offered to their customers collection, transportation and disposal services for recyclables to the same extent any such waste hauler offers collection, transportation and disposal services for solid waste. Such services shall be provided on the same day(s) as solid waste pickup services are provided unless otherwise authorized by the recycling rules and regulations.

B. No waste hauler shall be required to accept for collection solid waste which has not been source-separated or hazardous waste separated.

~~C. All waste haulers must maintain all records and supply all reports required by the recycling rules and regulations.~~

~~155-20 Enforcement~~

~~A. The City may inspect all portions of vehicles and/or containers used in the collection, transportation and/or disposal of solid waste and/or recyclables, including, but not limited to, containers placed at the curbside of residences, to ascertain compliance with the terms and conditions specified in this article and the recycling rules and regulations.~~

~~B. During any 12 consecutive month period of time, any residential waste generator violating any provision of this article and/or the recycling rules and regulations shall be punished for each violation as follows: for the first violation, by a written warning; for the second violation, by a fine not to exceed \$25; and for a third and each subsequent violation, by a fine not to exceed \$50.~~

~~C. During any 12 consecutive month period of time, any nonresidential waste generator violating any provision of this article and/or the recycling rules and regulations shall be punished for each violation as follows: for the first violation, by a written warning; for the second violation, by a fine not to exceed \$50; and for a third and each subsequent violation, by a fine of not less than \$100 and not more than \$250.~~

~~D. Any waste hauler violating any provision of this article other than § 155-18D hereof and/or violating any of the provisions of the recycling rules and regulations shall be punished for each violation as follows: for the first violation, by a fine of not less than \$25; for the second violation, by a fine of not less than \$50; and for a third and each subsequent violation, by a fine of not less than \$100.~~

~~E. During any 12 consecutive month period of time, any person violating § 155-18D of this article shall be punished for each violation as follows: for a first violation, by a fine of not less than \$50; for a second violation, by a fine of not less than \$125; and for a third and each subsequent violation, by a fine of \$250. In addition, any violation of § 155-18D shall be punishable by imprisonment of not more than 15 days.~~

~~F. It is the City's intent that persons convicted of violating any provisions of this article other than § 155-18D be made aware of the community's needs for an effective recycling program and be encouraged to recycle. Accordingly, it is urged that violators be sentenced to community service related to the City's recycling efforts whenever and to the extent practicable in lieu of fines being collected.~~

ARTICLE III

Recycling rules and regulations

155-21 Purpose

The following rules and regulations governing recycling within the City of Batavia are being enacted pursuant to § ~~155-17~~ of Article ~~II~~, Separation and Recycling, of this chapter.

~~155-22 Definitions~~

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

AUTHORIZED FACILITY

~~A public or private facility or facilities where recyclables may be delivered for disposal, including but not limited to dropoff centers, materials recovery facilities or other such public or private facilities designated by the Director of Public Works pursuant to the recycling rules and regulations.~~

~~*Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. I).*~~

~~*Editor's Note: The definition of "Committee," as amended 10-24-1994 by L.L. No. 6-1994, which immediately followed this definition, was deleted 12-28-1998 by L.L. No. 3-1998.*~~

CITY

~~City of Batavia, New York.~~

COUNTY

~~Genesee County, New York.~~

PERSON

~~Natural persons and all other legal entities, including corporations.~~

RECYCLABLES

~~Any material so designated from time to time by the City, county, New York State, federal government or by the Director of Public Works pursuant to the recycling rules and regulations, provided that such material is not hazardous and can be reasonably separated from the solid waste stream and held for material recycling or reuse value.~~

~~*Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. I).*~~

RECYCLING RULES AND REGULATIONS

~~Those rules and regulations promulgated pursuant to § ~~155-23~~ of this article.~~

SOLID WASTE

~~All putrescible and nonputrescible solid waste, including but not limited to materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, or are being accumulated, stored or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or as industrial, commercial and agricultural waste, sludges 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, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation.~~

SOURCE SEPARATION

~~The segregation of recyclable material from the solid waste stream at the point of generation for separate collection, sale or other disposition.~~

WASTE GENERATOR

~~— **A. RESIDENTIAL WASTE GENERATOR**~~

~~— Any person owning and/or occupying a "single family private dwelling" as said term is defined in § 4 of the New York State Multiple Dwelling Law that produces solid waste requiring off site disposal.~~

~~— **B. NONRESIDENTIAL WASTE GENERATOR**~~

~~— Any person owning and/or occupying a "two family private multiple dwelling" or a "multiple dwelling" as said terms are defined in § 4 of the New York State Multiple Dwelling Law, as well as owner(s) and/or occupant(s) of all other businesses, governmental agencies, municipalities and other legal entities.~~

WASTE HAULER

~~All persons engaged in the commercial collection, transportation and/or disposal of solid waste and/or recyclables generated, originated or brought within the county.~~

155-23 Recyclables

~~A.— The City Council of the City of Batavia shall, by resolution as it deems appropriate from time to time, designate the types of recyclables to be separated from the solid waste stream, and how these recyclables shall be prepared for recycling and made ready for pick up.~~

~~B.— Containers to be used for recyclables have to be ones that are approved or designated by the Director of Public Works.~~

~~C.— Each waste generator as defined herein shall be limited to placing at the curb for collection two approved containers and one bundle of corrugated cardboard with dimensions of three feet by three feet by three feet.~~

~~D.— Certain recyclable items which are too large or heavy to be placed in the approved containers shall be picked up by the City or its designee as set forth in § **155-4G** of the Batavia Municipal Code.~~

155-24 Waste delivery and disposal

~~Solid waste generated or originated within the City for collection or which is delivered to an authorized facility for disposal shall be handled as follows:~~

~~A.— Prior to initial collection or transportation, solid waste shall be separated into two streams, recyclables and solid waste.~~

~~B.— Recyclables shall not be commingled with other solid waste during collection, transportation, processing or storage following collection.~~

155-25 Authorized facilities

The Director of Public Works shall, from time to time, publish a list of those items that must be delivered for disposal at a named facility.

