

## Chapter 213

### SOLID WASTE

[HISTORY: Adopted by the Town Board of the Town of Pendleton: Art. I, 8-2-1938; Art. II, 7-5-1988 as L.L. No. 1-1988; Art. III, 3-24-1992 as L.L. No. 3-1992; Art. IV, 7-7-1992. Amendments noted where applicable.]

#### ARTICLE I Transport into Town [Adopted 8-2-1938]

##### § 213-1. Prohibited acts.

No person, firm or corporation shall transport into said Town of Pendleton any garbage, dead animals, offal matter or other obnoxious matter of any sort or nature whatsoever.

##### § 213-2. Penalties for offenses. <sup>1</sup>

A violation of any of this Article shall be construed and is hereby declared to be a violation and is punishable by imprisonment of not more than fifteen (15) days or by a fine of not more than two hundred fifty dollars (\$250.), or both, for each violation.

#### ARTICLE II Siting of Facilities [Adopted 7-5-1988 as L.L. No. 1-1988]

##### § 213-3. Title.

This Article shall be known as and may be cited as the "Solid Waste Management Facility Incineration, Recycling and Landfills Law of the Town of Pendleton."

##### § 213-4. Purpose.

- A. The Town of Pendleton finds that the siting of solid waste disposal, incineration, recycling facilities, sanitary landfills and solid waste management facilities are by their very nature potentially dangerous to both the town citizenry and to their surrounding natural environment.
- B. It is the duty and intent of the Town Board to protect the inhabitants of the Town of Pendleton through an exercise of its police powers by regulating the siting of solid waste disposal, incineration, recycling operations, solid waste management facilities and sanitary landfills and by requiring maximum utilization of safety and health factors to ensure the continued well-being of the town citizenry and to ensure that the environment will not be adversely affected when such facilities are situated

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1. Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

within a zoning use district in the Town of Pendleton, regardless of the district's designation under existing zoning ordinances.

**§ 213-5. Definitions.**

A. Unless indicated herein or unless the context shall otherwise require, the terms and words used in this Article shall have the same meaning as those defined in Article 27 of the Environmental Conservation Law and regulations promulgated by the New York State Department of Environmental Conservation.

B. The following terms and words shall be defined as follows:

DEC — The New York State Department of Environmental Conservation.

DISPOSAL — The orderly placement, distribution, storage, removal or transportation of industrial wastes.

INCINERATOR — A facility utilizing a controlled process by which solid, liquid or gaseous combustible wastes are burned and changed into gases and the residue produced contains little or no combustible materials.

INDUSTRIAL WASTE — Waste in liquid, semisolid or solid form that results from industrial or commercial processes, including, but not limited to, factories, processing plants and repair and cleaning establishments, which wastes include, but are not limited to, sludges, oils, solvents, spent chemicals and acids. This Article shall apply to hazardous wastes as defined in § 27-1101 of the Environmental Conservation Law or 42 U.S.C. § 6903(5).

LANDFILL — Includes sanitary landfill and solid waste management facilities.

OPERATING AND SITING PERMIT — That permit issued by the Town Board which allows a person to site, construct and operate an industrial waste disposal, recycling facility, sanitary landfill, incineration facility or to operate a solid waste management facility within any zoning use district within the Town of Pendleton.

PERSON — Any individual, partnership, firm, association, business, industry, enterprise, public or private corporation, political subdivision of the state, government agency, municipality, estate, trust or any other legal entity whatsoever.

SITING AND CONSTRUCTION PERMIT — That permit issued by the Town Board of the Town of Pendleton which allows a person to site and construct or modify a solid waste management or industrial waste disposal or recycling facility or to operate a sanitary landfill in any zoning use district currently defined under town law or ordinance.

SOLID WASTE — All putrescible and nonputrescible 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, including, but not limited to, garbage, refuse, industrial and commercial waste, sludges from air or water control facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris, discarded automobiles and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form and including hazardous wastes as

defined in 42 U.S.C. and the Environmental Conservation Law of the State of New York.

**SOLID WASTE MANAGEMENT** — The purposeful and systematic transportation, storage, processing, recovery and disposal of solid waste.

