

## New York City Administrative Code - Title 16: Sanitation

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**Chapter 1: Department of Sanitation**

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§ 16-101 **Definitions.**

When used in this title the following terms shall have the following meanings:

- (1) "Department" shall mean the department of sanitation.
- (2) "Commissioner" shall mean the commissioner of sanitation.
- (3) "Street" includes street, avenue, road, alley, lane, highway, boulevard, concourse, driveway, culvert and crosswalk, and every class of road, square and place, and all parkways and through vehicular park drives except a road within any park or a wharf, pier, bulkhead, or slip by law committed to the custody, and control of the department of ports and terminals.

§ 16-102 **Secretary.**

The commissioner shall appoint and at pleasure may remove a secretary of the department.

§ 16-103 **Uniformed forces.**

The commissioner, from time to time, shall prescribe distinctive uniforms, badges and insignia to be worn and displayed by members of the uniformed force and prescribe and enforce penalties for the failure of any member of such force to wear and exhibit the same while engaged in the performance of his or her duties.

§ 16-104 **Records.**

All transactions of the commissioner and all documents and records in the possession of the department shall be matters of public record and open to public inspection, except such documents and records as shall be prepared by or for counsel for use in actions or proceedings to which the city or commissioner is a party.

§ 16-105 **Drivers or sweepers; temporary employment of.**

Any person registered or eligible to appointment as a driver, or as a sweeper, may be employed temporarily at any time as an extra driver or sweeper to replace a driver or sweeper who is suspended or temporarily absent from duty for any cause. The driver

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or sweeper whose place is so filled shall not receive any compensation for the time during which he or she is so absent from duty or his or her place is so filled, unless such absence results from injury or illness caused by service in the department.

**§ 16–106 Removal and suspension of employees.**

a. The commissioner, in his or her discretion, shall have power to punish any member of the uniformed force who has been guilty of:

1. any legal or criminal offense,
2. neglect of duty,
3. violation of rules,
4. neglect or disobedience of orders,
5. incapacity,
6. absence without leave,
7. conduct injurious to the public peace or welfare,
8. immoral conduct, or
9. any breach of discipline,

by forfeiting or withholding pay for a specified time, not exceeding thirty days; by suspension, without pay during such suspension, for a period not exceeding thirty days; or by dismissal from the force. The commissioner may withhold pay, salary or compensation from any member or members of the force for absence for any cause without leave.

b. All pay deducted or forfeited under the provisions of this section shall be retained by the commissioner of finance to the credit of the department, and shall be applicable, in the discretion of the commissioner, to any of the purposes of such department as if originally appropriated therefor.

c. A member of the department shall be dismissed only after he or she has been informed of the cause of the proposed dismissal and has been allowed an opportunity of making an explanation.

d. In the event of the dismissal of any member of the force, he or she shall have the right to a review of the action of the commissioner or his or her deputy by certiorari or other appropriate remedy. Upon being successful in such proceeding, he or she shall be entitled to be reinstated and to receive full pay during the time of his or her suspension or dismissal from office.

e. When and as soon as a member of the uniformed force has been fined, suspended or dismissed, the true cause for such fine, suspension or dismissal shall be entered in writing in a book to be kept for that purpose by the commissioner.

**§ 16–107 Leaves of absence.**

a. A leave of absence to any member of the uniformed force shall not exceed twenty days in any one year, in addition to any vacation period, except upon condition

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that such member shall waive or release not less than one-half of all salary, pay or compensation and claim thereto, or any part thereof, during such absence.

b. Absence without leave of any member of the uniformed force for five consecutive days shall be deemed and held to be a resignation, and at the expiration of such period the member so absent shall cease to be a member of such force and may be dismissed therefrom without notice.

**§ 16-108 Salary during absence from duty by injury or sickness.**

Each person employed in the sanitation service classification of the classified civil service shall be paid full pay or compensation during absence from duty caused by injury or sickness, except as otherwise provided by law, and subject to such rules and regulations as may be adopted by the commissioner.

**§ 16-108.1 Receipt of line of duty pay.**

a. A member of the uniformed force of the department of sanitation shall be entitled pursuant to this section to the full amount of his or her regular salary for the period of any incapacity due to illness or injury incurred in the performance and discharge of duty as a member of the uniformed force, as determined by the department.

b. Nothing in this section shall be construed to affect the rights, powers and duties of the commissioner pursuant to any other provision of law, including, but not limited to, the right to discipline a member of the uniformed force by termination, reduction of salary, or any other appropriate measure; the power to terminate an appointee who has not completed his or her probationary term; and the power to apply for ordinary or accident disability retirement for a member of the uniformed force.

c. Nothing in this section shall be construed to require payment of salary to a member of the uniformed force who has been terminated, retired, suspended or otherwise separated from service by reason of death, retirement or any other cause.

d. A decision as to eligibility for benefits pursuant to this section shall not be binding on the medical board or the board of trustees of any pension fund in the determination of eligibility for an accident disability or accidental death benefit.

e. As used in this section the term "incapacity" shall mean the inability to perform full, limited, or light duty.

**§ 16-109 Sanitation service; absence from duty because of injury or illness incurred prior to April eighteenth, nineteen hundred sixty-two.**

Each person employed in the sanitation service classification of the classified civil service on October tenth, nineteen hundred sixty-two who, prior to April eighteenth, nineteen hundred sixty-two, incurred an injury or illness, and who was or is absent from duty in such employment on or after April eighteenth, nineteen hundred sixty-two, as a result of such injury or illness incurred prior to such date, shall be entitled to



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receive as pay or salary during such absence or absences, an amount equal to the difference between (a) the total of all payments and awards to such employee under the workers' compensation law by reason of such injury or illness, exclusive of the death benefit provided for in section sixteen of the workers' compensation law; and (b) the amount which such employee would have received in full pay or compensation for absences from such duty on or after April eighteenth, nineteen hundred sixty-two because of such injury or illness if section 16-108 of this title, as qualified by the rules and regulations adopted by the commissioner pursuant to such section, were applicable thereto; provided that the amount to which such employee would have been entitled if such section were applicable is greater than the total specified in item (a) hereof. The commissioner, with the approval of the mayor, may adopt rules and regulations in accordance with the procedure prescribed in section eleven hundred five of the charter, setting forth the manner in which the amounts required to be paid under this section shall be payable. Such rules and regulations may also provide that the amount required to be paid under this section for any period during which such employee was absent, or any part of such amount, may be paid to an employee in a lump sum or weekly installments or a combination of both prior to the date upon which the total specified in item (a) is known or determined, on condition that such employee execute an agreement, in a form approved by the corporation counsel, consenting to reimburse the city for any overpayment to him or her resulting from such prior payment, either at the time the amounts specified in item (a) hereunder are received by such employee or by salary deductions to be authorized by such employee in such agreement. Such rules and regulations may contain such other provisions as may be necessary to carry out the purposes of this section.

**§ 16-110 Recommendations for amendment of health code.**

The commissioner, from time to time, shall propose to the board of health such additions to or amendments of the health code as in his or her opinion will promote sanitary control in the city and conduce to the security of the comfort, life and health of its inhabitants. The commissioner shall set forth fully the reasons for the proposed changes.

**§ 16-111 Division of streets into districts; allotment of sweepers.**

The commissioner shall divide the city into a suitable number of districts, each of which shall be under the charge of a district superintendent or supervisory officer who shall be directly responsible to the commissioner for the cleanliness of his or her district. Each of such districts shall be subdivided by such commissioner into sections in charge of foremen or subordinate supervisory officers responsible to such district superintendent or supervisory officer, as well as to the commissioner, for the cleanliness of his or her section.

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**§ 16–112 Flushing or washing streets; water.**

Whenever the commissioner of environmental protection shall determine that there is a sufficient supply of water for the purpose, such commissioner may permit the commissioner to use as much water as may be necessary for the flushing or washing of the public streets.

**§ 16–113 Removal of night soil and offal.**

The department is hereby charged with the duty of causing the removal of dead animals, night soil and offal from the thickly populated districts daily, and as often as may be necessary elsewhere, and of keeping the city clean from all matter of nuisance of a similar kind.

**§ 16–114 Rates for collection and disposal.**

The commissioner may charge for the collection and disposal of ashes, street sweepings, garbage, refuse, rubbish, dead animals, night soil and offal, and all wastes, including trade waste from business, industrial, manufacturing, or other establishments conducted for profit, at rates established by the council by local law, upon recommendation of the commissioner, and on such terms and conditions as the commissioner shall prescribe and subject to rules of the department governing such collection and disposal.