155-26 Reporting requirements

~~A. Any waste haulers or any other person that collects, transports and/or disposes of recyclables shall maintain monthly records of recyclable material that includes the following:~~

~~—— (1) The number of households or commercial businesses in which the recyclables were generated.~~

~~—— (2) The quantity, by ton, of each type of recyclable material collected.~~

~~—— (3) The quantity, by ton, of each type of recyclable material delivered to each authorized facility.~~

~~—— (4) Listing by street address of households that are consistently not complying with recycling requirements.~~

~~—— (5) The quantity, by ton, by month of all waste transported to landfills, incinerators or transfer stations.~~

~~B. Reports containing the information required in this section shall be compiled and delivered to the Director of Public Works at the end of each reporting period. Reports shall be provided to the Director of Public Works quarterly within 10 business days from the end of each calendar quarter and shall contain information broken down on a monthly basis.~~

155-27 Penalties for offences

~~A. The City may inspect all portions of vehicles and/or containers used in the collection, transportation and/or disposal of solid waste and/or recyclables, including but not limited to containers placed at the curbside of residences, to ascertain compliance with the terms and conditions specified in this article and in Article II, Separation and Recycling, of this chapter.~~

~~B. During any 12 consecutive month period of time, any residential waste generator violating any provision of this article and/or Article II, Separation and Recycling, of this chapter shall be punished for each violation as follows: for the first violation, by a written warning; for the second violation, by a fine not to exceed \$25; and for a third and each subsequent violation, by a fine not to exceed \$50.~~

~~C. During any 12 consecutive month period of time, any nonresidential waste generator violating any provision of this article and/or Article II, Separation and Recycling, of this chapter shall be punished for each violation as follows: for the first violation, by a written warning; for~~

~~the second violation, by a fine not to exceed \$50; and for a third and each subsequent violation, by a fine of not less than \$100 and not more than \$250.~~

~~D. Any waste hauler violating any provision of this article other than § 155-24 hereof and/or violating any of the provisions of Article II, Separation and Recycling, of this chapter shall be punished for each violation as follows: for the first violation, by a fine of not less than \$25; for the second violation, by a fine of not less than \$50; and for a third and each subsequent violation, by a fine of not less than \$100.~~

~~E. During any 12 consecutive month period of time, any person violating § 155-24 of this article shall be punished for each violation as follows: for a first violation, by a fine of not less than \$50; for a second violation, by a fine of not less than \$125; and for a third and each subsequent violation, by a fine of \$250. In addition, any violation of § 155-24 shall be punishable by imprisonment of not more than 15 days.~~

~~F. It is the City's intent that persons convicted of violating any provisions of this article other than § 155-24 be made aware of the community's needs for an effective recycling program and be encouraged to recycle. Accordingly, it is urged that violators be sentenced to community service related to the City's recycling efforts whenever and to the extent practicable in lieu of fines being collected.~~

ARTICLE III

Dumpsters

~~155-28-16~~ Purpose

This article is adopted for the protection and promotion of the public health, safety and general welfare of the community by regulating the storage of garbage and other waste materials as well as the use and maintenance and operation of bulk garbage containers referred to herein and commonly known as "dumpsters" and "compactors."

~~155-29-17~~ Definitions

As used in this article, the following terms shall have the meanings indicated:

ASHES

The residue from fires used for cooking and heating and on-site incineration.

CONTAINER

Either a dumpster or compactor container used for bulk storage of garbage and other waste materials that can be hauled directly to a point of disposal or emptied into a larger container for transport and disposal.

GARBAGE

Wastes from the preparation, cooking and serving of food; market wastes and wastes from handling, storage and sale of products of any type.

HAZARDOUS WASTE

A substance capable of creating harm to people, the environment and/or property.

RUBBISH

Shall consist of the following:

A. Combustible: paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture, bedding dunnage and petroleum products.

B. Noncombustible: metals, dirt, glass, crockery and minerals.

WASTE MATERIALS

All trash, refuse, junk and discarded items, including rubbish.

155-30-18 Collection

It shall be the absolute obligation of those persons referred to in § ~~155-33~~ 155-22 hereof to provide dumpsters or compactors for the collection of garbage waste materials in accordance with the requirements of this article. Such containers shall be emptied on a periodic basis to avoid overflow of garbage and waste materials onto the ground or in such quantity as to prevent the container cover from being closed. No hazardous waste shall be deposited in any containers.

155-31-19 Installation, use and other requirements

A. In all zoning districts upon private property, container plans shall be required either as a separate application or as part of a site plan for all new construction or substantial exterior modifications. Such plans shall be submitted to the Bureau of Inspection initially to obtain a container permit. Such plans shall include the following:

(1) Location of the container site(s).

(2) Design plans of the container platform and enclosure with access for maintenance of equipment including loading/unloading access.

B. In all residential districts, namely R-1, R-2 and R-3, containers shall only be permitted for the duration of a permitted construction or rehabilitation project. Containers placed for purposes other than construction or rehabilitation projects shall be allowed on private property for a time period not to exceed 15 days, ~~on a temporary basis~~ and shall require a ~~demolition~~ permit from the Bureau of Inspection.

C. No certificate of occupancy shall be issued with regard to new constructions or substantial exterior modifications until all requirements of this article have been complied with and approved.

D. Minimum requirements for the pad and enclosure are:

(1) The container shall be enclosed on all sides by a siding affixed to a permanent frame which will obstruct the container from view. Wood fences or attractive masonry

enclosures are preferred. The height shall exceed by one foot the height of the bulk storage container to be housed in the enclosure with a minimum height of six feet.

(2) Enclosure locations shall provide and/or show location of utilities required to operate and maintain the sites in a sanitary manner.

(3) All enclosures shall be maintained and repaired to keep the site neat, safe and sanitary.

E. Garbage and other waste materials must be completely contained within the container. No accumulation of garbage or waste materials will be permitted outside the confines of the container, nor will it be permitted to accumulate garbage or other waste materials so that the container cover cannot be firmly closed. All containers shall have covers or lids and these covers or lids shall remain closed at all times.

F. No container shall be located in or on a public right-of-way, or upon City-owned or City-leased land without prior written approval of the City Council or its designee upon the terms and conditions the City Council or its designee deems advisable which shall be consistent with this article.

(1) All containers located upon public or City property as set forth herein shall be screened with fencing, structures or landscaping as determined by the City. The City will be responsible for installing, constructing, repairing and maintaining this screening. However, the persons designated in § ~~155-33~~ 155-22 will be responsible for bearing the cost of any work performed by the City for the purpose set forth herein.

(2) After completing any work as set forth and required herein, the City will bill the persons responsible as set forth in § ~~155-33~~ 155-22. Payment may be made at any time prior to one year from the date of invoicing with no additional cost. If an extended payment is selected by the above responsible person, a payment in the amount of at least 1/3 of the cost shall be made prior to the end of the one-year period. An amount of 5% of the unpaid balance is added, and that amount may be paid at any time prior to the end of the second year. A minimum of 1/3 of the total balance, including the 5%, must be paid by the end of the second year. Any remaining amount will have 5% added to it, and that total amount must be paid by the end of the third year. If any such amounts described above are not paid within 60 days of the year-end period all outstanding amounts will be added to the associated property taxes.

(3) The area immediately adjacent to dumpsters located on city property shall be maintained free of garbage, trash, oil, grease, or any other type of refuse or substance. It shall be the responsibility of the person or entity listed as the applicant on the dumpster permit to insure compliance with this requirement. Failure to maintain the area free of refuse will result in a notice being sent to the permittee ordering the removal of debris and/or cleaning of the area. Non-

compliance within two calendar days of citation will be cause for suspension or revocation of the City Dumpster Permit issued for that location.

G. All containers shall be kept in good repair, be structurally sound, leakproof, and be easily opened and closed. Containers shall be painted as required to prevent the show of rust and deterioration and be so constructed to stand firmly upright.