**SOLID WASTE MANAGEMENT FACILITY** — Any facility employed beyond the initial solid waste collection process, including, but not limited to, transfer stations, baling facilities, rail haul or barge haul facilities, processing facilities, including resource recovery equipment or other facilities to reduce or alter the volume, chemical or physical characteristics of solid waste, sanitary landfills, plants and facilities for composting, compacting or pyrolyzation of solid wastes, incinerators, secure land-burial facilities, industrial waste processing or disposal facilities, landspreading facilities, storage areas associated with any of the foregoing and storage lagoons for sanitary landfills. This Article shall apply to hazardous wastes treatment, storage and disposal facilities as defined in § 27-1101 of the Environmental Conservation Law or 42 U.S.C. § 6903(5).

**WASTE TO ENERGY FACILITY** — Includes any industrial waste disposal operation, recycling operation and sanitary landfill.

**§ 213-6. Coordination with other laws.**

All relevant sections of Article 27 of the New York State Environmental Conservation Law and Titles 6 and 7 of the New York Codes, Rules and Regulations, Part 360, as it is amended from time to time, are deemed to be included within and as part of this Article, and any violation thereof shall be considered to constitute a violation of this Article. Nothing contained herein shall be construed as changing, modifying or amending Chapter 247, Zoning, and all requirements shall be construed as being in addition thereto and by virtue of the power granted to the town under the Town Law.

**§ 213-7. Permit requirements.**

- A. No person shall operate or construct an industrial waste disposal, recycling, sanitary landfill or solid waste management facility without a siting permit issued by the Town Board pursuant to the provisions of this Article. Prior to any construction, modification or expansion of any facility, a siting permit shall be required, following a public hearing.
- B. No person shall construct, modify or expand an industrial waste disposal, incineration, recycling facility, sanitary landfill or solid waste management facility without a siting permit issued by the Town Board to comply with state and federal regulations presently, and as may be modified in the future, pursuant to the provisions of this Article. The term or period of any such permit shall be determined by the Town Board utilizing the criteria set forth in this Article, but shall be no less than one (1) year and no more than a five (5) year period.
- C. No siting permit issued pursuant to the provisions of this Article shall be transferable to any other person, firm or corporation unless the original permit clearly provides otherwise.

**§ 213-8. Permit application procedures.**

- A. Existing facilities. The operator of any industrial waste disposal, solid waste management facility, recycling or sanitary landfill facility which is operative as of the effective date of this Article shall submit an application for a siting and operating permit within six (6) months after the effective date of this Article. A complete application for existing facilities which is timely submitted shall be deemed an operation permit until such application is acted upon. If a submitted application is deemed incomplete by the Town Board, the subject applicant shall be notified of such defect and shall be given an additional period of thirty (30) days to complete the application. Failure to do so within such thirty-day extension period shall result in automatic denial of the application. In addition to the application content requirements hereinafter enumerated, all applications submitted under this subsection shall also include:
- (1) A detailed report describing the plan of operation and a contingency plan setting forth in detail a proposal for corrective or remedial action to be taken in the event of equipment breakdowns, ground- or surface water or air contamination resulting from the facility's operation, fires and/or spills.
  - (2) A reasonable demonstration that the facility has satisfied all applicable standards of operation as enumerated in the Environmental Conservation Law of the State of New York and regulations thereunder, by demonstrating specific means for meeting such standards, unless:
    - (a) A reasonable schedule of specified remedial action, with interim and final attainment dates, for achieving compliance with the dictates of Part 360 of the New York Codes, Rules and Regulations is submitted to the Town Board within thirty (30) days of notification by the Town Board that such a schedule is essential; and provided further that such schedule is approved by the Town Board; or
    - (b) A variance has been granted pursuant to § 213-12 of this Article.
- B. Proposed facilities and modification to existing facilities.
- (1) Any person who proposes to construct an industrial waste disposal, recycling, sanitary landfill or solid waste management facility in any zoning district of the town or who proposes to expand or modify any phase of any existing facility shall submit a complete application for a siting and construction permit to the Town Board not less than ninety (90) days in advance of the date on which it is proposed to commence any such siting or construction, modification or expansion. No such modification or construction shall take place without prior Town Board approval. The following acts are deemed to be modifications which require construction permits:
    - (a) Expansion of the facility by acquisition, by purchase, lease or otherwise of additional land which was not the subject of or included in any application submitted under this Article.

