

1994-A

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
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(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

FILED

County
~~City~~ of Chenango
~~Town~~
~~Village~~

1994 AUG 10 PM 4: 49
COUNTY CLERK'S OFFICE
CHENANGO COUNTY, N.Y.

Local Law No. 4 of the year 1994

A local law A COUNTY LAW PROHIBITING LITTERING IN CHENANGO COUNTY AND AMENDING LOCAL LAW
(Insert Title) NO. 6 OF 1990

Be it enacted by the Board of Supervisors of the
(Name of Legislative Body)

County
~~City~~ of Chenango as follows:
~~Town~~
~~Village~~

The Solid Waste Committee offered the following, and moved its adoption:

ADOPTED LOCAL LAW #4 OF 1994

A COUNTY LAW PROHIBITING LITTERING IN CHENANGO COUNTY AND
AMENDING LOCAL LAW NO. 6 OF 1990

Be it enacted by the Board of Supervisors of the County of Chenango as follows:

Introduction: Local Law No. 6 of 1990 is amended to read as follows:

ARTICLE I: PREAMBLE

SECTION 1: TITLE. This local law of the County of Chenango shall be known and cited as the "Chenango County Anti-Littering Law."

SECTION 2: PURPOSE. The Board of Supervisors of the County of Chenango declares that the quality of its environment is being adversely affected by the improper disposal of refuse and other offensive material in the County. It further declares that the quality of the environment is an important aspect of the quality of life for both residents of and visitors to the County. Therefore, it is hereby declared to be a policy of the County of Chenango to improve the economic and social well-being of its inhabitants and visitors by regulating the area for and method of disposal of refuse and offensive materials within the County and to provide for the enforcement of the provisions of this local law.

ARTICLE II: GENERAL DEFINITIONS

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1)

SECTION 3. DEFINITIONS. Wherever used in this county law, unless otherwise expressly stated or unless a different meaning clearly appears from the context or unless a different meaning is stated in the definition, the following terms shall have the meanings as set forth hereafter:

(a) "Person" or "Persons" shall mean any individual, society, club, firm, public or private corporation, partnership, industry, group, association or other entity.

(b) "Private Premises" shall be any yard, walk, land or driveway belonging or pertinent to any dwelling, house, building or other structure not owned by the state or a local municipality including school districts.

(c) "Public Place" includes any and all streets, sidewalks, boulevards, rights-of-way, alleys, publicways, public parks, squares, spaces, grounds and buildings owned by the State, local municipalities, and school districts. A "public place" shall not include those specific areas of the Pharsalia Landfill nor the North Norwich or Brisben Transfer Stations/Recycling Centers on which the Director has authorized the deposit of specified recyclables or refuse as the case may be.

(d) "Refuse" means all putrescible and non-putrescible materials or substances that are discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, and includes but is not limited to garbage, rubbish, ashes, construction and demolition debris, incinerator residue, sludges, tires, papers, wrappings, cigarettes, offal, cardboard, tin cans, yard clippings, wood, glass, human bedding, crockery, industrial waste, discarded automobiles or parts thereof, discarded household appliances or parts thereof, or any similar item or matter. It shall not include animal wastes utilized for agricultural purposes.

(e) "Pharsalia Landfill" or "County Landfill" shall mean the Landfill owned and operated by the County of Chenango located on Hoag Road in the Town of Pharsalia, County of Chenango, State of New York.

(f) "North Norwich Transfer Station/Recycling Center" shall mean the transfer station/recycling center owned and operated by the County of Chenango on N.Y.S. Route 12 in the Town of North Norwich, County of Chenango, State of New York.

(g) "Brisben Transfer Station/Recycling Center" shall mean the transfer station/recycling center owned and operated by the County of Chenango on Coutermarsh Road in the Town of Greene, New York.

(h) "Director" shall mean the official of Chenango County government charged with responsibility to administer the County's waste management facilities and operations.

(i) "Board of Hearing" or "Board" shall mean the body established by this local law to perform certain hearings and determinations. Said Board shall consist of three members, one being the Chairman of the Standing Committee of the Chenango County Board of Supervisors having responsibility for waste management issues, facilities and operations and the remaining two members shall be appointed by the Chairman of said Committee from amongst the members of said Standing Committee.

(j) "Permit" shall mean a written authorization issued by the County of Chenango authorizing the holder thereof to utilize Chenango County waste management facilities.

ARTICLE III: PROHIBITED ACTS

SECTION 4: DISPOSAL OF REFUSE.

(a) No person shall deposit household or commercial refuse in any public receptacle which is specifically maintained for the general public's use.