H. Areas around containers and enclosures located on private property shall be maintained free of loose garbage and trash, oil, grease or any other type of refuse or substance not within an approved container. ~~Responsibility for the maintenance in, and around and adjacent to the enclosure including loose garbage, debris and refuse shall be the responsibility as described in § 155-33 herein.~~

I. All containers shall be permanently marked ~~have a notice~~ with the name and phone number of the company supplying the container and the name/names of the business that the container services.

J. Use of joint or shared dumpsters by multiple users is recommended and encouraged.

155-32 20 Enforcement

The provisions of this article shall be enforced by the Bureau of Inspection. The Bureau of Inspection shall review all new container plans, as well as those containers to be located upon public or City property; and the Bureau of Inspection shall issue the required container permits. After City Council or its designee approves a container upon City property, the Bureau of Inspection shall process annual renewals.

155-33 21 Applicability of provisions

These provisions shall be applicable to the following persons:

- A. The owner of the property serviced by the container;
- B. The owner or lessee of the container servicing the property;
- C. The user of the container; or
- D. The lessee or agent of the owner of the property being serviced.

155-34 22 Fees

The initial and annual fee thereafter for containers located upon City-owned or City-leased property shall be as set from time to time by resolution of the City Council.

155-35 23 Penalties for offenses

~~The first violation of any provisions of this article shall be deemed a violation against such article, and any persons responsible as set forth in § 155-33 shall be issued a warning by regular~~

~~mail. If such a violation is not corrected within 30 days of mailing, a second warning shall be issued, and the violator shall receive a fine of \$100 upon conviction. If the violation is not corrected within 30 days of mailing of the second warning, the persons responsible shall receive a third warning and be fined \$500 upon conviction. If the violation is not corrected within 30 days of mailing the third warning, then the persons responsible shall be fined \$100 per day thereafter for each day that the violation continues upon conviction.~~

Any violation of this Article shall be punishable by a fine of not more than \$250, or imprisonment for not more than 15 days, or both for each day the violation exists.

Deletions designated by ~~strikeout~~

Additions designated as [brackets]

* * *

AMENDED

#26-2013

RESOLUTION INTRODUCING A LOCAL LAW AMENDING §155, SOLID WASTE, OF THE BATAVIA MUNICIPAL CODE AND PROVIDING FOR PUBLIC NOTICE AND HEARING

Motion of Councilperson Pacino

BE IT RESOLVED, that Local Law No. 3 of the Year 2013 entitled “**LOCAL LAW NO. 3 OF THE YEAR 2013 CITY OF BATAVIA TO AMEND §155, SOLID WASTE, OF THE BATAVIA MUNICIPAL CODE**” be introduced before the City Council of Batavia, New York; and

BE IT FURTHER RESOLVED, that copies of the aforesaid proposed Local Law be laid upon the desk of each member of the City Council by the City Clerk; and

BE IT FURTHER RESOLVED, that the City Council hold a public hearing on said proposed Local Law in the Council Board Room, Second Floor, One Batavia City Centre, Batavia, New York, at 7:00 p.m. on Monday, March 11, 2013; and

BE IT FURTHER RESOLVED, that the City Clerk publish or caused to be published a public notice in the official newspaper of the City of said public hearing at least three (3) days prior thereto.

Seconded by Councilperson Hawley and on roll call approved unanimously.

**LOCAL LAW NO. 3 OF THE YEAR 2013
CITY OF BATAVIA**

**A LOCAL LAW TO AMEND §155, SOLID WASTE, OF THE BATAVIA MUNICIPAL
CODE**

Be It Enacted by the City Council of the City of Batavia, New York as follows:

Section 1. Chapter 155. ARTICLE I

Garbage and Refuse

155-1 Title

This chapter shall be known and may be cited as the "City of Batavia Garbage and Refuse Ordinance."

155-2 Definitions

As used in this chapter, unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

CONSTRUCTION WASTE

Waste from building construction, alterations or repair, dirt from excavations or similar waste products from construction sites.

DEBRIS

Any form of garbage, trash, recyclables, appliances, construction waste, yard waste, bulk items or any other refuse.]

EXCLUDED ITEMS

~~Building demolition and construction wastes from nonresidential properties and lawn and yard waste material.~~

GARBAGE

Animal wastes, fish, fowl, fruit, vegetable matter and such similar wastes incident to the preparation, cooking and serving of food and the handling, storage and sale of food and produce products.

LAWN AND YARD WASTE MATERIAL

Leaves, grass, garden clippings, hedge trimmings, weeds, brush and tree branches.

PRIVATE COLLECTOR

Any person offering to collect and dispose of refuse materials from private properties for financial remuneration.

REFUSE

Solid waste products and materials incident to housekeeping and the conduct of commercial enterprises, including, but not limited to, garbage, paper, cartons, boxes, wood, discarded furniture, metal, tin cans, glass, dirt, ashes and similar solid waste

products. The term "refuse" shall be inclusive of all other terms therein defining any other wastes but shall exclude, however, all excluded items as herein defined.

RUBBISH OR TRASH

All other miscellaneous solid waste materials and refuse from housekeeping and commercial enterprises other than garbage and excluded items as herein defined.

155-3 Refuse storage prior to collection

A. Accumulations.

(1) Refuse shall not be permitted to accumulate on any private or public property within the City in such manner as would tend to create a nuisance, health menace or in any manner be injurious to the health or welfare of the inhabitants of the City.

(2) It shall be unlawful and a violation of the article for any person, corporation, association, etc., being the owner, tenant or person, etc., in title and/or in possession of real property to accumulate and/or store, for any purpose whatsoever, used vehicle tires exceeding, in the cumulative, 1,000 cubic feet.

B. Containers. All containers shall be a plastic trash bag or any other type of metal or plastic container that is suitable for the storage of solid waste, which will not deteriorate or break apart when wet. This definition shall specifically exclude cardboard, wood, paper or paperboard containers.

C. Regulations and restrictions.

(1) All solid waste shall be stored in containers.

(2) All containers shall be maintained in a clean, watertight and good condition. All containers kept or placed out of doors, other than plastic garbage bags, shall be provided with tight-fitting lids or covers. All plastic bags shall be securely tied. ~~No container or plastic garbage bag shall exceed 35 gallons in volume or 50 pounds in weight.~~

(3) Except when set out for collection, containers shall be located either indoors, in a completely enclosed structure or facility, or in the rear of premises ~~hidden~~ [obstructed] from view from any adjacent street and/or sidewalk. [Within 24 hours of waste collection, emptied containers shall be returned to an approved storage location.]

(4) No refuse shall be placed at curbside [before 3:00 pm on the day] ~~more than 24 hours~~ prior to scheduled collection.