**§ 16–114.1 Rates for collection and disposal of solid waste from home occupations, medical offices/group medical centers, and other residential offices.**

As used in this section:

1. The term "home occupation" shall mean a dwelling unit located within a residential portion of a building that is used in part for the purpose of engaging in an occupation authorized by law to be practiced at such location in addition to residential use;

2. The term "medical office/group medical center" shall mean an office located within a residential portion of a building that is used for the purpose of practicing a medical profession authorized by law to be practiced at such location;

3. The term "other residential office" shall mean an office, other than a medical office/group medical center, located within a residential portion of a building that is authorized by law to be used as an office by virtue of such use having been established prior to December 15, 1961; and

4. The term "designated recyclable materials" shall be as defined in rules of the commissioner adopted pursuant to section 16–305 of this code.

b. The commissioner is authorized to collect the following annual fees for the collection and disposal of solid waste generated by home occupations, medical



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offices/group medical centers, and other residential offices, located within buildings which receive department collection and disposal service:

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Average Total Number of 20 Gallon Bags Generated Per Week, Including Designated Recyclable Materials	Annual Collection and Disposal Fee
Not more than 5	\$ 303.00
6–10	\$ 563.00
11–15	\$ 823.00
16–20	\$1,083.00

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**§ 16–115 Sale of ashes by commissioner.**

Ashes collected by the department may be sold by the commissioner at rates fixed by the board of estimate.

**§ 16–116 Removal of commercial waste; posting of sign, registration number.**

a. Every owner, lessee or person in control of a commercial establishment shall provide for the removal of waste by a business licensed by the New York city trade waste commission as required by subdivision a of section 16–505 of this code or register and obtain a registration number from the New York city trade waste commission as required by subdivision b of section 16–505 of this code to remove its own waste except as provided in subdivision c of this section, however nothing contained herein shall preclude the commissioner from providing for the removal of waste from any commercial establishment pursuant to the authority vested in the commissioner by section seven hundred fifty-three of the charter; provided, further, that every owner, lessee or person in control of a commercial establishment that is located in a special trade waste removal district designated by the New York city trade waste commission pursuant to section 16–523 of this code, except for an owner, lessee or person in control of a commercial establishment who has registered with the New York city trade waste commission as required by subdivision b of section 16–505 of this code and except as otherwise provided by subdivision g of section 16–523 of this code, shall provide for the removal of waste by a licensee with whom such commission has entered into an agreement pursuant to subdivision b of such section.

b. Every owner, lessee or person in control of a commercial establishment shall post a sign which states clearly and legibly the trade or business name, address, telephone number and the day and time of the pickup of the trade waste removal business presently serving the establishment, or if the commercial establishment removes its own waste, a registration number issued by the New York city trade waste

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commission shall be posted. Such sign or registration number shall be prominently displayed by affixing it to a window near the principal entrance to the commercial establishment so as to be easily visible from outside the building. If this is not possible, such sign or permit shall be prominently displayed inside the commercial establishment near the principal entrance to the premises.

c. This section shall not apply to (i) unimproved or vacant property or premises generating infrequent waste or insignificant amounts of waste; and (ii) home occupations, medical offices/group medical centers, and other residential offices, which receive department collection and disposal service pursuant to section 16-114.1 of this code. The commissioner shall have the authority to determine what constitutes infrequent waste or insignificant amounts of waste in specific cases.

d. (i) Except as provided in paragraph (ii) of this subdivision, violation of any of the provisions of this section or any rules promulgated pursuant thereto shall be punishable by a civil penalty of not less than fifty nor more than one hundred dollars. Any notice of violation; appearance ticket or summons issued for a violation of this section shall be returnable before the environmental control board which shall impose the penalty herein provided.

(ii) A commercial establishment required by subdivision b of section 16-505 of this code to register with the New York city trade waste commission shall be subject to a penalty for the violation of such subdivision or any rule pertaining thereto as provided in subdivision c of section 16-515 of this code. Such penalty may be recoverable in the manner provided therein or may 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 one thousand dollars.

**§ 16-117 Rules and regulations governing conveyance of rubbish, waste or offensive material through the streets.**

The commissioner shall have power to adopt rules and regulations:

1. Controlling persons and their servants, agents and employees and the vehicles of each engaged in removing, disposing of, conveying or transporting upon the streets, public places or bridges, or over the ferries in the city, manure, swill, ashes, street sweepings, bones, garbage, night soil, offal, fat, hides, hoofs or entrails, or other refuse parts of slaughtered animals, refuse, rubbish, bodies of dead animals, or any other offensive or noxious material, paper stock, or trade waste;

2. Rules and regulations adopted by the commissioner pursuant to this section shall be submitted to the board of estimate and, when approved by such board, shall be filed with the city clerk and published in like manner as prescribed by section eleven hundred five of the charter and shall be enforced in the same manner and to the same extent as local laws.

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**§ 16-117.1 Transport, storage and disposal of waste containing asbestos.**

(a) No person shall transport, store or dispose of waste containing asbestos or cause or permit any person to transport, store or dispose of such waste, except as in accordance with the provisions of this section.

(b) Waste containing asbestos shall not be presented for transport, storage or disposal unless at the site of generation such waste is:

(1) wet down in a manner sufficient to prevent all visible emissions of asbestos dust into the air;

(2) sealed while wet in leak-tight containers which shall bear either:

(i) a warning label which states:

"CAUTION Contains Asbestos—Avoid Opening or Breaking Container Breathing Asbestos is Hazardous to Your Health", or

(ii) such other warning label as may be authorized by federal law or regulation; and\*

(3) quantitatively documented on a form approved by the commissioner, expressed by either volume, weight or container (bag);

(4) kept separate from any other waste.

(c) Waste which contains asbestos shall not be stored unless prior authorization, in such form and manner as the commissioner may prescribe by regulation, is received from the department.

(d) Whenever waste containing asbestos is stored prior to disposal such waste shall be inspected not less than once in every twenty-four hour period so as to ensure that there are no visible emissions of asbestos dust into the air. If such inspection reveals visible emissions of asbestos dust into the air, the waste shall be wet down and repackaged by placing the existing container into a leak-tight container so as to prevent any further emissions into the air.

(e) (1) Waste containing asbestos shall be disposed of in the City only at sites approved by the commissioner;

(2) in cases of asbestos disposed of in City approved disposal sites, the Department of Sanitation shall indicate on the appropriate form, the quantity of asbestos received, expressed either by volume, weight or container (bag). A copy of this form shall be forwarded to the Department of Environmental Protection.

(f) The commissioner shall have the authority to adopt rules and regulations to effectuate the purposes of this section.

(g) (1) Any violation of this section or of any rule or regulation adopted pursuant to this section shall constitute an offense punishable by a fine of not less than five hundred dollars and not more than twenty-five thousand dollars, or by imprisonment not to exceed one year, or by both such fine and imprisonment.

(2) In addition to any other criminal or civil penalty authorized by law, any violation of this section or any rule or regulation adopted pursuant to this section shall

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be punishable by a civil penalty of not less than five hundred dollars and not more than twenty-five thousand dollars. Such penalty may be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board.

**§ 16-118 Littering prohibited.**

1. No person shall litter, sweep, throw or cast, or direct, suffer or permit any servant, agent, employee, or other person under his or her control, to litter, sweep, throw or cast any ashes, garbage, paper, dust or other rubbish and refuse of any kind whatsoever, in or upon any street or public place, vacant lot, air shaft, areaway, backyard court or alley.

2. (a) Every owner, lessee, tenant, occupant or person in charge of any building or premises shall keep and cause to be kept the sidewalk, flagging and curbstone abutting said building or premises free from obstruction and nuisances of every kind, and shall keep said sidewalks, flagging, curbstones, and air shafts, areaways, backyards, courts and alleys free from garbage, refuse, rubbish, litter, debris and other offensive material. Such persons shall also remove garbage, refuse, rubbish, litter, debris and other offensive material between the curbstone abutting the building or premises and the roadway area extending one and one-half feet from the curbstone into the street on which the building or premises front. Such persons shall not, however, be responsible for cleaning the garbage, refuse, rubbish, litter, debris and other offensive material which accumulates at catch basins located within the one and one-half foot distance from the curbstone into the street.

(b) Every owner, lessee, tenant or person in charge of any vacant lot shall keep and cause to be kept the sidewalk, flagging and curbstone abutting said vacant lot free from obstruction and nuisances of every kind, and shall keep said sidewalks, flagging and curbstones free from garbage, refuse, rubbish, litter, debris and other offensive material. Every owner, lessee, tenant or person in charge of any vacant lot shall keep and cause to be kept said vacant lot free from garbage, refuse, rubbish, litter, debris and other offensive material. Such persons shall also remove garbage, refuse, rubbish, litter, debris and other offensive material between the curbstone abutting the vacant lot and the roadway area extending one and one-half feet from the curbstone into the street on which the vacant lot fronts. Such persons shall not, however, be responsible for cleaning the garbage, refuse, rubbish, litter, debris and other offensive material which accumulates at catch basins located within the one and one-half foot distance from the curbstone into the street.

3. No lime, ashes, coal, dry sand, hair, waste paper, feathers, or other substance that is in a similar manner liable to be blown by the wind, shall be sieved, agitated, or exposed, nor shall any mat, carpet, or cloth be shaken or beaten, nor shall any cloth, yarn, garment, material or substance be scoured or cleaned, nor shall any rags, damaged merchandise, barrels, boxes, or broken bales of merchandise or goods be

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placed, kept, or exposed in any place where they or particles therefrom will pass into any street or public place, or into any occupied premises, nor shall any usual or any reasonable precautions be omitted by any person to prevent fragments or any substances from falling to the detriment or peril of life or health, or dust or light material flying into any street, place, or building, from any building or erection, while the same is being altered, repaired or demolished, or otherwise. In demolishing any building or part thereof, the material to be removed shall be properly wet in order to lay dust incident to its removal.