(b) No person shall deposit household or commercial refuse in any private receptacle or dumpster unless authorized by the owner of said private receptacle or dumpster.

(c) No person shall deposit, leave or abandon refuse upon any private property or public property.

(d) No person shall fail to properly dispose of refuse nor, if entrusted to a third party, fail to ensure such third party properly disposes of said refuse.

(e) No person shall sweep into or deposit in any gutter, street or other public place within the county any refuse from any building or lot or from any private premises.

(f) No person shall throw or deposit refuse in any public park within the county. Where public receptacles are not provided, all refuse or offensive materials shall be carried away from the park by the person responsible for its presence and it shall then be properly disposed of elsewhere.

(g) No person who is a driver or passenger in a vehicle, boat, bicycle or other means of transportation shall throw, deposit or abandon refuse upon any street or public place within the county or upon any private premises.

(h) No person shall throw or deposit any refuse in any pond, lake, or man-made body of water, brook or natural waterway adjoining land within the County of Chenango.

(i) No person shall cause or permit refuse to be transported on any vehicle unless the refuse is covered so as to protect against spillage or loss of material during transportation.

(j) No person shall fail to follow Chenango County waste management rules and regulations or disobey the instructions of County personnel at the Pharsalia Landfill, the North Norwich Transfer Station/Recycling Center or the Brisben Transfer Station/Recycling Center.

(k) No person shall deposit refuse at the Pharsalia Landfill or the North Norwich or Brisben Transfer Stations/ Recycling Centers without a valid permit to do so issued by the Director or his designee.

(l) No person shall establish, operate or suffer the establishment or operation of a dump or solid waste facility except upon permit from the N.Y.S. Environmental Conservation Department as required by New York State law.

ARTICLE IV: ENFORCEMENT

SECTION 5: ENFORCEMENT. Enforcement of the provisions of the County Law shall be by the Chenango County Sheriff's Department, the New York State Police, the New York State Department of Conservation Police, or any local law enforcement agency or law enforcement officer and any other County or local municipal official authorized by the Director to enforce this local law. Further, any such official shall have the authority to issue an appearance ticket, a citation, notice of violation or take such other lawful action as is necessary to enforce the provisions of this law.

ARTICLE V. ADMINISTRATIVE SANCTIONS

SECTION 6: CITATION. Upon violation of any provision of this local law, any enforcement official may serve upon the alleged violator a citation or notice setting forth the violation or violations alleged to have been committed.

SECTION 7: NOTICE OF VIOLATION. (a) The Director or his authorized designee may issue and caused to be served upon an alleged violator of this law a Notice of Violation containing a notice of an intent to impose a civil penalty. Such Notice of Violation shall specify the violation(s) alleged and advise of the right to file a written request for a hearing before the Board of Hearing to determine whether such a violation or violations occurred.

(b) The request for a hearing must be in writing and be received by the Director within ten (10) days of the date of service of the Notice of Violation.

(c) The Notice of Violation may provide the opportunity for the violator to admit the charges and pay a surcharge or penalty therein specified.

(d) Failure to request a hearing within ten (10) days shall be deemed an admission of the charge(s) and the surcharge, or penalty and/or revocation or suspension of permit provided for in the Notice of Violation, or as modified by the Board of Hearing, shall be effective immediately without further proceedings.

(e) Upon receipt of a request for hearing from an alleged violator, the Director shall inform the Board of Hearing which shall schedule a hearing. The Board upon a showing of good cause may in its sole discretion adjourn the hearing as it deems proper.

(f) The Board of Hearing shall afford an opportunity to the alleged violator to present evidence and to hear the charges. The strict rules of evidence and rules of procedure need not be observed in proceedings before the Board of Hearing and a tape recorded record of hearing shall be sufficient.

(g) As soon as possible after the conclusion of the hearing the Board of Hearing by vote of at least two concurring members shall render its determination. If one or more violations is found, the Board shall impose a surcharge not to exceed five hundred dollars (\$500.00) per violation.

(h) In addition to monetary penalties, or surcharges the Board of Hearing shall have the right to revoke, suspend or otherwise limit any permit to use Chenango County waste management facilities as the Board deems appropriate.

(i) Decisions of the board shall be served upon the violator either personally or by first class mail.

(j) Any surcharge or penalty imposed under this local law shall be paid within twenty (20) days of the date the decision is served upon or mailed to the violator. In the event a violator shall fail to pay a surcharge within the said twenty days, any permit to use Chenango County facilities shall be deemed automatically suspended.

(k) All surcharges or penalties shall be payable to the "Chenango County Treasurer" and utilized by the County for waste management purposes.