155-4 Refuse collection

~~A. — City's responsibility. The collection of refuse in the City shall be the responsibility of the City which shall make periodic refuse pickups throughout the City from refuse cans provided by property owners or tenants as may be provided by contract with a collector for the City or B. [A. Property owner's responsibility. The property owner shall be responsible for removing and disposing of refuse from the property owner's parcel.]~~

~~[B. Location of containers. Containers [placed in the right of way for collection] shall [not occupy] be placed [any portion of the street or public sidewalk.] for collection in locations as may be designated by the Department of Public Works or as provided by contract for collection.~~

~~C. — Disposal. Disposal of refuse so collected shall only be in such a manner specified by resolution of the Council or contract with a collector awarded by the Council.~~

~~D. — Limitations on refuse pickup. Residential and commercial collections of refuse shall be limited to five containers, as defined in § 155-3B, per week.~~

~~E. [C] Excess [Removal of] garbage and refuse. In the event that more than five containers as set forth in § 155-33B are placed for collection, [garbage, trash, recyclables, appliances, construction waste, yard waste, bulk items or other refuse is not collected and properly disposed or is placed for collection and is not removed within 24 hours of placement, the Director of Public Works or his/her designated representative shall notify, by regular mail and by affixing to the front door, any such persons that they are in violation of this section.]~~

~~the event that bulk items are not disposed of properly with the required tags or labels as set forth in Subsection G herein; the excess or bulk items will not be picked up by the City or its designee. The Department of Public Works will immediately notify in person or by first class mail the owner or the owner's executor, legal representative or agent, at the last known address of the same as shown by the records of the City Assessor, that the owner must remove the excess garbage, refuse, rubbish, trash or bulk items, at the owner's expense, within the following time periods: 48 hours from the receipt of notice if personally delivered or affixed to the front door; or 48 hours from deposit of the notice by first class mail. Upon the expiration of the time period herein, the City is authorized to employ a private contractor or utilize City forces to pick up and dispose of the excess garbage, refuse or bulk items. The cost of this disposal, plus a sum of \$50 as an administrative charge, shall be charged to the owner and an invoice shall be sent by first class mail by the City Clerk. If not paid within 30 days, the charge shall be a lien against the real property of the owner to the same extent as City taxes, and shall be included in the general tax roll and enforced in the same manner as other City taxes.~~

~~F. — Vacant land. Vacant land which does not contain a building is not eligible for collection, and the owner thereof can not use such a parcel to increase the limits set forth in Subsection D herein.~~

G. Bulk items.

~~(1) Individual items of refuse, rubbish and trash, as well as metal items which can be recycled and may require a special collection all as hereinafter stated, will be collected from residential units by the City or its designee if each item is marked with the appropriate number of officially designated tags, labels or stickers as herein described. Businesses must make their own arrangements for disposal of these items. The cost for the tags, labels or stickers shall be as set from time to time by resolution of the City Council, and they may be purchased at locations designated by the City Manager.~~

~~(2) The bulk items are as follows:~~

~~(a) One tag, sticker or label for televisions, computers, chairs (single seat), three rolls of carpet or padding which are tied no larger than four feet in length than 50 pounds, tables, metal cabinets (over 50 pounds), and other small furniture items weighing less than 50 pounds.~~

~~(b) Two tags, stickers or labels for box springs, mattresses, couches (two or more seats/cushions), large furniture items, including dressers, chests, desks and other similar items weighing 50 pounds or more; white goods, including stoves, freezers, refrigerators, hot-water heaters, air conditioners, clothes washers or dryers, dishwashers, furnaces and other similar appliance items, toilets, bathtubs or sinks weighing more than 50 pounds, large garden equipment (7 horsepower or larger), including riding lawn mowers and snowblowers and other similar items.~~

~~(c) The City reserves the right to reject any items which are too large or heavy for pick up by the City or its designees.~~

H. Residential construction waste.

~~(1) Small quantities of construction waste generated by residential property owners may be set out for collection by the property owner as long as the waste meets the general criteria for refuse collection in §§ 155-3 and 155-4A and B.~~

~~(2) Construction waste must be placed in containers. No loose construction waste will be collected.~~

~~(3) No contractor generated construction waste will be collected. It is the responsibility of any contractor generating such waste to remove and dispose of the construction waste in a sanitary and safe manner, and in accordance with applicable state and federal regulations, at his own expense.~~

155-5 Private refuse collection

~~A. License required; regulations. Persons may be licensed, as private collectors to collect refuse, other than garbage at no cost to the City, provided that such collection is performed in accordance with the provisions of this chapter, and any regulations adopted pursuant hereto and produces no objectionable conditions in or on the streets of the City.~~

~~B. Application. Private collectors shall apply to the City Manager for a license before engaging in the refuse collection business, and if such application is approved by the City Manager, a license shall be issued by the Clerk-Treasurer.~~

~~C. Fee. The fee for a private collector's license shall be as set from time to time by resolution of the City Council.~~

~~D. Term; display. Each license shall be issued for the calendar year only, regardless of the date of issuance. The collector's license shall be publicly displayed on each vehicle so licensed.~~

155-6-[5] Private rubbish collection vehicles

Every vehicle used to collect and remove rubbish or trash in the City ~~by a licensee under this chapter~~ shall be constructed and equipped as follows:

A. Construction of the vehicle shall be such that trash or rubbish loaded thereon shall be securely contained.

B. The vehicle shall be equipped with a permanently attached cover either of rigid construction or a fabric material.

C. The vehicle shall be equipped with sides of rigid material, either wood or metal, of such type so as to securely contain trash and rubbish.

D. The vehicle shall be equipped with a solid tailgate or rear doors of rigid construction of a height equal to the sides of the truck which, when closed, shall securely hold or contain all trash or rubbish.

155-7 [6] Illegal disposal of items

A. It shall be unlawful for any person to deposit, dump, scatter or leave any garbage, lawn and yard waste material, refuse, rubbish, trash, hazardous waste, recyclables or any other materials or items of any kind or nature, upon private property or any portion thereof, or upon any public street, [parkway, public sidewalk,] alley, parking lot or other public property; except pursuant to the terms and conditions for the proper disposal of items in the relevant portions of the City of Batavia Municipal Code, and except upon approved public disposal sites as may be designated by the Council, and except where certain of these materials are used in a normal manner for improving property by grading, filling, fertilizing or resurfacing.

B. It shall be a violation of this section concerning private property or any portion thereof without regard to whether or not the person in violation owns the property in question or without regard as to whether or not the person in question has permission from the owner of the private property if the violator does not own the same.

C. The [property] owner of ~~private property~~ shall be legally responsible for any violation of any provision of [this chapter, including violations located within the public right of way immediately adjoining their property.] ~~the Batavia Municipal Code regarding the proper disposal of items as set forth in Subsection A herein by any occupant or tenant of the owner's property.~~

~~155-8~~ ~~Disposal sites~~

~~The Council may from time to time designate a site or sites for disposal of one or more types of material to be maintained and operated for the exclusive use of the residents of the City and private collectors of trash or rubbish licensed by the City. Any person making use of the disposal site for dumping of refuse may be required by the City's employees or its agents to furnish evidence that he or she is a resident of the City or representative of a business located in the City for whom he or she is handling refuse for disposal.~~

155-9 [7] Disposal site use restrictions

A. All dumping or depositing of refuse at any City disposal site shall be done only at the direction of and in the manner prescribed by the City's employees or its agents. Dumping shall be confined to such area or areas as may be designated.

