



# City of Niagara Falls, New York

P.O. Box 69, Niagara Falls, NY 14302-0069

July 2, 2014

Members of the City Council  
and  
Carol Antonucci, City Clerk

Council Members and Madam:

You are hereby notified of a Special Meeting of the City Council of the City of Niagara Falls, New York called pursuant to Section 3.9.b of the City Charter, to be held on Monday, July 14, 2014 at 4:00 p.m. in the Council Chambers, City Hall, 745 Main Street, Niagara Falls, New York for the following purpose:

1. Hold public hearing in accordance with Section 120-aa of the General Municipal Law regarding ordinance entitled "Solid Waste Refuse and Recycling".
2. Rescind Chapter 911 entitled "Garbage and Rubbish" and Chapter 924 entitled "Recycling Ordinance" and adopt Chapter 911 entitled "Solid Waste Refuse and Recycling".

Respectfully submitted,

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CHARLES WALKER  
Council Chairperson



**CHAPTER 911**  
**SOLID WASTE REFUSE AND RECYCLING**

911.01	General provisions
911.02	Licensing of independent private waste haulers
911.03	Refuse
911.04	Recyclables
911.05	Storage of Refuse and Recyclables
911.06	Miscellaneous provisions
911.07	Rodent control measures
911.08	Enforcement; appearance tickets
911.09	Penalties for offenses

**911.01 GENERAL PROVISIONS**

A. Scope. This Chapter establishes rules for the collection and management of residential, commercial and institutional refuse and recyclables. It is not intended to regulate refuse collectors involved in hazardous or infectious waste collection and transportation.

B. Purpose and short title.

(1) It is the purpose of this Chapter to provide for the protection of the public health, safety and general welfare of the people of the City of Niagara Falls by establishing rules and regulations governing:

(a) The generation, separation, storage, collection, transportation, processing and disposal of refuse and recyclables within the City limits;

(b) Residential and commercial refuse and recyclable management;

(c) Licensure of refuse and recyclable collectors; and

(d) The preparation, collection, transportation and disposal of refuse and recyclable items in accordance with all state laws.

(2) Methods of solid waste management emphasizing source reduction, reuse and recycling are essential in the City of Niagara Falls for long term preservation of public health, economic productivity and the environment quality.

(3) This Chapter is adopted pursuant to General Municipal Law § 120-aa.

(4) This Chapter shall be known as "Solid Waste Refuse and Recycling."

C. Definitions. As used in this Chapter, the following terms shall have the meanings ascribed to them:

**ADMINISTRATIVE FEE**

Fees charged to users for administration and enforcement of this Chapter. Such fees will be set from time to time by resolution of the City Council.

**AUTHORIZED RECYCLING FACILITY**

A permitted or specifically exempt facility or facilities for processing, reprocessing and/or recycling recyclable materials as defined herein or listed in the rules and regulations promulgated by the Director of the Department of Public Works or his designee. This term shall exclude incineration facilities, waste-to-energy facilities and landfills.

#### BULK WASTE

(1) Solid waste which is too large or too heavy to place inside a City-Issued Refuse Cart. The term includes, but is not limited to, discarded small household furniture, bedding and mattresses, hot-water tanks, carpet (maximum three rolls, each no larger than four feet long and 18 inches wide). This will also include, but is not limited to, white goods/appliances, such as refrigerators, freezers, washers, dryers, stoves, scrap metal and other large appliances.

(2) This term does not include air conditioners, microwave-emitting equipment, microwave ovens, regulated material, such as tires, hazardous, regulated medical and infectious waste.

#### CITY

The City of Niagara Falls, a municipal corporation incorporated in 1892 pursuant to the laws of the State of New York.

#### CITY-ISSUED CART

Any City-Issued Refuse Cart or City-Issued Recycling Cart as defined in this Chapter.

#### CITY-ISSUED RECYCLING CART

A 96 gallon roll-away (wheeled) recycling cart issued by the City to property owners or their representatives, capable of semi-automated and/or automated recycling collection, for the sole purpose of storage, collection and disposal of source-separated recyclables.

#### CITY-ISSUED REFUSE CART

A 64 gallon roll-away (wheeled) refuse cart issued by the City to property owners or their representatives, capable of semi-automated and/or automated refuse collection, for the sole purpose of storage, collection and disposal of source-separated solid waste.

#### CITY PROGRAM

The City of Niagara Falls Solid Waste and Recycling Program which, among other things, calls for the collection of solid waste by a waste hauler under contract with the City.

#### COMMENCEMENT DATE

August 1, 2014.

#### COMMERCIAL REFUSE

Solid waste generated at locations other than single-family, two-family, three-family or multi-family dwellings. This definition includes refuse generated by multi-family complexes, businesses, schools, churches, post offices, restaurants, governmental properties, institutional properties, parking lots, parking garages and parking ramps. Commercial refuse excludes all industrial, hazardous, regulated medical and infectious waste.

#### COMMERCIAL REFUSE WASTE HAULER

A person engaged in the business of collection, removal, transportation or disposal of residential and commercial refuse.

#### COMMERCIAL REFUSE MANAGEMENT

The purposeful, systematic control of the generation, separation, storage, collection, processing and disposal of commercial refuse.

#### COMMERCIAL USER

Any producer of solid waste other than single-family, two-family, three-family or multi-family dwellings. This definition includes multi-family complexes, businesses, schools, churches, post offices, restaurants, governmental properties, institutional properties, parking lots, parking garages and parking ramps. A commercial user excludes all industrial users, hazardous waste users and those users generating regulated medical and infectious waste.

#### COMMINGLED RECYCLABLES

Mixed recyclable materials separated from municipal solid waste (MSW) at the point of generation.

#### COMPOSTING

A controlled microbial degradation of organic waste yielding a nuisance-free product of potential value as a soil conditioner.

#### CONSTRUCTION AND DEMOLITION WASTE

Any and all solid waste resulting from building construction, reconstruction, repair or demolition; from grading or other incidental work in connection with any premises; or from replacement of building equipment or appliances, which work is performed by the owner or occupant.

#### CURBSIDE COLLECTION

The collection at individual residential households and commercial buildings by a waste hauler or private waste hauler, for subsequent transport to a waste disposal facility.

#### DEAD ANIMALS

Dead animals or parts of animals from slaughterhouses are not included in this category.

#### DIRECTOR

The Director of the Department of Public Works or his designee.

#### ELECTRONIC WASTE (E-WASTE)

Any discarded electronic or electrical devices or their parts.

