

## **Title 16 Sanitation**

### **Chapter 2 Solid Waste Management**

§ 16-201 Facility assignment.

a. The commissioner is authorized and empowered to promulgate regulations and procedures for the management on a city-wide basis of all solid waste generated or disposed of within the city and to supervise and regulate the transportation and disposition of all solid waste generated or disposed of within the city pursuant to the standards established herein, provided that no regulations shall abridge, impair or restrict any bona fide firm contracts for the purchase or delivery of solid waste for resource recovery entered into between private parties prior to the date at which final notice of regulations is filed with the city clerk, and that any such regulations are accompanied by a justification of such regulations that demonstrates either:

(1) That regulating privately collected solid waste or a portion of such waste, whether by waste origin, destination, type or by any other reasonable basis will, in the opinion of the commissioner, help facilitate the construction, expansion, rehabilitation or operation, by or for the city, of a solid waste recovery and management facility, or will help the city discharge its responsibilities with respect to the management, including transportation and disposition, on a city-wide basis, of all solid waste generated or disposed of within the city, or

(2) That a declaration of imminent peril to the public health has been authorized by the board of health and such situation can be addressed or prevented by regulating the disposal of privately collected waste.

b. The commissioner may assign to persons who collect or dispose of solid waste a solid waste recovery and management facility or facilities at which such persons shall deliver such waste. The commissioner may assign days and hours when such persons shall use such facilities, and may limit or prohibit collection truck traffic on particular streets or limit such traffic to certain hours of the day.

c. The commissioner shall weigh as one critical consideration in his ultimate determination of specific site assignments for disposal, the minimization of solid waste disposal vehicle traffic and transportation cost on city streets and roadways.

d. The commissioner shall further consider the following objectives in determining facility assignments:

(1) meeting the daily operating capacity requirements of each resource recovery facility and minimizing overloading of facilities;

(2) extending the useful life of existing municipal landfills;

(3) ensuring the economic viability of resource recovery facilities processing waste generated within the city;

(4) ensuring that unacceptable wastes do not enter facilities;

(5) meeting any contractual obligations required under any resolution or resolutions authorizing the issuance of bonds for solid waste recovery and management facilities, or entered into pursuant to chapter five hundred sixty of the laws of nineteen hundred eighty;

(6) achieving uniform deliveries and minimizing congestion and dumping delays at facilities.

e. The commissioner shall exercise due diligence in notifying each person assigned to a facility of a scheduled closing of such facility by certified mail at least seventy-two hours prior to such closing. Such notification shall include the expected duration of the closing and assignments to alternative facilities and days and times of such assignments.

f. The commissioner shall exercise due diligence in notifying persons assigned to a facility of an emergency closing of a facility or any emergency during which facilities are not available. Unless the commissioner provides alternative facilities persons assigned to a closed or unavailable facility may arrange alternative means of disposal during the closing or unavailability of such facilities.

#### § 16-202 Waste acceptability.

a. The commissioner shall promulgate a list of facilities and solid wastes accepted and not accepted at each such facility.

(b) Solid wastes not acceptable at certain or all facilities may include, but need not be limited to, the following:

(1) solid wastes that may adversely affect the health or safety of facility employees or damage facility equipment;

(2) wastes designated as hazardous wastes pursuant to the federal resource conservation and recovery act of 1976, as amended, and regulations promulgated pursuant thereto and titles seven and nine of article twenty-seven of the New York environmental conservation law and regulations promulgated pursuant thereto;

(3) wastes designated as hazardous air pollutants pursuant to section one hundred twelve of the federal clean air act, as amended, and regulations promulgated pursuant to such act;

(4) sewage sludge or containerized or free liquids;

(5) bulk wastes of a size or dimension too cumbersome for efficient burning at incinerators or resource recovery facilities;

(6) any and all classes of regulated medical waste or other medical waste as defined in section 16-120.1 provided that such list be consistent with such section.

#### § 16-203 Charges.

a. The rates for use of facilities provided by or for the department shall be fixed by the board of estimate upon the recommendation of the commissioner, who shall require persons assigned to such facilities to pay such rates.

b. The rates shall be sufficient, when added to other waste disposal and resource recovery revenues and to the value to the department of its proportionate use of all facilities comprising the solid waste management system of the city, as determined by the commissioner, to provide for all expenses of transportation, land acquisition, construction, equipment, operations including enforcement, administrative and insurance costs, maintenance, expansion, replacement, financing and reasonable reserves therefore and any other costs that may be required for the financing or completion of facilities, equipment or land to be used for furnishing solid waste management services. The commissioner may from time to time recommend and the board of estimate may prescribe changes in rates, provided that such changes shall be based on changes in the cost of furnishing solid waste management services.

c. The rate for each facility may be fixed so as to vary according to volume, location of facility assignment, or weight, type, character or difficulty of storing, processing or disposing of the solid waste, or other factors relating to economic efficiency or allocation of resources and may not

discriminate between classes of users. The commissioner shall state the basis for establishing such varying rates in the commissioner's recommendations to the board of estimate.

d. The commissioner shall notify by mail all persons assigned to use facilities of the first meeting of the board of estimate at which any resolution fixing or changing such rates is scheduled to be considered. Such notice shall be mailed at least thirty days prior to such board of estimate meeting and shall include the proposed rates or rate changes. Failure to provide such notice shall not affect the validity of such rates.

e. The commissioner may collect charges in such manner as he determines shall minimize burdens and costs of the department, provided that the commissioner shall also consider burdens and costs of persons assigned to facilities.

#### § 16-204 Recordkeeping and filing requirements.

Each person assigned to a facility or facilities shall submit to the commissioner an annual report on such date as the commissioner shall determine, in a form established by the commissioner, which provides information required by the commissioner to plan, develop, maintain and operate facilities and provide waste management services. Such information shall include but not be limited to daily solid waste volumes and general composition or character of wastes by each vehicle route to and from facilities.

#### § 16-205 Variances.

a. There shall be in the department a solid waste management board consisting of the commissioner, the commissioner of consumer affairs and the executive director of the office for economic development, all of whom shall serve on the board without compensation and all of whom shall have the power to exercise or delegate any of their functions, powers and duties as members of the board. Such board may grant variances from a regulation or modify assignments or rates of the commissioner involving the transportation, storage, processing or disposal of solid waste when such board finds that such regulation or order would impose unreasonable economic hardship. The specific terms of any variance granted shall be determined by such board on a case by case basis. Any person seeking a variance shall do so by filing with such board a petition for variance in a form prescribed by such board. Such forms shall document the need for a variance.

b. Exemptions from formal variance request procedures may be made for day-to-day operational hardships such as equipment failure. The commissioner may grant temporary facility and time assignment variances to persons who report such hardships to the commissioner. Proof of hardship must be submitted to the commissioner within the time frame set by the commissioner. Subsequent exemptions may be withheld for failing to submit proof of hardship for any prior request.

#### § 16-206 Enforcement proceedings.

a. The commissioner shall issue a notice of violation returnable to the environmental control board to any person violating a provision of this chapter or any regulation promulgated by the commissioner pursuant to this chapter.

b. The environmental control board shall impose penalties as provided in subdivisions c and d.

c. Each violation, whether committed on the same or a subsequent date, shall be deemed a separate violation and be punishable by a penalty.

## SCHEDULE OF PENALTIES FOR SPECIFIC VIOLATIONS

Failure to submit accurate and timely annual report pursuant to section 16-204 up to \$ 1,000.00

Use of restricted streets or use of streets during restricted time periods as established pursuant to section 16-201 up to \$ 100.00

Delivery of waste to an unauthorized facility in violation of assignments made pursuant to section 16-201 up to \$ 300.00

Delivery to a specific facility of waste classified as unacceptable for that facility in violation of regulations promulgated pursuant to section 16-202 up to \$ 300.00

Delivery to a specific facility of waste classified as unacceptable which may have an adverse effect on the health and safety of facility employees or which may damage equipment in violation of regulations promulgated pursuant to section 16-202 up to \$ 10,000.00

Delivery of waste classified as hazardous in violation of regulations promulgated pursuant to section 16-202 up to \$ 10,000.00

Delivery of waste classified as regulated medical waste or other medical waste in violation of regulations promulgated pursuant to section 16-202 up to \$ 10,000.00

d. Violations not listed in subdivision c may be punishable as determined by the environmental control board by a penalty not to exceed ten thousand dollars.

e. Any person violating a provision of this chapter or any regulation promulgated by the commissioner pursuant to this chapter shall also be liable for any costs or expenses that may be incurred by the city as a result of such violation.

### § 16-207 Regulations.

a. The commissioner, upon the recommendation of the solid waste management board and upon the approval of the board of estimate, may exempt that portion of privately collected solid waste from all or some provisions of any regulations for such period of time as is necessary and appropriate up to forty years, if the regulation of that solid waste will materially and adversely interfere with the development, financing or operation of any resource recovery facility owned or operated or being developed privately. Any person seeking an exemption shall do so by filing with the solid waste management board a petition for exemption in a form prescribed by such board. Such form shall document the need for an exemption. The effective date of any exemptions granted may be withheld until a bona fide, firm, long-term contract has been executed for delivery

of such solid waste to a safe and reliable facility and copy of such contract has been received by the solid waste management board.

b. In the event that any resource recovery facility owned or operated privately fails to adequately process or dispose of solid waste and such facility does not provide for alternate storage, processing or disposal, the privately collected solid waste exempted from regulation and not disposed by the facility may be made subject to any regulation for which it had been exempted.

c.

(1) Nothing herein shall be construed to prohibit or limit private collectors from extracting from the waste they collect materials that have value to such collectors for the purposes of recycling, reuse or resale.

(2) Any regulations promulgated shall not limit the amount or type of solid waste utilized by any person for the purposes of composting, materials recovery from solid waste, or operation of a recycling center.

d. Such regulations shall make reasonable accommodation to permit persons to deliver solid waste to recycling facilities or permitted transfer facilities for the sole purpose of materials reclamation or volume reduction, provided, however, that nothing contained herein shall materially impair the authority of the commissioner to enforce the regulation of the residual solid waste resulting from such reclamation or volume reduction activities in accordance with this chapter.

#### § 16-208 Publication of regulations.

Notwithstanding any inconsistent provisions of section eleven hundred five of the charter, the regulations promulgated pursuant to this chapter shall be promulgated pursuant to the procedures set forth in this section. The commissioner shall:

a. publish notice of the proposed regulations in at least two newspapers of general circulation, the city record, and at least one industry journal:

b. allow a sixty day period to receive comments on such proposed regulations and an additional ten days to review such comments before publishing a final notice of such regulations:

c. at least one hundred eighty days prior to the effective date of such regulations, submit to the city clerk final notice of such regulations, together with a set of the comments filed pursuant to this section, findings related to material substantive elements in such comments, and a justification for the necessity of such regulations; and

d. amend such regulations pursuant to section eleven hundred five of the charter.

#### § 16-209 Definitions. As used in this title:

a. "Solid waste" means all materials or substances discarded or rejected as being spent, useless, or worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous forms.

b. "Solid waste recovery and management facility" or "facility" means any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property which is to be used, occupied or employed beyond the initial solid waste collection process for the storage, processing, or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom including but not limited to recycling

centers, transfer stations, baling facilities, rail haul or barge haul facilities, processing systems, resource recovery facilities or other facilities for reducing solid waste volume, sanitary landfills, plants and facilities for compacting, composting or pyrolyzation of solid wastes, incinerators, and other solid waste disposal, reduction or conversion facilities. For the purpose of this title, solid waste recovery and management facilities include solid waste recovery and management projects as defined in subdivision two of section 51-0903 of the environmental conservation law.

c. "Person" means any governmental body, except the city of New York, public corporation or authority, private corporation, partnership or individual engaged in the business of removing, disposing of, conveying or transporting upon the streets, public places or bridges, or over the ferries in the city of solid waste.

## **Chapter 3**

### **Solid Waste Recycling**

#### **Subchapter 1**

##### **Short Title, Policy and Definitions**

§ 16-301 Short title.

This chapter shall be known and may be cited as the “New York City Recycling Law.”

§ 16-302 Declaration of policy.

It is hereby declared to be the public policy of the city to reduce environmental pollution and dangers to health, to decrease the demand for scarce landfill space, to minimize the size and cost of the proposed resource recovery program, and to encourage the conservation of valuable natural resources and energy. It is the policy of the city to promote the recovery of materials from the New York city solid waste stream for the purpose of recycling such materials and returning them to the economy. This chapter shall be liberally construed in order to effectuate the purposes set forth in this section.