B. It shall be unlawful for any person or persons to dump or deposit any refuse at the disposal site except on the days and during the hours designated by resolution of Council. The days and hours when dumping is permitted shall be conspicuously posted at the disposal site.

C. It shall be unlawful for any person to start a fire at the disposal site.

D. No salvaging or scavenging shall be permitted on the disposal site.

155-10 [8] ~~Excluded items~~ [Notice of violation, hearing and lien procedures.

A. Notice. When the Director of Public Works or his/her designated representative deems it necessary, he/she shall notify, by regular mail and by affixing to the front door, any such persons that they are in violation of this section. Said notice shall be in substantially the following form:

	TO THE OWNER AND OCCUPANTS OF PROPERTY IN THE CITY OF BATAVIA:
	Please take notice that you are hereby required to remove all garbage, trash, recyclables, appliances, construction waste, yard waste, bulk items or other refuse and debris from the private property and/or the public right of way immediately adjoining the private property owned or occupied by you, and to comply with the ordinance of the City of Batavia relative to Garbage and Refuse. In the event of your failure to remove such debris, the Director of Public Works or his/her duly designated representative may cause such garbage, refuse and debris to be removed, and the actual cost of removal plus \$250 for inspection and other additional costs in connection therewith, shall thereupon become and be a charge and lien upon your property and shall be collected the same as other taxes upon your property.
	Where a violation occurs more than once during the same calendar year with respect to the same parcel of property, a surcharge of \$100 shall be added to the above costs and expenses. Where multiple properties are referenced in a notice, decision and/or order, the surcharge of \$100 shall apply to each separate parcel of property.

B. Failure to comply with notice.

(1) If the provisions of the foregoing subsections are not complied with within two days of the date of mailing and by affixing to the front door of the notice hereinbefore provided for, the Director of Public Works or his/her duly designated representative may remove the

garbage, refuse and debris. The actual cost of such removal, plus \$250 for inspection and other additional costs in connection therewith, shall be billed to the property owner, a copy of which shall be forwarded to the City Clerk/Treasurer by the Director of Public Works or his/her duly designated representative. Thirty days after the billing date, all unpaid charges will become and be a lien upon the property on which said garbage, refuse and debris was located and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes levied and assessed against such property, or the same may be collected by suit against the owner or owners in the name of the City.

(2) Any person who shall fail, neglect or refuse to comply with the provisions of any notice herein provided for or who shall resist or obstruct the Director of Public Works or his/her duly-designated representative or his employees in removing of garbage, refuse and debris shall, upon conviction thereof, be subject to a penalty as hereinafter provided, and each day on which such violation continues shall constitute a separate offense.

C. Upon receipt of a hearing request, the Director of Public Works shall set a date, time and place for the same as soon as practicable. The Director shall cause written notice to be given to a representative of the City Inspection Department and to the person requesting the hearing not less than 10 days prior to said scheduled hearing date.

D. At the date, time and place specified in the notice, the City Manager or his designee shall serve as the Hearing Officer and shall conduct the hearing. The hearing shall be conducted informally by the Hearing Officer, and oral or documentary evidence pertinent to the facts and issues raised by the City Inspection Department and other interested parties shall be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. All parties to the hearing shall be afforded a fair hearing providing the basic safeguards of due process, including, but not limited to, the right to counsel, the right to cross examine witnesses, the right to present relevant evidence as well as the right to review adverse evidence.

E. Following the close of the hearing, the Hearing Officer shall make a decision and order as to whether a violation of this chapter has occurred and, if so, the manner and time limits within which the same shall be corrected and/or what charges and costs should be assessed. Such decision and order shall be made in writing, and a copy shall be delivered to each participant in the hearing either personally or by first-class mail.

F. Where a violation occurs more than once during the same calendar year with respect to the same parcel of property, a surcharge of \$100 shall be added to the above costs and expenses. Where multiple properties are referenced in a notice, decision and/or order, the surcharge of \$100 shall apply to each separate parcel of property.

G. In lieu of the foregoing, the Director of Public Works or his/her designated representative may issue and serve an appearance ticket for violation of this chapter to persons within the City

of Batavia returnable in the City Court.]

~~Excluded items, as herein defined, are neither garbage and refuse nor recyclables. They shall not be placed at curbside for collection, nor shall they be collected by the City, its employees, agents and contractors. It is the responsibility of the owner, occupant or resident of premises within the City to provide for their safe disposal. It shall be a violation of this article to place any excluded items in with garbage and refuse or recyclables.~~

155-11 [9] — Refuse originating outside the city

~~A. — No person shall bring in, place or deposit or cause to be brought into, placed or deposited in the City of Batavia any garbage, refuse, rubbish, trash, excluded items, recyclables as defined in § 155-22 of Article III, hazardous waste and/or material originating outside the City of Batavia for the purpose of disposing of the same in the City or for the purpose of having the same collected by [private collector], the City, its employees, agents or contractors.~~

~~B. — No person who is a resident of the City of Batavia or owner, lessee or person in control of real property within the City shall permit any person to bring in, place or deposit any garbage, refuse, rubbish, trash, excluded items, recyclables, as defined in § 155-22 of Article III, hazardous waste and/or material originating outside the City on any real property owned or leased by him or her or under his or her control, whether for accumulation or collection.~~

155-12 Unauthorized removal or refuse

~~No person other than an authorized employee or agent of the City shall disturb or remove any refuse placed for collection unless authorized by the owner, tenant or occupant of the premises from which the refuse originated.~~

155-13 Additional rules and regulations

~~The Director of Public Works may prepare and publish such additional rules and regulations, not inconsistent herewith, as may be necessary for the effective enforcement and administration of the provisions of this article. A violation of any such rules shall be punishable as a violation of this article.~~

155-14 [9] Penalties for offenses

~~A. — Any [violation] person violating any provision of this article other than § 155-11 hereof shall be punishable by a fine of not more than \$250 or imprisonment in the county jail for not more than 15 days, or both.~~

~~[B. The continuation of any violation for each successive day shall constitute a separate offense, and the person allowing or permitting the continuation of a violation may be punished as~~

above provided for each separate offense.]

~~B. Any person violating § 155-11 hereof shall be guilty of an unclassified misdemeanor and shall be punished for each conviction by a fine of not less than \$500 and not more than \$1,000. In addition, any violation of said section shall be punishable in the court's discretion by imprisonment of not more than 30 days, or by both such fine and imprisonment.~~

~~C. Each commission or omission of a single act under § 155-11 shall constitute a separate violation of this article. Each day of a separate violation shall constitute a separate offense, which may be punished and prosecuted as such.~~

ARTICLE II

Separation and recycling

155-15 [10] Findings and purpose

A. The City finds that the removal of certain materials from the solid waste stream will decrease the amount of solid waste disposed of in landfills and aid in the conservation of valuable resources.