4. No one, being the owner, or in charge or in control of any vehicle, or of any receptacle, shall litter, drop or spill, or permit to be littered, dropped or spilled any dirt, sand, gravel, clay, loam, stone or building rubbish, hay, straw, oats, sawdust, shavings or other light materials of any sort, or manufacturing, trade or household waste, refuse, rubbish of any sort, or ashes, manure, garbage, or other organic refuse or other offensive matter, in or upon any street or public place.

5. No person shall throw, cast or distribute, or cause or permit to be thrown, cast or distributed, any handbill, circular, card, booklet, placard or other advertising matter whatsoever, in or upon any street or public place, or in a front yard or courtyard, or on any stoop, or in the vestibule of any hall in any building, or in a letter box therein; provided that nothing herein contained shall be deemed to prohibit or otherwise regulate the delivery of any such matter by the United States postal service, or prohibit the distribution of sample copies of newspapers regularly sold by the copy or by annual subscription. This section is not intended to prevent the lawful distribution of anything other than commercial and business advertising matter.

6. No swill, brine, offensive animal matter, noxious liquid, or other filthy matter of any kind, shall be allowed by any person to fall upon or run into any street, or public place, or be taken to or put therein.

7. (a) No person shall prevent or interfere with any employee of the department in the sweeping or cleaning of any street, in the removal of snow or ice, or in the collection or removal of any amount of solid waste or recyclable materials.

(b)(1) Except for an authorized employee or agent of the department, it shall be unlawful for any person to disturb, remove or transport by motor vehicle any amount of recyclable materials that have been placed by owners, tenants or occupants of residential premises, premises occupied by city agencies or institutions, or vacant lots, or by their servants, within the stoop area, adjacent to the curb line or otherwise within or adjacent to such premises or lots for collection or removal by the department unless requested by the owner of such residential premises or vacant lot or his or her agent, and such request is evidenced by a notarized written agreement that: (i) has been signed by such person and such owner or agent; (ii) has been filed with the commissioner and bears a file stamp indicating that it has been so filed; and (iii) includes the names of the parties to the agreement, the names and titles of all signatories to the agreement, the taxpayer identification number, including individual



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taxpayer identification number or employer identification number but not social security number of each such party, the agreed price terms, if any, the estimated quantity of recyclable materials to be removed, the agreed removal days and times, if any, the duration of the agreement, and any other information required by the commissioner by rule. The requirement to enter into and file such written agreement pursuant to this subdivision shall not apply to one, two or three-family residential premises.

(2) In addition, on or before February first and August first of every year, every person engaged in the removal of recyclable materials from residential premises or vacant lots pursuant to a written agreement shall submit to the commissioner a report identifying the weight of each type of recyclable material removed by such person during the periods of July first to December thirty-first and January first to June thirtieth, respectively. It shall be unlawful for any person to fail to submit a report in accordance with this subparagraph or to submit a report containing false or deceptive information.

(3) Except for an authorized employee or agent of the department, it shall be unlawful for any person to disturb, remove or transport by motor vehicle any amount of solid waste that has been placed by owners, tenants or occupants of residential premises, premises occupied by city agencies or institutions, or vacant lots, or by their servants, within the stoop area, adjacent to the curb line or otherwise within or adjacent to such premises or lots for collection or removal by the department.

(c) Except for an authorized employee of an entity licensed by or registered with the business integrity commission, it shall be unlawful for any person to disturb, remove or transport by motor vehicle any amount of recyclable materials that have been placed by owners, tenants or occupants of commercial premises within the stoop area, adjacent to the curb line or otherwise within or adjacent to such premises for collection or removal by an entity licensed by or registered with the business integrity commission. It shall be presumed that a person operating a motor vehicle without plates issued by the business integrity commission is not an authorized employee of an entity licensed by or registered with the business integrity commission.

(d) No person, other than a not-for-profit corporation, shall receive recyclable materials for storage, collection or processing from any person other than an authorized employee or agent of the department, an authorized employee of an entity licensed by or registered with the business integrity commission, a not-for-profit corporation or a person who has entered into a written agreement pursuant to subparagraph one of paragraph b of this subdivision. It shall be an affirmative defense that all such recyclable materials were generated or collected outside the city of New York. This paragraph shall not apply to a redemption center, dealer or distributor as defined in section 27-1003 of the environmental conservation law.

(e) Any person who violates subparagraph one of paragraph b of this subdivision while using or operating a motor vehicle or paragraph d of this subdivision shall be

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punished for each violation by a criminal fine of not less than one thousand dollars nor more than two thousand dollars for each such violation or by imprisonment not to exceed ninety days, or both.

(f)(1)(i) Any person who violates subparagraph one of paragraph b or paragraph c of this subdivision while using or operating a motor vehicle shall be liable for a civil penalty of two thousand dollars for the first offense and five thousand dollars for each subsequent offense within a twelve-month period. In addition, every owner of such motor vehicle shall be liable for a civil penalty of two thousand dollars for the first offense and five thousand dollars if, within a twelve-month period, a motor vehicle owned by such person was used in violation of subparagraph one of paragraph b or paragraph c of this subdivision. The owner of a motor vehicle used in violation of subparagraph one of paragraph b or paragraph c of this subdivision shall not be liable for any civil penalty if such owner establishes that the motor vehicle was used without such owner's permission. For the purpose of imposing a civil penalty pursuant to this clause, every premises or lot from which recyclable materials have been removed unlawfully shall be deemed to be the subject of a separate violation for which a separate civil penalty may be imposed;

(ii) Any person who violates paragraph d of this subdivision shall be liable for a civil penalty of two thousand dollars for the first offense and five thousand dollars for each subsequent offense within a twelve-month period. For the purpose of imposing a civil penalty pursuant to this clause, every motor vehicle from which recyclable materials have been delivered for receipt unlawfully shall be deemed to be the subject of a separate violation for which a separate civil penalty may be imposed; and

(iii) Any person who violates subparagraph two of paragraph b of this subdivision by failing to submit a report or by submitting a report containing false or deceptive information shall be liable for a civil penalty of two thousand dollars for the first offense and five thousand dollars for each subsequent offense within a twelve-month period.

(2) As used in this subdivision:

(i) the term "motor vehicle" shall mean every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power;

(ii) the term "not-for-profit corporation" shall mean a corporation as defined in subparagraph five or seven of subdivision (a) of section one hundred two of the New York not-for-profit corporation law;

(iii) the term "operator" shall mean any person who operates or drives or is in actual physical control of a motor vehicle;

(iv) the term "owner" shall mean a person, other than a lienholder, having the property in or title to a motor vehicle. The term includes a person entitled to the use and possession of a motor vehicle subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days;

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(v) the term "person" shall mean any natural person or business entity, but shall not include any authorized employee of a government agency;

(vi) the term "recyclable materials" shall mean recyclable materials designated by the commissioner by rule pursuant to chapter three of title sixteen of this code; and

(vii) the term "solid waste" shall mean solid waste as defined in subdivision n of section 16-303 of this code.

(g)(1) Any motor vehicle that has been used or is being used to commit a violation of subparagraph one of paragraph b or paragraph c of this subdivision shall be impounded by the department and shall not be released until either all storage fees and the applicable fines and penalties have been paid or a bond has been posted in an amount satisfactory to the commissioner. Rules of the department related to the impoundment and release of motor vehicles in chapter five of title sixteen of the rules of the city of New York shall be applicable to the impoundment and release of motor vehicles pursuant to this paragraph. The commissioner shall have the power to promulgate amended rules concerning the impoundment and release of motor vehicles and the payment of storage fees for such motor vehicles, including the amounts and rates thereof. Where it is determined that the motor vehicle was not used to commit a violation of subparagraph one of paragraph b or paragraph c of this subdivision, such fees shall be promptly returned.

(2) In addition to any other penalties provided in this subdivision, the interest of an owner as defined in clause (iv) of subparagraph two of paragraph f of this subdivision in any motor vehicle impounded pursuant to subparagraph one of this paragraph shall be subject to forfeiture upon notice and judicial determination thereof if such owner has been convicted of or found liable for a violation of this subdivision in a criminal or civil proceeding or in a proceeding before the environmental control board three or more times, all of which violations were committed within an eighteen-month period.

(3) Except as otherwise provided in this subparagraph, the city agency having custody of a motor vehicle, after judicial determination of forfeiture, shall no sooner than thirty days after such determination upon a notice of at least five days, sell such forfeited motor vehicle at public sale. Any person, other than an owner whose interest is forfeited pursuant to this section, who establishes a right of ownership in a motor vehicle, including a part ownership or security interest, shall be entitled to delivery of the motor vehicle if such person:

(i) redeems the ownership interest which was subject to forfeiture by payment to the city of the value thereof; and

(ii) pays the reasonable expenses of the safekeeping of the motor vehicle between the time of seizure and such redemption; and

(iii) asserts a claim within thirty days after judicial determination of forfeiture.