- (b) Increase in the total quantity of industrial waste received during any quarter at the facility by fifty percent (50%) or more over the total quantity of waste received during the comparable quarter of the preceding year, except where such increase is not in excess of the approved design capacity of such facility for such time period or change in the type, kind or quantity of industrial waste previously approved.
  - (c) Movement of a disposal, recycling or landfill operation to a portion of property already owned, leased or otherwise held by the facility which was not the subject of any included in any application submitted under this Article.
  - (d) Expansion of the facility by the installation of additional processing equipment which increases the approved design capacity of the facility or which changes the facility process or such expansion or construction which modifies the height of an existing facility or changes the outside dimensions of the facility.
- (2) In addition to the application content requirements hereinafter enumerated in § 213-10, all applications submitted under this subsection shall also include the following:
- (a) A detailed engineering plan and specifications reflecting the construction of the proposed facility.
  - (b) A contingency plan setting forth in detail a proposal for corrective or remedial action to be taken in the event of equipment breakdowns, ground- or surface water or air contamination attributable to the facility's operation, fires, spills and releases of waste materials.
  - (c) Compliance with all town ordinances and local laws and the Environmental Conservation Law of the State of New York.

**§ 213-9. Town Board action.**

- A. Within sixty (60) days following receipt of a completed application or such longer period as may be agreed upon, in writing, by said Town Board and applicant, the Town Board, after a public hearing, shall either approve the application and issue the appropriate permit or disapprove the application. If an application is disapproved, the Town Board shall notify the applicant of such decision and state, in writing, its reasons therefor. The Town Board may refer the application to the Town Planning Board and/or the Town Conservation Board for study upon receipt of said application, and they shall report to the Town Board within thirty (30) days of such referral. In conjunction with the consideration of any permit called for under this Article, the town shall contemporaneously conduct any proceeding required by Article 8 of the Environmental Conservation Law.
- B. When determining the feasibility of issuing an operating or construction permit, the Town Board shall consider the following criteria:

- (1) Existing facilities. A siting and operating permit shall be issued for an industrial waste disposal, recycling, incineration facility, solid waste management facility or sanitary landfill facility in operation as of the effective date of this Article, only if it has been demonstrated that said facility has complied with the standards of operation as set forth in the Environmental Conservation Law and Part 360 of the New York Codes, Rules and Regulations and this Article and all town laws; otherwise, such permit shall be denied and the facility shall thereafter accept no new waste but shall have ninety (90) days to cease operations and complete restorative measures.
  - (2) Proposed facilities. An operation and siting permit shall be issued for a proposed solid waste management facility only if the proposed construction thereof is demonstrated to be in accordance with the terms of a Department of Environmental Conservation issued construction and operating permit and certification of the proposed construction has been submitted in accordance with the dictates of the Environmental Conservation Law and regulations promulgated thereunder and the criteria set forth in this Article.
  - (3) When determining the feasibility of issuing town siting and construction permits for the placement of a proposed solid waste management facility, sanitary landfill facility or the proposed modification of an existing facility, the Town Board shall not issue said permit unless the submitted engineering data and construction plans have been approved by the Town Engineer, Code Enforcement Officer or the town's consulting engineers and after the Town Board and the applicant have complied with the dictates of the Environmental Quality Review Act of the State of New York (SEQR).<sup>2</sup>
- C. The Town Board shall hold a public hearing concerning the proposal, and the hearing shall be scheduled within sixty (60) days of the receipt of a completed application.

**§ 213-10. Permit application contents.**

- A. All applications for a permit for the siting, construction and modification or expansion of a facility shall include an application to the Town Board upon a form prescribed by said Town Board.
- B. The applications shall be accompanied by any other data the Town Board reasonably requires to determine the feasibility of issuance or denial of a permit and such information as may be required by the New York State Environmental Quality Review Act (SEQR).
- C. All applications shall contain the following:
  - (1) Engineering plans, reports and specifications prepared by a person or firm registered to practice professional engineering in New York State.
  - (2) The location of all property boundaries certified by a person or firm legally

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2. Editor's Note: See Article 8 of the Environmental Conservation Law.

qualified to practice land surveying in New York State.