§ 16-303 Definitions.

When used in this chapter:

- a. “Buy-back center” means a recycling center that purchases and may otherwise accept recyclable materials from the public for the purpose of recycling such materials.
- b. “Department-collected solid waste” means all solid waste that the department and its contractors collect and all solid waste that the department receives for free disposal.
- c. “Department-disposed of solid waste” means all solid waste, including department-collected solid waste, disposed of at a department landfill, incinerator, resource recovery facility or other waste disposal facility owned, operated or used by the department.
- d. “Drop-off center” means a recycling center that accepts and may otherwise purchase recyclable materials from the public for the purpose of recycling such materials.
- e. “Household” means a single dwelling or a residential unit within a multiple dwelling, hotel, motel, campsite, ranger station, public or private recreation area, or other residence.
- f. “Post-collection separation” means the dividing of solid waste into some or all of its component parts after the point of collection.
- g. “Post-consumer material” means only those products generated by a business or a consumer which have served their intended end uses, and which have been separated or diverted from solid waste for the purposes of collection, recycling and disposition.
- h. “Private carter” means any person required to be licensed or permitted pursuant to subchapter eighteen of chapter two of title twenty of this code.
- i. “Recyclable materials” means solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste.
- j. “Recycled” or “recycling” means any process by which recyclable materials are separated, collected, processed, marketed and returned to the economy in the form of raw materials or products.
- k. “Recycling center” means any facility operated to facilitate the separation, collection, processing or marketing of recyclable materials for reuse or sale.

- l. “Recycling district” means any borough or smaller geographic area the commissioner deems appropriate for the purpose of implementing this chapter.
- m. “Secondary material” means any material recovered from or otherwise destined for the waste stream, including but not limited to, postconsumer material, industrial scrap material and overstock or obsolete inventories from distributors, wholesalers and other companies, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.
- n. “Solid waste” means all putrescible and non-putrescible materials or substances, except as described in paragraph three of this subdivision, that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal.

1. A material is discarded if it is abandoned by being:
  - i. disposed of;
  - ii. burned or incinerated, including being burned as a fuel for the purpose of recovering useable energy; or
  - iii. accumulated, stored, or physically, chemically or biologically treated (other than burned or incinerated) instead of or before being disposed of.
2. A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.
3. The following are not solid waste for the purpose of this chapter:
  - i. domestic sewage;
  - ii. any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment, except any material that is introduced into such system in order to avoid the provisions of this chapter or the state regulations promulgated to regulate solid waste management facilities pursuant to 6 NYCRR Part 360;
  - iii. industrial wastewater discharges that are actual point source discharges subject to permits under article seventeen of the environmental conservation law; industrial wastewaters while they are being collected, stored, or treated before discharge and sludges that are generated by industrial wastewater treatment are solid wastes;
  - iv. irrigation return flows;
  - v. radioactive materials that are source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011 et seq.
  - vi. materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process;
  - vii. hazardous waste as defined in section 27-0901 of the environmental conservation law; and
  - viii. regulated medical waste or other medical waste as described in section 16-120.1 of this title.
- o. “Source separation” means the dividing of solid waste into some or all of its component parts at the point of generation.
- p. “Yard waste” means leaves, grass clippings, garden debris, vegetative residue that is recognizable as part of a plant or vegetable, small or chipped branches, and similar material.



## **Subchapter 2**

### **Citywide Recycling Program**

§ 16-304 Department-disposed of solid waste.

The commissioner shall within nine months of the effective date of this chapter establish and implement programs to ensure that the amount of department-disposed of solid waste is reduced or recycled by at least:

- a. one thousand four hundred thirty tons per day by the end of the first year following the enactment date of this chapter and during the year thereafter;
- b. two thousand eight hundred seventy tons per day by the end of the second year following the enactment date of this chapter and during the year thereafter;
- c. four thousand three hundred tons per day by the end of the third year following the enactment date of this chapter and during the year thereafter;
- d. five thousand seven hundred forty tons per day by the end of the fourth year following the enactment date of this chapter and during the year thereafter; and
- e. seven thousand one hundred eighty tons per day by the end of the fifth year following the enactment date of this chapter and during the year thereafter.

These programs may be designed to increase private sector or residential recycling, to increase the return and recycling of containers under the New York State returnable container law, to implement waste reduction or reuse measures, or to export waste for the purpose of recycling. The waste reduction and recycling requirements of this section shall include all the solid waste that is recycled pursuant to the recycling requirements of section 16-305 of this chapter, but shall not include the reduction or recycling of ash or residue from resource recovery facilities, or the reduction or recycling of sludges from air or water treatment facilities. For the purpose of this section, "day" shall mean each working day in a three hundred sixty-five day calendar year. Should the level of recycling exceed the minimum quantities required in this section, the council may review the original mandate and increase the minimum requirements.

§ 16-305 Department-collected solid waste.

- a. The commissioner shall, within nine months of the effective date of this chapter, adopt and implement regulations designating at least six recyclable materials, including yard waste to the extent required in section 16-308 of this chapter, contained in department-collected solid waste and requiring households to source separate the designated materials to ensure that the department and its contractors recycle at least:
  1. seven hundred tons per day by the end of the first year following the enactment date of this chapter and during the year thereafter;
  2. one thousand four hundred tons per day by the end of the second year following the enactment date of this chapter and during the year thereafter;
  3. two thousand one hundred tons per day by the end of the third year following the enactment date of this chapter and during the year thereafter;
  4. three thousand four hundred tons per day by the end of the fourth year following the enactment date of this chapter and during the year thereafter; and
  5. four thousand two hundred fifty tons per day by the end of the fifth year following the enactment date of this chapter and during the year thereafter.

At the start of the second, third, fourth and fifth years following the enactment date of this chapter, the tonnage requirements of this section shall be increased by the average annual percentage increase in solid waste that the department and its contractors collected from households and institutions and solid waste that the department received for free disposal in the two previous consecutive fiscal years. The solid waste that the department and its contractors are required to recycle pursuant to this subdivision shall include department-collected solid waste recycled pursuant to this subdivision, city agency waste recycled pursuant to section 16-307, yard waste collected by the department and composted pursuant to section 16-308, Christmas trees collected by the department and composted or recycled pursuant to section 16-309, and batteries and tires collected pursuant to section 16-310 that are recycled, but shall not include containers returned pursuant to the New York State returnable container law, commercial solid waste removed and recycled by private carters, reduction or recycling of ash or residue from resource recovery facilities, or reduction or recycling of sludges from air or water treatment facilities. For the purpose of this subdivision, "day" shall mean each working day in a three hundred sixty-five day calendar year. Should the level of recycling exceed the minimum quantities required in this subdivision, the council may review the original mandate and increase the minimum requirements.

b. The commissioner shall, within nine months of the effective date of this chapter, adopt and implement regulations establishing procedures requiring the placement of the designated materials at the curbside, in specialized containers, or in any other manner the commissioner determines, to facilitate the collection of such materials in a manner that enables them to be recycled.

c. The commissioner may stagger the source separation and collection of the designated recyclable materials, with the exception of yard waste, provided that the recycling of the materials that are source separated and collected shall be sufficient to achieve the recycling levels required in this section, and that all the designated materials shall be source separated and collected within four and one-half years of the effective date of this chapter.

d. In establishing the schedule by which residential source separation shall commence, the commissioner may stagger the commencement dates for different recycling districts. Any such staggered schedule shall provide that at least one-third of all households shall be subject to source separation within one year of the effective date of this chapter; at least two-thirds of all households shall be subject to source separation within three years of the effective date of this chapter; and all households shall be subject to source separation within four and one-half years of the effective date of this chapter.

e. Within any recycling district, the commissioner may exempt residential generators from the source separation requirement of this section if the department employs alternative recycling methods, including but not limited to the use of buy-back centers, drop-off centers, or post-collection separation devices, provided that participation in any alternative methods is sufficient to achieve for the recycling district a percentage of the recycling requirement in this section at least equal to the percent of the citywide department-collected solid waste that is collected within the district. The commissioner shall not exempt residential generators from the source separation requirement of this section unless he or she determines that for the recycling district source separation cannot otherwise achieve the recycling levels required in this section.

f. Where the department provides solid waste collection services to a building containing nine or more dwelling units, the commissioner shall, within nine months of the effective date of this chapter, adopt and implement regulations requiring the owner, net lessee or person in charge of such building to:

1. provide for the residents a designated area and, where appropriate, containers in which to accumulate the source separated or other designated recyclable materials to be collected by the department;
2. notify all residents of the requirements of this chapter and the regulations promulgated pursuant thereto; and
3. remove non-designated materials from the containers of designated source separated recyclable materials before such containers are placed at the curbside for collection and ensure that the designated materials are placed at the curbside in the manner prescribed by the department.

With respect to solid waste generated by households in the aforesaid buildings, the obligations of an owner or a net lessee under this local law shall be limited to those set forth in this subdivision and subdivisions b and g of this section.

g. Eighteen months from the enactment date of this chapter, the commissioner shall adopt and implement regulations for any building containing nine or more dwelling units in which the amount of designated materials placed out for collection is significantly less than what can reasonably be expected from such building. These regulations shall require residential generators, including tenants, owners, net lessees or persons in charge of such building to use transparent bags or such other means of disposal the commissioner deems appropriate to dispose of solid waste other than the designated recyclable materials. Upon request of the owner, net lessee or person in charge of such building, and if the commissioner determines that such owner, net lessee or person in charge has complied with this subdivision and subdivision f of this section and that the amount of designated materials placed out for collection remains significantly less than what can reasonably be expected from such building, the department shall develop a schedule to conduct random inspections to facilitate compliance with the provisions of this chapter by tenants of such building, provided that lawful inspections may occur at reasonable times without notice to ensure compliance by the tenants, owner, net lessee or person in charge of such building.

§ 16-305 .1 Weekly collection of designated recyclable materials.

- a. Weekly collection of designated recyclable materials shall be maintained in all local service delivery districts in which such weekly collection was provided as of October thirty-first, nineteen hundred ninety-eight.
- b. Weekly collection of designated recyclable materials shall be implemented and maintained, in accordance with the schedule set forth in this subdivision, in all local service delivery districts in which such weekly collection was not provided as of October thirty-first, nineteen hundred ninety-eight:
  1. one district not receiving weekly collection as of October thirty-first, nineteen hundred ninety-eight shall receive such collection by March thirty-first, nineteen hundred ninety-nine;
  2. one district not receiving weekly collection as of March thirty-first, nineteen hundred ninety-nine shall receive such collection by April thirtieth, nineteen hundred ninety-nine;
  3. one district not receiving weekly collection as of April thirtieth, nineteen hundred ninety-nine shall receive such collection by May thirty-first, nineteen hundred ninety-nine;
  4. eighteen districts not receiving weekly collection as of May thirty-first, nineteen hundred ninety-nine shall receive such collection by June thirtieth, nineteen hundred ninety-nine; and

5. twenty districts not receiving weekly collection as of June thirtieth, nineteen hundred ninety-nine shall begin to receive such collection during the period from October thirty-first, nineteen hundred ninety-nine to April fifteenth, two thousand.

c. For purposes of this section “designated recyclable materials” shall mean solid waste that has been designated by the commissioner as recyclable pursuant to section 16-305 or section 16-307 of this chapter.

d. Nothing in this section shall be construed to require weekly collection of designated recyclable materials in such parts of the city or during such times of the year that such materials are not otherwise collected.