Notwithstanding the foregoing provisions, establishment of a claim shall not entitle such person to delivery of the vehicle if the city establishes that the violation for

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which the motor vehicle was seized was expressly or impliedly permitted by such person.

8. Except for any violation of subparagraph one of paragraph b or paragraph c of subdivision seven of this section by a person using or operating a motor vehicle, or any violation of subparagraph two of paragraph b of subdivision seven of this section, or any violation of paragraph d of subdivision seven of this section, the violation of any provision of this section shall constitute an offense punishable by a fine of not less than fifty dollars nor more than two hundred fifty dollars, or by imprisonment not to exceed ten days or both.

9. Except for any violation of subparagraph one of paragraph b or paragraph c of subdivision seven of this section by a person using or operating a motor vehicle, or any violation of subparagraph two of paragraph b of subdivision seven of this section, or any violation of paragraph d of subdivision seven of this section, any person violating the provisions of this section shall be liable for a civil penalty of not less than fifty dollars nor more than two hundred fifty dollars, except that for a second violation of subdivision one, three, four, or six of this section within any twelve-month period, such person shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than three hundred fifty dollars and for a third or subsequent violation of subdivision one, three, four or six of this section within any twelve-month period such person shall be liable for a civil penalty of not less than three hundred fifty dollars nor more than four hundred fifty dollars.

10. In the instance where the notice of violation, appearance ticket or summons is issued for breach of the provisions of this section and sets forth thereon civil penalties only, such process shall be returnable to the environmental control board, which shall have the power to impose the civil penalties hereinabove provided in subdivision nine of this section.

11. In the event that a violator fails to answer such notice of violation, appearance ticket or summons within the time provided therefor by the rules and regulations of the environmental control board, he or she shall become liable for additional penalties. The additional penalties shall not exceed four hundred fifty dollars for each violation.

§ 16-118.1 **Routing study. [Repealed]**

§ 16-118.1 **Citywide routing system.**

a. The department shall implement a citywide routing system for residential premises for the enforcement of subdivision two of section 16-118 of this code, as such subdivision relates to the cleaning of sidewalks, flagging, curbstones, airshafts, backyards, courts, alleys and roadway areas by owners, lessees, tenants, occupants or persons in charge of any such premises, and for commercial premises for the enforcement of such subdivision as such subdivision relates to cleaning of sidewalks, flagging, curbstones and roadway areas by owners, lessees, tenants, occupants or

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persons in charge of such premises. The citywide enforcement routing system shall limit the issuance of notices of violation, appearance tickets or summonses within any sub-district of a local service delivery district to predetermined periods of a total of no more than two hours each day, provided that each such predetermined period shall be one hour. The department shall establish a citywide schedule of periods for issuing notices of violation, appearance tickets or summonses for commercial premises in each district and shall give written notice to the owners, lessees, tenants, occupants or persons in charge of such premises in each district of the periods for the district in which their premises are located by the use of flyers, community meetings or such other techniques as the commissioner reasonably determines to be useful. The two one-hour predetermined periods for issuing notices of violation, appearance tickets or summonses for residential premises shall be from 8:00 a.m. until 9:00 a.m. and from 6:00 p.m. until 7:00 p.m.

b. Notwithstanding the provisions of subdivision a of this section, the commissioner may provide an additional predetermined period of one hour per day during which notices of violation, appearance tickets or summonses may be issued in any sub-district within a local service delivery district upon the commissioner's determination that the total of two hours otherwise permitted by this section is not sufficient to maintain the sidewalks, flagging, curbstones and roadways in such sub-districts in an adequately clean condition. Such determination shall be based upon a finding that there has been a decline in the average street cleanliness ratings compiled by the mayor's office of operations for such district for the most recent three-month period as compared to the average street cleanliness ratings compiled by the mayor's office of operations for the same three-month period in fiscal year nineteen hundred ninety. Notice of any increase in the number of hours during which notices of violation, appearance tickets or summonses can be issued or of any change in such hours shall be given by letter to the community board, the owners, lessees, tenants, occupants or persons in charge of any premises in the affected sub-districts within a local service delivery district and every council member representing the local service delivery district no less than forty-five days prior to the implementation of such increase or change. Any additional notice may be given by use of letters, flyers, community meetings or such other techniques as the commissioner reasonably determines to be useful. Written notice to a council member shall be sent to the council member's district office.

c. For the purpose of this section, the following terms shall have the following meanings: (i) "local service delivery district" means a local service delivery district as described in chapter sixty-nine of the charter of the city of New York; (ii) "sub-district" means a section within a local service delivery district as described in chapter sixty-nine of the charter of the city of New York; and (iii) "commercial premises" means any premises abutting the sidewalk at which goods or services are sold directly to consumers or other businesses, and may, in appropriate instances to be determined



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by the commissioner, also include any other class of real property that is used for the conduct of any business, trade or profession; and (iv) "residential premises" means those portions of premises used predominantly for residential purposes, other than hotels, that abut the sidewalk and do not constitute commercial premises.

d. Within fifteen months after the effective date of this section, the commissioner shall submit to the mayor and the council a report on the results of the citywide enforcement routing system for the twelve month period commencing on the first day of the first full month after the effective date of this section.

**§ 16-119 Dumping prohibited.**

a. It shall be unlawful for any person, his or her agent, employee or any person under his or her control to suffer or permit any dirt, sand, gravel, clay, loam, stone, rocks, rubble, building rubbish, sawdust, shavings or trade or household waste, refuse, ashes, manure, garbage, rubbish or debris of any sort or any other organic or inorganic material or thing or other offensive matter being transported in a dump truck or other vehicle to be dumped, deposited or otherwise disposed of in or upon any street, lot, park, public place, wharf, pier, dock, bulkhead, slip, navigable waterway or other area whether publicly or privately owned.

b. Any person who violates the provisions of this section shall be liable to arrest and upon conviction thereof shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than one thousand five hundred dollars nor more than ten thousand dollars or by imprisonment not to exceed ninety days or by both such fine and imprisonment.

c. (1) Any person who violates the provisions of subdivision a of this section shall also be liable for a civil penalty of not less than one thousand five hundred dollars nor more than ten thousand dollars for the first offense, and not less than five thousand dollars nor more than twenty thousand dollars for each subsequent offense. In addition, every owner of a dump truck or other vehicle shall be liable for a civil penalty of not less than one thousand five hundred dollars nor more than ten thousand dollars for the first offense and not less than five thousand dollars nor more than twenty thousand dollars for each subsequent offense of unlawful dumping described in subdivision a of this section by any person using or operating the same, in the business of such owner or otherwise, with the permission, express or implied, of such owner.

(2) Any owner, owner-operator or operator who is found in violation of this section in a proceeding before the environmental control board and who shall fail to pay the civil penalty imposed by such environmental control board shall be subject to the suspension of his or her driver's license, privilege to operate or vehicle registration or renewal thereof imposed pursuant to section twelve hundred twenty-a of the vehicle and traffic law, in addition to any other civil and criminal fines and penalties set forth in this section.



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(3) As used in this subdivision, the terms "owner", "owner-operator" and "operator" shall have the meaning set forth in subdivision one of section twelve hundred twenty-a of the vehicle and traffic law.

(4) The provisions of this section may also be enforced by the commissioner of small business services and the commissioner of environmental protection with respect to wharfs, piers, docks, bulkheads and slips located on waterfront property, and navigable waterways.

d. In the instance where the notice of violation, appearance ticket or summons is issued for a breach of the provisions of subdivision a of this section and sets forth thereon civil penalties only, such process shall be returnable to the environmental control board, which board shall have the power to impose the civil penalties hereinabove provided in subdivision c of this section, provided further, that, notwithstanding any other provision of law, the environmental control board shall have such powers and duties as are set forth under section twelve hundred twenty-a of the vehicle and traffic law.

e. (1) Any dump truck or other vehicle that has been used or is being used to violate the provisions of this section shall be impounded by the department and shall not be released until either all removal charges and storage fees and the applicable fine have been paid or a bond has been posted in an amount satisfactory to the commissioner or as otherwise provided in paragraph (2) of this subdivision. The commissioner shall have the power to establish regulations concerning the impoundment and release of vehicles and the payment of removal charges and storage fees for such vehicles, including the amounts and rates thereof.

(2) In addition to any other penalties provided in this section, the interest of an owner as defined in subdivision c of this section in any vehicle impounded pursuant to paragraph (1) of this subdivision shall be subject to forfeiture upon notice and judicial determination thereof if such owner (i) has been convicted of or found liable for a violation of this section in a civil or criminal proceeding or in a proceeding before the environmental control board three or more times, all of which violations were committed within an eighteen month period or (ii) has been convicted of or found liable for a violation of this section in a civil or criminal proceeding or in a proceeding before the environmental control board if the material unlawfully dumped is a material identified as a hazardous waste or an acute hazardous waste in regulations promulgated pursuant to section 27-0903 of the environmental conservation law.

