

Chapter 198. SOLID WASTE

GENERAL REFERENCES

Open Burning — See Ch. 55

Composting Facilities – See Ch. 88

Dumping – See Ch. 94

Property Maintenance – See Ch. 125

Sewer Use – See Ch. 187

Brush, Grass and Weeds—See Ch.

Gasoline and other Flammable Liquids—See Ch.

Junk Vehicles – See Ch.

Article I. Collection and Disposal

[Adopted 5/13/13 by L.L. No. 3 of 2013.]

§ 198.1. Administration.

The Board of Trustees of the Village of Depew and/or their designated representative shall have the responsibility for the operation and for the collection and disposal of refuse. The Board of Trustees and/or designated representative are hereby empowered to make and publish regulations implementing this article concerning such matters relating to the storage, collection of garbage and rubbish, the location of refuse containers, totes and all other matters relating to the storage, collection and disposal of which he/she deems advisable, provided that such regulations are not contrary to the provisions of this article.

§ 198.2 Definitions.

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

ALUMINUM

Pure aluminum in any form, including, but not limited to, cans, cooking utensils, aluminum foil and lawn furniture.

BOARD

The Board of Trustees of the Village of Depew, New York.

COLLECTABLE YARD WASTE/BRUSH

Tree branches not exceeding 2 inches in diameter, twigs and shrubs, hedge clippings, grass and leaves.

CONSTRUCTION DEBRIS

Discarded building materials, concrete, stones, earth from excavations or grading, and all other refuse matter resulting from the erection, repair or demolition of buildings, structures or other improvements of property.

BULK ITEMS

Large items and materials, including furniture other than aluminum yard furniture; house furnishings; large appliances, such as refrigerators, stoves, washing machines and clothes dryers; and automobile or other motor vehicle tires.

CORRUGATED CARDBOARD

Cardboard shipping containers.

DISPOSAL FACILITY

Any solid waste management plant or site owned and operated by the Village or permitted to receive solid waste originating from within the Village of Depew.

ESTABLISHMENT

The owner, agent, landlord, tenant or occupant of commercial, industrial and institutional facilities. Establishments which contract for the private collection of refuse are excluded from the program.

GARBAGE

Kitchen and house refuse and table cleanings, fruit and vegetable pairings, decaying vegetable, animal and fruit matter and fallen fruit.

GARBAGE TOTES

Refers to that 95 gallon container available from and/or provided for by the Village of Depew.

HAZARDOUS SUBSTANCE

Any hazardous or toxic substance material or waste which is or becomes regulated by any local or state governmental authority or the United States Government.

INDUSTRIAL WASTE

Waste generated by manufacturing or industrial process.

MULTIPLE RESIDENCE

A building or parcel of land having three or more dwelling units.

NEWSPAPERS

Newsprint, not including glossy magazines or materials.

NON RESIDENTIAL UNIT

Premises, or a portion thereof, used for business or commercial enterprise or a governmental use or institutional use or a building containing more than eight units.

PERSON

One or more individuals or any partnership, corporation, firm, association, trust, estate or governmental entity and any other entity whatsoever.

PRIVATE CARRIER

A contractor providing collection of solid waste services in the Village.

RECYCLABLE COLLECTOR

A contractor under contract with the Village of Depew to provide collection of recyclables subject to the terms and conditions of said contract with the Village of Depew, New York.

RECYCLING TOTES

Refers to that 65 gallon container available from and/or provided for by the Village of Depew .

RECYCLABLE MATERIALS

Clear, brown and green glass bottles, jugs, and jars; newspapers and other mixed papers; tin cans; and high-density polyethylene(HDPE) containers, such as those used for milk, oil, detergents, apple cider, etc. "Recyclable materials" does not include plate glass, broken glass, window glass, or any other type of glass not specified in this definition, copper, stainless steel,

and brass, or recyclable materials unsuitable for recycling because of secondary household use.

Clean and clear glass containers and bottles with metal rims removed, newspapers, plastic containers and tin cans.

REFUSE

The rubbish and recyclable materials resulting from the normal day-to day operation of a household or business. Refuse may be generated by a household, a business establishment, or a public or quasi-public facility. "Refuse" does not include rubble, bulk items, industrial waste, collectable yard waste or any other materials not covered under this definition.

RESIDENCE

A building or parcel of land having no more than one dwelling units.

RESIDENT

A person residing in a residence.

RUBBISH

A. Food wastes, including but not limited to, table cleanings, fruit, vegetables and animal parings and scraps; decaying or spoiled vegetable, animal and fruit matter; and fallen fruit.