#### § 16-306 Private carter-collected waste.

a. The commissioner shall adopt and implement rules designating recyclable materials that constitute in the aggregate at least one-half of all solid waste collected by private carters, and additional materials if the commissioner determines that economic markets exist for them. Pursuant to subdivision b of this section, such rules shall require generators of private carter-collected waste to source separate some or all of the designated materials and to arrange for lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters of such source separated materials. With regard to designated materials that are not required by such rules to be source separated, generators of private carter-collected waste may source separate these designated materials and, in any event, shall arrange for their lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters. If a generator of private carter-collected waste has source separated the designated materials in accordance with the rules and arranged for the lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters of such source separated materials and, with regard to designated materials that are not required by such rules to be source separated, arranged for lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters, such arrangement shall constitute an affirmative defense to any proceeding brought against the generator pursuant to section 16-324 of this chapter.

b. The rules promulgated pursuant to subdivision a of this section shall require that generators of waste collected by businesses required to be licensed pursuant to section 16-505 of this code source separate the designated materials in such manner and to such extent as the commissioner determines to be necessary to minimize contamination and maximize the marketability of such materials. However, in promulgating such rules the commissioner shall not require source separation of a material unless the commissioner has determined that an economic market exists for such material. For the purpose of this section, the term “economic market” refers to instances in which the full avoided costs of proper collection, transportation and disposal of source separated materials are equal to or greater than the cost of collection, transportation and sale of said materials less the amount received from the sale of said materials. The New York city trade waste commission shall adopt and implement rules requiring businesses licensed to remove, collect or dispose of trade waste to provide for the collection of, and ensure the continued separation of, designated materials that have been source separated, provide for the separation of all other designated materials, and provide for recycling of all the designated materials. Rules promulgated by the trade waste commission pursuant to this subdivision shall be enforced in the manner provided in section 16-517 of this code and violations of such rules shall be subject to the

penalties provided in subdivision a of section 16-515 of this code for violation of the provisions of chapter 16-A. In addition, the commissioner shall have the authority to issue notices of violation for any violation of such rule and such notices of violation shall be returnable in a civil action brought in the name of the commissioner before the environmental control board which shall impose a penalty not to exceed ten thousand dollars for each such violation.

§ 16-307 City agency waste.

The commissioner shall, within six months of the effective date of this chapter, adopt and implement regulations requiring the source separation or post-collection separation, collection, processing, marketing, and sale of designated recyclable materials generated by city mayoral and non-mayoral agencies, including the council and the board of estimate.

§ 16-308 Yard waste.

a. Within eighteen months of the effective date of this chapter, the commissioner shall provide for the source separation, collection and composting of department-collected yard waste, with the exception of yard waste generated by the department of parks and recreation, any other city agency that generates a substantial amount of yard waste, or any person under contract with the department of parks and recreation or any other city agency, generated within designated areas of the city in which a substantial amount of yard waste is generated from October 15 to November 30 of each year, unless the generator otherwise provides for recycling or storage for composting or mulching. The commissioner may construct and operate one or more composting facilities, or utilize the services of other facilities.

b. Within thirty-six months of the effective date of this chapter, the commissioner shall provide for the source separation, collection and composting of department-collected yard waste generated within designated areas of the city in which a substantial amount of yard waste is generated from March 1 to July 31 and September 1 to November 30 of each year, unless the generator otherwise provides for recycling or storage for composting or mulching. The commissioner may construct and operate one or more composting facilities, or utilize the services of other facilities.

c. Within eighteen months of the effective date of this chapter, the department of parks and recreation or any other city agency that generates a substantial amount of yard waste shall provide for the source separation, collection and composting of yard waste generated by the department of parks and recreation, any other city agency that generates a substantial amount of yard waste, or any person under contract with the department of parks and recreation or any other city agency.

d. Within eighteen months of the effective date of this chapter, no landfill, incinerator or resource recovery facility owned, operated or used by the department shall accept for final disposal from October 15 to November 30 of each year truckloads primarily composed of yard waste, except that composted yard waste may be used as part of the final vegetative cover for a department landfill.

e. Within thirty-six months of the effective date of this chapter, no landfill, incinerator or resource recovery facility owned, operated or used by the department shall accept for final disposal from March 1 to July 31 and September 1 to November 30 of each year truckloads primarily composed of yard waste, except that composted yard waste may be used as part of the final vegetative cover for a department landfill.

f. All city agencies responsible for the maintenance of public lands shall to the maximum extent practicable and feasible give preference to the use of compost materials derived from the city's solid waste in all land maintenance activities.

§ 16-309 Christmas trees.

Within eighteen months of the effective date of this chapter, the commissioner shall designate areas and within these designated areas establish and implement a collection system for Christmas trees during the first three weeks of January of each year and provide for the composting or recycling of the Christmas trees the department collects or receives for disposal.

§ 16-310 Batteries and tires.

If within eighteen months of the effective date of this chapter, no state or federal legislation has been enacted requiring the collection of or imposing deposits on dry cell batteries or tires, the commissioner shall establish and implement citywide deposit or reclamation programs, that provide separate collection systems or convenient drop-off locations for dry cell batteries and tires to ensure that they are not incinerated or disposed of in an unlined landfill. The commissioner may establish a reasonable battery deposit charge and a reasonable tire deposit charge pursuant to this section.

§ 16-311 Recycling centers.

a. The commissioner shall, within eighteen months of the effective date of this chapter, develop and establish or support the development and establishment of not less than ten recycling centers. Such recycling centers shall be strategically sited and of sufficient size and number to provide for the recycling of all recyclable materials required to be recycled by the department and its contractors pursuant to section 16-305 of this chapter. The commissioner may utilize and include among the required number of recycling centers, recycling centers in existence before the effective date of this chapter, and where necessary the commissioner may provide for the expansion of such existing centers. The commissioner shall evaluate the feasibility of utilizing existing recycling centers in determining the need to establish city owned or operated centers. Notwithstanding the requirement for not less than ten recycling centers, the commissioner may utilize less than ten recycling centers if the recycling centers have the combined capacity to process all the material required to be recycled pursuant to section 16-305 of this chapter.

b. The commissioner shall establish or ensure that there exists at least one buy-back center in each borough. For economic development purposes, these buy-back centers shall be sited so that they are accessible to all residents, including residents of low income neighborhoods. The commissioner may include these buy-back centers among the recycling centers required under this section. The commissioner shall not include material from commercial generators which is processed for recycling at these and all other buy-back centers in the solid waste required to be reduced or recycled pursuant to section 16-305.

c. Recycling centers may be owned, operated, or funded by the city, any agency of the city, any person, or a public-private joint venture.

d. The commissioner may provide financial or other assistance to recycling centers in existence before and after the effective date of this chapter, upon a determination that such assistance will further the purposes of this chapter.

e. To the extent feasible, the commissioner shall ensure that all recycling centers established after the effective date of this chapter shall be sited to encourage the use of existing rail or shipping facilities, upon a determination that such siting will further the purposes of this chapter.

§ 16-312 Processing recyclable materials.

The commissioner shall establish procedures and standards for processing recyclable materials in city owned or operated recycling centers, city owned or operated transfer stations or any city owned or operated facility that renders recyclable materials suitable for reuse or marketing and sale. The commissioner shall review the procedures and standards at least annually and make any changes necessary to conform to the requirements of the marketplace.

§ 16-313 Marketing recyclable materials.

a. The department shall establish procedures, standards and strategies to market the department-collected recyclable materials designated pursuant to section 16-305 of this chapter, including but not limited to maintaining a list of prospective buyers, establishing contact with prospective buyers, entering into contracts with buyers, and reviewing and making any necessary changes in collecting or processing the materials to improve their marketability.

b. Within eighteen months of the effective date of this chapter, the commissioner in conjunction with the office for economic development shall submit to the mayor, the council, the board of estimate, each citizens' board created under section 16-317 of this chapter and the citywide board created under section 16-319 of this chapter a study of existing markets for processing and purchasing recyclable materials, and the potential and the steps necessary to expand these markets. Such study shall also include a proposal developed in conjunction with the department of finance to use, where feasible, the city's tax and finance authority to stimulate recycling and the demand for recycled materials.

§ 16-314 Recycling program revisions.

a. The commissioner shall annually review the recycling program and all rules and regulations promulgated therefore, and shall make the necessary revisions to improve the efficiency of collecting, processing, marketing and selling the materials recycled pursuant to this chapter. These revisions may include designating additional recyclable materials. The commissioner shall not delete designated materials without designating additional materials so that the total quantity, by weight, of all designated recyclable materials collected, processed, marketed and sold does not decrease.

b. By the end of the fifth year following the enactment date of this chapter, the commissioner shall designate two additional recyclable materials contained in residential or commercial solid waste and provide for the recycling of these materials in accordance with the provisions of this chapter.

§ 16-315 Notice, education and research programs.

a. In addition to the notice requirements of section one thousand forty-three of chapter forty-five of the charter, within thirty days of the effective date of any regulations promulgated pursuant to this chapter, and as frequently thereafter as the commissioner deems necessary, the department shall notify all community boards and persons occupying residential, commercial and industrial premises affected by the regulations, of the requirements of the regulations, by placing

advertisements in newspapers of citywide, borough-wide and community circulation, posting notices in public places where such notices are customarily placed, and, in the commissioner's discretion, employing any other means of notification deemed necessary and appropriate.

b. Within twelve months of the effective date of this chapter, the department shall develop and implement an educational program, in conjunction with the board of education, private schools, labor organizations, businesses, neighborhood organizations, community boards, and other interested and affected parties, and using flyers, print and electronic advertising, public events, promotional activities, public service announcements, and such other techniques as the commissioner determines to be useful, to assure the greatest possible level of compliance with the provisions of this chapter. The educational program shall encourage waste reduction, the reuse of materials, the purchase of recyclable products, and participation in city and private recycling activities.

c. The department shall perform such research and development activities, in cooperation with other city agencies, and public and private institutions, as the commissioner determines to be helpful in implementing the city's recycling program. Such research shall include, but not be limited to, investigation into the use of cooperative marketing programs, material recovery facilities, recycling as an economic development tool, export promotion, tax credits and exemptions for market promotion.

### **Subchapter 3 Recycling Plan**

#### **§ 16-316 Recycling plan.**

a. The commissioner shall, within twelve months of the effective date of this chapter, prepare and submit to the mayor, the council and the citywide board created under section 16-319 of this chapter a preliminary citywide recycling plan. The commissioner shall, within eighteen months of the effective date of this chapter, prepare and submit to the mayor, the council and the citywide board a citywide recycling plan and each year thereafter the commissioner shall submit to such parties an updated plan. The preliminary plan, the plan and each updated plan shall include, but need not be limited to:

1. a waste composition analysis that identifies the quantity and composition of the city's solid waste by recycling district;
2. annual recycling and reduction goals equal to or exceeding the mandatory minimum levels of sections 16-304 and 16-305, including the quantity and composition of recyclable materials to be collected, processed, marketed and sold by recycling district;
3. a five-year strategy for collecting, processing, marketing and selling the designated recyclable materials, and disposing of residual, non-recyclable solid waste, taking into account persons engaged in the business of recycling or persons otherwise providing recycling services before the effective date of this chapter. Such strategy may be based upon the results of the waste composition analysis performed pursuant to paragraph one of this subdivision or information obtained in the course of past collection of solid waste by the department, and may include recommendations with respect to increasing the number of materials designated for recycling pursuant to sections 16-305, 16-306 or 16-307 of this chapter;
4. comprehensive and up-to-date lists of large-scale generators of recyclable materials within the city and potential purchasers of recyclable waste material both within the city and in other locations;



5. a comprehensive analysis of all appropriate department properties and facilities to determine their feasibility as recycling centers;
6. proposed methods and programs to achieve a reduction in the city's solid waste stream, including but not limited to identifying materials the use of which should be regulated or limited based upon their incompatibility with recycling;
7. recommended revisions and an evaluation of the feasibility and effectiveness of such revisions to the building code of the city of New York, chapter one of title twenty-seven of this code, prepared in conjunction with the department of buildings, requiring newly constructed buildings and buildings undergoing specified alterations to contain storage space, devices or mechanisms that facilitate source separation and storage of the recyclable materials designated pursuant to sections 16-305 and 16-306 and that enable the department efficiently to collect, process, market and sell the designated materials; in preparing such recommendations, the commissioner and the commissioner of buildings shall evaluate the feasibility and effectiveness of requiring separate chutes to facilitate source separation in multi-family dwellings, storage areas that conform to fire and safety code regulations, and specialized storage containers;
8. to the extent feasible, proposals developed in consultation with the metropolitan transportation authority, the port authority of New York and New Jersey, the department of transportation, and the department of ports, international trade and commerce, to separate, collect and recycle recyclable materials, including but not limited to newspaper, that are discarded at transportation facilities, including subway, bus, railroad and ferry stations;
9. proposals developed in consultation with the board of education, the department of correction, health and hospitals corporation and other appropriate entities to separate, collect and recycle materials that are discarded at schools, jails, hospitals and other similar institutions throughout the city;
10. recommended product labeling requirements that would facilitate source separation and recycling of recyclable materials;
11. a proposal for an incentive program, including cash incentives, to encourage recycling participation;
12. an analysis of whether providing a reduced tipping fee for the disposal of residue that results from recycling activity in the private sector will enhance or increase private sector recycling;
13. an evaluation of economic development benefits of alternative recycling methods and strategies;
14. a comparison of the economic costs of recycling to the economic costs of other disposal and waste management strategies, including but not limited to resource recovery incineration and export; such comparison shall include but not be limited to expense, capital and external costs;
15. a review of all regulations pertaining to solid waste collection and disposal to determine their compatibility with the provisions and goals of this chapter;
16. a report on and evaluation of any pending federal and state legislation on recycling, waste reduction or any other solid waste management issues;
17. a detailed report on the recycling activities of the department during the preceding year;
18. specific and detailed objectives for the activities and programs conducted and assisted under this chapter;
19. the commissioner's conclusions as to the effectiveness of such activities and programs in achieving these objectives and the purposes of this chapter;

20. a summary of outstanding recycling problems confronting the department in the order of priority;
  21. recommendations with respect to legislation the commissioner deems necessary or desirable to assist in solving these recycling problems;
  22. the commissioner's plans for recycling and reduction activities and programs during the next year; and
  23. all other information required to be submitted to the council pursuant to any other provision of this chapter.
- b. Within four years of the effective date of this chapter, the commissioner shall prepare and submit to the mayor, the council, each citizens' board and the citywide board, a detailed and comprehensive plan to achieve for New York city the New York State goal of forty percent recycling and eight to ten percent waste reduction by 1997.