(3) Except as hereinafter provided, the city agency having custody of a vehicle, after judicial determination of forfeiture, shall no sooner than thirty days after such determination upon a notice of at least five days, sell such forfeited vehicle at public sale. Any person, other than an owner whose interest is forfeited pursuant to this section, who establishes a right of ownership in a vehicle, including a part ownership or security interest, shall be entitled to delivery of the vehicle if such person:

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(i) redeems the ownership interest which was subject to forfeiture by payment to the city of the value thereof; and

(ii) pays the reasonable expenses of the safekeeping of the vehicle between the time of seizure and such redemption; and

(iii) asserts a claim within thirty days after judicial determination of forfeiture.

Notwithstanding the foregoing provisions establishment of a claim shall not entitle such person to delivery of the vehicle if the city establishes that the unlawful dumping for which the vehicle was seized was expressly or impliedly permitted by such person.

f. Rewards. (1) Where a notice of violation, appearance ticket or summons is issued for a violation of subdivision a of this section based upon a sworn statement by one or more individuals and where the commissioner determines, in the exercise of his or her discretion, that such sworn statement, either alone or in conjunction with testimony at a civil or criminal proceeding or in a proceeding before the environmental control board, results in the conviction of or the imposition of a civil penalty upon any person for a violation of subdivision a of this section, the commissioner shall offer as a reward to such individual or individuals an amount that, in the aggregate, is equal to:

(i) fifty percent of any fine or civil penalty collected; or

(ii) five hundred dollars when a conviction is obtained, but no fine or civil penalty is imposed.

(2) Where a notice of violation, appearance ticket or summons is issued for a violation of subdivision a of this section based upon information furnished by an individual or individuals and where the commissioner determines, in the exercise of his or her discretion, that such information, in conjunction with enforcement activity conducted by the department or another governmental entity, results in the conviction of or the imposition of a civil penalty upon any person for a violation of subdivision a of this section, the commissioner shall offer as a reward to such individual or individuals an amount that, in the aggregate, is:

(i) up to fifty percent of any fine or civil penalty collected; or

(ii) up to five hundred dollars when a conviction is obtained, but no fine or civil penalty is imposed.

In determining the amount of the reward, the commissioner shall consider factors that include, but are not limited to: (a) the quantity and type of the material dumped, deposited or otherwise disposed of; (b) the specificity of the information provided, including, but not limited to, the license plate number, make or model or other description of the dump truck or other vehicle alleged to have been used and the location, date or time of the alleged violation; (c) whether the information provided by the individual or individuals identified one or more violations of subdivision a of this section; and (d) whether the department has knowledge that violations of subdivision a of this section have previously occurred at that location.

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(3) No peace officer, employee of the department or of the environmental control board, or employee of any governmental entity that, in conjunction with the department, conducts enforcement activity relating to a violation of subdivision a of this section shall be entitled to obtain the benefit of any such reward or obtain the benefit of such reward when acting in the discharge of his or her official duties.

g. In addition to the foregoing penalties the offender shall be required to clear and clean the area upon which the offender dumped unlawfully within ten days after conviction thereof. In the event the offender fails to clear and clean the area within such time such clearing and cleaning may be done by the department or under the direction of the department by a private contractor and the cost of same shall be billed to the offender. In the event that the department has cleaned or cleared the area, or has caused the area to be cleaned or cleared by a private contractor prior to the offender's conviction, the offender shall be responsible for the cost of such clearing and or cleaning. Payment by such offender when required by this subdivision shall be made within ten days of demand by the department.

h. The commissioner shall post a sign in any area where the commissioner deems appropriate because of instances of illegal dumping. Such sign shall state the penalties for illegal dumping and the reward provisions therein.

**§ 16-120 Receptacles for the removal of waste material.**

a. The owner, lessee, agent, occupant or other person who manages or controls a building or dwelling shall provide and maintain in accordance with this section separate receptacles for the deposit of incinerator residue and ashes; refuse, and liquid waste. The receptacles shall be provided for the exclusive use of each building or dwelling and shall be of sufficient size and number to contain the wastes accumulated in such building or dwelling during a period of seventy-two hours. The receptacles shall be made of metal or other material of a grade and type acceptable to the department, the department of health and mental hygiene and the department of housing preservation and development. Receptacles used for liquid waste shall be constructed so as to hold their contents without leakage. Metal containers shall be provided with tight fitting metal covers.

b. Ashes and incinerators residue, refuse and liquid wastes shall be separated and placed into separate receptacles. No receptacle when filled shall weigh more than one hundred pounds.

c. Incinerator, residue, ashes, refuse and liquid waste shall be stored in the building or dwelling or at the rear of the building or dwelling as may be required by the department of health or the department of housing preservation and development until time for removal and kept in tightly covered metal receptacles or containers made of other materials of a type and grade acceptable to the department of sanitation, department of health, and the department of housing preservation and development. After the contents have been removed by the department of sanitation or other

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collection agency any receptacles remaining shall be removed from the front of the building or dwelling before 9:00 p.m. on the day of collection, or if such collection occurs after 4:00 p.m., then before 9:00 a.m. on the day following collection. The receptacles shall at all times be kept covered or closed and kept in a manner satisfactory to the department of sanitation, the department of health, and in the case of residential premises, the department of housing preservation and development. No receptacles, refuse, incinerator residue or ashes, or liquid waste shall be kept so as to create a nuisance. Yard sweepings, hedge cuttings, grass, leaves, earth, stone or bricks shall not be mixed with household wastes.

d. Newspapers, wrapping paper or other light refuse or rubbish which is likely to be blown or scattered about the streets shall be securely bundled, tied or packed before being placed for collection. Such material shall be kept and placed for collection in the same manner as the receptacles.

e. No person shall deposit household or commercial refuse or liquid wastes in a public litter basket placed on the streets by the department or any other person. There shall be a rebuttable presumption that the person whose name, or other identifying information, appears on any household or commercial refuse or liquid wastes deposited in such public litter basket violated this subdivision.

f. Any person violating the provisions of this section, except subdivision e, shall be liable for a civil penalty of not less than twenty-five nor more than one hundred dollars for the first violation, not less than one hundred dollars nor more than two hundred dollars for a second violation within any twelve-month period, and not less than two hundred dollars nor more than three hundred dollars for a third or subsequent violation with any twelve-month period. Any person violating the provisions of subdivision e of this section shall be liable for a civil penalty of not less than one hundred dollars nor more than three hundred dollars for the first violation, not less than two hundred fifty dollars nor more than three hundred fifty dollars for a second violation within any twelve-month period, and not less than three hundred fifty dollars nor more than four hundred dollars for a third or subsequent violation within any twelve month period.

g. In the instance where a notice of violation is issued for breach of the provisions of this section such process shall be returnable to the environmental control board, which shall have the power to impose the civil penalties provided in subdivision f of this section.

h. In the event that a person fails to answer such notice of violation within the time provided therefor by the environmental control board, that person shall become liable for additional penalties. The additional penalties shall not exceed three hundred dollars for each violation.

i. Nothing herein contained shall be construed to supersede, substitute for or abrogate the provisions of article one hundred fifty-three of the health code or article five of subchapter two of chapter two of title twenty-seven of the code.

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**§ 16–120.1 Storage, treatment, transportation and disposal of regulated medical waste, other medical waste and regulated household waste.**

a. It shall be unlawful for any person to store, treat, transport or dispose of or to cause to be stored, treated, transported or disposed of any regulated medical waste or other medical waste except in the manner prescribed in the public health law, the environmental conservation law, or any rules or regulations promulgated pursuant thereto and the New York city health code and any regulations of the city department of health and the city department of sanitation. In addition, it shall be unlawful for any person to dispose of or to cause to be disposed of any regulated medical waste within the solid waste disposal system of the city, provided that the department may accept at its incinerators classes of regulated medical waste that were accepted at such incinerators as of June twenty-first, nineteen hundred eighty-nine if it has obtained all necessary authorizations required by law to incinerate such classes of regulated medical waste. In addition, it shall be unlawful to dispose of or to cause to be disposed of any laboratory waste or surgical waste as defined in this section, or classes of regulated medical waste that were accepted at department incinerators as of June twenty-first, nineteen hundred eighty-nine, whether or not such laboratory waste, surgical waste or other classes of regulated medical waste have been autoclaved or subjected to a similar decontamination technique other than incineration, in the landfills of the city.

b. For purposes of this section, the following terms shall have the following meanings:

1. Regulated medical waste means any waste that is generated in the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, when listed as follows, provided, however, that regulated medical waste shall not include any hazardous waste identified or listed pursuant to section 27–0903 of the environmental conservation law or any household waste as defined in regulations promulgated under such section:

i. cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;

ii. human pathological wastes, including tissues, organs, body parts and body fluids that are removed during surgery or autopsy or other medical procedures, and specimens of body fluids and their containers;

iii. waste human blood and products of blood, including serum, plasma, and other blood components and their containers;

iv. sharps that have been used in animal or human patient care or in medical, research, or industrial laboratories, including hypodermic needles, syringes, pasteur



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pipettes, broken glassware and scalpel blades, blood vials, test tubes, needles with attached tubing, and such unused sharps that have been discarded;

v. contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals;

vi. wastes from surgery or autopsy that were in contact with infectious agents, including soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads, and surgical gloves;

vii. laboratory wastes from medical, pathological, pharmaceutical, or other research, commercial, or industrial laboratories that were in contact with infectious agents, including slides and cover slips, disposable gloves, laboratory coats and aprons;

viii. dialysis wastes that were in contact with the blood of patients undergoing hemodialysis or renal dialysis, including contaminated disposable equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons and laboratory coats;

ix. biological waste and discarded materials contaminated with blood, excretion, exudates or secretion from human beings or animals who are isolated to protect others from highly communicable diseases;

x. any other waste material designated by the administrator of the United States environmental protection agency as a regulated medical waste under the provisions of the medical waste tracking act of 1988, 42 U.S.C. § 6992 et seq., and the regulations promulgated pursuant thereto; and

xi. any other waste material included in the list of regulated medical wastes established in regulations promulgated by the state commissioner of environmental conservation pursuant to section 27-1502 of the environmental conservation law.

