

CHAPTER 92

AN ACT concerning municipal solid waste collection and the collection of recyclable materials, and amending parts of the statutory law.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. R.S.40:66-1 is amended to read as follows:

Street cleaning; solid waste disposal; ordinances, rules, and regulations.

40:66-1. a. The governing body may provide for the cleaning of the streets of the municipality, and for the collection or disposal of solid waste, and may establish and operate a system therefor; purchase and operate the necessary equipment for the cleaning of streets, and for the collection or disposal of solid waste; make, amend, repeal and enforce all such ordinances, resolutions, rules and regulations as may be deemed necessary and proper for the introduction, operation and management of such system, and for the maintenance and operation of a solid waste facility, subject to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid Waste Utility Control Act," P.L.1970, c.40 (C.48:13A-1 et seq.), for the disposal of solid waste, and for the government of employees connected therewith.

b. A municipal governing body that establishes a system for the collection or disposal of solid waste pursuant to subsection a. of this section, in its discretion, may limit service furnished by it to curbside collection along public streets or roads that have been dedicated to and accepted by the municipality. The municipal governing body may also refuse to enter upon private property to remove solid waste from dumpsters or other solid waste containers. The municipal governing body, in its sole discretion, may choose to reimburse those property owners who do not receive the municipal service, but such reimbursement shall not exceed the cost that would be incurred by the municipality in providing the collection or disposal service directly. Nothing contained in this subsection shall be deemed to modify the provisions of P.L.1989, c.299 (C.40:67-23.2 et seq.) with respect to qualified private communities.

c. A municipal governing body that establishes a system for the collection of solid waste pursuant to subsection a. of this section may limit the municipal service furnished by it to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

d. A municipal governing body that adopts a recycling ordinance pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) may limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

2. R.S.40:66-4 is amended to read as follows:

Contracts; bid specification, advertising, renegotiations.

40:66-4. a. The governing body may, if it deem it more advantageous, contract with any person for the cleaning of the streets, or the collection or disposal of solid waste. Before making any such contract or contracts the governing body shall first adopt specifications for the doing of the work in a sanitary and inoffensive manner. The specifications may include provisions limiting solid waste collection service and recyclable material collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

Any specifications adopted by the governing body for the collection or disposal of solid waste shall conform to the uniform bid specifications for municipal solid waste collection contracts established pursuant to section 22 of P.L.1991, c.381 (C.48:13A-7.22). Any such contract or contracts, the total amount of which exceeds in the fiscal year the amount set forth in, or the amount calculated by the Governor pursuant to, section 3 of P.L.1971, c.198 (C.40A:11-3), shall be entered into and made only after bids shall have been advertised therefor, and awarded in the manner provided in the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

b. Whenever the governing body adopts an ordinance to provide for the collection or disposal of solid waste within its municipal boundaries by imposing solid waste charges based on the number of solid waste containers processed per household pursuant to subsection b. of

R.S.40:66-5, on or after the first day of the 13th month following the effective date of that ordinance, the governing body may request the relevant solid waste collector to whom a multi-year contract has been awarded to renegotiate the contract to reflect any reduction in the annual volume of solid waste collected achieved as a result of the ordinance.

3. R.S.40:66-5 is amended to read as follows:

Cost of solid waste collection, disposal; ordinance.

40:66-5. a. The governing body may provide for the collection or disposal of solid waste at the general expense, or if deemed by it more advisable, impose rates or charges (hereinafter referred to as "solid waste charges") to be charged by the municipality for the collection or disposal of solid waste, provide for the manner of payment of the same, and maintain an action at law to recover any moneys due therefor.

b. Whenever the governing body determines to provide for the collection or disposal of solid waste by imposing solid waste charges on a per container basis, the governing body shall adopt an ordinance to:

(1) Establish a rate schedule of solid waste charges based on the number of solid waste containers processed per household; and

(2) Provide residents with the opportunity to purchase, on a prepaid basis, one or more solid waste containers, or a voucher or sticker therefor, to facilitate the payment of solid waste charges on a per container basis.

c. Whenever the governing body adopts an ordinance pursuant to subsection b. of this section, the ordinance may include provisions limiting solid waste collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

d. Whenever the governing body adopts an ordinance pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16), the ordinance may include provisions limiting recyclable material collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

4. Section 1 of P.L.1991, c.170 (C.40:66-5.1) is amended to read as follows:

C.40:66-5.1 Municipality to adopt proof of service ordinance for solid waste generators.