#### **Subchapter 4**

##### **Recycling Advisory Boards**

§ 16-317 Citizens' solid waste advisory boards; membership.

Within six months of the effective date of this chapter, each borough shall establish a citizens' solid waste advisory board (the "citizens' board"), consisting of no fewer than twenty members who for the first term shall be comprised of the members of the borough's citizens' advisory committee on resource recovery and other persons appointed jointly by the borough president and the council members elected from the council districts included in any part of the borough. For each subsequent term, all members shall be appointed jointly by the borough president and the council members elected from the council districts included in any part of the borough. The membership of each citizens' board shall represent community boards, recycling industries, carting industries, environmental organizations, government agencies, labor organizations, business organizations, property owners, tenant organizations and members of the general public. Members shall serve for a term of two years without compensation and shall designate one member to serve as chairperson and one as vice-chairperson.

§ 16-318 Functions of the citizens' board.

a. The department shall submit to each borough president the recycling plans prepared pursuant to section 16-316 of this chapter simultaneous with their submission to the mayor and the council. Each borough president shall distribute copies of the plans to each member of the citizens' board in his or her borough. Within ninety days thereafter, each citizens' board shall review the plans, conduct a public hearing on the plans and make written recommendations to its borough president, the department and the council with respect to the recycling program within its borough. Each citizens' board shall also annually advise its borough president and the department with respect to the development, promotion and operation of the recycling program in its borough and pursuant to this function shall formulate and recommend:

1. annual recycling and reduction goals equal to or greater than those set forth in sections 16-304 and 16-305 of this chapter and the methods proposed to achieve such goals;
  2. means to encourage community participation in the recycling program; and
  3. means to promote the recycling program and educate the public with regard to the program.
- b. In each borough, the citizens' board shall assume all the responsibilities and functions of the borough's citizens' advisory committee on resource recovery.

§ 16-319 Citywide recycling advisory board; membership.

Within nine months of the effective date of this chapter, a citywide recycling advisory board (the “citywide board”) shall be formed, consisting of at least one representative from each citizens' board, five members appointed by the council, and five members appointed by the mayor. The membership of the citywide board shall represent community boards, recycling industries, carting industries, environmental organizations, government agencies, labor organizations, business organizations, property owners, tenant organizations and members of the general public. Members shall serve for a term of one year without compensation and shall designate one member to serve as chairperson and one as vice-chairperson.

§ 16-320 Functions of the citywide board.

The citywide board shall meet at least four times a year to discuss citywide recycling issues, including but not limited to budgetary issues. The citywide board shall annually review the department's recycling program and make recommendations to the mayor and the council concerning improvements to and changes in the program.

§ 16-321 Disclosure requirements.

a. Whenever a person, other than a public servant, appointed to any advisory board created pursuant to this subchapter, engages in any business dealings with the department, or engages in business dealings with any other agency which relate to processing or disposal of solid waste or of waste described in paragraph three of subdivision m of section 16-303 of this chapter or to recycling, or has an interest in a firm which is engaged in such business dealings with the department or with such other agency, such person shall, prior to appointment, disclose the nature of such business dealings to the commissioner and to the body or officer appointing such person, and, after appointment, disclose the nature of such business dealings to the commissioner and to all other members of such board; provided that such person need not disclose the amount of such business dealings.

b. When used in this section:

1. “Advisory committee” means a committee, council, board or similar entity that is constituted to provide advice or recommendations to the city and which has no authority to take a final action on behalf of the city, to take any action that would have the effect of conditioning, limiting or requiring any final action by any other agency, or to take any action that is authorized by law.

2. “Agency” means a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, advisory committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to, the council, the offices of each elected official, the board of education, community school boards, community boards, the financial services corporation, the health and hospitals corporation, the public development corporation and the New York city housing authority, but shall not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

3. “Blind trust” means a trust in which a candidate for any advisory board created pursuant to this subchapter or a member of such board, or the spouse or unemancipated child of such candidate or member, has a beneficial interest, the holdings and sources of income of which such

candidate or member and such spouse and unemancipated child have no knowledge, and the trustee of which shall have independent authority and discretion.

4. "Business dealings" means any transaction involving the sale, purchase, rental, disposition or exchange of any goods, services or property, and any performance of or litigation with respect to any of the foregoing, but shall not include any transaction involving the residence of any candidate for any advisory board created pursuant to this subchapter or of any member of such board, or any ministerial matter.

5. "City" means the city of New York and includes any agency of the city.

6. "Elected official" means a person holding office as mayor, comptroller, public advocate, borough president or member of the council.

7. "Firm" means a sole proprietorship, joint venture, partnership, corporation or any other form of enterprise, but shall not include a public benefit corporation or local development corporation.

8. "Interest" means an ownership interest in a firm or a position with a firm.

9. "Ministerial matter" means an administrative act that is carried out in a prescribed manner and which does not involve substantial personal discretion.

(10) "Ownership interest" means an interest in a firm that is held by a candidate for any advisory board created pursuant to this subchapter, or by a member of such board, or by the spouse, domestic partner, or unemancipated child of such candidate or member, which exceeds five percent of the firm or an investment of twenty-five thousand dollars in cash or other form of commitment, whichever is less, or five percent or twenty-five thousand dollars of the firm's indebtedness, whichever is less, and any lesser interest in a firm when such candidate or member, or such spouse, domestic partner, or unemancipated child, exercises managerial control or responsibility regarding any such firm, but shall not include interests held in any pension plan, deferred compensation plan or mutual fund, the investments of which are not controlled by such candidate or member, or by such spouse, domestic partner, or unemancipated child, or in any blind trust that holds or acquires an ownership interest.

11. "Position" means a position in a firm, such as an officer, director, trustee, employee or any management position, or as an attorney, agent, broker or consultant to the firm, which does not constitute an ownership interest in the firm.

12. "Public servant" means all officials, officers and employees of the city, including members of community boards and members of advisory committees, except unpaid members of advisory committees shall not be public servants.

13. "Spouse" means a husband or wife of a candidate for any advisory board created pursuant to this subchapter or of a member of such board who is not legally separated from such candidate or member.

14. "Unemancipated child" means any son, daughter, step-son or stepdaughter who is under the age of eighteen, unmarried and living in the household of a candidate for any advisory board created pursuant to this subchapter or of the member of such board.

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## **Subchapter 5**

### **City Purchase of Recycled Products**

§ 16-322 City purchase of products made from secondary materials.

a. The department of citywide administrative services, upon consultation with the department, shall review the procurement specifications and practices it currently uses to determine whether

such require that products be manufactured from virgin materials or exclude products manufactured from secondary materials and shall make such changes as may be necessary to ensure that:

1. where such specifications and practices exclude the use of products manufactured from secondary materials or require that products be manufactured from virgin materials only, such exclusions or requirements be eliminated; provided, however, that specifications need not be revised if the department of citywide administrative services determines that for a particular end use a product containing secondary materials would not meet necessary performance standards;
2. performance standards, specifications and a product's intended end use are related, and clearly identified when feasible;
3. specifications are not overly stringent for a particular end use or performance standard; and
4. specifications incorporate or require the use of secondary materials to the maximum extent practicable without jeopardizing the performance or intended end use of the product; provided, however, where the department of citywide administrative services determines that for a particular end use a product containing secondary materials would not meet necessary performance standards, such specifications need not incorporate or require the use of secondary materials.

When used in this subdivision "practicable" means capable of being used without violating the following criteria: performance, availability at a reasonable price, availability within a reasonable period of time and maintenance of a satisfactory level of competition.

b. In purchasing paper products made with and without significant recycled content, recovered from materials otherwise destined for disposal, the department of citywide administrative services shall, wherever the price is reasonably competitive and the quality adequate for the purpose intended, purchase the recycled product. For the purpose of this section, "recycled paper" shall mean any paper products that have been manufactured from materials otherwise destined for the waste stream including, but not limited to, old newspapers, magazines, paperboard boxes, tabulating cards, mixed waste, used fibrous material such as rags and overstock or obsolete inventories from distributors, wholesalers, printers and other companies as defined in rules and regulations promulgated by the state commissioner of general services pursuant to section 104-a of the general municipal law, provided that such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process, and "reasonably competitive" shall mean a comparable recycled product with a cost premium of no greater than ten percent.

c. After January 1, 1991, with contracts for the purchase of products, other than paper products, for use by city agencies and departments, which are subject to public letting under sealed bids pursuant to chapter thirteen of the charter, when the lowest responsible bidder is not supplying products that are manufactured from a minimum amount of secondary material, and another bidder who will supply such products has submitted a bid within five percent of the lowest responsible bid for a contract to supply products that are adequate for the purposes intended, the department of citywide administrative services shall refer such bids to the mayor, who in accordance with paragraph two of subdivision b of section three hundred thirteen of the charter, may determine that it is in the best interest of the city that the contract shall be awarded to other than the lowest responsible bidder. For the purpose of this subdivision, the department of citywide administrative services shall promulgate regulations establishing standards for the "minimum amount of secondary material" from which a product shall be manufactured. If, however, a bid is submitted for a product that is manufactured from secondary material but the department of

citywide administrative services has not established a standard for the minimum amount of secondary material in such product the bid shall be submitted to the mayor in accordance with the requirements of this subdivision regardless of the amount of secondary material from which such product is manufactured. Notwithstanding the above, the department of citywide administrative services may amend an existing standard or promulgate a new standard for the minimum amount of secondary material from which a product shall be manufactured.

d. When purchasing paper products and other products pursuant to this section, the department of citywide administrative services shall utilize the United States environmental protection agency minimum content standards for recycled materials content promulgated pursuant to 42 U.S.C. § 6901 et seq.

e. Should the state authorize the city's use of a price preference for the purchase of any products manufactured from secondary materials, the commissioner shall propose appropriate legislation to mandate the use of this price preference.

f. Whenever the department of citywide administrative services purchases or causes the purchase of printing on recycled paper, the printed material shall include a printed statement or symbol indicating that the document is printed on recycled paper.

g. The department of citywide administrative services shall prepare and submit to the mayor, the council, each citizens' board created under section 16-317 of this chapter and the citywide board created under section 16-319 of this chapter, an annual report on its activities to increase the city's purchase of products manufactured from secondary materials.

h. The department of citywide administrative services, in consultation with the department, shall promulgate regulations necessary to effectuate the purposes of this section.

## **Subchapter 6**

### **Regulations Submitted To Council And Enforcement**

#### **§ 16-323 Regulations submitted to council.**

In addition to the requirements of section one thousand forty-three of chapter forty-five of the charter, no regulations promulgated by the commissioner pursuant to this chapter shall be effective until such regulations are submitted to the council and within thirty days of receipt thereof the council has not voted to disapprove such regulations. If the council votes to disapprove the regulations, it shall forward its reasons for such disapproval to the commissioner and the commissioner shall either amend the regulations or withdraw them from consideration. The amended regulations shall not be effective until the commissioner submits them to the council and within thirty days of receipt thereof the council has not voted to disapprove such amended regulations.