#### HAZARDOUS WASTE

A solid waste or combination of solid wastes which, because of its quantity, concentration or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed. From a regulatory standpoint, hazardous waste is defined on a basis of regulations in the Resource Conservation and Recovery Act administered by the United States Environmental Protection Agency (USEPA). This includes residential hazardous waste such as oil-based paint, paint thinners, household cleaners and aerosol containers.

#### ILLEGAL DUMPING

Dumping, throwing, placing, depositing or leaving, or causing to be dumped, thrown, deposited or left, any solid waste of any kind or any object or substance which tends to pollute, mar or deface, into, upon or about:

- (1) Any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water, except by direction of the City of Niagara Falls; or
- (2) Any premises privately owned other than the premises where the solid waste or object or substance originated.

#### INDUSTRIAL USER

Any producer of solid waste that generates industrial waste as defined herein.

#### INDUSTRIAL WASTE

Any and all residue and solid waste resulting directly from industrial or manufacturing operations. It shall not include solid waste originating from office operations of an industrial establishment, nor shall it include solid waste resulting from the commercial operations of persons, engaged in the construction and demolition of buildings, the repairing of streets and buildings, demolition or excavation. Residue or waste resulting from tree or landscaping services shall also be excluded. Industrial waste excludes all hazardous, regulated medical and infectious waste.

#### INFECTIOUS WASTE

Includes but is not limited to human and animal surgical wastes, blood and blood product wastes, human tissue or parts. Biological waste products and laboratory wastes which have come in contact with pathogenic organisms generated by entities such as medical institutions, biological research organizations, laboratories and hospitals.

#### INSTITUTIONAL REFUSE

Refuse originating in and around governmental institutions, tax-exempt hospitals and public, charitable, philanthropic or religious institutions. All refuse from institutions not included in this definition shall be considered commercial refuse. Institutional waste excludes all hazardous, regulated medical and infectious waste.

## INTEGRATED WASTE MANAGEMENT

Coordinated use of a hierarchy of management methods, including recycling, composting, incineration, and land filling.

## MATERIALS RECOVERY FACILITY (MRF)

A materials recovery facility.

## MULTIFAMILY USER

An improved parcel of land in the City of Niagara Falls which is designated for or occupied by a residential use with four-family dwelling units.

## MULTIFAMILY COMPLEX

More than four residential dwelling units that are either attached or detached on a single parcel of land.

## NON-RECYCLABLE MATERIAL

That portion of the waste stream not included under the definition of "recyclables" contained herein and not treated or separated as hazardous waste under § 27-0903 of the New York State Environmental Conservation Law, source, special nuclear or by-product material as defined in the United States Atomic Energy Act of 1954, or low-level radioactive waste as defined in § 29-0101 of the New York State Environmental Conservation Law. Non-recyclable material includes, but is not limited to, the following:

- (1) Garbage: putrescible solid waste, including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking and serving of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants and other places where food is stored, prepared or served.
- (2) Rubbish: rags, sweepings, excelsior, rubber, leather, crockery, shells, clothing, dirt, filth, ashes, wastepaper and similar waste material.
- (3) Construction and demolition waste: waste resulting from construction, remodeling, repair and demolition of structures, road building and land clearing. Such wastes include but are not limited to bricks, concrete and other masonry materials, soil, rock, lumber, road spoils, paving material and tree or brush stumps.
- (4) Medical and infectious waste: as that term is defined herein.
- (5) Styrofoam.
- (6) Propane tanks.
- (7) Paint cans.
- (8) Flammable liquids.
- (9) Household cleaners.
- (10) Chemicals, dry or liquid.
- (11) Wood items.
- (12) Concrete.
- (13) Garden hose.
- (14) Electrical cords.

#### NONRESIDENTIAL PRODUCERS

Any producer of solid waste other than a residential producer, including but not limited to commercial users.

#### OCCUPANT

A person occupying the premises which he or she owns or controls or a tenant or renter of the owner of such premises.

#### OTHER RECOVERABLE MATERIALS

Any material, substance, by-product, compound or any other item generated or originating within the City and separated from solid waste at the point of generation for separate collection, sale, external reuse or reprocessing and/or disposition other than by disposal in landfills, sewage treatment plants or incinerators. Other recoverable materials do not include recyclable materials as defined herein. Other recoverable materials excludes all hazardous, regulated medical and infectious waste.

#### OWNER

The owner of premises within the City of Niagara Falls or another person who has agreed to be or has been designated as the owner's agent for purposes of fulfilling the owner's obligations under this Chapter.

#### PARCEL

A single address or location that may have a single-family, two-family, three-family or multi-family dwelling, or a commercial use that qualifies for collection of refuse and recyclables by the waste hauler.

#### PERSON

Any natural person, partnership, association, joint venture, corporation, estate, trust, association, improvement district, governmental entity or other legal entity.

#### PREMISES

A single parcel of land upon which may be situate a building or group of buildings.

#### PRIVATE WASTE HAULER

A person not under contract with the City that is engaged in the business of collection, removal, transportation or disposal of residential and commercial refuse and recyclables that is licensed and so authorized by the Director.

#### REAR YARD

A yard extending between the side lot lines of a lot and situated between the rear lot line and the rear line of the principal building or use, projected to the side lot lines; in a corner lot, a yard extending between the interior side lot line and the exterior side yard and situated between the rear lot line and the rear line of the principal building or use, projected to the interior side lot line and exterior side yard.

## RECYCLABLE MATERIAL

Any solid waste generated or originating within the City as designated in the rules and regulations promulgated hereunder and defined by the most-current recycling menu issued by the City and/or the waste hauler, including but not limited to:

- (1) Aluminum cans: containers fabricated primarily of aluminum and commonly used for soda, beer or other beverages.
- (2) Kitchen cookware: metal pots, pans, tins and utensils.
- (3) Steel and tin cans: empty cans only.
- (4) Glass: clear or colored jars, bottles and containers which are primarily used for packaging and bottling of various matters.
- (5) Newspaper: the common, inexpensive machine-finished paper made chiefly from wood pulp used for newspapers without bags, strings or rubber bands.
- (6) Paper board: wood-pulp-based material without any wax coating such as cardboard, pizza boxes, paper bags and corrugated cardboard.
- (7) Office paper and junk mail: envelopes, flyers, brochures and postcards.
- (8) Phone books: all types and sizes.
- (9) Magazines and catalogs: all types and sizes.
- (10) Wax coated containers such as milk and juice cartons: empty containers only.
- (11) Plastic containers: containers used primarily for laundry products, dishwashing detergents, milk, water most common being PET (polyethylene terephthalate) and HDPE (high-density polyethylene) but may selectively include other common plastic resin types.