- (3) The applicant shall survey and record and include in his application background sound-level data in the vicinity of the facility at the time of application and a topographic map, hydrogeological report, survey of area drainage and proposed location of monitoring wells if required by the DEC.
- (4) A proposed detailed program for estimate of the closure of the facility to be implemented when use of the facility or the useful life of the facility permanently terminates. Such proposal shall set forth a restoration plan which must satisfy the following minimum criteria:
  - (a) No slope shall be left with a grade steeper than one (1) foot of a vertical rise to three (3) feet of horizontal distance, and the normal angle of repose should not be exceeded in any case.
  - (b) All stumps, boulders and other debris resulting from the excavating and appurtenant activities or related operations shall be disposed of by approved methods, and if disposed on site, such debris shall be covered with a minimum of two (2) feet of soil.
  - (c) Topsoil shall be spread over the excavated area to a minimum depth of six (6) inches or as required by Part 360 of the New York Codes, Rules and Regulations, whichever is greater.
  - (d) The restoration area shall be planted with trees, shrubs, grass or other vegetation so as to provide for screening, natural beauty and soil stability. The planting shall follow acceptable conservation and engineering practices.
  - (e) Restoration shall be undertaken in such a way that natural and storm drainage, where it enters and leaves the premises, shall be altered only to the minimal degree necessary to carry out excavations and appurtenant activities. Any alterations of natural and storm drainage shall not adversely affect public roads or neighboring property owners.
  - (f) Restoration shall be a continuous operation, subject to review and approval at each inspection and at the termination of the permit period. Topsoil grading and planting of the area designated for restoration during the permit period shall have been completed before a permit renewal is granted.
  - (g) Within six (6) months after termination and closure of the facility operation, all equipment, buildings, structures and other unsightly evidence of the operation and/or constructions shall have been removed from the premises or disposed of by approved methods, and all restoration shall have been completed.
  - (h) An enumerated list of wastes to be received, treated or disposed of, the quantities of such wastes to be received, their places of origin, method of transportation to be utilized for their shipment to the facility and the

proposed method for their recycling or disposal shall be provided. The applicant shall identify all highways to be used for access to the facility.

- (i) A proposed program shall be provided for the monitoring of all activities of the facility by personnel of the Town of Pendleton or persons authorized by the Town of Pendleton whereby such monitoring personnel or persons shall be allowed access to the facility at regular stated times and also any other time deemed necessary by the Town Inspector.
  - (j) All methods and actions to be utilized are to satisfy the dictates of all applicable standards of operations, as enumerated by 6 NYCRR 360 and herein. Results shall be submitted to the town.<sup>3</sup>
- (5) In the case of an incineration facility, there shall be submitted, where relevant and in addition to the above requirements, a detailed plan of air pollution abatement and the following:
- (a) A description of the waste to be transported into the facility.
  - (b) A description of the burning process, prevailing winds and their effect on adjacent commercial and residential areas.
  - (c) A detailed plan for vermin control.
  - (d) A detailed plan or drawing of the physical facility, which plan or drawing shall include the height of any structures and compliance with Chapter 132, Fire Prevention and Building Construction.<sup>4</sup>
  - (e) A statement showing the proposed transportation route of any vehicles transporting waste to the facility.
  - (f) A proposed plan for disposition and transportation or the burying of any waste product produced by incineration.
- (6) All applications shall be accompanied by evidence of authority to sign the application and shall be signed as follows:
- (a) Corporation: by a duly authorized principal executive officer of at least the level of Vice President, accompanied by a certified copy of the authorizing corporate resolution.
  - (b) Partnership: by a general partner.
  - (c) Sole proprietorship: by the proprietor.
- (7) Applications shall be sworn to by or on behalf of the applicant in respect to all statements of fact therein or shall bear an executed statement by or on behalf of the applicant, pursuant to the New York State Penal Law § 210.45, to the

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3. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

4. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

effect that false statements made therein are made under penalty of perjury.

- (8) Each permit application shall be accompanied by an application fee of one thousand (\$1,000.) dollars plus incur all costs for review thereof as provided under the Environmental Quality Review Act (SEQR) and regulations promulgated thereunder.<sup>5</sup>
- (9) In addition to the application fee provided above and the cost of SEQR compliance, the applicant shall acknowledge and be responsible for the costs incurred in any testing of materials deposited in or placed upon any facility, or any surface or ground waters adjacent to said facility. Such tests shall be conducted at laboratories or facilities approved by the Town Board.
- (10) Each applicant shall demonstrate that the facility will not have adverse impact upon the environment of the Town of Pendleton, town-wide fire protection, town-wide sewer, water and public utilities, local traffic conditions, local land use and planning, and the Town Board, Planning Board and Conservation Board shall approve an application only after careful consideration of the above criteria and requirements.