#### **§ 16-324 Enforcement.**

a. Any person who violates this chapter or any rule or regulation promulgated pursuant thereto shall be liable for a civil penalty recoverable in a civil action brought in the name of the commissioner or in a proceeding returnable before the environmental control board in an amount of twenty-five dollars for the first violation, fifty dollars for the second violation and one hundred dollars for the third and each subsequent violation, provided that the court before which such civil action is brought or such board may waive the penalty for the first violation upon a showing of good cause. A person committing a fourth and any subsequent violation within a period of six months shall be classified as a persistent violator and shall be liable for a civil penalty of five

hundred dollars for each violation. For a persistent violation only, except where such violation occurs at a building of less than nine dwelling units, each container or bag containing solid waste that has not been source separated or placed out for collection in accordance with the regulations promulgated by the commissioner pursuant to this chapter shall constitute a separate violation, provided that no more than twenty separate violations are issued on a per bag or per container basis during any twenty-four hour period. Before issuing any further notice of violations to a persistent violator after the fourth violation within a period of six months, the commissioner shall give such violator a reasonable opportunity to correct the condition constituting the violation.

b. Any notice of violation or notice of hearing for a violation issued to the owner or agent of a premises at which a violation of this chapter or any regulation promulgated pursuant thereto is alleged to have occurred shall be served by delivering a copy of the notice to the owner or agent at both the address maintained in the records of the department of buildings and the department of finance. The notice of violation or notice of hearing may be served by regular mail.

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Title 16-A

[Trade Waste]

## **Chapter 1**

### **New York City Trade Waste Commission**

#### **§ 16-501 Definitions.**

- a. "Applicant" shall mean, if a business entity submitting an application for a license or registration pursuant to this chapter, the entity and each principal thereof.
- b. "Commission" shall mean the New York city trade waste commission as established by section 16-502 of this chapter.
- c. "Position" in a trade association shall mean an officer, member of the board of directors, partner, trustee, shareholder holding ten percent or more of the outstanding shares of stock in such association, or administrator, business agent or other status involving participation directly or indirectly in the management or control of such association.
- d. "Principal" shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation; of a partnership, all the partners; if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent or more; and with respect to all business entities, all other persons participating directly or indirectly in the control of such business entity. Where a partner or stockholder holding ten percent or more of the outstanding shares of a corporation is itself a partnership, or a corporation, a "principal" shall also include the partners of such partnership or the officers, directors and stockholders holding ten percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this chapter (1) an individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such individual; (ii) the spouse or domestic partner of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled); (iii) the children, grandchildren and parents of such individual; and (iv) a corporation in which any of such individual, the spouse, domestic partner, children, grandchildren or parents of such individual in

the aggregate own fifty percent or more in value of the stock of such corporation; (2) a partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (3) a corporation shall be considered to hold stock in a corporation that is an applicant as defined in this section where such corporation holds fifty percent or more in value of the stock of a third corporation that holds stock in the applicant corporation.

e. "Trade association" shall mean an entity having as a primary purpose the promotion, advancement or self-regulation of businesses that remove, collect or dispose of trade waste, including but not limited to a corporation, unincorporated association, partnership, trust or limited liability company, whether or not such entity is organized for profit, not-for-profit, business or non-business purposes.

f. "Trade waste" or "waste" shall mean:

(1) all putrescible and non-putrescible materials or substances, except as described in paragraph (2) of this subdivision, that are discarded or rejected by a commercial establishment required to provide for the removal of its waste pursuant to section 16-116 of this code as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, street sweepings, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, medical waste, offal and any other offensive or noxious material. Such term shall also include recyclable materials as defined in subdivision i of section 16-303 of this code that are generated by such commercial establishments.

(2) The following are not "trade waste" or "waste" for the purposes of this chapter: sewage; industrial wastewater discharges; irrigation return flows; radioactive materials that are source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 41 U.S.C. §2011 et seq.; materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process; and hazardous waste as defined in section 27-0901 of the environmental conservation law.

g. "Trade waste broker" shall mean a person or entity who, for a fee, brokers agreements between commercial establishments and providers of trade waste removal, collection or disposal services or conducts evaluations or analyses of the waste generated by such commercial establishments in order to recommend cost efficient means of waste disposal or other changes in related business practices.

§ 16-502 New York city trade waste commission.

There is hereby created a New York city trade waste commission. Such commission shall consist of the commissioner of investigation, the commissioner of business services, the commissioner of consumer affairs, the commissioner of sanitation, and one member who shall be appointed by the mayor and shall serve as chair with compensation therefor; provided that if the chair holds other city office or employment, no additional compensation shall be received. The chair shall have charge of the organization of the commission and have authority to employ, assign and superintend the duties of such officers and employees as may be necessary to carry out the provisions of this chapter.

§ 16-503 Functions.

The commission shall be responsible for the licensing, registration and regulation of businesses that remove, collect or dispose of trade waste and trade waste brokers.

§ 16-504 Powers and duties.



The powers and duties of the commission shall include but not be limited to:

- a. To issue and establish standards for the issuance, suspension and revocation of licenses and registrations authorizing the operation of businesses engaged in the collection, removal or disposal of waste within the city and trade waste broker businesses, provided that unless otherwise provided herein, the commission may by resolution delegate to the chair the authority to make individual determinations regarding: issuance, suspension and revocation of such licenses and registrations; investigations of background and determinations of fitness in regard to employees of licensees; and the appointment of independent auditors and monitors in accordance with the provisions of this chapter;
- b. To establish maximum and minimum rates for the collection, removal, or disposal of such waste;
- c. To investigate any matter within the jurisdiction conferred by this chapter and to have full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigation;
- d. To establish standards for service and for the regulation and conduct of businesses licensed or registered pursuant to this chapter, including but not limited to requirements governing the level of service to be provided by licensees, contracts for trade waste removal, billing form and procedures, the maintenance and inspection of records, the maintenance of appropriate insurance, and compliance with safety and health measures;
- e. To appoint, within the appropriations available therefore, such employees as may be required for the performance of the duties prescribed herein. In addition to such employees appointed by the commission, the commissioners of business services, investigation, consumer affairs, transportation, sanitation, health, finance, environmental protection and police may, at the request of the chair, provide staff and other assistance to the commission in all matters under its jurisdiction;
- f. To conduct studies or investigations into the needs of commercial and other enterprises for waste removal and the trade waste industry in the city and other jurisdictions in order to assist the city in formulating policies to provide for orderly and efficient trade waste removal at a fair and reasonable cost to businesses;
- g. To establish programs for the education of customers, including but not limited to education of customers in the accurate assessment of the types and volume of waste and the rights of such customers in relationship to contracting, service and customer complaint procedures established pursuant to this chapter;
- h. To establish special trade waste removal districts pursuant to section 16-523 of this chapter; and
- i. To establish fees and promulgate rules as the commission may deem necessary and appropriate to effect the purposes and provisions of this chapter.

§ 16-505 Licenses and registration required.

- a. It shall be unlawful for any person to operate a business for the purpose of the collection of trade waste from the premises of a commercial establishment required to provide for the removal of such waste pursuant to the provisions of section 16-116 of this code, or the removal or disposal of trade waste from such premises, or to engage in, conduct or cause the operation of such a business, without having first obtained a license therefore from the commission pursuant to

the provisions of this chapter. Notwithstanding the provisions of this subdivision, a business solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation shall be exempt from the licensing provisions of this subdivision where, except in regard to the principals of a business solely in either or both of the class seven or the class three category of licensees as defined in rules previously promulgated by the commissioner of consumer affairs pursuant to subchapter eighteen of chapter two of title twenty of this code, no principal of such applicant is a principal of a business or a former business required to be licensed pursuant to this chapter or such former subchapter eighteen. Grant of such exemption shall be made by the commission upon its review of an exemption application, which shall be in the form and contain the information prescribed by rule of the commission and shall be accompanied by a statement by the applicant describing the nature of the applicant's business and listing all principals of such business.

b. It shall be unlawful for any person to remove, collect or dispose of trade waste that is generated in the course of operation of such person's business, or to operate as a trade waste broker, without first having registered with the commission. Nothing in this subdivision shall be construed to require registration with the commission of (i) a commercial establishment required to provide for the removal of waste pursuant to section 16-116 of this code in order for such establishment to remove recyclable materials generated in the course of its own business to a location owned or leased by such establishment for the purpose of collecting or storing such materials for sale or further distribution; (ii) an owner or managing agent of a building in order to remove recyclable materials generated by commercial tenants within such building to a central location within such building for the purpose of collecting or storing such materials for sale or further distribution; or (iii) an owner of an establishment required to provide for the removal of waste pursuant to section 16-116 of this code in order to transport beverage containers, as such term is defined in section 27-1003 of the environmental conservation law, or any other recyclable material generated in the course of operation of its own business, to a redemption center, as such term is defined in section 27-1003 of such law, or to any other place where payment will be received by the commercial establishment for such materials. Notwithstanding any other provision of this subdivision, a business granted an exemption from the requirement for a license pursuant to subdivision a of this section shall be thereupon issued a registration pursuant to this subdivision.

c. A license or registration issued pursuant to this chapter or any rule promulgated hereunder shall not be transferred or assigned to any person or used by any person other than the licensee or registrant to whom it was issued.

#### § 16-506 Term and fee for license or registration.

a. A license or registration issued pursuant to this chapter shall be valid for a period of two years.

b. The commission shall promulgate rules establishing the fee for any license or registration required by this chapter. Such rules may provide for a fee to be charged for each vehicle in excess of one that will transport waste pursuant to such license and for each such vehicle operated pursuant to such registration.

#### § 16-507 Registration application.

a. Except in the case of a business issued a registration by reason of the grant of an exemption from the requirement for a license pursuant to section 16-505 of this chapter, an applicant for registration shall submit an application on a form prescribed by the commission and containing

such information as the commission determines will adequately identify the business of such applicant. An applicant for registration to remove trade waste generated in the course of such applicant's business shall identify, in a manner to be prescribed by the commission, each vehicle that will transport waste pursuant to such registration. An application for registration as a trade waste broker shall contain information regarding any financial, contractual or employment relationship between such broker and a trade waste business. Any such relationship shall be indicated on the registration issued to such broker.

b. A registrant shall, in accordance with rules promulgated by the commission pursuant to section 16-504 of this chapter, inform the commission of any changes in the ownership composition of the registrant, the addition or deletion of any principal at any time subsequent to the issuance of the registration, the arrest or criminal conviction of any principal of the business, or any other material change in the information submitted on the application for registration.

c. (i) Notwithstanding any provision of this chapter, the commission may, when there is reasonable cause to believe that a trade waste broker who is an applicant for registration lacks good character, honesty and integrity, require that such applicant be fingerprinted and provide to the commission the information set forth in subdivision b of section 16-508 of this chapter and may, after notice and the opportunity to be heard, refuse to register such applicant for the reasons set forth in paragraphs (i) through (xi) of subdivision a of section 16-509 of this chapter.

(ii) If at any time subsequent to the registration of a trade waste broker or the issuance of a registration issued by reason of the grant of an exemption from the requirement for a license pursuant to section 16-505 of this chapter, the commission has reasonable cause to believe that any or all of the principals of such broker or such exempt business do not possess good character, honesty and integrity, the commission may require that such principal(s) be fingerprinted and provide the background information required by subdivision b of section 16-508 of this chapter and may, after notice and the opportunity to be heard, revoke the registration of such trade waste broker or such exempt business for the reasons set forth in paragraphs (i) through (x) of subdivision a of section 16-509 of this chapter.