## RECYCLING CART

See "City-Issued Recycling Cart".

## RECYCLING or RECYCLED

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

## REFUSE

- (1) Solid waste generated at residences or at commercial users. This includes garbage, animal waste, yard trimmings, commercial refuse or other waste and other material which is not defined as recyclables or yard waste.
- (2) Excluded from the definition of refuse (municipal solid waste) are the following which the waste hauler shall have no obligation to accept or process (herein the "excluded wastes"): any radioactive, volatile, highly flammable, explosive, toxic, biomedical, or hazardous material, dirt, or any other waste or material not meeting the requirements of this article. The term "hazardous material" shall include, but not be limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency or jurisdiction.

## REFUSE CART

See "City-Issued Refuse Cart".



#### REFUSE MANAGEMENT

The purposeful, systematic control of the generation, separation, storage, collection, transportation, processing and disposal of refuse generated by residential and commercial users.

#### RESIDENTIAL BUILDING REFUSE

Any and all refuse or residue resulting from building construction, reconstruction, repair or demolition or other incidental work in connection with any premises; or from replacement of building equipment or appliances, which work is performed by the owner or resident.

#### RESIDENTIAL REFUSE

Refuse originating in and around single-family, two-family, three-family, and multi-family dwellings.

#### RESIDENTIAL USER

A person who owns or occupies an improved parcel of land in the City of Niagara Falls which is designed for or occupied by a residential use with four or fewer dwelling units. This term includes, but is not limited to, vacant parcels and parcels with two residential structures on one parcel. This also includes those persons, owners or occupants of single-family, two-family, three-family, or multi-family dwellings which produce solid waste and are used exclusively for residential purposes.

#### SCAVENGING

The uncontrolled removal of solid waste at any point in waste management.

#### SEPARATE AND ADDITIONAL COLLECTIONS

Residents desirous of disposing of quantities of additional refuse may separately contract with a City-approved private waste hauler.

#### SINGLE-FAMILY DWELLING

An improved parcel of land in the City which is designated for or occupied by a residential use with one dwelling unit. This includes manufactured homes and mobile homes.

#### SINGLE STREAM RECYCLING

A system in which all paper fibers and containers, such as glass, plastic, or aluminum, are mixed together in the same recycling cart.

#### SOLID WASTE

Includes but is not limited to garbage, refuse, non-recyclable rubbish, recyclable material, construction and demolition waste, white goods/appliances, bulk waste, yard trimmings and yard waste.

#### SOURCE SEPARATION

The segregation of recyclable material and other recoverable material from non-recyclable solid waste at the point of generation for separate collection, donation, sale or other disposition.

#### SPECIAL COLLECTION SERVICE EXEMPTION

All persons having physical limitations which prevent placement of City-Issued carts at the curb are entitled to apply to receive Special Collection Service, provided the following criteria is met:

(1) Age only criteria: Any residence where there are no persons between the ages of 12-70 capable of placing the cart(s) curbside or roadside. Any person requesting an age only exemption must present a written certificate from a physician licensed to practice in New York State stating that the person, because of age, is incapable of placing the cart(s) curbside or roadside. This request must be verified by the Director.

(2) Physical condition criteria: Each person between 12-70 at a residence not capable of placing the cart at the curbside must present a written certificate from a physician licensed to practice in New York State stating they are physically incapable of placing the cart curbside. This request and certification must be verified by the Director.

#### SPECIAL COLLECTION SERVICE REQUEST

Citizens requiring Special Collection Service must submit their request annually, no later than August first each year, in writing to the Department of Public Works, PO Box 69, Niagara Falls, NY 14302-0069.

#### STRANDED COSTS

The City's investment in education, research, technology, capital, equipment and infrastructure for the refuse and recycling program.

#### THREE-FAMILY DWELLING

An improved parcel of land in the City which is designated for or occupied by a residential use with three dwelling units.

#### TRANSFER STATION

A location where certain types of waste can be temporarily stored after having been dropped off by any type of collector and being removed by larger vehicles for subsequent treatment and ultimate disposal.

#### TWO-FAMILY DWELLING

An improved parcel of land in the City which is designated for or occupied by a residential use with two dwelling units.

#### USER

An occupant, owner, parcel, person or premises within the City of Niagara Falls that generates solid waste.

#### WASTE DISPOSAL FACILITY

The structures, land, and other improvements on the land, used for treating, sorting, or disposing of waste. A waste disposal facility may consist of several treatment, storage, or disposal operational units.

#### WASTE HAULER

The person under contract with the City of Niagara Falls that is engaged in the business of collection, removal, transportation and disposal of residential, commercial, and institutional refuse and recyclables.

#### WASTE STREAM REDUCTION PROGRAM

Programs designed to reduce the volume of solid waste, to enhance reclamation and recovery of solid waste or recyclables otherwise destined for the municipal waste stream, and includes recycling programs.

#### WHITE GOODS/APPLIANCES

A large and/or bulky household item (such as a refrigerator, freezer, washer, dryer, stove, etc.) ordinarily operated by gas or electric current.

#### YARD TRIMMINGS

All accumulations of grass or shrubbery clippings, leaves, tree branches, and other materials accumulated as the result of the care of the lawn, shrubbery, vines and trees by a property owner.

#### YARD WASTE

Compost material, organic yard and garden waste, leaves, brush and cuttings from shrubs, hedges and trees which are more than four inches in diameter. This term does not include regulated material.

#### D. Duties and powers of the Director.

(1) The Director, in addition to other powers cited in this Chapter, shall have the authority and responsibility to:

(a) Enforce all provisions of applicable state and local laws regulating residential, commercial, institutional and industrial refuse and recycling licensure, collection and management in the City of Niagara Falls.

(b) Subject to City Council approval, promulgate rules and regulations regarding the methods of collection of residential and commercial solid waste.

(c) Subject to City Council approval, set rules and regulations governing exemptions to this Chapter.

(d) Subject to City Council approval, add to or delete from the list of items to be recycled and establish rules and regulations regarding the separation, preparation, collection, transport and disposal of recyclables.

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

(f) For good cause shown, grant a Special Collection Service exemption request from the curbside or roadside collection requirements of refuse and recyclables to any person who because of age or physical condition is unable to deliver the refuse cart or recycling cart to the curbside or roadside area.

(g) For good cause shown, grant an exemption from the fencing and screening requirements for dumpsters required herein.