B. The City finds that the New York Solid Waste Management Act of 1988 requires all municipalities to adopt a local law or ordinance by September 1, 1992, requiring separation of recyclable and reusable material from solid waste.

C. The City finds that in order to protect the health, safety and welfare of the people of the City, it is necessary for the City to enact this article in order to encourage and facilitate the maximum recycling practicable on the part of every household, business and institution within the City.

D. The City declares that the purpose of this article is to establish, implement and enforce recycling related practices and procedures to be applicable to all waste generators within the City.

155-16 [11] Definitions

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

AUTHORIZED FACILITY

A public or private facility or facilities where recyclables may be delivered for disposal, including but not limited to dropoff centers, materials recovery facilities or other such public or private facilities designated by the Director of Public Works. ~~pursuant to the recycling rules and regulations.~~

CITY

City of Batavia, New York.

COUNTY

Genesee County, New York.

PERSON

Natural persons and all other legal entities, including corporations.

RECYCLABLES

Any material so designated from time to time by the City, County, New York State, federal government[, private collector, waste hauler,] or by the Director of Public Works ~~pursuant to the recycling rules and regulations~~, provided that such material is not hazardous and can be reasonably separated from the solid waste stream and held for material recycling or reuse value.

RECYCLING RULES AND REGULATION

~~Those rules and regulations promulgated pursuant to § 155-17 of this article.~~

SOLID WASTE

All putrescible and nonputrescible solid waste, including but not limited to materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, or are being accumulated, stored or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or as industrial, commercial and agricultural waste, sludges 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, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation.

SOURCE SEPARATION

The segregation of recyclable material from the solid waste stream at the point of generation for separate collection, sale or other disposition.

WASTE GENERATOR

A. RESIDENTIAL WASTE GENERATOR

— Any person owning and/or occupying a "single-family private dwelling," as said term is defined in § 4 of the New York State Multiple Dwelling Law, that produces solid waste requiring off-site disposal.

B. NONRESIDENTIAL WASTE GENERATOR

— Any person owning and/or occupying a "two-family private multiple dwelling" or a "multiple dwelling," as said terms are defined in § 4 of the New York State Multiple Dwelling Law, as well as owner(s) and/or occupant(s) of all other businesses, governmental agencies, municipalities and other legal entities.

WASTE HAULER

All persons engaged in the commercial collection, transportation and/or disposal of solid waste and/or recyclables generated, originated or brought within the county.

155-17 Administration; rules and regulations

~~A. — The City Manager or his designee shall be primarily responsible for all ministerial and administrative duties described or reasonably required by the terms of this article. The City Council, among other things, is hereby authorized and directed to develop, promulgate, implement and modify recycling rules and regulations governing the separation, collection, transportation and disposal of recyclables.~~

~~B. — The recycling rules and regulations shall, among other things:~~

~~(1) — Identify, define, expand and amend categories of recyclables to be source-separated and/or subject to special handling requirements;~~

~~(2) — Identify one or more authorized facilities to which recyclables may be delivered, subject to such expectations as the City Council may determine to be in the public interest;~~

~~(3) — Establish a program to implement and enforce source separation which may reflect local differences in population density, accessibility and capacity of markets and facilities, collection practices and solid waste composition; and~~

~~(4) — Prescribe all other rules and regulations reasonably required by the terms of this article.~~

~~C. — In promulgating and enforcing such recycling rules and regulations, the City Council shall use such discretion as necessary to carry out the provisions of this article. When exercising such discretion, the City Council shall consider, among other things:~~

~~(1) — Existing source separation, recycling and other resource recovery facilities and practices in the area;~~

~~(2) — Expense incurred or to be incurred by waste generators and waste haulers to comply with such recycling rules and regulations;~~

~~(3) — The capacity, handling, disposal and marketing capabilities of available facilities; and~~

~~(4) — Other factors affecting the public interest.~~

155-18 [12] Preparation of recyclables for collection

A. Each waste generator in the City shall source-separate recyclables from solid waste as provided in the recycling rules and regulations and comply with all applicable rules and regulations for such source separation as specified therein.

B. Each waste generator in the City shall provide for the removal of recyclables from the property on which they are generated either through a service provided by a municipality, or a private hauler, or by direct haul by the individual waste generator to an authorized facility. specified by the City Council pursuant to the recycling rules and regulations.

C. Nothing in this article is intended to prevent any waste generator from making arrangements for the reuse, private collection, sale or donation of recyclables; provided, however, that such recyclables shall be placed at curbside or at any other designated collection place only on the day the same is designated for collection by the City or after 7:00 [3:00]p.m. on the day before the City's designated collection day. Recyclables placed at curbside for collection by other than the City of Batavia, or by its duly authorized agent, shall be placed in containers differing in color from City distributed [refuse] containers so as to be readily distinguishable from containers used for curbside pickup of recyclables by the City or by its duly authorized agent. All collections of recyclables by other than City employees or agents shall be reported to the City Manager as required by the recycling rules and regulations.

D. From the time recyclables are placed at the curb by a waste generator for collection, they shall become the property of the City of Batavia. It shall be a violation of this article for any person without authority from the City of Batavia to collect, pick up, remove or cause to be collected, picked up or removed any recyclables from curbside. Each such collection, pickup or removal from any one premises shall constitute a separate and distinct offense in violation of this article.

155-19 [13] Waste haulers

A. All waste haulers in the City shall offer or cause to be offered to their customer's collection, transportation and disposal services for recyclables to the same extent any such waste hauler offers collection, transportation and disposal services for solid waste. Such services shall be provided on the same day(s) as solid waste pickup services are provided unless otherwise authorized by the recycling rules and regulations.

B. No waste hauler shall be required to accept for collection solid waste which has not been source-separated or hazardous waste separated.

C. All waste haulers must maintain all records and supply all reports required by the recycling rules and regulations.

155-20 [14] Enforcement

A. The City may inspect all portions of vehicles and/or containers used in the collection, transportation and/or disposal of solid waste and/or recyclables, including, but not limited to, containers placed at the curbside of residences, to ascertain compliance with the terms and conditions specified in this article ~~and the recycling rules and regulations.~~

B. During any 12 consecutive month period of time, any residential waste generator violating any provision of this article ~~and/or the recycling rules and regulations~~ shall be punished for each violation as follows: for the first violation, by a written warning; for the second violation, by a fine not to exceed \$25; and for a third and each subsequent violation, by a fine not to exceed \$50.

C. During any 12 consecutive month period of time, any nonresidential waste generator violating any provision of this article ~~and/or the recycling rules and regulations~~ shall be punished for each violation as follows: for the first violation, by a written warning; for the second violation, by a fine not to exceed \$50; and for a third and each subsequent violation, by a fine of not less than \$100 and not more than \$250.