**§ 213-11. Bonds and insurance.**

- A. As a condition of the issuance of any permit, the town may request the following bonds or insurance issued by a bonding, surety or insurance company acceptable to and in an amount set by the Town Board:
  - (1) Performance bond to ensure proper performance of the work and siting of the facility pursuant to the details of the application, the dictates of this Article and any other local or state law.
  - (2) Restoration bond to ensure that all restoration work is completed pursuant to the plan submitted with the application, the dictates of this Article and any other local law or ordinance.
  - (3) Penalty bond to ensure that all fines and penalties levied and judgments secured pursuant to this Article are promptly tendered and satisfied.
  - (4) Proof of liability insurance covering injuries to person and property. The town reserves the right to require that it be named insured on any policy required hereunder.
- B. The terms and conditions of all such bonds shall be clearly set forth in detail on the permit including the amounts of such bonds and insurance.

**§ 213-12. Variances.**

- A. The Town Board, upon written application from any person who is subject to the dictates of this Article, may, in its discretion, grant a variance from one (1) or more

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5. Editor's Note: See Article 8 of the Environmental Conservation Law.

specific provisions of this Article, only if said applicant:

- (1) Identifies the specific provisions from which a variance is sought.
  - (2) Demonstrates that compliance would, on the basis of conditions unique and peculiar to applicant's particular situation, tend to impose a substantial, financial, technological or safety burden on the applicant or the public.
  - (3) Demonstrates that the proposed activity which is the basis of the requested variance will have no significant adverse impact on the health, safety, welfare and natural resources of the Town of Pendleton and will be consistent with the purpose of this Article, the provisions of the New York State Environmental Conservation Law and any rules and regulations promulgated thereunder.
  - (4) Demonstrates that a prior application has been made to a public authority or body which contains part or all of the information and data required under this Article; provided, however, that the applicant provides the Town Board with the prior application and underlying documents, in which case the Town Board may accept such data or information as an application under this Article. The Town Board shall request such additional data as may be necessary to make a determination under this Article.
- B. In granting a variance, the Town Board may impose specific conditions to ensure that the subject activity will have no adverse impact on the health, safety, welfare and natural resources of the Town of Pendleton.

**§ 213-13. Reissuance of permits or extension of facilities.**

- A. Any permit holder who intends to continue construction or operations beyond the period of time covered in such original permit must file for reissuance of such permit at least ninety (90) days prior to its expiration. Filing for reissuance shall be made by the permit holder on forms prescribed by resolution of the Town Board and available from the Town Clerk, or if no such forms are prescribed, then on the same form as was previously filed. The provisions of this Article relative to submittal and processing of initial applications shall apply to reissuance applications under this section to the extent indicated by the Town Board.
- B. Upon review of a request for reissuance, the Town Board shall determine whether the application is in compliance with or has substantially complied with all terms, conditions and requirements of the expiring permit of this Article.
- (1) When the Town Board after a public hearing determines in the affirmative, the permit may be reissued.
  - (2) When the Town Board determines in the negative or if other circumstances exist which indicate noncompliance with any provisions of this Article or original permit, the Town Board shall take appropriate action to secure compliance, including, but not limited to, a denial of reissuance.

**§ 213-14. Modification, suspension and revocation of permit.**

- A. Upon a minimum of sixteen (16) days notice and opportunity for a hearing, any permit issued pursuant to this Article may be modified, suspended or revoked, in whole or part, during its term, for cause including, but not limited to, the following:
  - (1) Violation of any part of this Article or the terms of a permit issued pursuant to this Article. The Town Board shall also consider any previous violations of this Article or the terms of the permit;
  - (2) Obtaining a permit by misrepresentation or failure to fully disclose all relevant facts;
  - (3) Materially false or inaccurate statements or information in an application for a permit; or
  - (4) The continuation of such permit would not be in the interest of the health, safety and welfare of the residents of the Town of Pendleton.
- B. The Town Board may revise or modify a schedule of compliance of terms in an issued permit if it determines good cause exists for such revision.