1. a. The governing body of any municipality wherein solid waste collection services are contracted for and provided, wholly or in part, on an individual, private contract basis shall adopt a proof of service ordinance which requires all responsible solid waste generators to contract or otherwise lawfully provide for the collection of solid waste generated at those premises in the manner provided by the ordinance.

b. Each proof of service ordinance required pursuant to this section shall include:

(1) In the case of single-family residential housing, a requirement that each responsible solid waste generator, in those instances where a solid waste collection system is not otherwise provided for by the municipality and if he has not already done so, enter into a contract for regular solid waste collection service with any person lawfully providing private solid waste collection services within the municipality; except that the ordinance may include an exemption from this requirement in those instances where the responsible solid waste generator is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal;

(2) In the case of multi-family residential housing, a requirement that the responsible solid waste generator, in those instances where a solid waste collection system is not otherwise provided for by the municipality and if he has not already done so, enter into a contract for regular solid waste collection service with any person lawfully providing private solid waste collection services within the municipality; except that the ordinance may include an exemption from this requirement in those instances where the responsible solid waste generator is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal. It shall be the responsibility of the owner

of the multiple dwelling to provide a sufficient number of appropriate solid waste containers for the deposit of nonrecyclable waste materials to be disposed of as solid waste;

(3) In the case of any commercial or institutional building or structure located within the boundaries of the municipality, a requirement that the responsible solid waste generator, in those instances where regular solid waste collection services are not otherwise provided for, enter into a contract with any person lawfully providing private solid waste collection services within the municipality; and

(4) In the case of a responsible solid waste generator, within the municipality, who is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal, a requirement that every such responsible solid waste generator within the municipality furnish proof that the responsible solid waste generator is transporting the solid waste which is generated at his residential premises directly to the solid waste facility utilized by the municipality for disposal to the governing body of the municipality at least once every 12 months. In order to fulfill the requirements of this subsection, the responsible solid waste generator may include the proof of service with the municipal tax payment mailed to the municipal tax collector.

Any proof of service ordinance may include provisions limiting regular solid waste collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

Any proof of service ordinance may include provisions limiting recyclable material collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

c. The governing body shall, within six months of the effective date of a proof of service ordinance adopted pursuant to this section and at least once every six months thereafter, notify all responsible solid waste generators of the requirements of the ordinance. In order to fulfill the notification requirements of this subsection, the governing body of a municipality may, in its discretion, place an advertisement in a newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

5. Section 2 of P.L.1991, c.170 (C.40:66-5.2) is amended to read as follows:

C.40:66-5.2 Solid waste generators provided opportunity to contract for collection services.

2. a. The provisions of any other law, rule or regulation to the contrary notwithstanding, the governing body of any municipality may request that every solid waste collector engaging in private solid waste collection services within the municipality who is registered pursuant to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) and holds a certificate of public convenience and necessity pursuant to sections 7 and 10 of P.L.1970, c.40 (C.48:13A-6 and 48:13A-9) provide all responsible solid waste generators with the opportunity to contract for, on an individual basis, regular solid waste collection services, if the responsible solid waste generator is required to do so by a proof of service ordinance adopted pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1).

b. The governing body of any municipality may request any solid waste collector engaging in private solid waste collection services within the municipality to assist the municipality in identifying those responsible solid waste generators who fail to comply with the provisions of section 1 of P.L.1991, c.170 (C.40:66-5.1).

c. Whenever the governing body adopts a proof of service ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), or requests a solid waste collector to provide all responsible solid waste generators with the opportunity to contract for regular solid waste collection services pursuant to subsection a. of this section, the governing body shall notify the Department of Environmental Protection of these actions by certified mail.

d. In the event that a solid waste collector refuses any request to provide responsible solid waste generators with the opportunity to contract for regular solid waste collection services pursuant to subsection a. of this section, the governing body shall notify the department of this

refusal by certified mail.

e. Whenever the governing body of a municipality adopts a proof of service ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), the governing body shall notify the owner or operator of every solid waste facility utilized by the municipality of this action by certified mail.

