

(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.

VILLAGE OF WELLSVILLE

LOCAL LAW NO. 2 - OF THE YEAR 2008

A local law amending Local Law 1 of the year 2005, as amended by Local Law No. 3 of the year 2006, pertaining to rules and regulations for refuse and bulky trash collection and for enforcement of unpaid solid waste collection and/or disposal fees through inclusion in the annual tax levy.

Be it enacted by the Board of Trustees of the

Village of Wellsville as follows:

Section 1. PURPOSE AND INTENT

In spite of substantial increases in the cost of collection and disposal of garbage and solid waste, the Board of Trustees of the Village of Wellsville hereby finds it to be in the best interests of the public to continue providing this service to residential customers and to restore bulky trash pickup service to residential customers who request same. No such service shall be provided to commercial customers. The Board of Trustees of the Village of Wellsville further hereby finds and determines that the most equitable manner of collecting funds to defray the cost of collection and disposal is by charging a village-wide user fee for garbage and solid waste and a separate fee for the collection of bulky trash from residential customers who request same.

Section 2. FEES

A. IMPOSITION

(1) The Village of Wellsville hereby establishes and imposes user fees for the collection of garbage, rubbish, recyclables and trash, as defined in existing Village Law, from all parcels identified on the Allegany County Tax Map for the Village of Wellsville, except:

- (a) unimproved land;
- (b) abandoned residential properties from which all Village utility services have been disconnected;
- (c) apartment buildings containing ten units or more which are serviced by a private garbage hauler;

Nothing in this article shall be construed as prohibiting those subject to such user fees from entering into private contracts for the removal and disposal of solid waste and recyclable materials from their properties.

(2) The Village of Wellsville hereby establishes and imposes user fees for the collection of bulky trash, as defined in Village Law, from residential customers who request same.

B. COMPUTATION

User fees shall be based on the direct cost incurred by the Village of Wellsville for providing the service. Based upon cost information available as of date, the user fee for the collection of garbage and solid waste is hereby set at \$10.00 per month per dwelling unit, and the user fee for the collection of bulky trash is hereby set at \$10.00 per residential customer who requests same.

The user fee schedule and list of exemptions may be amended from time to time by resolution of the Board of Trustees, so as to keep user fees in conformity with actual costs incurred by the Village of Wellsville for providing the service.

Section 3. COOPERATION BY OWNERS OF REAL PROPERTY

The Department of Public Utilities may require each owner and/or occupant of residential real property within the Village to furnish such information as may be necessary and reasonable in order to carry out the provisions of this article (i.e. the number of units on a particular tax parcel; whether owners include utility charges in tenants' rents).

Section 4. PAYMENT AND COLLECTION

All solid waste collection fees imposed hereunder will be billed on the monthly utility bill for each residential utility customer, itemized separately from other utility charges. All such fees shall be paid within thirty days after the mailing of the invoice. Amounts outstanding after thirty days shall accrue penalties as allowed by New York Law.

All bulky trash collection fees shall be paid in advance of the collection date at the Village Clerk's Office.

Section 5. ENFORCEMENT OF UNPAID FEES THROUGH INCLUSION IN ANNUAL TAX LEVY

All unpaid fees or charges for Village solid waste collection and/or disposal services imposed on or after the effective date of this local law, including penalties or interest, not paid by March 1 of each year shall be added to the annual Village of Wellsville tax levy.

The Board of Trustees shall annually cause a statement to be prepared setting forth each amount of solid waste disposal and/or collection fees in arrears as of the first day of March, a brief description of the property for which or in connection with which such solid waste services were provided, and the name and address of the person or corporation liable to pay such amount. Such statement shall be presented to the Village Board of Trustees which shall levy such amounts remaining unpaid on the date taxes are levied against the real property for which or in connection with which such solid waste services were provided.

Section 6. PROCEDURE FOR CHANGING USER FEE SCHEDULE

- A. The Village of Wellsville Board of Trustees shall conduct a public hearing prior to changing any fees as set forth herein. Such hearing shall be pursuant to notice published in an official newspaper of the Village not less than 10 days before the hearing. The proposed amendments to the user fee schedule shall be available for public inspection at least 10 days prior to the public hearing, and notice of the same shall be set forth in the aforesaid published notice of hearing.
- B. Following the public hearing, the Village Board shall be free to adopt such resolution. Upon adoption of such resolution, notice of its adoption shall be published in an official newspaper of the Village and a copy of the newly adopted rates shall be made available for public inspection at the Village Utility Billing Office. Following publication of the notice of adoption of any amendment of the user fee schedule set forth herein, any person aggrieved thereby may, within 15 days after such publication, apply to a court of record for an order of certiorari to review such fee. The user fee schedule shall be deemed final and conclusive unless such an application is made within 15 days after the publication.
- C. The procedures set forth in this article for amendment of the user fee schedule are intended to supersede any conflicting procedures set forth in the New York Village Law.