**§ 213-15. Penalties for offense.**

All violations of this Article or any regulations or provisions thereof or any permit issued hereunder, including, but not limited to, a false statement or exhibit submitted as part of an application to site and construct or operate a facility, shall be punishable by a fine not exceeding two thousand five hundred (\$2,500.) dollars or imprisonment not exceeding fifteen (15) days, or both, and suspension or immediate revoking of license until corrective measures comply. Each and every day that a violation of this Article is found to exist shall constitute a distinct and separate offense.

**§ 213-16. Agent for the town.**

The Town Board may, in its discretion, appoint a person with suitable qualifications as the on-site agent for the Town of Pendleton. Said agent shall have the following duties:

- A. To monitor the facility and determine whether an operator is complying with all siting permits and zoning requirements and the requirements of all town laws and ordinances.
- B. To report to the Town Board at such times as the Board requires as to the operation of the facility.
- C. To test all materials deposited in or placed upon any facility or any surface or ground waters adjacent to said facility.

**§ 213-17. Repealer; construal of provisions.**

All ordinances and local laws or parts thereof in conflict herewith are preempted by this Article; provided, however, that the provisions of this Article shall not be interpreted as violating any requirements or restrictions wherever it is possible to conform with the provisions of both this Article and any other law or ordinance. This Article shall be

construed as being in addition to Chapter 247, Zoning, and the Environmental Conservation Law of the State of New York (SEQR).

### ARTICLE III

#### Recycling

[Adopted 3-24-1992 as L.L. No. 3-1992]

#### § 213-18. Legislative intent.

The Town Board of the Town of Pendleton finds that the reduction of the amount of solid waste and the conservation of recyclable materials are important public concerns. The separation and collection of newspaper, paper, cardboard, glass, cans, plastic containers and other materials for recycling from the residential, commercial, industrial and institutional establishments in the town will protect and enhance the town's physical and visual environment, as well as promote the health, safety and well-being of persons and property within the town by minimizing the potential adverse effect of landfilling, facilitating the implementation and operation of other forms of solid waste management, conserving natural resources and assisting the town in complying with the mandates of the New York State Solid Waste Management Act of 1988. The promotion and use of recyclable materials, goods produced from recyclable materials and goods which facilitate recycling will further serve the same purposes by encouraging and facilitating recycling.

#### § 213-19. Definitions.

For the purposes of this Article, the following terms, phrases, words and derivatives shall have the following meanings:

**ADMINISTRATOR** — The person or persons designated by resolution of the Town Board to monitor and enforce this Article. The Town Board shall act as Administrator unless a separate designation is made.

**HAZARDOUS WASTE** — May include, but is not limited, to the following products and their empty containers; insecticides, herbicides, petroleum products, caustic chemicals, paint and batteries. "Hazardous wastes" generally display one (1) or more of the qualities of ignitability, corrosivity, reactivity or toxicity.

**NONRECYCLABLES** — That portion of the waste stream not included under "recyclables," and not treated separately as hazardous waste under § 27-0903 of the New York 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 Environmental Conservation Law.

A. "Nonrecyclables" include, but are not limited to, the following:

- (1) **GARBAGE** -- Putrescible solid waste, including animal and vegetable waste resulting from handling, storage, sale, preparation, cooking or serving of foods. "Garbage" originates primarily in home kitchens, storage areas, markets, restaurants and other places where food is stored, prepared or served.

- (2) RUBBISH -- Rags, sweepings, rubber, leather, excelsior, crockery, shells, clothing, straw, dirt, filth, ashes, wastepaper and similar waste material.
- (3) LARGE HOUSEHOLD FURNISHINGS -- Large and/or bulky articles actually used in the home and which equip it for living (such as chairs, sofas, tables, beds, carpets and large appliances).
- (4) CONSTRUCTION AND DEMOLITION DEBRIS -- Waste resulting from construction, remodeling, repair and demolition of structures, road building and land clearing. Such wastes include, but are not limited to, spoils, paving material and tree or brush stumps.