#### **911.02 LICENSING OF INDEPENDENT PRIVATE WASTE HAULERS.**

A. Any private waste hauler operating or desiring to operate within the City shall, within 90 days of the effective date of this Chapter and prior to the first day of January of each year thereafter, register with the Director and apply for a license for operation. The term of the license issued to a private waste hauler shall run from January 1 to December 31 of the year issued. Upon proper registration and payment of the required fees as set forth by the City Council resolution, from time to time, the City Clerk shall issue a license to the private waste hauler, which license shall not be transferable. Such license shall not be effective until approved by the City Council.

B. At the time of registration and as a condition precedent to receiving a license, the private waste hauler shall provide the City Clerk, on a form prepared by the City Clerk, the following:

- (1) The name of the private waste hauler, business address and telephone number.
- (2) The name, address and telephone number of the persons having the largest ownership interest in the private waste hauler.
- (3) The name, address and telephone number of the officers of the corporation or general partners of the partnership, if applicable.
- (4) A current listing of all collection sites which the private waste hauler services within the City and the number of dumpsters or other trash receptacles serviced at such collection site, which listing shall be timely updated during the course of the year, as necessary, by the private waste hauler.
- (5) A recitation that the private waste hauler shall refuse to accept for collection any waste material which has not been prepared for collection by the generator of the waste material in conformity with this Chapter.
- (6) The quantity, by ton, of all garbage, non-recyclable material and refuse collected within the City during the twelve-month period prior to the date of issuance of the license. The name(s) and location(s) of the disposal site(s) must also be included.
- (7) The quantity, by ton, and the type of all recyclable material collected within the City and delivered to a recycling facility during the twelve-month period prior to the date of issuance of the license. The name(s) and location(s) of the recycling facility(ies) must also be included.
- (8) Such other information as the City Clerk shall deem appropriate and necessary.

C. Private waste haulers shall abide by this Chapter and the recycling regulations, as amended from time to time by the Director. Failure to comply with this Chapter and such recycling regulations may result in revocation of the private waste hauler's license pursuant to this Chapter.

D. Any vehicles used by private waste haulers shall be watertight and equipped with airtight tarps anchored to the vehicles for such portions of the vehicles as are used for the transportation of garbage, non-recyclable material and refuse and/or recyclable material. The airtight tarps shall be in place at all times the vehicle is in the City, whether empty or full, except during the physical act of collection so as to prevent any spillage onto the public right-of-way.

E. The name of the private waste hauler operating any vehicle used for the transportation of garbage, non-recyclable material and refuse and/or recyclable material within the City shall be displayed on both sides of each such vehicle in a prominent and legible manner.

F. General Regulations.

(1) Persons who utilize private waste haulers shall have their solid waste collected at least once a week, or more frequently when it is determined by the Director that such additional collections are necessary to protect the public health, safety and welfare. The waste hauler is not required to collect any waste material, garbage, non-recyclable material and refuse and/or recyclable material from any person who is required to utilize a private waste hauler under the terms of this Chapter.

(2) All dumpsters utilized by private waste haulers for the collection of waste material, garbage, non-recyclable material and refuse and/or recyclable material as required by this Chapter shall comply with the regulations set forth in the City Ordinances and shall be located on private property and shall be in an area enclosed by fencing and screening as required in the City Ordinances. The fencing and screening shall at all times be maintained in good repair.

(3) The fencing and screening of dumpsters shall be completed within 90 days of the effective date of this Chapter. Appropriate building permits must first be obtained from the Department of Code Enforcement. Persons who are unable to comply with the fencing and screening requirements may file a written request for an exception thereto with the Director. An investigation of the requested exception will be conducted by the Director. At the conclusion of such investigation, the Director shall, within 45 days of the filing of the requested exception, render a decision granting, conditionally granting or denying the requested exception. The person seeking the requested exception shall bear the burden of demonstrating inability to comply with the requirements of this Chapter.

(4) Private waste haulers shall operate their vehicles within the City so as to cause the least possible disruption to traffic flow on City streets.

(5) A private waste hauler's sticker shall be prominently displayed on each vehicle operated by or on behalf of the private waste hauler authorized, by license, to collect waste material in the City.

(6) All private waste haulers licensed by the City shall agree to indemnify and hold harmless the City for any pending, threatened or actual claims, liability or expenses arising from the disposal of waste material by any private waste hauler in violation of this Chapter.

G. Denial, suspension or revocation of private waste hauler's license. When the City Clerk determines that a violation of this Chapter or the recycling regulations, as amended from time to time by the City, may have been committed by a private waste hauler or an applicant for a private waste hauler's license, he/she may recommend to the City Council that the private

waste hauler's application for license or the license can be denied, suspended or revoked, as the case may be, or that the holder of said license be subject to a reprimand. Notice and an opportunity to be heard shall be provided as follows prior to the denial, reprimand, suspension or revocation of a private waste hauler's license.

(1) Notice.

(a) The City Clerk shall notify the affected applicant or licensee of the alleged violation in writing. The notice shall include the following:

(1) A statement of the condition allegedly violated, referring to the pertinent section of this Chapter.

(2) A short and plain statement of the alleged violation.

(3) A statement of the time, place and nature of the hearing, the body before whom the hearing shall be held and the relief sought.

(b) The notice shall be personally delivered or sent by certified or registered mail to the applicant's or licensee's last known address at least ten days before the hearing date, with a copy to the Director.

(2) Hearing.

(a) Hearings shall be held before the City Council or a hearing officer designated by it within a reasonable period, which shall be at least ten days after service of notice.

(b) The applicant or licensee may be represented by counsel at the hearing and may offer evidence and cross-examine witnesses.

(c) In the event that the City Council designates a hearing officer to hold the hearing, such hearing officer shall make findings of fact and transmit those findings to the City Council within 30 days after the close of the hearing.

(d) Within 30 days after the close of the hearing or within 60 days after the close of the hearing in the event that a hearing officer hold the hearing, the City Council shall:

(1) Determine whether the alleged violation of this Chapter or recycling regulations has occurred; and

(2) If the City Council determines that such a violation has occurred, decide whether an applicant's license shall be denied or whether an existing private waste hauler's license be suspended, revoked or its holder reprimanded.

(e) The City Council shall then promptly notify the applicant or licensee, in writing, of its determination.

### **911.03 REFUSE.**

#### **A. Public collection and disposal of refuse.**

(1) All residential refuse, except as exempted herein, originating in the City shall be collected by the waste hauler under contract with the City as further delineated in this Chapter. Such refuse shall be stored and prepared for collection by property owners and occupants in accordance with the provisions of this Chapter. Property owners and occupants must adhere to the provisions of this Chapter.