B. Any paper, plastic, cardboard or other materials used to wrap, cover or contain food, other than certain HDPE or glass containers defined in this section as recyclable materials, and any other household waste resulting from the use, consumption and preparation of food.

C. Metal (pure aluminum, copper, stainless steel or brass).

D. Miscellaneous waste material , including rags, drugs, health aides and material (other than infectious wastes) , sweepings, excelsior, rubber, leather, cloth, clothing, magazines, paper (other than newspapers), waste materials from normal maintenance and repair activities, pasteboard, crockery, shells, dirt, filth, ashes, wood, glass (other than certain glass bottles defined in this section as recyclable wastes), brick and other similar waste materials. "Rubbish" does not include recyclable materials, bulk items, rubble, or any other material not covered under this definition.

RUBBLE

Waste material typically resulting from construction, demolition and major renovation activities, including, but not limited to, waste cement, concrete, masonry, bricks, tiles, Sheetrock, plaster, shingles, lumber, telephone poles, railroad ties, wooden pallets, doors and door frames, windows and window frames and similar material.

SOLID WASTE

Garbage and rubbish.

UNIT

One or more rooms designed for occupancy by one family for cooking, living and sleeping purposes.

§ 198.3. Totes.

Effective June 1, 2013, each Village unit shall be assessed a one-time charge on the Village Tax bill to cover the cost of both a garbage tote and a recycling tote. The cost of said charge shall be equal to the amount charged by the third party private contractor utilized by the Village for garbage and recycling collection in the Village of Depew and shall be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers in the same manner as taxes. For purposes of unit, see § 198-2.

Definitions. In the event that replacement totes (s) are required, they shall be purchased directly through the Village of Depew at a cost to be determined by the Village of Depew. Upon payment of the totes fee by the real property owner, the totes shall become the property of said owner.

§ 198.4. Disposal of construction debris.

No person shall place or store construction debris with garbage or rubbish. The person creating construction debris shall remove same and dispose of same in a sanitary manner.

§ 198.5. Unauthorized removal of garbage or rubbish.

No person other than an authorized employee or agent of the Village of Depew shall disturb or remove any garbage or rubbish placed by the owner, tenant or occupant of any premises in the Village on their premises or in front of same for removal thereof unless authorized by said owner, tenant or occupant.

§ 198.6. Unauthorized disposal of garbage or rubbish or construction debris.

- A. No person shall cart to dump or deposit garbage or rubbish or construction debris upon any property in the Village except under the authorization, supervision and direction of the Code Enforcement Officer.
- B. Dumping of garbage and waste material collected from outside the boundaries of the Village of Depew by a private garbage disposal concern or establishment, or the storage of such garbage and waste material at a transfer station, is hereby prohibited.
- C. Enforcement of this article shall be delegated to the Code Enforcement Officer of the Village of Depew.
- D. Any person found guilty of the violation of this Section shall be subject to penalties imposed by § 198-13.
- E. It shall be unlawful for any person to cart, dump, or dispose of garbage, or rubbish, or construction debris, onto any dumpsters that are not on said individual's property.
- F. Any person found in violation of this section of illegally dumping materials into the dumpster on someone else's property shall be found guilty of a violation of this Section and subject to penalties imposed by § 198-13 upon prosecution thereof.

§ 198.7. Unauthorized transportation of garbage and rubbish.

- A. No person, individual, firm, partnership, corporation, municipality, association, society, or group shall transport garbage or rubbish on the streets or highways in the Village of Depew unless it is contained in a garbage packer truck or in a metal box or vessel so constructed as to prevent the escape of any such garbage or rubbish therefrom.
- B. Any open body trucks that are transporting rubbish or trash or construction debris must have the containers thereof securely covered with a canvas or similar type covering to prevent said debris from falling or blowing out of said vehicle or in anyway becoming distributed upon or along private property or public highways, roadways, streets, or thoroughfares in the Village of Depew.

§ 198.8. Enforcement

The Code Enforcement Officer or any other person hereinafter authorized by the Board of Trustees of the Village of Depew are hereby designated as the enforcing officers of this article.

§ 198.9. Restrictions.

- A. No person shall place, deposit or store any refuse on or in any street, highway, avenue, drain, ditch, watercourse, or body of water or any public place within the Village of Depew, except in containers provided for such purpose by the Village of Depew, and in no event upon the premises of another except with the consent of the owner or occupant thereof.
- B. A person is responsible for disposal of any refuse on premises not served by the Village of Depew or for refuse not acceptable for collection and disposal of such refuse.
- C. In the event of a violation of any of the provisions of this section, which shall in the opinion of the Code Enforcement Officer and/or the assigned designee, be a hazard to the health, safety or well being of the community, a notice directed to the owner of the premises upon which such violation occurs, may be served, either personally or by posting the same on said premises directing the removal of all material upon the premises in violation of this section within 24 hours from the date of service or posting or said notice, the Village of Depew Department of Public Works may enter upon the premises, remove said material and charge the entire cost of said removal against the premises, and said charge shall also be a lien upon said premises.
- D. Commercial shall include business disposing of collectible items so long as the same are placed in accepted containers.