B. The Pendleton Town Board may change the classification of "nonrecyclables" as defined herein in the event that it determines that reclassification is cost effective or that economic markets exist for that product. The Pendleton Town Board shall notify all generators of the change in classification. [Added 1-18-1994 by L.L. No. 1-1994]

PERSON — Any individual, firm, partnership, company, corporation, association, joint venture, cooperative enterprise, trust, municipality, other governmental agency or any other entity or any group of such persons which is recognized by law as the subject of rights and duties. In any provisions of this Article prescribing a fine, penalty or imprisonment, the term "person" shall include the officers, directors, partners, managers or persons in charge of a company, corporation or other legal entity having officers, directors, partners, managers or other persons in charge.

RECYCLABLES — Any materials which can be collected, separated and/or processed, treated, reclaimed, used or reused to produce a raw material or product, which materials include, but are not limited to, the following:

- C. Paper, clean and unsoiled, including newsprint, newspapers, news advertisements, supplements, comics and enclosures, corrugated boxes, cardboard, cardboard cartons and similar corrugated materials.
- D. Unbroken glass, glass bottles or types of containers, but not including dishes, crockery, ceramics, window glass, safety glass or pyrex-type glass.
- E. Metals limited to bimetal cans, tin-plated steel cans, aluminum containers and aluminum household items.
- F. Plastic containers normally found in the household, including containers used primarily for laundry products, dishwashing detergents, milk, water and similar items, including PET (Polyethylene Terephthalate) and HDPE (High Density Polyethylene) and other plastic resin types.
- G. Such other items and materials as may later be included pursuant to agreement between the town and its refuse collection contractor.

WASTE MATERIAL — Includes all recyclables and nonrecyclables which make up the waste stream eligible for curbside pickup under this Article. "Waste material" does not include dead animals, fecal matter or material treated separately as hazardous waste

under § 27-0903 of the New York Environmental Conservation Law or source, special nuclear or by-products material as defined in § 29-0101 of the New York Environmental Conservation Law.

**§ 213-20. Establishment of curbside program.**

- A. Upon the effective date of this Article, there is hereby established a program for the separation, preparation for collection and collection of waste materials. The program shall be under the supervision of the Town of Pendleton, its administrators and its collection agent or contractor.
- B. The Town Board and its administrator will determine recyclables and units required to recycle and notify town residents at least thirty (30) days before said declaration will be incorporated into the town program.
- C. All waste material to be collected by the town shall be separated, prepared for collection and collected in accordance with §§ 213-21 and 213-22 of this Article.
- D. The Town of Pendleton, its administrator and its collection agent or contractor shall have no obligation to pick up and remove any waste material not prepared for collection in accordance with this Article.
- E. The Town of Pendleton, its administrator and its collection agent or contractor shall have no obligation to pick up and remove any waste material which was not used in the residence or business or other establishment and subject to the town's contractor for garbage and recycling.
- F. The Town of Pendleton, its administrator and its collection agent or contractor shall have no obligation to pick up or remove any waste material which is to be provided for pursuant to the town's contract for waste removal with the contractor or otherwise provided for by a town-administered pickup and removal program. Certain businesses, industries and residences may not be provided for in Town of Pendleton pickup and removal programs.

**§ 213-21. Preparation of recyclable material for collection.**

No person shall dispose of waste material for collection by the town except as follows:

- A. Waste material shall be prepared for collection in accordance with Subsection A(1) through (4) of this section.
  - (1) Each person shall provide separate, sealable galvanized steel cans or other suitable sanitary sealable containers or heavy duty plastic bags for nonrecyclables, unless stipulated otherwise in this Article. Such cans or containers shall not exceed thirty (30) gallons' capacity and when filled shall not exceed sixty (60) pounds in weight. All cans or containers shall be placed at the curb or roadside for collection.
  - (2) Recyclable aluminum, cans and items, glass bottles and plastic items shall be separated from nonrecyclables and placed in the recyclable collection container.

- (3) Recyclable metal cans, aluminum, cans, glass and plastic containers and other items so separated shall be rinsed of contents and placed in the recyclable collection container. Caps on plastic containers shall be removed and disposed of as garbage.
  - (4) Newsprint shall be separated from nonrecyclables and either placed in the recyclable container or properly secured into bundles not to exceed twenty-five (25) pounds in weight and placed at the curb or in the recyclable container or roadside next to the recyclable container for collection. Effort is to be made to keep the newsprint clean and dry and contamination free.
- B. Other items to be included for recycling are to be prepared as set forth from time to time by resolution of the Town Board, according to such expansions of the curbside collection program as may be established by the town from time to time.
  - C. One (1) recyclable container shall be provided by the town to each unit and shall conform in color, logo, shape and material and other specifications to the material established from time to time by the Town Board. Replacements may be purchased from the town at an amount to be determined by the Town Board.