(2) The waste hauler shall also collect refuse from commercial users in the City, inclusive of multi-family complexes, that qualify to participate in the City program and do participate in the City program and deliver it to an authorized disposal facility as further described in this Chapter. The criteria used to determine whether a commercial user,

inclusive of a multi-family complex, qualifies to participate in the City program shall be determined by the Director. Among the criteria to qualify to participate in the City program, a commercial user must demonstrate to the satisfaction of the Director that such user does not regularly generate a quantity of refuse that exceeds the capacity of two (2) City-Issued Refuse Carts. In the case of a multi-family complex user, such user must demonstrate to the satisfaction of the Director that it does not regularly generate a quantity of refuse that exceeds the capacity of four (4) City-Issued Refuse Carts. In the event such a commercial user is determined by the Director to qualify to participate in the City Program, up to two (2) City-Issued Refuse Carts will be made available to that user. In the event a multi-family complex user is determined by the Director to qualify to participate in the City Program, up to four (4) City-Issued Refuse Carts will be made available to that user.

(3) The waste hauler shall not collect construction and demolition waste, industrial waste, infectious or hazardous refuse/waste.

(4) The waste hauler shall collect residential refuse as well as commercial refuse from commercial users, inclusive of multi-family complexes, that qualify for and participate in the City's program once per week.

A residential user that produces construction or demolition waste must arrange for the disposal of such waste by a licensed private waste hauler or, in the alternative, may obtain a permit from the Director to dispose of such waste at the waste hauler's facility. In addition, a residential user that produces a quantity of refuse that exceeds the capacity of the City-Issued Cart may obtain a permit from the Director to dispose of such refuse at the waste hauler's facility.

(5) Refuse collection at a frequency greater than once per week will be handled on a case-by-case basis. Such separate and additional collections must be scheduled by the user with the waste hauler or a private waste hauler. User fees for such separate and additional collections shall be established by the waste hauler or a private waste hauler and charged to the user consistent with the frequency of the additional collections.

(6) Single-family, two-family, three-family and multi-family dwelling users and multi-family complexes that qualify to participate in the City program may place one bulk waste item per dwelling unit at the curb at a frequency determined by the waste hauler. Bulk waste must be placed in a location that does not impede with the collection of the City-Issued Carts. Users are responsible for removing refrigerant, must present adequate information indicating refrigerant has been removed and the doors shall be removed.

(7) Commercial users and multi-family complexes that do not qualify to participate in the City program and industrial users must provide for the lawful collection and disposal of refuse by a private waste hauler.

(8) Commercial users and multi-family complexes not serviced by the waste hauler under contract with the City must establish to the satisfaction of the Director that a private waste hauler is providing collection and disposal services for the commercial user and multi-family complexes and that refuse collection is being made at a frequency determined by the Director to be consistent with public health requirements. Failure to provide for adequate collection and disposal services or to provide satisfactory proof to the Director of such collection shall constitute a violation of this Chapter.

(9) Commercial users and multi-family complexes who elect to be serviced exclusively by a private waste hauler and commercial users and multi-family complexes who have had public collection service discontinued shall provide commercial containers or alternate containers sufficient in number to contain all refuse accumulating between

scheduled refuse collections and shall not allow refuse to be stored or to accumulate on their property. Any substantial accumulation of refuse is hereby declared to be a public health hazard and a public nuisance and shall constitute a violation of this Chapter. The Director shall determine whether or not the accumulation of refuse is substantial.

(10) The Director shall have the authority to abate any public health hazard or public nuisance and to impose the administrative fees, charges and penalties of this Chapter as well as the cost of disposal for such abatement.

(11) Commercial users and multi-family complexes who produce construction and demolition waste and industrial waste must be serviced exclusively by a private waste hauler.

(12) No person or company, except the waste hauler, or a private waste hauler, shall engage in the collection of residential refuse placed between the sidewalk and curb by residential users for public collection.

(13) The waste hauler under contract with the City will not collect or remove yard trimmings and yard waste produced by commercial contractors. Yard trimmings and yard waste produced by commercial contractors must be removed from the premises by the commercial contractor or by the owner or occupant of the premises.

(14) No City employees, equipment nor the waste hauler shall enter private property or structures in making collections unless it can be demonstrated to the satisfaction of the Director that it is in the best interest of the City and more feasible to enter certain private property to make collection. When it is determined by the Director that City employees, their equipment or the waste hauler may enter private property in making collections, the owner of said private property must execute a consent, release and hold harmless agreement with the City allowing access to private property and releasing the City from any liability as a result of entering the property as well as holding the City harmless against any claims made against the City.

(15) The waste hauler shall have no obligation to pick up and remove any refuse which was not generated in a residence in the City, nor does waste hauler have an obligation to pick up and remove any refuse which was not generated by a qualifying commercial user or a multi-family complex located in the City.

(16) Vehicular tires and tire casings will not be picked up or removed by the City or any agency thereof. The City will dispose of unmounted passenger vehicular tires for a charge per tire, if said tires are dropped off to the Department of Public Works Corporation Yard. The charge per tire will be determined by the Director upon approval by resolution of the City Council.

(17) It shall be the duty of every owner or occupant of every residential dwelling within the City to keep the public sidewalk and area between the public sidewalk and street free and clear of all kinds of solid waste.

(18) All carts placed for collection must be placed three to five feet from the street's edge, with the cart's latch bar facing the street.

(19) No person shall cart, dump, burn, deposit or otherwise dispose of or cause to be carted, dumped, burned, deposited or otherwise disposed of any solid waste upon any public highway, street or other public place or upon any private property except as provided in this Chapter.



B. Residential refuse carts.

(1) The City will provide City-Issued Refuse Carts for the sole purpose of refuse storage and collection as follows:

(a) Single-family dwelling. The user will receive one City-Issued Refuse Cart.

(b) Two-family dwelling. The user will receive two City-Issued Refuse Carts.

(c) Three-family dwelling. The user will receive three City-Issued Refuse Carts.

(d) Multi-family dwelling. The user will receive one City-Issued Refuse Cart for each dwelling unit in the dwelling up to a maximum of four City-Issued Refuse carts. In the alternative, the multi-family dwelling user may opt out of the City program and contract with a private waste hauler.

(2) In the event a City-Issued Refuse Cart is lost, damaged, rendered unusable or removed from the assigned premises, the City will provide replacement City-Issued Refuse Carts to users as deemed necessary by the Director. The City may, after investigating the facts involving the lost, damaged, unusable or removed cart, charge users a replacement fee for these carts equal to the cost of a new cart, in accordance with rules and regulations established by the Director. The cost of a new City-Issued Cart may fluctuate from time to time depending upon market conditions. Any replacement City-Issued Refuse Cart shall remain the property of the City.