For purposes of this paragraph, "infectious agents" shall be limited to those organisms that cause disease or an adverse health impact to humans.

2. Laboratory waste means all matter that is discarded from clinical, pathological or research laboratory areas at which activities are required to be conducted or supervised by persons licensed by the city or state to provide health, medical, pharmaceutical or laboratory services.

3. Other medical waste means laboratory waste and surgical waste as defined in paragraphs two and six of this subdivision.

4. Person means any individual, partnership, company, corporation, association, firm, organization, or any other group of individuals, or any officer or employee or agent thereof, provided that person shall not mean any individual who generates regulated household waste, and provided further that where a person authorized by law to transport regulated medical waste transports waste pursuant to an agreement with a generator of regulated medical waste or other medical waste, such person shall not be considered an agent of such generator for purposes of this paragraph.



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5. Regulated household waste means any item that may cause punctures or cuts that is used in the administration of medication and is disposed of with residential solid waste, including but not limited to intravenous tubing and syringes with needles attached. Regulated household waste shall not include such items generated by persons licensed by the city or state to provide health, medical, pharmaceutical or laboratory services at facilities where such services are performed, but shall include any such items generated in the course of home health care.

6. Surgical waste means all materials discarded from surgical procedures and includes, but is not limited to, disposable gowns, shoe covers, masks, headcovers, gloves and sponges.

c. No solid waste of any person required to be licensed by the city or state to provide health, medical, pharmaceutical or laboratory services shall be collected or received by the department for disposal unless such person has executed a certification that to the best of his or her knowledge or belief such waste does not contain any material for which such disposal is unlawful.

d. The commissioner in conjunction with the commissioner of health and mental hygiene shall promulgate and implement regulations, consistent with the laws of this state, governing the safe disposal of regulated household waste. Any violation of such regulations shall be punishable only by a civil penalty of not less than fifty dollars nor more than two hundred fifty dollars.

e. Any person who generates any quantity of regulated medical waste shall file with the commissioner a copy of any annual reports or additional reports required to be submitted by such person to the commissioner of environmental conservation pursuant to paragraph d of subdivision one of section 27-1510 of the environmental conservation law or paragraph (d) of subdivision two of section 1389-bb of the public health law. Such reports shall be filed with the commissioner within fifteen days of submission to the commissioner of environmental conservation.

f. Any person who generates regulated medical waste or other medical waste shall file with the department a "solid waste removal plan." Such plan shall include at a minimum:

1. the name, address and telephone number of the person or facility generating such waste;
2. the name, address, telephone number and permit number(s) of the transporter of such waste;
3. the name, address and telephone number of the disposal site(s) for such waste;
4. an estimate of the quantity of such waste produced and disposed of monthly; and
5. any other information required by regulation of the commissioner or the commissioner of health and mental hygiene.

An amended plan shall be filed within fifteen days of the time when any information in a plan that is filed with the department changes, or when the

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commissioner or the commissioner of health requires by regulation additional information.

g. The commissioner of sanitation or health and mental hygiene or an authorized agent of such commissioner may enter upon public or private property for the purpose of conducting inspections or investigations necessary for the exercise of the powers or the performance of the duties of such commissioners pursuant to this section, including the inspection of documents or records relating to the storage, treatment, transportation or disposal of regulated medical waste or other medical waste required to be maintained by local, state or federal law, provided that such commissioner or agent may not inspect records containing medical information privileged under the laws of this state without all authorizations required by such laws, and that such commissioner or agent shall make reasonable efforts not to interfere with patient care activities. Such entry may be made without a warrant during regular and usual business hours upon property used for nonresidential purposes, including but not limited to the provision of health, medical, pharmaceutical or laboratory services, provided that such use is related to the generation, storage or disposal of regulated medical waste, or at other times upon such property in response to any immediate threat to the health or safety of one or more individuals, or of the public, that arises from the generation, storage or disposal of regulated medical waste upon such property. Warrantless inspection or investigation pursuant to this subdivision shall extend only to: (i) waste storage areas; (ii) documents or records relating to storage, treatment, transportation or disposal of regulated medical waste, including documents or records required to be maintained by local, state or federal law; (iii) bags and containers for the disposal of regulated medical waste; (iv) documents or records identifying the number and origin of specimens of human tissues, organs and fluids that constitute regulated medical waste, other than records containing medical information privileged under the laws of this state; and (v) any other inspection or investigation necessary to respond to an immediate threat to the health or safety of one or more individuals, or of the public, arising from generation, storage or disposal of regulated medical waste upon such property. Refusal to permit entry pursuant to this subdivision, where the commissioner of sanitation or health and mental hygiene or an authorized agent of such commissioner has obtained a warrant for such entry or is authorized by this subdivision to inspect or investigate without a warrant, shall be a misdemeanor punishable by not more than thirty days imprisonment, or by a fine of not more than one hundred dollars or both.

h. 1. In addition to any other enforcement procedures authorized by law, the commissioner, with the written approval of the commissioner of health and mental hygiene, shall be authorized to order in writing that premises on which activity in violation of this section is occurring be closed if the commissioner finds that continuing activity on such premises would result in generation, storage or disposal of regulated medical waste or other medical waste in a manner posing an imminent

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threat to the public health or safety, provided that no facility licensed, permitted or certificated pursuant to article twenty-eight of the public health law or part thereof or facility providing inpatient services or part thereof may be closed pursuant to this subdivision. Such premises may be opened at any time by any person otherwise lawfully entitled to enter such premises in response to an immediate threat to the health or safety of one or more individuals, or of the public. For the purpose of this subdivision, the determination whether an imminent threat to the public health or safety exists shall be based on factors that include but are not limited to: (i) the quantity of regulated medical waste, the generation, storage or disposal of which is in violation of this section; (ii) the types of such regulated medical waste; and (iii) the risk of harm to the public or the environment.

2. Issuance of an order pursuant to this subdivision may occur prior to a hearing and determination whether a violation of the provisions of this section has occurred and whether there exists an imminent threat to the public health or safety, or during such hearing, or up to two business days after the conclusion of such hearing, provided that: (i) where such issuance occurs prior to such hearing and determination, such hearing shall be held within two business days of such issuance and such determination shall be rendered within twenty-four hours of the conclusion of such hearing; (ii) where such issuance occurs during such hearing, such determination shall be rendered within twenty-four hours of the conclusion of such hearing; and (iii) where such issuance occurs after the conclusion of such hearing but prior to such determination, such determination shall be made within twenty-four hours of such issuance. Any order issued pursuant to this subdivision may continue in effect after a finding of violation and imminent threat until the commissioner permits such premises to be opened pursuant to paragraph five of this subdivision.

3. Orders of the commissioner issued pursuant to this subdivision shall be posted at the premises on which the activity in violation of this subdivision has occurred.

4. Immediately upon the posting of an order issued pursuant to this subdivision, officers and employees of the department and officers of the New York city police department shall be authorized to act upon and enforce such order.

5. Where premises have been closed by order of the commissioner issued pursuant to this subdivision, the owner or lessee of such premises, or the authorized agent thereof, may at any time submit to the commissioner: (i) a written affirmation that such owner or lessee is in compliance with the provisions of this section and will maintain such compliance; and (ii) where such premises are used in the generation of waste for transport of which a legally authorized regulated medical waste transporter is required by law, proof of legal authorization to transport such waste or proof of agreement with a legally authorized regulated medical waste transporter to have such waste transported, or proof that such waste is lawfully treated on such premises so as not to require such authorization or agreement. Upon receipt of such affirmation and proof, the commissioner shall within one business day either permit such premises to

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be opened or issue a written determination that such owner or lessee is not in compliance with or has not instituted procedures sufficient to remain in compliance with the provisions of this section, or that such proof of legal authorization or agreement is insufficient.

6. It shall be a misdemeanor for any person or other individual to open or cause to be opened any premises closed in accordance with an order of the commissioner, except in response to an immediate threat to the health or safety of one or more individuals, or of the public.

i. 1. For the purpose of this subdivision, the following terms shall have the following meanings:

i. "Abandonment" means the intentional relinquishment or forsaking of all possession or control of any substance.

ii. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any substance so that such substance or any related constituent thereof may enter the environment, or the abandonment of any substance.

iii. "Environment" means any water, water vapor, any land including land surface or subsurface air, fish, wildlife, biota and all other natural resources.

iv. "Intentionally, knowingly, recklessly and criminal negligence" shall have the same meanings as defined in section 15.05 of the penal law.