D. Any waste hauler violating any provision of this article ~~other than § 155-18D hereof and/or violating any of the provisions of the recycling rules and regulations~~ shall be punished for each violation as follows: for the first violation, by a fine of not less than \$25; for the second violation, by a fine of not less than \$50; and for a third and each subsequent violation, by a fine of not less than \$100.

E. During any 12 consecutive month period of time, any person violating § 155-18D of this article shall be punished for each violation as follows: for a first violation, by a fine of not less than \$50; for a second violation, by a fine of not less than \$125; and for a third and each subsequent violation, by a fine of \$250. In addition, any violation of § 155-18D shall be punishable by imprisonment of not more than 15 days.

F. It is the City's intent that persons convicted of violating any provisions of this article other than § 155-18D be made aware of the community's needs for an effective recycling program and be encouraged to recycle. Accordingly, it is urged that violators be sentenced to community service related to the City's recycling efforts whenever and to the extent practicable in lieu of fines being collected.

ARTICLE III
Recycling rules and regulations

155-21 Purpose

The following rules and regulations governing recycling within the City of Batavia are being enacted pursuant to § 155-17 of Article II, Separation and Recycling, of this chapter.

155-22 Definitions

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

AUTHORIZED FACILITY

~~A public or private facility or facilities where recyclables may be delivered for disposal, including but not limited to dropoff centers, materials recovery facilities or other such public or private facilities designated by the Director of Public Works pursuant to the recycling rules and regulations.~~

~~Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).~~

~~Editor's Note: The definition of "Committee," as amended 10-24-1994 by L.L. No. 6-1994, which immediately followed this definition, was deleted 12-28-1998 by L.L. No. 3-1998.~~

CITY

~~City of Batavia, New York.~~

COUNTY

~~Genesee County, New York.~~

PERSON

~~Natural persons and all other legal entities, including corporations.~~

RECYCLABLES

~~Any material so designated from time to time by the City, county, New York State, federal government or by the Director of Public Works pursuant to the recycling rules and regulations, provided that such material is not hazardous and can be reasonably separated from the solid waste stream and held for material recycling or reuse value.~~

~~Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. 1).~~

RECYCLING RULES AND REGULATIONS

~~Those rules and regulations promulgated pursuant to § 155-23 of this article.~~

SOLID WASTE

~~All putrescible and nonputrescible solid waste, including but not limited to materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, or are being accumulated, stored or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use, or as industrial, commercial and agricultural waste, sludges 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, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation.~~

SOURCE SEPARATION

~~The segregation of recyclable material from the solid waste stream at the point of generation for separate collection, sale or other disposition.~~

WASTE GENERATOR

~~——— A. RESIDENTIAL WASTE GENERATOR~~

~~Any person owning and/or occupying a "single family private dwelling" as said term is defined in § 4 of the New York State Multiple Dwelling Law that produces solid waste requiring off-site disposal.~~

~~**B. NONRESIDENTIAL WASTE GENERATOR**~~

~~Any person owning and/or occupying a "two family private multiple dwelling" or a "multiple dwelling" as said terms are defined in § 4 of the New York State Multiple Dwelling Law, as well as owner(s) and/or occupant(s) of all other businesses, governmental agencies, municipalities and other legal entities.~~

~~**WASTE HAULER**~~

~~All persons engaged in the commercial collection, transportation and/or disposal of solid waste and/or recyclables generated, originated or brought within the county.~~

~~**155-23 Recyclables**~~

~~**A.** The City Council of the City of Batavia shall, by resolution as it deems appropriate from time to time, designate the types of recyclables to be separated from the solid waste stream, and how these recyclables shall be prepared for recycling and made ready for pick up.~~

~~**B.** Containers to be used for recyclables have to be ones that are approved or designated by the Director of Public Works.~~

~~**C.** Each waste generator as defined herein shall be limited to placing at the curb for collection two approved containers and one bundle of corrugated cardboard with dimensions of three feet by three feet by three feet.~~

~~**D.** Certain recyclable items which are too large or heavy to be placed in the approved containers shall be picked up by the City or its designee as set forth in § **155-4G** of the Batavia Municipal Code.~~

~~**155-24 Waste delivery and disposal**~~

~~Solid waste generated or originated within the City for collection or which is delivered to an authorized facility for disposal shall be handled as follows:~~

~~**A.** Prior to initial collection or transportation, solid waste shall be separated into two streams, recyclables and solid waste.~~

~~**B.** Recyclables shall not be commingled with other solid waste during collection, transportation, processing or storage following collection.~~

~~**155-25 Authorized facilities**~~

~~The Director of Public Works shall, from time to time, publish a list of those items that must be delivered for disposal at a named facility.~~

155-26 Reporting requirements

~~A. — Any waste haulers or any other person that collects, transports and/or disposes of recyclables shall maintain monthly records of recyclable material that includes the following:~~

~~—— (1) — The number of households or commercial businesses in which the recyclables were generated.~~

~~—— (2) — The quantity, by ton, of each type of recyclable material collected.~~

~~—— (3) — The quantity, by ton, of each type of recyclable material delivered to each authorized facility.~~

~~—— (4) — Listing by street address of households that are consistently not complying with recycling requirements.~~

~~—— (5) — The quantity, by ton, by month of all waste transported to landfills, incinerators or transfer stations.~~

~~B. — Reports containing the information required in this section shall be compiled and delivered to the Director of Public Works at the end of each reporting period. Reports shall be provided to the Director of Public Works quarterly within 10 business days from the end of each calendar quarter and shall contain information broken down on a monthly basis.~~

155-27 Penalties for offences

~~A. — The City may inspect all portions of vehicles and/or containers used in the collection, transportation and/or disposal of solid waste and/or recyclables, including but not limited to containers placed at the curbside of residences, to ascertain compliance with the terms and conditions specified in this article and in Article II, Separation and Recycling, of this chapter.~~

~~B. — During any 12 consecutive month period of time, any residential waste generator violating any provision of this article and/or Article II, Separation and Recycling, of this chapter shall be punished for each violation as follows: for the first violation, by a written warning; for the second violation, by a fine not to exceed \$25; and for a third and each subsequent violation, by a fine not to exceed \$50.~~

~~C. — During any 12 consecutive month period of time, any nonresidential waste generator violating any provision of this article and/or Article II, Separation and Recycling, of this chapter shall be punished for each violation as follows: for the first violation, by a written warning; for the second violation, by a fine not to exceed \$50; and for a third and each subsequent violation, by a fine of not less than \$100 and not more than \$250.~~

~~D. — Any waste hauler violating any provision of this article other than § 155-24 hereof and/or violating any of the provisions of Article II, Separation and Recycling, of this chapter shall be punished for each violation as follows: for the first violation, by a fine of not less than \$25; for~~

the second violation, by a fine of not less than \$50; and for a third and each subsequent violation, by a fine of not less than \$100.