(3) Any City-Issued Refuse Cart is owned by the City, shall remain at the assigned premises, and shall be used solely for the purpose of storage and collection of refuse.

(4) Upon application by a residential user and for good cause shown, the Director may authorize a residential user to receive one additional City-Issued Refuse cart at a premises for inclusion in the City Program.

C. Commercial refuse carts.

(1) Commercial users and multi-family complexes that qualify to participate in the City Program and do participate in the City program must adhere to this Chapter. Qualifying commercial users have the option to receive up to two (2) City-Issued Refuse Carts and qualifying multi-family complexes have the option to receive up to four (4) City-Issued Refuse Carts.

(2) All commercial users and multi-family complexes must have a sufficient number of containers or carts to hold all refuse accumulated between scheduled collections and shall not allow refuse to be stored or to accumulate on their property in a manner or amount contrary to the rules and regulations of this Chapter.

D. Preparation of refuse for collection by the waste hauler.

(1) A user who places items at the curb for collection and disposal by the waste hauler shall separate garbage and non recyclable material from recyclable material and prepare the same for collection and disposal in accordance with this Chapter.

(2) Refuse offered for collection shall be prepared for collection by the user of the premises as provided in this section.

(3) The placement of refuse for collection at or in front of a premises other than the premises at which the refuse originated constitutes illegal dumping and is prohibited by this Chapter and such activity shall constitute a violation of this Chapter.

(4) All residential and commercial refuse shall be placed in City-Issued Refuse Carts for collection between the sidewalk and the curb or alongside the roadway in front of the premises where the refuse originated at a distance between three and five feet from the street edge; the cart's latch bar must face the street in an area free of snow to allow for the placement of the owners'/occupants' refuse and recycling carts. Such carts must be placed in such a location so as to not interfere with pedestrian or vehicular traffic in the City right-of-way nor impede wheelchair access in the public right-of-way. Such carts may not be placed for collection prior to 5:00 p.m. the day prior to the scheduled collection day and must be removed no later than 11:00 p.m. the day the refuse and recyclables are collected.

(5) Any and all brush and tree parts produced by the activity or efforts of the owner or occupant of the premises shall be in bundles not exceeding four feet in length and 50 pounds in weight. The bundles shall be placed at the curb in a reasonable manner so as to not impede traffic and to permit ease of handling by one person. Leaves may be left in loose piles at the curb or alongside the roadway for collection by the City in the fall of each year pursuant to a schedule to be promulgated by the Director each year and published by the Director.

(6) City-Issued Refuse Carts must not be filled over their level capacity and the lids must be completely closed.

(7) All commercial users and multi-family complexes that participate in the City program shall properly deposit refuse in City-Issued Refuse Carts. All commercial users and multi-family complexes that do not participate in the City program shall properly deposit refuse in carts approved by the Director for collection by a private waste hauler as set forth in this Chapter.

(8) For good cause shown, the Director is hereby authorized to grant a Special Collection Service exemption from the curbside or roadside collection requirements to any person who qualifies for such exemption.

#### E. Yard Trimmings.

Yard trimmings placed for collection by the waste hauler may be placed in the City-Issued Refuse Cart. In the alternative, yard trimmings may be placed for collection separate and apart from any other waste or refuse in a landscape craft bag or a plastic bag at the curb area provided that the plastic bag is clear and the contents are visible to the waste hauler during the time frames set forth by the Director for such collection.

#### F. Responsibility of owners and landlords.

(1) Owners of premises shall be responsible for compliance with the provisions of this Chapter and shall remain responsible therefor regardless of the fact that this Chapter may also place certain responsibilities on occupants and regardless of any agreements between owners or occupants as to which party shall assume such responsibility.

(2) Owners and occupants of rental property located in the City shall provide to the tenant a document specifying the requirements that the tenant shall meet as to the storage and disposal of refuse and the legal penalties for violation of those requirements.

#### **911.04 RECYCLABLES.**

##### **A. Public collection and disposal of recyclables.**

(1) All residential recyclable material originating in the City shall be collected by the waste hauler under contract with the City as further delineated in this Chapter. Such recyclable material shall be stored and prepared for collection by property owners and occupants in accordance with the provisions of this Chapter. Property owners and occupants must adhere to the provisions of this Chapter.

(2) The waste hauler shall also collect recyclable material from commercial users and multi-family complexes in the City that qualify to participate in the City program and do participate in the City program, and deliver them to an authorized recycling facility as further described in this Chapter. The criteria used to determine whether a commercial user qualifies to participate in the City program shall be determined by the Director. A commercial user that qualifies to participate in the City Program shall receive one (1) City-Issued Recycling Cart. A multi-family complex that qualifies to participate in the City program shall receive up to two (2) City-Issued Recycling Carts.

(3) Recyclables shall be stored and prepared for collection according to the provisions of this Chapter.

(4) The City encourages users to participate in this recycling program. Notwithstanding the foregoing, the quantity of recyclables put out for collection by a residential user or commercial user and multi-family complexes that participate in the City's program shall be in the sole discretion of such users.

(5) The waste hauler shall collect recyclable material from residential users and commercial users and multi-family complexes that participate in the City's program once every two (2) weeks.

(6) Recyclable material collection at a frequency greater than once every two (2) weeks will be handled on a case-by-case basis. Such separate and additional collections must be scheduled by the user with the waste hauler or a private waste hauler. User fees for such separate and additional collections shall be established by the waste hauler or a private waste hauler and charged to the user consistent with the frequency of the additional collection.

(7) Commercial users and multi-family complexes that do not qualify to participate in the City Program and industrial users must provide for the lawful collection and disposal of recyclable material.

(8) In the event a commercial user or multi-family complex user fails to qualify for the City Program or if such users qualify for the City Program and choose not to participate, that user must be serviced by a private waste hauler.

(9) Commercial users and multi-family complexes not serviced by the waste hauler under contract with the City must establish to the satisfaction of the Director that a private waste hauler is providing collection and disposal services of recyclables for those commercial users and that collection of recyclable material is being made at a frequency determined by the Director to be consistent with public health requirements. Failure to provide for adequate collection and disposal services or to provide satisfactory proof to the Director shall constitute a violation of this Chapter.

(10) Commercial users and multi-family complexes who are serviced by a private waste hauler and commercial users who have had public collection service discontinued shall provide commercial containers sufficient in number to hold all recyclable material accumulating between scheduled recyclable collections and shall not

allow recyclables to be stored or to accumulate on their property in a quantity sufficient to pose a public health hazard and public nuisance. Any substantial accumulation of recyclable material is hereby declared to be a public health hazard and a public nuisance and shall constitute a violation of this Chapter. The Director shall determine whether an accumulation is substantial.