§ 198-10. Unacceptable refuse.

The following refuse shall not be considered acceptable for collection by the Village of Depew:

- A. Materials resulting from the repair, construction, alteration or excavation of buildings or structures, streets or sidewalks, such as plaster, mortar, concrete, bricks, lath and roofing materials.

- B. Dangerous materials or substances, such as poisons, acid-caustics, infected materials, explosives, ashes and dioxin and radioactive material.
- C. Materials which have not been prepared in accordance with the provisions of this article.
- D. Solid wastes resulting from Industrial processes.
- E. Brush and tree limbs.
- F. Tires.

§ 198-11. Schedule for collection.

Garbage and refuse shall be collected once a week. Recyclables shall be collected every two weeks. This schedule of collection may be subject to change upon at the direction of the Board of Trustees and the private contractor authorized to collect garbage, rubbish and recycling materials in the Village of Depew.

§ 198-12. Places for disposal.

- A. No refuse shall be disposed of within the Incorporated Village of Depew except at such place or places as may be permitted by the Board of Trustees.
- B. No refuse collected from outside the Incorporated Village of Depew shall be disposed of at the place or places designated.

§ 198-13. Removal by Village; costs.

If the provisions of the foregoing sections are not complied with, the Code Enforcement Officer and/or the assigned designee shall serve written notice, either personally or by mail, upon the owner, lessee or occupant or any person having the care or control of any such lot of land to comply with the provisions of this article. If the person upon whom the notice is served fails, neglects, or refuses to cut, remove or cause to be cut and removed such weeds, grass, vegetation or rubbish within five days after receipt of such notice or if no person can be found in the Village of Depew who either represents or claims to represent such owner, the Code Enforcement Officer may, following approval of the Board of Trustees and/or the Village Administrator, cause such weeds, grass, vegetation or rubbish on such land to be removed and the actual costs in connection therewith shall be certified by the Code Enforcement Officer as to the property on which such weeds, grass, vegetation or rubbish were located and shall be added to and become and form part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers in the same manner as taxes.

§ 198-14. Penalties for offenses.

Any person committing an offense against of the provisions of this article shall be guilty of a violation under the Penal Law and upon conviction thereof, shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both. Each day of continued violation shall constitute a separate additional violation.

§ 198-15. Special use permits in M-2 Zoning Districts.

- A. “Solid waste transfer station” as those terms are defined in the Environmental Conservation Law of the State of New York and in the rules and regulations adopted and promulgated by the Department of Environmental Conservation, provided satisfactory proof is presented to the Village Board of compliance with any and all requirements of Article 27 of the Environmental Conservation Law of the State of New York relating to the collection, treatment and disposal of refuse and solid waste, may be constructed in only M-2 Zoning Districts.
- B. Landfill sites are restricted in the boundaries of the Village of Depew in M-2 Districts only.
- C. The Village Board shall prescribe any conditions that it deems necessary or desirable and shall require a site plan of the proposed development showing pertinent information to aid them in making a determination on the application for any transfer station or landfill site.
- D. Before authorizing a special permit, the Village Board shall give Public notice and hold a public hearing on the application for such special permit in the same manner as required by law for amendments to a zoning ordinance. In case of a protest against such special permit by the owners of 20% or more immediately adjacent to the land directly opposite thereto, and land extending 100 feet from the street frontage of such opposite land, such permit shall not authorized except by the favorable vote of at least five members of the Village Board.
- E. A special permit shall be deemed to authorize only the particular use or uses specified in the permit and shall only apply to the area specified in the permit. A special permit shall expire if the special use or uses shall cease for more than year for any reason.
- F. “Refuse” shall include waste metal, metal cans, glass, tires, rubbish, waste construction materials, and other discarded substances of a solid or incombustible nature other than garbage.
- G. “Garbage” shall include waste food, dead animal matter, vegetable matter, or any other which shall be capable of fermentation or decay, or which shall give off a noxious or disagreeable odor or gas. The word “garbage” as defined and applied in this article shall not include customary agricultural or gardening waste or matter.

ARTICLE II. Recycling.

§ 198-16. Title; applicability.

This article shall be known the “Recycling Local Law of the Village of Depew” and such legislation is a mandatory recycling law affecting the entire Village of Depew, New York.