6. Section 1 of P.L.1975, c.243 (C.40:67-23.1) is amended to read as follows:

C.40:67-23.1 Road, street services.

1. a. The governing body of every municipality may make, amend, repeal and enforce ordinances to cause the governing body of the municipality to repair and maintain and provide for the removal of snow, ice and other obstructions from, and provide for the lighting of, any roads or streets upon which the travel is sufficient, in the opinion of said governing body, to warrant such expenditures, even though such roads or streets shall not have been taken over by said municipal governing body or dedicated and accepted as public highways. The municipality may also provide for the curbside collection of solid waste along such streets, or for the reimbursement of such solid waste collection costs as the municipality may determine to have been reasonably incurred by persons residing adjacent to such streets. Roads or streets so serviced, which are not shown on the official map of the municipality, may, at the option of the governing body of said municipality, be suitably improved in accordance with any requirements established pursuant to article 5 of the "Municipal Land Use Law," P.L.1975, c.291, ss. 23-27 (C.40:55D-32 to C.40:55D-36) and the ordinance.

b. A municipal governing body that provides for the curbside collection of solid waste pursuant to subsection a. of this section may limit these services to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

c. A municipal governing body that provides for the collection of designated recyclable materials pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) may limit these services to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

d. If, as a condition of providing services for any road or street proposed to be serviced, the municipality notifies the owner that dedication thereof to the municipality is required, the owner may refuse to accept the services and benefits of the ordinance upon that condition by so notifying the municipality within 60 days of receipt of the notice. With respect to any road or street for which services are provided, if the municipality notifies the owner that continuation of provision of the services is conditioned upon the dedication thereof to the municipality, the owner may refuse to accept continuance of the services and benefits of the ordinance upon that condition by so notifying the municipality within 60 days of receipt of the notice. Notices to be given pursuant to this section shall be in writing.

7. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to read as follows:

C.13:1E-99.13 District recycling plan.

3. a. Each county shall prepare and adopt a district recycling plan to implement the State Recycling Plan goals. Each district recycling plan shall be adopted as an amendment to the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and subject to the approval of the department.

b. Each district recycling plan required pursuant to this section shall include, but need not be limited to:

- (1) Designation of a district recycling coordinator;
- (2) Designation of the recyclable materials to be source separated in each municipality which shall include, in addition to leaves, at least three other recyclable materials separated from the municipal solid waste stream;
- (3) Designation of the strategy for the collection, marketing and disposition of designated

source separated recyclable materials in each municipality;

(4) Designation of recovery targets in each municipality to achieve the maximum feasible recovery of recyclable materials from the municipal solid waste stream which shall include, at a minimum, the following schedule:

(a) The recycling of at least 15% of the total municipal solid waste stream by December 31, 1989;

(b) The recycling of at least 25% of the total municipal solid waste stream by December 31, 1990; and

(c) The recycling of at least 50% of the total municipal solid waste stream, including yard waste and vegetative waste, by December 31, 1995; and

(5) Designation of countywide recovery targets to achieve the maximum feasible recovery of recyclable materials from the total solid waste stream which shall include, at a minimum, the recycling of at least 60% of the total solid waste stream by December 31, 1995.