(11) The Director shall have the authority to abate any public health hazard or public nuisance and to impose the administrative fees, charges and penalties of this Chapter as well as the cost of disposal for such abatement.

(12) No person, except the waste hauler or its designee, or a licensed private waste hauler approved by the Director, shall engage in the collection of residential recyclable material placed between the sidewalk and curb by residential users for public collection.

(13) No City employees, equipment nor the waste hauler shall enter private property or structures in making collections unless it can be demonstrated to the satisfaction of the Director that it is in the best interest of the City and more feasible to enter certain private property to make collection. When it is determined that City employees, their equipment or the waste hauler will enter private property in making collections, the owner of said private property must execute a consent, release and hold harmless agreement with the City allowing access to private property and releasing the City from any liability as a result of entering the property as well as holding the City harmless against any claims made against the City.

(14) The waste hauler shall have no obligation to pick up and remove any recyclable material which was not generated in a residence in the City, nor does the waste hauler have an obligation to pick up and remove any recyclable material which was not generated by a qualifying commercial user or multi-family complex user located in the City.

(15) It shall be the duty of every person, owner or occupant of every residential dwelling within the City to keep the public sidewalk and area between the public sidewalk and street free and clear of all kinds of solid waste.

(16) No person shall cart, dump, burn, deposit or otherwise dispose of or cause to be carted, dumped, burned, deposited or otherwise disposed of any solid waste upon any public highway, street or other' public place or upon any private property except as provided in this Chapter.

(17) In the event a recycling cart is lost, damaged, rendered unusable or removed from the assigned premises, the City will provide replacement recycling carts to users as deemed necessary by the Director. The City may, after investigating the facts involving the lost, damaged, unusable or removed cart, charge users a replacement fee for these carts equal to the cost of a new cart, in accordance with rules and regulations established by the Director. Any replacement recycling cart shall remain the property of the City. The cost of a new City-Issued Cart may fluctuate from time to time depending on market conditions.

#### B. Preparation of recyclables.

(1) Recyclables shall be prepared for collection according to the rules and regulations established by the Director subject to the approval of the City Council.

(2) All residential and commercial recyclables shall be placed in Recycling Carts for collection between the sidewalk and the curb or alongside the roadway in front of the premises where the recyclables originated at a distance between three and five feet from

the street edge; the cart's latch bar must face the street in an area free of snow to allow for the placement of the owners'/occupants' refuse and recycling carts. Such carts must be placed in such a location so as to not interfere with pedestrian or vehicular traffic in the City right-of-way nor impede wheelchair access in the public right-of-way. Such carts may not be placed for collection prior to 5:00 p.m. the day prior to the scheduled collection day and must be removed no later than 11:00 p.m. the day the refuse and recyclables are collected.

(3) Only recyclables as delineated in the rules and regulations promulgated by Director shall be placed in the Recycling Cart.

(4) Materials placed in the Recycling Cart by any user which are improperly prepared and/or which are deemed not recyclable will, for a first offense, be issued a warning by the waste hauler and the failure by the user to cure such defect thereafter shall be considered a violation of this Chapter and subject to the fines and penalties provided herein.

#### C. Ownership.

Recyclable material placed between the sidewalk and the curb by the owner/occupant or his agent for collection shall immediately become the property of the City when so placed, and may not be removed, taken, possessed or scavenged. Notwithstanding the foregoing, the owner/occupant of the premises, or his agent, may remove any items so placed for collection.

#### D. Residential collection of recyclables.

(1) The waste hauler shall collect properly prepared recyclable material placed at the curb from all of its residential users on the same day it collects refuse at intervals determined by the waste hauler.

(2) The waste hauler will deliver collected recyclable material to an authorized recycling facility.

(3) Residential properties will receive Recycling Carts as follows:

(a) Single family: one Recycling Cart.

(b) Two family: two Recycling Carts.

(c) Three family: three Recycling Carts.

(d) Multi family: two Recycling Carts or present to the Director appropriate documentation of a service contract engagement with a private waste hauler.

(4) Recycling carts. Upon application by a residential user and for good cause shown, the Director may authorize a residential user to receive an additional City-issued Recycling Cart at a premises for inclusion in the City Program.

#### E. Nonresidential producers of recyclables.

(1) All Commercial users and multi-family complex users shall provide for the lawful collection and disposal of recyclables. Every commercial user that qualifies for and participates in the City's program shall be issued one (1) Recycling Cart as set forth herein. Every multi-family complex user that qualifies for and participates in the City's program shall be issued up to two (2) City-Issued Recycling Carts as set forth herein. The waste hauler shall collect recyclables from such commercial users and multi-family complexes participating in the City program and deliver them to an authorized recycling facility as

described by this Chapter. Such recyclables shall be stored and prepared for collection by such commercial users and multi-family complexes according to the provisions of this Chapter. The City encourages users to participate in the recycling program. Notwithstanding the foregoing, the quantity of recyclable material shall be at the commercial user's and multi-family complexes' sole discretion.

(2) It is the responsibility of the commercial user and multi-family complexes to identify any items designated as recyclable in this Chapter and/or in the rules and regulations promulgated by the Director and to prepare a plan for the collection of its recyclables subject to approval by the Director.

(3) Commercial users and multi-family complexes may develop an alternate plan for the collection of recyclable material by a licensed private waste hauler. Such a plan must be consistent with all of the provisions of this Chapter and is subject to approval by the Director.

(4) All licensed private waste haulers shall deliver collected recyclables to an authorized recycling facility.

(5) The Director shall have the authority to abate any emergency public health hazard or public nuisance and to impose the administrative fees, charges and penalties of this Chapter as well as the cost of disposal for such abatement.

F. Tenant responsibility for recycling.

Notwithstanding the provisions above, a property owner may apply to the Director for approval of a waiver of primary responsibility for compliance with recycling laws, rules and regulations, provided that such property owner shall furnish to the Director adequate proof, as promulgated by the Director in rules and regulations governing recycling, that the tenants have assumed responsibility for compliance with recycling laws, rules and regulations. This approval may be revoked by the Director in accordance with promulgated rules and regulations.

G. For good cause shown, the Director is hereby authorized to grant a Special Collection Service exemption from the curbside or roadside collection requirements to any person who qualifies for such exemption.