#### § 16-508 License application.

a. An applicant for a license pursuant to this chapter shall submit an application in the form and containing the information prescribed by the commission. An application shall include, without limitation: (i) a list of the names and addresses of all principals of the applicant business, including any manager or other person who has policy or financial decision-making authority in the business; and (ii) a list of the names and job titles of all employees and prospective employees of the applicant business who are or will be engaged in the operation of the trade waste business; and (iii) such other information as the commission shall determine by rule will properly identify such employees and prospective employees.

b. An applicant shall: (i) be fingerprinted by a person designated for such purpose by the commission and pay a fee to be submitted by the commission to the division of criminal justice services for the purposes of obtaining criminal history records; and (ii) provide to the commission, upon a form prescribed by the commission and subject to such minimum dollar thresholds and other reporting requirements established on such form, information for the purpose of enabling the commission to determine the good character, honesty and integrity of the applicant, including but not limited to: (a) a listing of the names and addresses of any person having a beneficial interest in the applicant, and the amount and nature of such interest; (b) a listing of the amounts in

which such applicant is indebted, including mortgages on real property, and the names and addresses of all persons to whom such debts are owned; (c) a listing of such applicant's real property holdings or mortgage or other interest in real property held by such applicant other than a primary residence and the names and addresses of all co-owners of such interest; (d) a listing of mortgages, loans and instruments of indebtedness held by such applicant, the amount of such debt, and the names and addresses of all such debtors; (e) the name and address of any business in which such applicant holds an equity or debt interest, excluding any interest in publicly traded stocks or bonds; (f) the names and addresses of all persons or entities from whom such applicant has received gifts valued at more than one thousand dollars in any of the past three years, and the name of all persons or entities (excluding any organization recognized by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code) to whom such applicant has given such gifts; (g) a listing of all criminal convictions, in any jurisdiction, of the applicant; (h) a listing of all pending civil or criminal actions to which such applicant is a party; (i) a listing of any determination by a federal, state or city regulatory agency of a violation by such applicant of laws or regulations relating to the conduct of the applicant's business where such violation has resulted in the suspension or revocation of a permit, license or other permission required in connection with the operation of such business or in a civil fine, penalty, settlement or injunctive relief in excess of threshold amounts or of a type set forth in the rules of the commission; (j) a listing of any criminal or civil investigation by a federal, state, or local prosecutorial agency, investigative agency or regulatory agency, in the five year period preceding the application, wherein such applicant has: (A) been the subject of such investigation, or (B) received a subpoena requiring the production of documents or information in connection with such investigation; (k) a certification that the applicant has paid all federal, state, and local income taxes related to the applicant's business for which the applicant is responsible for the three tax years preceding the date of the application or documentation that the applicant is contesting such taxes in a pending judicial or administrative proceeding; (l) the name of any trade association in which the applicant is or has been a member or held a position and the time period during which such membership or position was held; (m) the names and addresses of the principals of any predecessor trade waste business of the applicant; and (n) such additional information concerning good character, honesty and integrity that the commission may deem appropriate and reasonable. An applicant may submit to the commission any material or explanation which the applicant believes demonstrates that any information submitted pursuant to subparagraphs (g), (h),(i) or (j) of this paragraph does not reflect adversely upon the applicant's good character, honesty and integrity. The commission may require that such applicants pay such fees to cover the expenses of fingerprinting and background investigations provided for in this subdivision as are set forth in the rules promulgated pursuant to section 16-504 of this chapter. Notwithstanding any other provision of this chapter, for purposes of this section: (A) in the case of an applicant which is a regional subsidiary of or otherwise owned, managed by or affiliated with a business that has national or international operations: (aa) (i) fingerprinting and disclosure under this section shall also be required of any persons not employed by the applicant who has direct management supervisory responsibility for the operations or performance of the applicant; and (ii) the chief executive officer, chief operating officer and chief financial officer, or any person exercising comparable responsibilities and functions, of any regional subsidiary or similar entity of such business over which any person subject to fingerprinting and disclosure under item (i) of this clause exercises similar responsibilities shall be fingerprinted and shall submit the information required pursuant to

subparagraphs g and h of this paragraph, as well as such additional information pursuant to this paragraph as the commission may find necessary; and (bb) the listing specified under subparagraph (j) of this paragraph shall also be provided for any regional subsidiary or similar entity of the national or international business for which fingerprinting and disclosure by principals thereof is made pursuant to (aa) of this paragraph; and (B) “predecessor trade waste business” shall mean any business engaged in the removal, collection or disposal of trade waste in which one or more principals of the applicant were principals in the five year period preceding the application. For purposes of determining the good character, honesty and integrity of a business that removes, collects or disposes of trade waste, a trade waste broker or a business issued a registration by reason of the grant pursuant to section 16-505 of this chapter of an exemption from the requirement for a license, the term “applicant” shall apply to the business of such trade waste business, trade waste broker or exempt business and, except as specified by the commission, all the principals thereof; for purposes of investigations of employees or agents pursuant to section 16-510 of this chapter, the term “applicant” as used herein shall be deemed to apply to employees, agents or prospective employees or agents of an applicant for a license or a licensee. Notwithstanding any provision of this subdivision, the commission may accept, in lieu of submissions required pursuant to this subdivision, information, such as copies of submissions to any federal, state or local regulatory entity, where and to the extent that the commission finds that the contents of such submissions are sufficient or comparable to that required by this subdivision.

c. A licensee shall, in accordance with rules promulgated by the commission pursuant to section 16-504 of this chapter, inform the commission of any changes in the ownership composition of the licensee, the addition or deletion of any principal at any time subsequent to the issuance of the license, membership in a trade association in addition to an association identified in the application submitted pursuant to this section, the arrest or criminal conviction of any principal of the business, or any other material change in the information submitted on the application for a license. A licensee shall provide the commission with notice of at least ten business days of the proposed addition of a new principal to the business of such licensee. The commission may waive or shorten such period upon a showing that there exists a bona fide business requirement therefore. Except where the commission determines within such period, based upon information available to it, that the addition of such new principal may have a result inimical to the purposes of this chapter, the licensee may add such new principal pending the completion of review by the commission. The licensee shall be afforded an opportunity to demonstrate to the commission that the addition of such new principal pending completion of such review would not have a result inimical to the purposes of this chapter. If upon the completion of such review, the commission determines that such principal lacks good character, honesty and integrity, the license shall cease to be valid unless such principal divests his or her interest, or discontinues his or her involvement in the business of such license, as the case may be, within the time period prescribed by the commission.

d. Each applicant shall provide the commission with a business address in New York city where notices may be delivered and legal process served.

#### § 16-509 Refusal to issue a license.

a. The commission may, by majority vote of its entire membership and after notice and the opportunity to be heard, refuse to issue a license to an applicant who lacks good character, honesty and integrity. Such notice shall specify the reasons for such refusal. In making such

determination, the commission may consider, but is not limited to: (i) failure by such applicant to provide truthful information in connection with the application; (ii) a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license is sought, in which cases the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending; (iii) conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license; (iv) a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought; (v) commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction; (vi) association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person; (vii) having been a principal in a predecessor trade waste business as such term is defined in subdivision a of section 16-508 of this chapter where the commission would be authorized to deny a license to such predecessor business pursuant to this subdivision; (viii) current membership in a trade association where such membership would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the commission has determined, pursuant to such subdivision, that such association does not operate in a manner inconsistent with the purposes of this chapter; (ix) the holding of a position in a trade association where membership or the holding of such position would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter; (x) failure to pay any tax, fine, penalty, fee related to the applicant's business for which liability has been admitted by the person liable therefore, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction. For purposes of determination of the character, honesty and integrity of a trade waste broker pursuant to subdivision c or subdivision d of section 16-507 of this chapter, the term "applicant" shall refer to the business of such trade waste broker and all the principals thereof; for purposes of determining the good character, honesty and integrity of employees or agents pursuant to section 16-510 of this chapter, the term "applicant" as used herein shall be deemed to apply to employees, agents or prospective employees or agents of an applicant for a license or a licensee.

b. The commission may refuse to issue a license or registration to an applicant for such license or an applicant for registration who has knowingly failed to provide the information and/or documentation required by the commission pursuant to this chapter or any rules promulgated pursuant hereto or who has otherwise failed to demonstrate eligibility for such license under this chapter or any rules promulgated pursuant hereto.

c. The commission may refuse to issue a license to an applicant when such applicant: (i) was previously issued a license or a trade waste permit pursuant to this chapter or former subchapter eighteen of chapter two of title twenty of this code and such license was revoked pursuant to the

provisions of this chapter or revoked or not renewed pursuant to the provisions of such former subchapter eighteen or any rules promulgated thereto; or (ii) has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license pursuant to this chapter or any rules promulgated hereto.

d. The commission may refuse to issue a license pursuant to this chapter to any applicant, where such applicant or any of the principals of such applicant have been principals of a licensee whose license has been revoked pursuant to paragraph two of subdivision b of section 16-513 of this chapter.

#### § 16-510 Investigation of employees.

a. (i) Each person who is not otherwise a principal as defined in section 16-501 of this chapter and who is employed or proposed to be employed by a licensee in a managerial capacity, or in a job category specified in rules promulgated by the commission pursuant to section 16-504 of this chapter, and each person who acts or is proposed to act in such a capacity or in such a category as an agent of a licensee, shall: (i) be fingerprinted by a person designated for such purpose by the commission and pay a fee to be submitted by the commission to the division of criminal justice services for the purposes of obtaining criminal history records, and (ii) submit to the commission the information set forth in subparagraphs (b) through (n) of paragraph (ii) of subdivision b of section 16-508 of this chapter and pay the fee for the investigation of such information set forth in the rules promulgated pursuant to section 16-504 of this chapter. Where, at any time subsequent to an investigation of an employee subject to the provisions of this subdivision, the commission has reasonable cause to believe that such employee lacks good character, honesty and integrity, the commission may conduct an additional investigation of such employee and may require, if necessary, that such employee provide information updating, supplementing or explaining information previously submitted. The job categories specified in rules of the commission of purposes of such fingerprinting and disclosure shall not include personnel engaged solely in operating vehicles or handling waste or clerical personnel who have no contact with customers. (ii) Notwithstanding any other provision of this chapter, a licensee shall provide the commission with notice of at least ten business days of the proposed addition to the business of the licensee of any person subject to the provisions of this subdivision. The commission may waive or shorten such ten day period upon a showing that there exists a bona fide business requirement therefor. Except where the commission determines within such period, based on information available to it, that the addition of such new person may have a result inimical to the purposes of this chapter, the licensee may add such person pending the completion of an investigation by the commission. The licensee shall be afforded an opportunity to demonstrate to the commission that the addition of such new person pending completion of the investigation would not have a result inimical to the purposes of this chapter. If upon the completion of such investigation, the commission makes a final determination that such person lacks good character, honesty and integrity, the license shall cease to be valid unless the employment of such person in the business of such licensee is discontinued within the time period prescribed by the commission.

b. (i) Where the commission has reasonable cause to believe that an employee or agent or prospective employee or agent of a licensee or an applicant for a license not subject to the provisions of subdivision a of this section lacks good character, honesty and integrity, the commission shall notify such employee or agent or prospective employee or agent that he or she

shall be required to be fingerprinted and submit the information required by subdivision a of this section.

c. Where, following a background investigation conducted pursuant to this section, the official designated by the commission to review the findings of such investigation concludes that an employee or agent or prospective employee or agent of a licensee lacks good character, honesty and integrity, such person shall be provided with notice of such conclusion and the reasons therefor and may contest the conclusion in person or in writing to such official. Such official shall review such response and, in the event that he or she continues to find that such person lacks good character, honesty and integrity, shall submit such final conclusion to the commission. The commission shall provide such person with notice of the conclusion of the official and an opportunity to be heard to appeal such conclusion before the commission makes a final determination.

d. A licensee shall not employ or engage as an agent any person with respect to whom the commission has made a final determination, following a background investigation conducted pursuant to this section, that such person lacks good character, honesty and integrity.

#### § 16-511 Independent auditing or monitoring required.

a. The commission may, in the event the background investigation conducted pursuant to section 16-508 of this chapter produces adverse information, require as a condition of a license that the licensee enter into a contract with an independent auditor approved or selected by the commission. Such contract, the cost of which shall be paid by the licensee, shall provide that the auditor investigate the activities of the licensee with respect to the licensee's compliance with the provisions of this chapter, other applicable federal, state and local laws and such other matters as the commission shall determine by rule. The contract shall provide further that the auditor report the findings of such monitoring and investigation to the commission on a periodic basis, no less than four times a year.

b. In the case of an applicant or licensee who is the subject of a pending indictment or criminal action for a crime that would provide a basis for the refusal to issue a license under this chapter, the commission, in its discretion, may, in the case of an applicant, refrain from making a licensing determination until final disposition of the criminal case, and may also require as a condition of the license that an applicant or licensee enter into a contract with an independent monitor approved or selected by the commission. The cost of such contract shall be paid by the applicant or licensee, and such contract shall require that the monitor review and either approve or disapprove certain actions proposed to be taken by the licensee, where such actions fall within a category identified by rule of the commission as having a particular bearing on the fitness of an applicant or a licensee to hold a license to conduct a trade waste removal business under this chapter. Such actions shall include, without limitation, any decision to assign contracts for the removal, collection or disposal of trade waste, any decision to transfer an ownership interest or substantial assets to another person or entity where such interests or assets exceed a threshold established in such rule, any significant expenditure by the business as defined in such rule, and the initiation of any litigation against a customer or another trade waste removal business or its customer. The monitor shall report promptly to the commission concerning the disposition of any such actions in the manner set forth in rules of the commission.



c. The commission shall be authorized to prescribe, in any contract required by the commission pursuant to this section, such reasonable terms and conditions as the commission deems necessary to effectuate the purposes hereof.