For the purposes of this subsection, "total municipal solid waste stream" means the sum of the municipal solid waste stream disposed of as solid waste, as measured in tons, plus the total number of tons of recyclable materials recycled; and "total solid waste stream" means the aggregate amount of solid waste generated within the boundaries of any county from all sources of generation, including the municipal solid waste stream.

c. Each district recycling plan, in designating a strategy for the collection, marketing and disposition of designated recyclable materials in each municipality, shall authorize municipalities that adopt a recycling ordinance pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

Each district recycling plan may be modified after adoption pursuant to a procedure set forth in the adopted plan as approved by the department.

d. A district recycling plan may be modified to require that each municipality within the county revise the ordinance adopted pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to provide for the source separation and collection of used dry cell batteries as a designated recyclable material.

8. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to read as follows:

C.13:1E-99.16 Municipal recycling program.

6. Each municipality in this State shall designate one or more persons as the municipal recycling coordinator. Each municipality shall establish and implement a municipal recycling program in accordance with the following requirements:

a. Each municipality shall provide for a collection system for the recycling of the recyclable materials designated in the district recycling plan as may be necessary to achieve the designated recovery targets set forth in the plan in those instances where a recycling collection system is not otherwise provided for by the generator or by the county, interlocal service agreement or joint service program, or other private or public recycling program operator.

b. The governing body of each municipality shall adopt an ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, in addition to leaves, the specified recyclable materials for which markets have been secured and, unless recycling is otherwise provided for by the generator, place these specified recyclable materials for collection in the manner provided by the ordinance.

c. The governing body of each municipality shall, at least once every 36 months, conduct a review and make necessary revisions to the master plan and development regulations adopted pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.), which revisions shall reflect changes in federal, State, county and municipal laws, policies and objectives concerning the collection, disposition and recycling of designated recyclable materials.

The revised master plan shall include provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance adopted pursuant to subsection b. of this section, and for the collection, disposition and recycling of designated

recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land.

d. The governing body of a municipality may exempt persons occupying commercial and institutional premises within its municipal boundaries from the source separation requirements of the ordinance adopted pursuant to subsection b. of this section if those persons have otherwise provided for the recycling of the recyclable materials designated in the district recycling plan from solid waste generated at those premises. To be eligible for an exemption pursuant to this subsection, a commercial or institutional solid waste generator annually shall provide written documentation to the municipality of the total number of tons recycled.

e. The governing body of each municipality shall, on or before July 1 of each year, submit a recycling tonnage report to the New Jersey Office of Recycling in accordance with rules and regulations adopted by the department therefor.

f. The governing body of each municipality shall, at least once every six months, notify all persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance. In order to fulfill the notification requirements of this subsection, the governing body of a municipality may, in its discretion, place an advertisement in a newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to residential taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

The governing body of a municipality that adopts a recycling ordinance pursuant to subsection b. of this section may limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

C.40:66-1.6 Limits on solid waste collection; operating hours.

9. a. The provisions of P.L.1970, c.40 (C.48:13A-1 et seq.), P.L.1991, c.381 (C.48:13A-7.1 et seq.), P.L.1970, c.39 (C.13:1E-1 et seq.) or any other law, or any rules and regulations adopted pursuant thereto to the contrary notwithstanding, a municipal governing body that: (1) establishes a municipal contract system for solid waste collection pursuant to R.S.40:66-4; (2) awards a contract for the collection of municipal solid waste pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.); or (3) adopts a proof of service ordinance pursuant to section 1 of P.L.1991, c.170 (C.40:66-5.1), may adopt an ordinance limiting solid waste collection service to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

b. Any solid waste collection uniform tariff for the provision of residential solid waste collection service, which designates hours of operation that are contrary to the operating hours specified in the ordinance adopted pursuant to subsection a. of this section, shall be superseded by the hours of operation indicated in the ordinance.

c. The Department of Environmental Protection, in any subsequent revision to or re-adoption of the solid waste utility rules and regulations pertaining to solid waste collection uniform tariffs under N.J.A.C.7:26H-4.6, shall make whatever changes to these rules and regulations as may be necessary to comply with the provisions of P.L.2001, c.92 and this section.

10. This act shall take effect immediately.

Approved May 10, 2001.