**911.05 STORAGE OF REFUSE AND RECYCLABLES.**

(1) No refuse or recyclable material shall be placed or stored on any premises within the City except as permitted by this Chapter.

(2) Residential refuse and recyclables shall be deposited promptly and stored in City-issued carts as set forth in this Chapter.

(3) Commercial refuse and recyclables shall be deposited promptly and stored in City-issued carts or commercial containers as authorized by this Chapter.

(4) City-issued carts shall not be stored in the front yard of any residence, business, commercial or industrial site, except when placed at the curblin for collection.

(5) Refuse and recyclables shall be stored in a manner so as not to create a public health hazard or public nuisance.

(6) Any substantial accumulation of refuse or recyclables is hereby declared to be a public health hazard and a public nuisance and shall constitute a violation of this Chapter.

(7) Refuse and recyclables shall not be placed or stored in the street, sidewalk or in any public place except as authorized by this Chapter.

(8) The Director shall have the authority to abate any emergency public health hazard or public nuisance and to impose the administrative fees, charges and penalties as set forth in this Chapter as the cost of disposal for such abatement.

#### **911.06 MISCELLANEOUS PROVISIONS.**

A. No person shall write, paint or draw any word, inscription, design, figure or mark, or otherwise mar or deface any City-Issued Cart without express written consent of the City. Any such conduct is a violation of this Chapter.

B. Severability. Should any section, paragraph, sentence, clause or phrase in this Chapter be declared unconstitutional or invalid for any reason, the remainder of the Chapter shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this article are declared to be severable.

C. Dead animals. Dead animals shall be removed by the City, from the right-of-way only, upon request, except that an animal hospital or other business caring for or harboring animals must remove and dispose of dead animals without the aid of the City. The owner or custodian of an animal may remove and dispose of any dead animal by contract with a private waste hauler. In no event shall a dead animal remain undisposed of for a period longer than 12 hours.

D. Emergency collection and disposal. In the event of a public emergency declared by the Mayor, the Director may provide by contract for the public collection, removal and disposal of refuse without competitive bidding. In such case, the Director may impose such conditions as he or she may deem advisable and shall supervise all work under such contracts.

E. Scavenging. No person shall interfere with, take, remove or scavenge for any material in any City-Issued Refuse Cart, recycling cart or any bulk waste which has been placed between the sidewalk and the curb by the owner and/or occupant for collection by the waste hauler.

F. City-Issued Refuse Carts and Recycling Carts for special events. City-Issued Refuse Carts and Recycling Carts provided by the City and placed by the City in the public right-of-way, parks or other public places shall be used only for deposit of refuse and recyclables generated on the public right-of-way by pedestrians and motorists or generated by persons using the parks or other public places. The placing into such carts of refuse or recyclables originating from areas other than the public right-of-way or other public places constitutes illegal dumping and is prohibited by this Chapter. Carts provided by the City for special events or projects shall be used only for deposit of refuse and recyclables generated at the special event or project. When so deposited, such refuse and recyclables become the property of the City.

G. Illegal dumping. No person shall place, throw, deposit or dump or cause to be placed, thrown, deposited or dumped any refuse of any nature including, but not limited to, residential refuse, building refuse, bulk waste, commercial refuse, institutional refuse, construction waste, hazardous waste, industrial waste, infectious waste and/or recyclable materials in or upon any premises, street (including the area between the sidewalk and the curb),

sidewalk or park, or in any refuse or recycling cart placed in a right-of-way, park or public place, or provided for a special project or event.

H. Regulations governing collection of refuse and or recyclables. No collector of refuse and/or recyclable collector shall:

- (1) Violate a rule or regulation established by the Director.
- (2) Dispose of refuse at a site not approved by the New York State Department of Environmental Conservation.
- (3) Litter.
- (4) Scavenge.
- (5) Collect refuse or recyclables placed between the sidewalk and curb by residential or nonresidential producers for collection without prior written approval by the Director.

#### **911.07 RODENT CONTROL MEASURES.**

A. No owner/occupant of residential and nonresidential property shall store, place or allow to accumulate any materials that may serve as food or harborage for rodents in a site accessible to rodents.

B. Firewood or woodpiles shall be stacked at least 12 inches above the ground, away from walls or fences, shall be reasonably secure and shall be stabilized in a structurally sound manner so as to avoid a risk of harm from collapse or movement.

C. No person shall feed in the open any domestic or wild fowl, birds or animals, except in such a manner as to prevent the scattering of feed or seed upon the ground or ground level, which can or will provide food for rodents, insects, vermin or other pests.

D. Owners of nonresidential property must have a rodent control program in effect which provides for abatement and control of rodents by a licensed exterminator.

E. Prior to the issuance of a demolition permit, the applicant for the permit must establish that a licensed exterminator has completed rodent abatement at the site or certify that the property is free from rodents or other vermin.

#### **911.08. ENFORCEMENT; APPEARANCE TICKETS.**

A. The Director, any person designated by him and such other persons as may be designated by resolution of the City Council are hereby authorized and directed to enforce this Chapter, to cause collections to be made according to this Chapter; and to cause to be printed and distributed proper notice to each premises within the City to notify persons governed by this Chapter of the dates and times for refuse collection and of the recycling regulations promulgated pursuant to this Chapter.

B. The Director or a person designated by him are hereby authorized to issue and serve appearance tickets with respect to violations of this Chapter. An appearance ticket shall be served personally by the Director or by a person designated by the Director on the person designated as the person alleged to have committed an offense.



## **911.09 PENALTIES FOR OFFENSES.**

A. Any violation by a person, firm or corporation of any provision of this Chapter or the recycling regulations, as amended from time to time, shall be deemed a violation punishable by the following:

- (1) First violation; a written warning;
- (2) Second violation within 12 months of the first violation; a fine of \$50;
- (3) Third violation within 12 months of the first violation, a fine of \$100;
- (4) Fourth violation within 12 months of the first violation, a fine of \$150; and
- (5) Each subsequent violation within 12 months of the first violation, a fine of \$250.

B. Any person who takes part in or assists in any violation of this Chapter shall be deemed to have committed the same violation as the original violator and shall also be subject to the penalties provided herein.

C. Each day that a violation of this Chapter is committed or permitted to exist shall constitute a separate offense.

D. The notice of violation shall state the date, time and place of the violation, the section or sections violated, the fine imposed and the date on which the violator may appear in the City of Niagara Falls City Court to contest the violation. The notice of violation shall be signed and affirmed by the Director, or his designee(s).

E. If any penalty imposed pursuant to this Chapter remains unpaid for 30 days, the City Council may authorize the Corporation Counsel to commence a civil action to collect such fine.