§ 198-17. Purpose.

It is the goal of the Village of Depew to facilitate the disposal of solid waste generated within the Village in the most economically and environmentally acceptable manner and to reduce the total amount of solid waste disposed of in the Village. It is the purpose of this article to establish a source- separation and recyclables collection program within the Village to reach the goal of the most feasible recycling of the Village waste stream, considering costs, marketability of

recyclables and public involvement. It is hereby found and determined that, in order to ensure the greatest public involvement and to assist the Village in complying with the mandates of the New York State Solid Waste Management Act of 1988, such a program must be made mandatory. This program is further designed to protect the health, safety and general welfare of the Village of Depew, New York.

§ 198-18. Collection

- A. The Village shall provide for the collection and disposal of solid waste. Governmental and institutional buildings must contract directly with the Village contractor or a contractor of their own choice for collection.
- B. The Village of Depew will not collect tree parts produced by commercial contractors nor building materials as a result of a private contractor doing work and these items must be removed from the premises by the commercial contractor or by the owner of the premises.
- C. The ownership of recyclable materials which have been placed at the curb for collection in accordance with this article shall vest in the Village of Depew. It shall be unlawful and a violation of this article for any person without authority from the Village, to collect, pick up, remove, or cause to be collected, picked up, or removed any recyclable materials.

§ 198-19. Designation of materials to be collected

- A. The Board shall be responsible for collecting or causing the collection of, on a regular basis, only those waste materials which constitute refuse generated by a residence or establishment within the Village of Depew.
- B. The Board shall also be responsible for collecting or causing the collection of any additional waste materials generated by residences which the Village may announce will be collected on particular days or during particular time periods. These additional waste materials may include, for example bulk items, trees, tree stumps, and large branches. The board shall be responsible for collecting or causing the collection of any such waste materials only on the or during the time periods announced by the Board.
- C. The Board shall not be responsible for collecting any waste materials which have been placed or prepared in ways that do not comply with all the provisions of this article. In particular, the Board shall not be responsible for collecting waste materials consisting of waste recyclable and non recyclable materials mixed together waste materials not placed in the Village-provided container, or recyclable materials which have not been placed or prepared in accordance with this article, nor shall the Board be responsible for the collection of waste materials generated other than from a residence or establishment of the Village of Depew.

§ 198-20. Prohibited deposits accumulation.

- A. No person shall cart to, dump, deposit or otherwise dispose of any solid waste or recyclable materials upon any public highway, street, or other public place or upon any private property except as provided for in this article or under the direction of the Code Enforcement Officer.

- B. No person shall dispose of vehicular tires for collection by the Village. Provisions will be made for such matters of the residents of the Village, to bring vehicular tires to the storage area of the Public Works Department at hours promulgated by the Village Board of Trustees and shall pay the sum of \$3 per tire for disposal.
- C. No person shall place for collection for disposal any dangerous, hazardous or chemically toxic waste that represents an imminent threat to the safety or health of Village employees or their agents as defined under the New York State Environmental Conservation Law and regulations adopted pursuant thereto.
- D. No person shall deposit for collection and disposal any waste motor oil, paints or solvents.
- E. No person shall deposit for collection and disposal any solid waste, bulky waste or recyclable materials unless the same is in a receptacle or bundled as required by this article, nor shall any persons deposit for collection or disposal any solid waste that shall contain protruding nails, glass or other sharp objects that may inflict bodily harm to public workers or their agents.
- F. No person shall dispose of television sets and computers for collection by the Village. Residents may bring to the storage area of the Department of Public Works located at 200 Rutherford, Depew, New York 14043 during hours promulgated by the Village Board of Trustees. For the purpose of this section, "television" shall mean a cathode ray tube, liquid crystal or plasma device for the reproduction of video images.
- G. No person shall place refrigerators, freezers and/or air conditioners at the curb for collection by the Village without first paying a disposal fee in the amount of \$15 per unit at the Village Clerk's Office, during normal business hours, and affixing a copy of the receipt evidencing the payment to any refrigerator, freezer or air conditioner placed at the curb for disposal.
- H. Each unit shall also be permitted to leave a maximum of two (2) large items for pick up each week by the third party private contractor.
- I. With respect to large green bags more commonly known as Waste Management Bags that are only picked up at the request of the owner, these bags shall not be placed in the right of way or block any sidewalk and shall be picked up no longer than seven (7) days after they are put out for collection. Any bags that remain over said time frame shall constitute a violation of this article.