§ 16-512 Investigations by the department of investigation.

In additions to any other investigation authorized pursuant to law, the commissioner of the department of investigation shall, at the request of the commission, conduct a study or investigation of any matter arising under the provisions of this chapter, including but not limited to investigation of the information required to be submitted by applicants for licenses and employees and the ongoing conduct of licensees.

§ 16-513 Revocation or suspension of license or registration.

a. In addition to the penalties provided in section 16-515 of this chapter, the commission may, after due notice and opportunity to be heard, revoke or suspend a license or registration issued pursuant to the provisions of this chapter when the registrant or licensee and/or its principals, employees and/or agents: (i) have been found to be in violation of this chapter or any rules promulgated pursuant thereto; (ii) have been found by a court or administrative tribunal of competent jurisdiction to have violated: (A) any provision of section 16-119 of this code, or any rule promulgated pursuant thereto, relating to illegal dumping, (B) any provision of section 16-120.1 of this code, or any rule promulgated pursuant thereto, relating to the disposal of regulated medical waste and other medial waste or (C) any provision of section 16-117.1 of this code, or any rule promulgated pursuant thereto, relating to the transportation and disposal of waste containing asbestos; (iii) has repeatedly failed to obey lawful orders of any person authorized by section 16-517 of this chapter to enforce the provisions hereof; (iv) has failed to pay, within the time specified by a court, the department of consumer affairs or an administrative tribunal of competent jurisdiction, any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant thereto; (v) has been found in persistent or substantial violation of any rule promulgated by the commission pursuant to section 16-306 of this code or by the commissioner of consumer affairs pursuant to section 16-306 or former subchapter eighteen of title twenty of this code; (vi) has been found in persistent or substantial violation of any city, state, or federal law, rule or regulation regarding the handling of trade waste, or any laws prohibiting deceptive, unfair, or unconscionable trade practices; (vii) whenever, in relation to an investigation conducted pursuant to this chapter, the commission determines, after consideration of the factors set forth in subdivision a of section 16-509 of this code, that the licensee or registrant as a trade waste broker lacks good character, honesty and integrity; (viii) whenever there has been any false statement or any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance of such license or registration was based; or (ix) whenever the licensee or registrant has failed to notify the commission as required by subdivision b of section 16-507 or subdivision c of section 16-508 of this chapter of any change in the ownership interest of the business or other material change in the information required on the application for such license or registration, or of the arrest or criminal conviction of such licensee or registrant or any of his or her principals, employees and/or agents of which the licensee had knowledge or should have known.

b. The commission shall, in addition: (1) suspend a license issued pursuant to this chapter for thirty days following determination that the licensee, or any of its principals, employees or agents

has violated subdivision a of section 16-524 of this chapter; and (2) revoke a license issued pursuant to this chapter upon determination that the licensee, or any of its principals, employees or agents has violated subdivision a of section 16-524 of this chapter two times within a period of three years.

§ 16-514 Emergency suspension of license or registration.

Notwithstanding any other provision of this chapter or rules promulgated thereto, the commission may, upon a determination that the operation of the business of a licensee or the removal of waste by a business required by this chapter to be registered creates an imminent danger to life or property, or upon a finding that there has likely been false or fraudulent information submitted in an application pursuant to section 16-507 or section 16-508 of this chapter, immediately suspend such license or registration without a prior hearing, provided that provision shall be made for an immediate appeal of such suspension to the chair of the commission who shall determine such appeal forthwith. In the event that the chair upholds the suspension, an opportunity for a hearing shall be provided on an expedited basis, within a period not to exceed four business days and the commission shall issue a final determination no later than four days following the conclusion of such hearing.

§ 16-515 Penalties.

In addition to any other penalty provided by law:

a. Except as otherwise provided in subdivision b or subdivision c of this section, any person who violates any provision of this chapter or any of the rules promulgated thereto shall be liable for a civil penalty which shall not exceed ten thousand dollars for each such violation. Such civil penalty may be recovered in a civil action or may be returnable to the department of consumer affairs or other administrative tribunal of competent jurisdiction;

b.

(i) Any person who violates subdivision a of section 16-505 or section 16-524 of this chapter shall, upon conviction thereof, be punished for each violation by a criminal fine of not more than ten thousand dollars for each day of such violation or by imprisonment not exceeding six months, or both; and any such person shall be subject to a civil penalty of not more than five thousand dollars for each day of such violation to be recovered in a civil action or returnable to the department of consumer affairs or other administrative tribunal of competent jurisdiction; and

c. Any person who violates subdivision b of section 16-505 of this chapter or any rule pertaining thereto shall, upon conviction thereof, be punished by a civil penalty not to exceed one thousand dollars for each such violation to be recovered in a civil action or returnable to the department of consumer affairs or other administrative tribunal of competent jurisdiction.

d. The corporation counsel is authorized to commence a civil action on behalf of the city for injunctive relief to restrain or enjoin any activity in violation of this chapter and for civil penalties.

e.

(i) In addition to any other penalty prescribed in this section for the violation of subdivisions a or b of section 16-505 or subdivision a of section 16-524 of this chapter, or when there have been three or more violations within a three year period of the provisions herein, the commission shall, after notice and the opportunity to be heard, be authorized: to order any person in violation of such provisions immediately to discontinue the operation of such activity at the premises from which such activity is operated; to order that any premises from which activity in violation of such

provisions is operated shall be sealed, provided that such premises are used primarily for such activity; and to order that any vehicles or other devices or instrumentalities utilized in the violation of such provisions shall be removed, sealed, or otherwise made inoperable. An order pursuant to this paragraph shall be posted at the premises from which activity in violation of such provisions occurs.

(ii) Ten days after the posting of an order issued pursuant to paragraph (i) of this subdivision, this order may be enforced by any person so authorized by section 16-517 of this chapter.

(iii) Any vehicle or other device or instrumentality removed pursuant to the provisions of this section shall be stored in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession of such item may be charged with reasonable costs for removal and storage payable prior to the release of such item.

(iv) A premise ordered sealed or a vehicle or other device or instrumentality removed pursuant to this section shall be unsealed or released upon payment of all outstanding fines and all reasonable costs for removal and storage and, where the underlying violation is for unlicensed or unregistered activity or unauthorized activity in a special trade waste district, demonstration that a license has been obtained or a business registered or proof satisfactory to the commission that such premise or item will not be used in violation of subdivision a or b of section 16-505 or subdivision a of section 16-524 of this chapter.

(v) It shall be a misdemeanor for any person to remove the seal from any premises or remove the seal from or make operable any vehicle or other device or instrumentality sealed or otherwise made inoperable in accordance with an order of the commission.

(vi) A vehicle or other device or instrumentality removed pursuant to this section that is not reclaimed within ninety days of such removal by the owner or other person lawfully entitled to reclaim such item shall be subject to forfeiture upon notice and judicial determination in accordance with provisions of law. Upon forfeiture, the commission shall, upon a public notice of at least five days, sell such item at public sale. The net proceeds of such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the city.

#### § 16-516 Liability for violations.

A business required by this chapter to be licensed or registered shall be liable for violations of any of the provisions of this chapter or any rules promulgated pursuant hereto committed by any of its employees and/or agents.

#### § 16-517 Enforcement.

Notices of violation for violations of any provision of this chapter or any rule promulgated hereunder may be issued by authorized employees or agents of the commission. In addition, such notices of violation may be issued by the police department, and, at the request of the commission and the consent of the appropriate commissioner, by authorized employees and agents of the department of consumer affairs, the department of business services, the department of transportation, and the department of sanitation.

#### § 16-518 Hearings.

a. A hearing pursuant to this chapter may be conducted by the commission, or, in the discretion of the commission, by an administrative law judge employed by the office of administrative trials and hearings or other administrative tribunal of competent jurisdiction. Where a hearing pursuant

to a provision of this chapter is conducted by an administrative law judge, such judge shall submit recommended findings of fact and a recommended decision to the commission, which shall make the final determination.

b. Notwithstanding the provisions of subdivision a of this section, the commission may provide by rule that hearings or specified categories of hearings pursuant to this chapter may be conducted by the department of consumer affairs. Where the department of consumer affairs conducts such hearings, the commissioner of consumer affairs shall make the final determination.

#### § 16-519 Rate fixing; hearings and production of records.

The commission shall have the power to fix by rule and from time to time refix maximum and minimum rates, fixed according to weight or volume of trade waste, for the removal of waste by a licensee, which rates shall be based upon a fair and reasonable return to the licensees and shall protect those using the services of such licensees from excessive or unreasonable charges. The commission may compel the attendance at a public hearing held pursuant to a rate-fixing rule-making of licensees and other persons having information in their possession in regard to the subject matter of such hearing and may compel the production of books and records in relation thereto, and may require licensees to file with the commission schedules of rates.

#### § 16-520 Conduct by licensees of trade waste collection, removal or disposal.

a. Every licensee pursuant to this chapter shall provide to every recipient of its services a sign which the licensee shall obtain from the commission. In addition to the information printed on the sign by the commission, the licensee shall print the day and approximate time of pickup clearly and legibly on the sign. Such sign shall be conspicuously posted as prescribed in section 16-116(b) of this code by the owner, lessee or person in control of the commercial establishment which receives the licensee's services.

b. Except as otherwise provided in subdivision d of section 16-523, a licensee shall not charge, exact or accept rates for the collection, removal or disposal of trade waste any amount greater than any maximum rates or less than any minimum rates that the commission may fix pursuant to section 16-519 of this chapter.

c. All licensees shall maintain audited financial statements, records, ledgers, receipts, bills and such other written records as the commission determines are necessary or useful for carrying out the purposes of this chapter. Such records shall be maintained for a period of time not to exceed five years to be determined by rule by the commission, provided however, that such rule may provide that the commission may, in specific instances at its discretion, require that records be retained for a period of time exceeding five years. Such records shall be made available for inspection and audit by the commission at its request at either the licensee's place of business or at the offices of the commission.

d. A licensee shall be in compliance with all applicable state, federal and local laws, ordinances, rules and regulations pertaining to the collection, removal and disposal of trade waste.

e.

(i) A contract for the collection, removal or disposal of trade waste shall not exceed two years in duration. All such contracts shall be approved as to form by the commission.

(ii) An assignee of contracts for the removal, collection or disposal of trade waste shall notify each party to a contract so assigned of such assignment and of the right of such party to terminate such contract within three months of receiving notice of such assignment upon thirty days notice.

Such notification shall be by certified mail with the receipt of delivery thereof retained by the assignee and shall be upon a form prescribed by the commission. Where no written contract exists with a customer for the removal, collection or disposal of trade waste, a company that assumes such trade waste removal from another company shall provide such customer with notice that a new company will be providing such trade waste removal and that the customer has the right to terminate such service. Such notice shall be by certified mail with the receipt of delivery thereof retained by the assignee.

f. A licensee shall bill commercial establishments for removal, collection or disposal of trade waste in a form and manner to be prescribed by the commission.

g. A licensee shall not refuse to provide service to a commercial establishment that is located within an area of ten blocks from an establishment served by such licensee unless such licensee has demonstrated to the commission a lack of capacity or other business justification for the licensee's refusal to service such establishment. For the purposes of this subdivision, the term "block" shall mean the area of a street spanning from one intersection to the next.

h. A licensee shall provide to the commission the names of any employees proposed to be hired or hired subsequent to the issuance of a license and such information regarding such employees as is required in regard to employees and prospective employees pursuant to subdivision a of section 16-508 of this chapter.

i. A licensee who provides services for a commercial establishment shall keep the sidewalk, flagging, curbstone and roadway abutting such establishment free from obstruction, garbage, refuse, litter, debris and other offensive material resulting from the removal by the licensee of trade waste.

j.