Section 7. ADDITIONAL REGULATIONS

The Village of Wellsville Board of Trustees may, by resolution, adopt regulations regarding the implementation and administration of this article.

- A. Normal household garbage is collected weekly from each residence in the Village. The Village will not collect commercial garbage. Commercial and business establishments must make arrangements for disposal of solid waste. The following regulations apply to weekly garbage collection:
- (1) Collection will be made at curbside only. Village trucks will not enter private property. A person who submits a certificate from his/her physician stating physical disability may have his/her garbage container picked up at the front porch.
 - (2) Containers shall be at curbside by 6:00 A.M. on the day designated for collection. Containers shall not be placed for collection more than 24 hours in advance of collection time.*
 - (3) Maximum permitted container size is 33 gallons. Weight of the container and contents shall not exceed fifty (50) pounds. No overweight or oversized containers will be emptied. Securely tied clear plastic bags (no colors or tinting) of adequate strength may be used as long as the fifty (50) pound weight limit is not exceeded.
 - (4) The Village is not responsible for any spillage or upset of the containers other than such as may be made by Village personnel. Persons placing garbage for collection are responsible for cleaning up spills caused by any other reason.
 - (5) Hot ashes will not be picked up.

(6) The following items will not be collected during the weekly garbage collection: Any liquids, brush, branches, yard waste, bulky items, tires, concrete, stones, brick, earth, grass/weeds, toxic, flammable or explosive substances, or any materials that cause excessive dust or fumes.

(7) No call backs will be made to collect garbage after a street has been serviced.

(8) Hypodermic needles shall be placed in a special clearly marked "SHARPS" container. Jones Memorial Hospital also has a disposal program. Needles are not to be placed in garbage bags, even if the actual needles have been removed.

(9) All persons setting garbage at curbside shall set it on their own property. It is not to be set on others' property. People residing outside the Village shall not deposit garbage within the Village other than at the County operated Transfer Station.

B. Bulky trash will be collected on a schedule determined and announced by the Village Board. The following regulations apply to bulky trash collection:

(1) Collection will be made at curbside only. Village trucks will not enter private property.

(2) Bulky items for collection must be at curbside by 6:00 A.M. on the first Monday of the designated week. Trash shall not be placed for collection more than five (5) days prior to the beginning of collection.

(3) Customer must register for pick-up of bulky trash in advance. Payment shall be made at locations designated by Village Board prior to collection.

(4) Waste lumber and/or wood must be in lengths of three feet (3') or less.

(5) Junk automobiles, automobile parts, tires, liquid waste, animal wastes, computer equipment, televisions, toxic, flammable or explosive substances, lawn debris, twigs, branches and trees will not be collected.

(6) Items shall be sorted in the following manner:

- (a) Steel/metal
- (b) Trash (furniture, etc.)
- (c) Lumber and wood wastes
- (d) White goods

(7) No callbacks will be made to pick up materials set out after a street has been serviced for that group.

*In the case of non-compliance with the above noted regulations, the refuse will not be collected and the resident will be required to properly dispose of it within 24 hours after notification by the Village to do so. Non-compliance with these regulations will be considered a "violation" as defined in the Penal Law. Upon conviction, the penalty shall be a fine and/or imprisonment as allowed by the Penal Law.

Section 8. SEPARABILITY CLAUSE

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision 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 Board of Trustees of the Village of Wellsville hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 9. REPEAL

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 10. EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State.

(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. 2 of the ~~(County)(City)(Town)~~(Village) of WELLSVILLE was duly passed by the BOARD OF TRUSTEES on 11/25/08 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 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____,
(Name of Legislative Body)
(Elective Chief Executive Officer*)
in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

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

*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 chairperson 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 _____ 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 _____, 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 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 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 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.



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

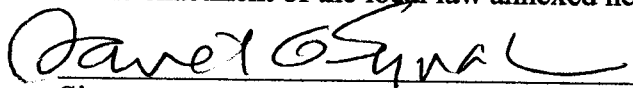
(SEAL)

DATE: 11/25/08

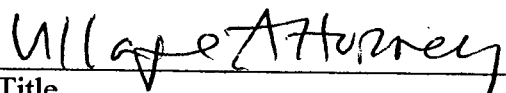
(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ALLEGANY

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



Title

Village of Wellsville

Date: 11/25/08