2. i. Any person who violates any provisions of this section other than subdivision d shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not to exceed five thousand dollars per day of violation, or by imprisonment for a term of not more than fifteen days, or by both such fine and imprisonment.

ii. Any person who intentionally, knowingly or recklessly violates any provisions of this section other than subdivision d shall be guilty of a misdemeanor, and upon conviction thereof, shall for a first conviction be punished by a fine not to exceed fifteen thousand dollars per day of violation or by imprisonment for a term of not more than ninety days, or both such fine and imprisonment. If the conviction is for an offense committed after a first conviction of such person under this subparagraph, within the preceding five years, punishment shall be by a fine not to exceed fifty thousand dollars per day of violation, or by imprisonment for not more than one year or by both such fine and imprisonment.

3. Any person who with criminal negligence engages in conduct in violation of this section other than subdivision d which causes the release to the environment of regulated medical waste shall be guilty of a misdemeanor punishable by a fine of not more than fifteen thousand dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.

4. Any person who recklessly or knowingly engages in conduct in violation of this section other than subdivision d which causes the release to the environment of regulated medical waste shall be guilty of a misdemeanor punishable by a fine of not

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more than fifty thousand dollars or by imprisonment for not more than one year or both such fine and imprisonment.

5. In addition to any other penalties provided under paragraph one of this subdivision or any other provisions of law, any violation of the provisions of this section other than subdivision d shall be punishable by a civil penalty of not less than twenty-five hundred dollars nor more than ten thousand dollars for the first violation, not less than five thousand dollars nor more than ten thousand dollars for the second violation, and ten thousand dollars for the third and any subsequent violation. Civil penalties shall be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board. For the purposes of this paragraph, each bag or container of solid waste with a capacity of not larger than one cubic yard shall constitute a separate violation of this section.

6. Notwithstanding paragraphs one, two, three, four and five of this subdivision, failure to file an annual or additional report pursuant to subdivision e of this section or failure to file a solid waste removal plan or an amended plan pursuant to subdivision f of this section shall be punishable only by a civil penalty of not less than fifty dollars nor more than two hundred fifty dollars if such report or plan is filed within thirty days of the filing deadlines set forth in such subdivisions.

7. Any affirmative defense available under title forty-four of article twenty-seven of the environmental conservation law shall be available in any prosecution or proceeding pursuant to this section that alleges a violation of title fifteen of article twenty-seven of the environmental conservation law or any rules or regulations promulgated pursuant thereto.

j. The commissioner shall promulgate and implement regulations providing that where an individual furnishes information that, in the opinion of the commissioner, results in a conviction or the imposition of a fine or civil penalty for a violation of any provision of this section, the commissioner shall offer as a reward to said individual, out of unexpended appropriations therefor:

- i. fifty percent of any fine or penalty collected; or
- ii. five hundred dollars when a prison sentence but no fine or civil penalty is imposed.

k. The commissioner shall suspend the use of the city's solid waste disposal system by any person licensed by the city or state to provide health, medical, pharmaceutical or laboratory services upon whom a notice of violation of this section has been served pending a hearing on and a finding as to liability for the violation. Such hearing shall be held within two business days after such suspension and a finding as to liability for the violation shall be made within twenty-four hours of the conclusion of such hearing. If a violation has been found, the commissioner shall continue such suspension for, in the case of a first occurrence, not less than one week, in the case of a second occurrence, committed within an eighteen month period, not less than one month and, in the case of a third and each subsequent occurrence, committed within



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an eighteen month period, not less than three months. In calculating such eighteen month period any period of suspension shall be excluded. For purposes of this subdivision any solid waste introduced into the solid waste disposal system of the city under one certification executed pursuant to subdivision c of this section shall constitute an occurrence.

1. In addition to the department, the department of health and mental hygiene shall enforce the provisions of this section, other than subdivisions h, j, and k of this section. This section shall not be construed to restrict in any manner the regulatory or enforcement authority conferred upon any agency of the city by any other provision of state or local law.

**§ 16-121 Obstructing tracks.**

a. It shall be unlawful for any person to throw, place or pile, or assist others in throwing, placing or piling any snow, ice or other impediment or obstruction to the running of cars upon the tracks of any railroad company, or in the space between the rails thereof or in the space between the tracks and a line distant three feet outside of such rails or any ashes, garbage, paper, dust, wood, metal or other rubbish, refuse, junk or other offensive material whatsoever on any part of any railroad right of way.

b. Violations. Any person who shall violate any provision of this section, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment for ninety days or both.

**§ 16-122 Vehicles and other movable property.**

a. Legislative intent. The need for this legislation is indicated by the ever increasing number of abandoned cars in the city of New York. The purpose of this section is to punish those persons who abandon and/or remove component parts of motor vehicles in public streets. It is not the intent to prohibit or preclude any person in lawful possession of a vehicle from making lawful repairs or removing any component part for the purpose of making such lawful repairs to a motor vehicle on a public street.

b. It shall be unlawful for any person, such person's agent or employee to leave, or to suffer or permit to be left, any box, barrel, bale of merchandise or other movable property whether or not owned by such person, upon any marginal or public street or any public place, or to erect or cause to be erected thereon any shed, building or other obstruction.

c. It shall be unlawful for any person, such person's agent or employee to leave, or suffer or permit to be left, any motor vehicle, not otherwise lawfully parked, whether or not owned by such person, in any marginal or public street, or any public place. The owner or driver of a disabled vehicle shall be allowed a reasonable time, not exceeding three hours, in which to remove said vehicle.



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d. Any person convicted of a violation of the provisions of subdivision b or c of this section shall be punished by a fine of not less than fifty dollars nor more than two hundred fifty dollars, imprisonment for not more than ten days, or both.

e. It shall be unlawful for any person, such person's agent or employee, to abandon, or to suffer or permit to be abandoned any motor vehicle, whether or not owned by such person, in any marginal or public street, or any public place.

f. It shall be unlawful for any person to dismantle, or to remove any component part of any motor vehicle in any marginal or public street or any public area.

g. Any person convicted of a violation of the provisions of subdivision e or f of this section shall be punished by a fine of not less than one hundred dollars, or imprisonment for not more than one year.

h. Any person violating the provisions of subdivision b or c of this section shall be liable and responsible for a civil penalty of not less than twenty-five dollars nor more than one hundred dollars.

i. In the instance where the notice of violation, appearance ticket or summons is issued for breach of the provisions of this section and sets forth thereon civil penalties only, such process shall be returnable to the environmental control board, which shall have the power to impose the civil penalties hereinabove provided in subdivision h of this section.

j. In the event that a violator fails to answer such notice of violation, appearance ticket or summons within the time provided therefor by the rules and regulations of the environmental control board, he or she shall become liable for additional penalties. The additional penalties shall not exceed fifty dollars for each violation.

**§ 16-123 Removal of snow, ice and dirt from sidewalks; property owners' duties.**

a. Every owner, lessee, tenant, occupant, or other person, having charge of any building or lot of ground in the city, abutting upon any street where the sidewalk is paved, shall, within four hours after the snow ceases to fall, or after the deposit of any dirt or other material upon such sidewalk, remove the snow or ice, dirt, or other material from the sidewalk and gutter, the time between nine post meridian and seven ante meridian not being included in the above period of four hours. Such removal shall be made before the removal of snow or ice from the roadway by the commissioner or subject to the regulations of such commissioner. In the boroughs of Queens and Staten Island, any owner, lessee, tenant or occupant or other person who has charge of any ground abutting upon any paved street or public place, for a linear distance of five hundred feet or more, shall be considered to have complied with this section, if such person shall have begun to remove the snow or ice from the sidewalk and gutter before the expiration of such four hours and shall continue and complete such removal within a reasonable time.

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b. In case the snow and ice on the sidewalk shall be frozen so hard that it cannot be removed without injury to the pavement, the owner, lessee, tenant, occupant or other person having charge of any building or lot of ground as aforesaid, may, within the time specified in the preceding subdivision, cause the sidewalk abutting on such premises to be strewed with ashes, sand, sawdust, or some similar suitable material, and shall, as soon thereafter as the weather shall permit, thoroughly clean such sidewalks.

c. Any person violating any provision of, or regulation adopted pursuant to, subdivisions a and b of this section shall be punished by a fine of not less than ten dollars nor more than one hundred fifty dollars, imprisonment for not more than ten days, or both.

d. Whenever any owner, lessee, tenant, occupant, or other person having charge of any building or lot of ground, abutting upon any street or public place where the sidewalk is paved, shall fail to comply with the provisions of this section, the commissioner may cause such removal to be made.

e. The expense of such removal as to each particular lot of ground shall be ascertained and certified by the commissioner to the comptroller, who shall pay the same in the same manner as the expense of removing snow from the streets is paid. Upon the payment of such expense, the comptroller shall deliver a certificate thereof to the council and the amount of such expense shall be added to and made to form a part of the annual taxes of the next ensuing fiscal year against such property, and the same shall be collected in and with and as part of the annual taxes for such fiscal year. The corporation counsel is directed and may sue for and recover the amount of such expense.

f. This section shall not be regarded as interfering with the owner of any lots throwing into the roadway of the streets any snow or ice which may be removed from the sidewalk or gutter directly in front of such lot.

g. The term "lot" as used in this section shall include a space not to exceed twenty-five feet in width fronting the street upon which the violation is charged to have been permitted, committed or omitted.

h. Any person violating the provisions of subdivisions (a) or (b) of this section shall be liable and responsible for a civil penalty of not less than ten dollars nor more than one hundred fifty dollars for the first violation, except that for a second violation of subdivision (a) or (b) within any twelve-month period such person shall be liable for a civil penalty of not less than one hundred fifty dollars nor more than two hundred fifty dollars and for a third or subsequent violation of subdivision (a) or (b) within any twelve-month period such person shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than three hundred fifty dollars.

i. In the instance where the notice of violation, appearance ticket or summons is issued for breach of the provisions of this section and sets forth thereon civil penalties only, such process shall be returnable to the environmental control board, which shall

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have the power to impose the civil penalties hereinabove provided in subdivision h of this section.

j. In the event that a violator fails to answer such notice of violation, appearance ticket or summons within the time provided therefor by the rules and regulations of the environmental control board, he or she shall become liable for additional penalties. The additional penalties shall not exceed three hundred fifty dollars for each violation.