~~E. During any 12 consecutive month period of time, any person violating § 155-24 of this article shall be punished for each violation as follows: for a first violation, by a fine of not less than \$50; for a second violation, by a fine of not less than \$125; and for a third and each subsequent violation, by a fine of \$250. In addition, any violation of § 155-24 shall be punishable by imprisonment of not more than 15 days.~~

~~F. It is the City's intent that persons convicted of violating any provisions of this article other than § 155-24 be made aware of the community's needs for an effective recycling program and be encouraged to recycle. Accordingly, it is urged that violators be sentenced to community service related to the City's recycling efforts whenever and to the extent practicable in lieu of fines being collected.~~

ARTICLE IV[III]

Dumpsters

155-28- [15] Purpose

This article is adopted for the protection and promotion of the public health, safety and general welfare of the community by regulating the storage of garbage and other waste materials as well as the use and maintenance and operation of bulk garbage containers referred to herein and commonly known as "dumpsters" and "compactors."

155-29 [16] Definitions

As used in this article, the following terms shall have the meanings indicated:

ASHES

The residue from fires used for cooking and heating and on-site incineration.

CONTAINER

Either a dumpster or compactor container used for bulk storage of garbage and other waste materials that can be hauled directly to a point of disposal or emptied into a larger container for transport and disposal.

GARBAGE

Wastes from the preparation, cooking and serving of food; market wastes and wastes from handling, storage and sale of products of any type.

HAZARDOUS WASTE

~~A substance capable of creating harm to people, the environment and/or property.~~ [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. Hazardous waste is defined on the basis of regulations issued pursuant to the Resource Conservation and Recovery Act, 42 U.S.C.

Section 9601 et. seq., administered by the United States Environmental Protection Agency.]

RUBBISH

Shall consist of the following:

A. Combustible: paper, cartons, boxes, barrels, wood, excelsior, tree branches, yard trimmings, wood furniture, bedding dunnage and petroleum products.

B. Noncombustible: metals, dirt, glass, crockery and minerals.

WASTE MATERIALS

All trash, refuse, junk and discarded items, including rubbish.

155-30- [17] Collection

It shall be the absolute obligation of those persons referred to in § 155-33 [155-20] hereof to provide dumpsters or compactors for the collection of garbage waste materials in accordance with the requirements of this article. Such containers shall be emptied on a periodic basis to avoid overflow of garbage and waste materials onto the ground or in such quantity as to prevent the container cover from being closed. No hazardous waste shall be deposited in any containers.

155-31 [18] Installation, use and other requirements

A. In all zoning districts upon private property, container plans shall be required either as a separate application or as part of a site plan for all new construction or substantial exterior modifications. Such plans shall be submitted to the Bureau of Inspection initially to obtain a container permit. Such plans shall include the following:

(1) Location of the container site(s).

(2) Design plans of the container platform and enclosure with access for maintenance of equipment including loading/unloading access.

B. In all residential districts, namely R-1, R-2 and R-3, containers shall only be permitted on a temporary basis and shall require a demolition permit from the Bureau of Inspection.

C. No certificate of occupancy shall be issued with regard to new constructions or substantial exterior modifications until all requirements of this article have been complied with and approved.

D. Minimum requirements for the pad and enclosure are:

(1) The container shall be enclosed on all sides by a siding affixed to a permanent frame which will obstruct the container from view. Wood fences or attractive masonry

enclosures are preferred. The height shall exceed by one foot the height of the bulk storage container to be housed in the enclosure with a minimum height of six feet.

(2) Enclosure locations shall provide and/or show location of utilities required to operate and maintain the sites in a sanitary manner.

(3) All enclosures shall be maintained and repaired to keep the site neat, safe and sanitary.

E. Garbage and other waste materials must be completely contained within the container. No accumulation of garbage or waste materials will be permitted outside the confines of the container, nor will it be permitted to accumulate garbage or other waste materials so that the container cover cannot be firmly closed. All containers shall have covers or lids and these covers or lids shall remain closed at all times.

F. No container shall be located in or on a public right-of-way, or upon City-owned or City-leased land without prior written approval of the City Council or its designee upon the terms and conditions the City Council or its designee deems advisable which shall be consistent with this article.

(1) All containers located upon public or City property as set forth herein shall be screened with fencing, structures or landscaping as determined by the City. The City will be responsible for installing, constructing, repairing and maintaining this screening. However, the persons designated in § 155-33 [155-20] will be responsible for bearing the cost of any work performed by the City for the purpose set forth herein.

(2) After completing any work as set forth and required herein, the City will bill the persons responsible as set forth in § 155-33 [155-20]. Payment may be made at any time prior to one year from the date of invoicing with no additional cost. If an extended payment is selected by the above responsible person, a payment in the amount of at least 1/3 of the cost shall be made prior to the end of the one-year period. An amount of 5% of the unpaid balance is added, and that amount may be paid at any time prior to the end of the second year. A minimum of 1/3 of the total balance, including the 5%, must be paid by the end of the second year. Any remaining amount will have 5% added to it, and that total amount must be paid by the end of the third year. If any such amounts described above are not paid within 60 days of the year-end period all outstanding amounts will be added to the associated property taxes.

G. All containers shall be kept in good repair, be structurally sound, leakproof, and be easily opened and closed. Containers shall be painted as required to prevent the show of rust and deterioration and be so constructed to stand firmly upright.

H. Responsibility for the maintenance in, and around and adjacent to the enclosure including loose garbage, debris and refuse shall be the responsibility as described in § 155-33 [155-20]

herein.

I. All containers shall have a notice with the name of the company supplying the container.

J. Use of joint or shared dumpsters by multiple users is recommended and encouraged.

155-32 [19] Enforcement

The provisions of this article shall be enforced by the Bureau of Inspection. The Bureau of Inspection shall review all new container plans, as well as those containers to be located upon public or City property; and the Bureau of Inspection shall issue the required container permits. After City Council or its designee approves a container upon City property, the Bureau of Inspection shall process annual renewals.

155-33 [20] Applicability of provisions

These provisions shall be applicable to the following persons:

A. The owner of the property serviced by the container;

B. The owner or lessee of the container servicing the property;

C. The user of the container; or

D. The lessee or agent of the owner of the property being serviced.

155-34 [21] Fees

The initial and annual fee thereafter for containers located upon City-owned or City-leased property shall be as set from time to time by resolution of the City Council.

155-35 [22] Penalties for offenses

The first violation of any provisions of this article shall be deemed a violation against such article, and any persons responsible as set forth in § 155-33 [155-20] shall be issued a warning by regular mail. If such a violation is not corrected within 30 days of mailing, a second warning shall be issued, and the violator shall receive a fine of \$100 upon conviction. If the violation is not corrected within 30 days of mailing of the second warning, the persons responsible shall receive a third warning and be fined \$500 upon conviction. If the violation is not corrected within 30 days of mailing the third warning, then the persons responsible shall be fined \$100 per day thereafter for each day that the violation continues upon conviction.

[155-23 Effective Date

This local law shall take effect June 1, 2013]

Deletions designated by ~~strikeout~~

Additions designated as [brackets]

Meeting adjourned at 6:50.

Respectfully submitted,

**Aimslee M. Cassidy
Deputy Clerk-Treasurer**