(l) The decisions of the Board of Hearing shall be final subject to the right of a person to seek to review said decision in the New York Supreme Court under Article 78 of the Civil Practice Law and Rules.

(m) Service of the Citation, Notice of Violation, or Board of Hearing Determination shall be made by personal delivery, first class mail or any other method authorized by Article 3 of the Civil Practice Law and Rules of the State of New York. Service by mail shall be deemed effective upon mailing but if service by mail is utilized three additional calendar days from the date of mailing shall be added to any period of time for which an action is required under this Article.

(n) In the case of service by mail, the last known address of a person as appearing on a permit application or permit shall be deemed sufficient.

(o) Each violation shall be a separate and distinct offense and in the case of continuing offenses, each day's continuance thereof shall be deemed a separate and distinct violation.

ARTICLE VI: CRIMINAL SANCTIONS

SECTION 8: CRIMINAL PENALTIES. A violation of any section of this Local Law shall be subject to penalties as follows:

(a) 1st offense is classified as a violation and punishable by a fine not to exceed \$500 or 15 days in jail or both.

(b) 2nd offense within an 18 month period shall be classified as a violation and punishable by a fine not to exceed \$1,000 or 15 days in jail or both.

(c) 3rd offense within a 3 year period shall be classified as an unclassified misdemeanor punishable by a fine of not less than \$500 or more than \$2,000 or one year in jail or both.

(d) Each offense shall be a separate and distinct offense and in the case of continuing offenses, each day's continuance thereof shall be deemed a separate and distinct offense.

ARTICLE VII: JUDICIAL SANCTIONS

SECTION 9: JUDICIAL SANCTIONS. In addition to or in lieu of sanctions or penalties imposed under Articles V and/or VI above, the following civil sanctions may be imposed by a court of competent jurisdiction:

(6)

- (a) 1st offense by a fine not to exceed \$500;
- (b) 2nd offense within an 18 month period shall be punishable by a fine not to exceed \$1,000;
- (c) 3rd offense within a 3 year period shall be punishable by a fine of not less than \$500 or more than \$2,000;
- (d) Each offense shall be a separate and distinct offense and in the case of continuing offenses, each day's continuance thereof shall be deemed a separate and distinct offense.
- (e) All civil penalties or sanctions shall be payable directly to the Chenango County Treasurer and utilized by the County for waste management purposes.

ARTICLE VIII: ADMINISTRATION, CONSTRUCTION
AND SAVINGS CLAUSES

SECTION 10: The Director is authorized to promulgate any regulations, develop forms and take such lawful action as is necessary to effectuate the purposes of this law subject to the authority of the Chenango County Board of Supervisors.

SECTION 11: If any part or portion of this law or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provisions or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances, and the Chenango County Board of Supervisors hereby declares that it would have enacted this law or the remainder thereof had the invalidity of such provision or application thereof been apparent.

SECTION 12: This local law is intended and shall be liberally construed to be additional to any other local law or statute of the State of New York. This local law is not intended to nor shall it be construed to permit that which is otherwise prohibited under any other local law or state law or regulation.

SECTION 13: This local law shall be construed so that it does not conflict with a State statute on a subject preempted by State law so as to proscribe local legislation thereon.

SECTION 14: This law shall be effective immediately and shall supplant and replace Chenango County Local Law No. 6 of 1990 in its entirety.

Seconded by Mr. Angell

Results of a roll call vote were: Yes-2,265, No-0, Absent-0

The Chairman declared the local law duly adopted.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 1994 of the (County)(City)(Town)(Village) of Chenango was duly passed by the Board of Supervisors on August 8 1994, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)~~

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)~~

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

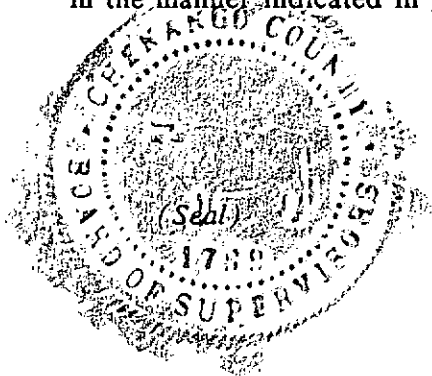
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.



[Signature]
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

Date: 8/30/94

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Chenango

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature: Richard W. Berts]
Signature

County Attorney
Title

County
~~XXXX~~
~~XXXX~~
~~XXXX~~ of Chenango

Date: 8/10/94

Chenango County, SS
Recorded on this 10th Day
of August 1994 at 4:49
o'clock P. M., in Liber 1 of
Local Law
at Page 178 and examined
Mary C. Weidman Clerk