§ 198-21. Separation and preparation

- A. Each person who places items at the curb for collection and disposal by the Village of Depew shall separate solid waste from recyclable materials and shall prepare the same for collection and disposal in accordance with rules and regulations as prescribed by the private contractor designated to collect same by the Village Board of Trustees.
- B. Recyclable materials shall be placed in the 65 gallon container and shall fit wholly in said Container and shall be subject to the rules and regulations as prescribed by the private contractor designated to collect same by the Village Board of Trustees.

§ 198-22. Removal of empty containers.

All empty recycle and garbage totes shall be removed from the curb, sidewalk, alley or street where they have been placed as soon as possible after collection and in the event, no later than 9pm on the same day as collection. Empty recycle and garbage totes remaining at or near the curb, sidewalk, alley or street on the day after the day of collection may be picked up and impounded by the Village of Depew.

§ 198-23. Removal of uncollected waste.

When certain refuse and/or waste materials have not been collected because those materials were not placed or prepared in accordance with the provisions of this article, the person who placed such materials for collection and the owner of the real property adjoining the curb, sidewalk, alley or street where such waste materials were placed shall remove those wastes from that location as soon as possible after the collection has been refused and, in any event, by 9:00 pm on the designated collection day. The failure to remove any uncollected waste material by 9:00 pm on the designated collection day shall constitute a violation of this article.

§ 198-24. Remedies for non-compliance; service charge.

Whenever a person places refuse or other material at or near a curb, sidewalk, alley or street for collection without complying with all the provisions of this article or fails to comply with § 198- 21, placement and preparation of collectible materials, the Board may do either of the following:

- A. The Board may choose not to collect the refuse or any other waste material. In such case, the Board shall notify the property owner of the property from which such uncollected waste was generated, why such material was not collected. Such notice shall be either verbal or written, as the Board determines is appropriate, and shall be provided within a reasonable time period after the collection of the material has been rejected; or
- B. The Board may cause collection of the refuse or waste material to be made, notwithstanding the fact that it does not comply with the provisions of this article.
 - (1) In such cases, the Board shall assess a special charge against the owner of the property from which such waste material was generated. Such special service charge shall be as set as a resolution of the Board of Trustees. .
 - (2) Special service charges may be accumulated and shall be billed by the Village of Depew. Any person subject to such charges may make a written request for a hearing within 15 days after the date of the bill for such charges. All hearings will be held on a date and time and place determined by the Board. The hearing shall be informal and shall be held before the Board or its designee. The decision of the Board shall be final. Any service charges not paid within 30 days after the Board's decision shall become a lien upon the real property, superior to any other deed or claim, except the lien of an existing tax/assessment or charge imposed by the Village of Depew.

§ 198-25. Unauthorized collection.

From the time any person places any properly prepared recyclable materials at or near any curb, sidewalk, alley or street for purposes of collection, those recyclable materials shall become and be the property of the Village of Depew or its authorized agent. (i.e. its recycling collector). No person who is not acting under the authority of the Village 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, pick up or removal shall constitute a separate violation of this article. An exception herein is recognized for the person, resident or establishment who or which elects to remove any such item from his/hers/its property.

§ 198-26. Private waste haulers.

Nothing in this article shall be deemed to prevent any person from entering into a contractual agreement with a private waste hauler for the removal of refuse and other waste materials generated by that person or at property owned by that person.

§ 198-27. Adoption and enforcement of regulations.

The Board shall have authority to adopt whatever regulations are consistent with this article and to continue to enforce any existing regulations which are consistent therewith.

§ 198-28. Fees.

The Board, by resolution, may impose fees for the collection of any refuse (other than recyclable materials), rubble, bulk items or industrial waste. After any such fees are imposed, the manner of implementation and collection shall be by the regulation of the Board, not inconsistent with the terms of the resolution imposing such fees.

§ 198-29. Penalties for offenses.

A. The penalties for violation of any provision of this article shall be as follows:

- (1) Fine of \$50 for the first violation.
- (2) Fine of \$100 for the second violation.
- (3) Fine of \$200 for third and each subsequent violation.

B. Each day that the violation exists shall constitute a separate and distinct violation .

C. In addition to the above fines, the Village shall have the discretion to refuse to collect materials which are improperly separated, bundled or prepared for pickup.

§ 198-30. Severability.

The declaration by a court of competent jurisdiction that any section of this article is invalid, shall not invalidate the entire article, but only but only that part thereof so declared to be invalid and the remainder of said article shall remain in full force and effect.

§ 198-31. Enforcement.

It shall be the duty of the Village of Depew Code Enforcement Officer and/or any other duly authorized official to administer and enforce the provisions of this article.

§ 198-32. Effective date.

This article shall take effect on May 13, 2013.