(i) No licensee or principal thereof shall be a member or hold a position in any trade association:

(aa) where such association, or a predecessor thereof as determined by the commission, has violated state or federal antitrust statutes or regulations, or has been convicted of a racketeering activity or similar crime, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq.) or an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time; (bb) where a person holding a position in such trade association, or a predecessor thereof as determined by the commission, has violated state or federal antitrust statutes or regulations, or has been convicted of a racketeering activity or similar crime, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq.) or an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time; (cc) where a person holding a position in such trade association, or a predecessor thereof as determined by the commission, is a member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency; or (dd) where the trade association has failed to cooperate fully with the commission in connection with any investigation conducted pursuant to this chapter. The commission may determine, for purposes of this subdivision, that a trade association is a predecessor of another such trade association by finding that transfers of assets have been made between them or that all or substantially all of the persons holding positions in the two associations are the same. A licensee shall be in violation of this paragraph when the licensee

knows or should know of a violation, conviction, association with organized crime or failure to cooperate set forth herein.

(ii) Notwithstanding the provisions of paragraph (i) of this subdivision, the commission may permit a licensee to be a member of such a trade association upon a determination by the commission that such association does not operate in a manner inconsistent with the purposes of this chapter.

#### § 16-521 Conduct of trade waste brokers.

a. A trade waste broker shall not conduct an evaluation or analysis of the trade waste generated by a commercial establishment in order to recommend cost efficient means of waste disposal or other changes in related business practices, or broker a transaction between a commercial establishment which seeks trade waste removal, collection or disposal services and a trade waste business required to be licensed pursuant to this chapter, unless such broker has first presented a copy of his or her registration to such consumer.

b. A trade waste broker who conducts an evaluation or analysis of a trade waste generated by a commercial establishment in order to recommend cost efficient means of waste disposal or other changes in related business practices shall not request or accept any payment in regard to such evaluation or analysis from a party other than the commercial establishment for whom such services are performed unless such broker has first disclosed to such establishment that he or she proposes to request or accept such payment.

c. A trade waste broker who brokers a transaction between a commercial establishment seeking trade waste removal, collection or disposal services and a trade waste business required to be licensed pursuant to this chapter shall not request or accept payment from such trade waste business.

d. A trade waste broker shall not engage in the collection of fees from commercial establishments for trade waste removal by a trade waste business required to be licensed pursuant to this chapter except where: (i) the contract for such fee collection complies with standards set forth in rules promulgated by the commission; (ii) such fee collection is upon the request of the customer; and (iii) such fee collection is part of an agreement providing for other services such as periodic waste evaluation and consulting with respect to source separation, recycling or other business practices relating to trade waste.

e. A trade waste broker shall maintain such financial statements, records, ledgers, receipts, bills and other written records as the commission determines are necessary or useful for carrying out the purposes of this chapter. Such records shall be maintained for a period of time not to exceed five years to be determined by rule by the commission, provided however, that such rule may provide that the commission may, in specific instances at its discretion, require that records be retained for a period of time exceeding five years. Such records shall be made available for inspection and audit by the commission at its request at either the place of business of the trade waste broker or at the offices of the commission.

#### § 16-522 Investigation of customer complaints.

The commission shall by rule establish a procedure for the investigation and resolution of complaints by commercial establishments regarding overcharging and other problems relating to the collection, removal or disposal of waste.

§ 16-523 Special trade waste removal districts; designation; agreement.

a. The commission shall by rule designate no more than two areas of the city in commercial areas within different boroughs to participate in a pilot project as special trade waste removal districts. In making any such designation, the commission shall consider:

1. the number and types of commercial establishments within the proposed district;
2. the amount and types of waste generated by commercial establishments within the proposed district;
3. existing service patterns within the proposed district;
4. the types and estimated amounts of recyclable materials generated by commercial establishments within the proposed district that are required to be recycled, reused or sold for reuse pursuant to section 16-306 of this code and any rules promulgated pursuant thereto;
5. the rates being charged by persons licensed pursuant to this subchapter to commercial establishments within the proposed district; and
6. the history of complaints from commercial establishments within the district regarding overcharging for the removal of trade waste or the inability to change providers of trade waste removal services.

b. For each area designated as a special trade waste removal district by the commission pursuant to subdivision a of this section, the commission shall be authorized to enter into agreements with one or more specified licensee[s] permitting such licensee[s] to provide for the removal of trade waste within such district. The term of any such agreement, inclusive of any period by which the original term is extended at the option of the commission, shall not exceed two years. No such agreement[s] shall be entered into until a public hearing has been held with respect thereto after publication in the City Record at least thirty days in advance of such hearing and the commission has solicited as part of the record of such hearing whether there is support for the establishment of such special trade waste removal district from local business organizations or business improvement districts.

c. The commission shall issue requests for proposals to conduct trade waste removal in a special trade waste removal district and, based upon the review and evaluation of responses thereto, may negotiate and enter into such agreement[s] pursuant to subdivision b of this section, as the commission, in its discretion, determines will best provide for the efficient and orderly removal of trade waste in such district. Such request for proposals shall solicit information regarding the qualifications of proposers, the nature and frequency of the trade waste removal services to be provided, the rate or rates to be charged to establishments for such services, the nature and extent of recycling services and waste audit services, if any, to be provided, and any other information relating to performance standards, customer service and security of performance the commission deems appropriate. The commission shall enter into one or more such agreement[s] if it finds, on the basis of the proposals, that such agreement[s] will likely result in improved customer service and lower rates.

d. Any agreement[s] entered into pursuant to subdivision b of this section shall:

- (1) specify the area within which services will be provided under such agreement;
- (2) specify the frequency with which trade waste will be removed;
- (3) specify the maximum rate or rates to be charged to establishments in such area for the removal of trade waste generated by such establishments;
- (4) specify any recycling services and any waste audit programs to be provided to establishments within such area;

(5) establish a procedure to determine the type and volume of waste removed from establishments in order to ensure adequate assessment of the charges for such removal, and prescribe any other appropriate requirements relating to performance standards, customer service, security of performance, or such other matters as the commission deems necessary to effectuate the purposes of this section; and

(6) require that the licensee shall enter into a contract with an independent auditor approved or selected by the commission, and that such contract, the cost of which shall be paid by the licensee, shall provide: that the auditor shall investigate the activities of the licensee with respect to the licensee's compliance with the provision of this chapter, other applicable federal, state and local laws and such other matters as the commission shall determine by rule; and that the auditor shall report the findings of such monitoring and investigation to the commission on a periodic basis, no less than four times a year. The commission shall be authorized to prescribe such reasonable terms and conditions in such contract as the commission deems necessary to effectuate the purposes of this section.

e. No service provided pursuant to an agreement entered into pursuant to subdivision b of this section shall be subcontracted, nor shall the right to provide service pursuant to such an agreement be assigned or otherwise delegated, whether upon an emergency or any other basis, unless the commission has provided specific written authorization therefore.

f. The commission shall be authorized, upon due notice and hearing, to terminate an agreement entered into pursuant to subdivision b of this section based upon a determination that there has been a default in the performance of the terms and conditions of such agreement. In the event of termination, if the remaining licensees authorized to remove trade waste in the special trade waste district lack the capacity to adequately service the commercial establishments in such districts the commission may, as appropriate: (i) enter into an additional agreement with a licensee who responded to the request for proposals previously issued for the special trade waste removal district pursuant to subdivision c of this section; or (ii) issue a new request for proposals pursuant to subdivision c of such section.

g. The provisions of this section and agreements concluded pursuant to subdivision b of this section shall not apply to:

(1) the collection and disposal of recyclable materials as such term is defined in subdivision i of section 16-303 of this code where a commercial establishment wishes to contract separately for the sale of any such materials;

(2) the collection and disposal of regulated medical waste pursuant to section 16-120.1 of this code;

(3) the collection and disposal of waste containing asbestos pursuant to section 16-117.1 of this code;

(4) the collection and disposal of demolition and construction debris or waste;

(5) the collection and disposal of hazardous waste pursuant to section 27-0901 of the environmental conservation law, including material containing hazardous waste;

(6) the removal and disposal of waste by the owner, lessee or person in control of a commercial establishment;

(7) the removal and disposal of trade waste from a building with a floor area of two hundred thousand square feet or more, when the owner or managing agent of such building elects to arrange for the removal and disposal of all the trade waste from such building by a licensee other



than a licensee with whom the commission has entered into agreement pursuant to subdivision b of this section; and

(8) the removal and disposal of trade waste from a building located within the special trade waste removal district owned or controlled by an individual or an entity that owns or controls a building or buildings within the city of New York which, in the aggregate, occupy a floor area of one million square feet or more, where the contract for the collection, removal or disposal of trade waste for the building located within the special trade waste removal district is with a licensee who also provides trade waste removal services for other buildings within the city of New York that are owned or controlled by such individual or entity. For the purpose of this paragraph: an entity shall be defined as a sole proprietorship, partnership, corporation, net lessee, mortgagee or vendee in possession, a trustee in bankruptcy or a receiver; and an individual shall be defined as a sole proprietor, the managing or general partner of one or more partnerships or the chief operating officer or executive officer of one or more corporations. An individual's aggregate ownership or controlling interest shall be computed by adding the square footage of all buildings within the city of New York owned by partnerships and corporations in which the individual serves as the managing or general partner of the partnerships and/or the chief operating officer or executive officer of the corporations, including those buildings where the managing or general partner is a corporation in which the individual is the chief operating officer or executive officer.

h. Except for a licensee who has entered into an agreement with the commission pursuant to subdivision b of this section, a trade waste business required to be licensed pursuant to this chapter shall notify the commission of any agreement to provide a service described in subdivision g of this section within a special trade waste district. The commission may provide by rule for the visual identification of vehicles providing such services in a special trade waste district.

i. Nothing in subdivision g of this section shall be construed to prohibit a commercial establishment in a special trade waste district from contracting for the services described in such subdivision with a licensee who has concluded an agreement pursuant to subdivision b of this section.

#### § 16-524 Special trade waste removal districts; violations; enforcement.

a. Upon the date of commencement of service pursuant to agreements entered into pursuant to subdivision b of section 16-523 of this chapter permitting specified licensees to provide for the removal of trade waste generated by commercial establishments within a special trade waste district designated by the commission, (i) any contract for trade waste removal, except for services set forth in subdivision g of section 16-523 of this chapter, with a business other than a licensee who has entered into an agreement pursuant to subdivision b of section 16-513 of this chapter shall be considered terminated, and (ii) it shall be unlawful for any person not party to such an agreement, other than a person who is performing a contract for services set forth in subdivision g of section 16-523, whether or not licensed pursuant to this chapter, to provide for the removal of trade waste within such district, or to solicit commercial establishments located within such district for such purpose, or to make false, falsely disparaging or misleading oral or written statements or other representations to the owners or operators of such commercial establishments which have the capacity, tendency or effect of misleading such owners or operators, for the purpose of interfering with performance of terms of such an agreement.

b. Whenever a person interferes or attempts to interfere by threats, intimidation, or coercion, or by destruction or damage of property or equipment, with performance of the terms of an

agreement entered into pursuant to subdivision b of section 16-523 of this code, the corporation counsel, at the request of the commission, may bring a civil action on behalf of the city for injunctive and other appropriate relief in order to permit the uninterrupted and unimpeded delivery of such services. Violations of an order issued pursuant to this subdivision may be punished by a proceeding for contempt brought pursuant to article nineteen of the judiciary law and, in addition to any relief thereunder, a civil penalty may be imposed not exceeding ten thousand dollars for each day that the violation continues.

§ 16-525 Displaced employee list.

The commission shall maintain a list containing the names and contact addresses or telephone numbers of persons formerly employed by a business engaged in the collection, removal or disposal of trade waste whose employment ended following the denial or revocation of a license pursuant to this chapter. The addition or deletion of information on such list shall be made only upon the request of such a former employee. A copy of such list shall be made available upon request to an applicant for a license pursuant to this chapter. The provision of such list shall in no way be construed as a recommendation by the city regarding the employment of any person on such list, nor shall the city be responsible for the accuracy of the information set forth therein.