**§ 213-22. Collection.**

Waste materials shall be collected in a manner consistent with the terms of the Town of Pendleton collection contract.

**§ 213-23. Ownership of recyclables placed for collection.**

- A. When any person properly places any recyclable materials at or near any curb, sidewalk, street or road for the purposes of collection by the Town of Pendleton or its contractor, those recyclable materials shall thereupon immediately become the property of the Town of Pendleton or its authorized agent. No person not acting under authority of the Town of Pendleton or its authorized agent shall collect, pick up, remove or cause to be collected, picked up or removed, any recyclable materials so placed for collection; each such unauthorized collection, pickup or removal shall constitute a separate violation of this Article.
- B. Notwithstanding the provisions of Subsection A, where the town or its agent or contractor has refused to collect certain recyclables because they have not been placed or treated in accord with the provisions of this Article, the person responsible for initially placing those materials for collection may and shall promptly remove those materials from any curb, sidewalk, streetside or roadside and assume possession, control and responsibility for the proper disposal of same.
- C. Nothing herein shall prevent any person from making arrangements for the private collection of recyclables; provided that recyclables to be privately collected shall not be placed curbside on or immediately preceding the day for municipal collection of such recyclables.
- D. The Town of Pendleton, its administrator and its authorized agent shall not be required to collect any waste material which has not been separated and secured

pursuant to the provisions of this Article or the applicable regulations of the Town of Pendleton.

**§ 213-24. Importation of waste materials.**

- A. No person shall cause to be imported into the Town of Pendleton waste material for garbage collection.
- B. No persons shall cause to be imported into the Town of Pendleton recycling material for collection.

**§ 213-25. Penalties for offenses.** <sup>6</sup>

A violation of this Article, other than § 213-23A, shall constitute a violation punishable, upon conviction thereof, by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both, for each offense. A violation of § 213-23A or 213-24 shall constitute a misdemeanor punishable upon conviction thereof by not more than six (6) months imprisonment or a fine not exceeding one thousand dollars (\$1,000.) or both.

**§ 213-26. Applicability.** [Added 1-18-1994 by L.L. No. 1-1994<sup>7</sup>]

The provisions of this Article apply to commercial, industrial and institutional waste generators. In the event that a commercial, industrial or institutional waste generator does not have materials collected pursuant to law or contract, said generator shall be responsible for components or solid waste which must be source-separated which is left for collection by any person as defined herein or delivered to the generator prior to being disposed of in any manner at a Solid Waste Management facility.

**§ 213-27. When effective.**

This Article shall take effect upon filing with the Secretary of State, however, its provisions are suspended until such date that a contract is implemented by the Pendleton Town Board for recycling in the Town of Pendleton.

ARTICLE IV  
**Dumping**  
[Adopted 7-7-1992]

**§ 213-28. Restrictions.**

- A. It shall be unlawful for any person, persons, firm or corporation to place, store, deposit or dump or cause to be placed, stored, deposited or dumped, for the purpose of abandonment or otherwise, old junk, metal, bricks, glass or glass bottles, stones, plaster, lumber, automobiles, automobile bodies or parts thereof, metal tanks, barrels, metal containers, swill, garbage or waste materials of any nature on any

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<sup>6</sup>. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>7</sup>. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

public or privately owned lot, tract of land, street, lane, alley or park within the corporate limits of the Town of Pendleton.

- B. No person, persons, firm or corporation shall deposit or dump or cause to be deposited or dumped anywhere in the town any of the aforementioned materials which may be collected from any place or premises situated outside of the corporate limits of the Town of Pendleton.

**§ 213-29. Penalties for offenses.**

Any person, persons, firm or corporation violating the provisions of this Article shall, upon conviction thereof, be punished by a fine of not less than two thousand five hundred dollars (\$2,500.), or imprisonment for a term not to exceed fifteen (15) days, or both, for each such offense. Each such violation of this Article may also be separately prosecuted pursuant to the Penal Law and Environmental Conservation Law of the State of New York. Each day such violation continues shall constitute a separate violation and shall be punished separately pursuant to this Article.