**§ 16-124 Removal of snow and ice from the streets.**

The commissioner, immediately after every snowfall or the formation of ice on the streets, shall forthwith cause the removal of the same, and shall keep all streets clean and free from obstruction.

**§ 16-125 Dumping snow and ice from piers.**

The commissioner may cause or authorize snow and ice to be dumped into the waters of the port of New York, between the piers near the inshore ends.

**§ 16-126 Snow removal; employees and equipment.**

a. In case of a snowfall or other emergency, the commissioner may employ and hire temporarily as many persons, vehicles, machinery and equipment as shall be rendered necessary by such emergency, forthwith reporting, in the case of a snowfall, the number of such persons, vehicles, machinery and equipment and in the case of any other emergency such action with the full particulars thereof to the mayor, but in the case of a snowfall no such person, vehicles, machinery or equipment shall be so hired or employed for a longer period than seven days and in the case of any other emergency for a longer period than three days.

b. All such employees shall be employed directly by the department and not through contractors or other persons, unless the commissioner shall determine that this requirement must for proper action in a particular instance be dispensed with.

c. The services of any person employed, and of vehicles, machinery and equipment hired pursuant to this section, shall be paid for in full and directly by the department, at such times as may be prescribed by the commissioner.

d. In all emergency work performed by laborers in the removal of snow where workers are engaged by the hour or day by a contractor employed for the purpose, such work shall be paid for directly to those individuals employed on it, in the currency of the United States and not by check or ticket. Every contractor engaged in the removal of snow shall be required to stipulate with the commissioner or others empowered to enter into contracts for that purpose, as the case may be, to observe the provisions of this subdivision, a violation of which shall be deemed to abrogate any such contract.

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**§ 16–127 Earth, rocks and rubbish.**

a. In all cases where the sidewalk or roadway of a street shall be incumbered or obstructed by the caving in or falling off of any earth, rocks or rubbish, or anything whatever, from any lot adjoining such sidewalk or roadway, the owner or occupant of such lot, or the agent of such owner or occupant, shall cause such earth, rocks, rubbish or other thing to be removed and cleaned from such sidewalk or roadway, within three days after a written or printed notice shall have been served by the commissioner or a duly designated representative, on such owner, personally, or shall have been left at the place of residence of such owner in this city; or, if such owner does not reside in the city, and such notice shall not be personally served, then within twenty days after such notice to be sent by mail, addressed to such owner at his or her place of residence, or, when such residence is unknown to such commissioner, within twenty days after such notice shall have been posted in a conspicuous place on such premises.

b. If the owner, occupant or agent fails to comply with such notice, within the time specified in this section, after notice thereof, the commissioner shall cause the same to be removed at the expense of the owner, occupant or agent, and such expense shall be sued for and recovered in the name of the city.

c. The corporation counsel shall cause a statement of such cost and expense, together with the description of the premises, to be filed in the office of the register or county clerk of the appropriate county.

d. Any person convicted of a violation of any of the provisions of this section shall be punished by a fine of not less than fifty dollars nor more than two hundred fifty dollars, imprisonment for not more than ten days, or both.

e. Any person violating the provisions of this section shall be liable and responsible for a civil penalty of not less than twenty-five dollars nor more than one hundred dollars.

f. In the instance where the notice of violation, appearance ticket or summons is issued for a breach of the provisions of this section and sets forth thereon civil penalties only, such process shall be returnable to the environmental control board, which shall have the power to impose the civil penalties hereinabove provided in subdivision e of this section.

g. In the event that a violator fails to answer such notice of violation, appearance ticket or summons within the time provided therefor by the rules and regulations of the environmental control board, such violator shall become liable for additional penalties. The additional penalties shall not exceed fifty dollars for each violation.

**§ 16–128 Removal of incumbrances from streets.**

a. The commissioner shall remove, or cause to be removed, any vehicle, box, barrel, bale of merchandise or other movable property or article or thing whatsoever

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found upon any street, in accordance with regulations adopted by the board of estimate.

b. The board of estimate shall set forth, in such regulations, the procedures to be followed by the commissioner relating to:

1. the leasing of yards for storage of property removed under the authority of this section;

2. notification to the owner of the property removed, if such owner is ascertainable, that the property is being held by the commissioner;

3. redemption, by the owner, of the property removed;

4. reimbursement, by the owner, of the expenses of removal incurred by the commissioner;

5. the sale, by the commissioner, of the property held by him or her;

6. the keeping of records and accounts, the transmission of such records to the comptroller, and the transmission of funds collected to the commissioner of finance; and

7. such other regulations as the board of estimate may deem necessary to carry out the provisions of this section.

c. Such regulations shall not become effective until adopted by the board of estimate and filed, by the secretary of such board, with the city clerk, pursuant to section eleven hundred five of the charter.

**§ 16-129 Rates for the use of department disposal facilities.**

The commissioner may require any person desiring to use some or all of the incinerators or other plants under his or her control to set apart for his or her use, for the disposal of manure, swill, ashes, street sweepings, bones, garbage, night soil, offal, fats, hides, hoofs or other refuse parts of slaughtered animals, refuse, rubbish, bodies of dead animals or any other offensive or noxious material, paper stock, or trade waste, to pay for the disposal of the same at rates established by the council by local law, upon recommendation of the commissioner, and on such terms and conditions as such commissioner shall prescribe and subject to rules governing the use of such incinerators or other plants, except as otherwise provided by section 16-203. The commissioner may make, adopt and promulgate rules to effectuate the purposes of this section.

**§ 16-129.1 Rate for the use of department compost facilities.**

The commissioner is authorized to collect a fee of ten dollars per cubic yard for the disposal of yard waste at department compost facilities. For purposes of this section, the term "yard waste" shall mean leaves, grass clippings, garden debris, vegetative residue that is recognizable as part of a plant or vegetable, small or chipped branches, and similar material, except that no material greater than eight inches in diameter and eight feet in length shall be considered yard waste; and the term "compost facilities"

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shall mean facilities operated by the department and used for the aerobic and thermophilic decomposition of organic constituents of solid waste to produce a stable, humus-like material.

**§ 16-130 Permit for operators of dumps, non-putrescible solid waste transfer stations, putrescible solid waste transfer stations and fill material operations.**

a. As used in this section: 1. The term "solid waste" shall mean all putrescible and non-putrescible materials or substances, other than those materials or substances described in subparagraph (b) of this paragraph, that are discarded or rejected, including but not limited to garbage, refuse, waste collected by any person required to be licensed or registered pursuant to chapter 1 of title 16-A of this code, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal. Such term shall include recyclable materials, as defined in subdivision i of section 16-303 of this title.

(a) A material is discarded or rejected if it is:

(1) spent, useless, worthless or in excess to the owners at the time of such discard or rejection;

(2) disposed of;

(3) burned or incinerated, including material burned as a fuel for the purpose of recovering useable energy; or

(4) accumulated, stored or physically, chemically or biologically treated (other than burned or incinerated) instead of or before being disposed of.

(b) The following are not solid waste for the purpose of this section:

(1) domestic sewage;

(2) 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 title or of state regulations promulgated to regulate solid waste management facilities;

(3) industrial wastewater discharges that are actual point source discharges subject to permits under article seventeen of the environmental conservation law; provided that industrial wastewaters while they are being collected, stored or treated before discharge and sludges that are generated by industrial wastewater treatment are solid wastes;

(4) irrigation return flows;

(5) radioactive materials that are source, special nuclear, or by-product material under the federal Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011 et seq.;

(6) materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process;

(7) hazardous waste as defined in section 27-0901 of the environmental conservation law, including material containing hazardous waste; and



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(8) regulated medical waste as defined in title fifteen of article twenty-seven of the New York state environmental conservation law, in title thirteen of article thirteen of the New York state public health law or in section 16–120.1 of the code, or any rules or regulations promulgated pursuant to such provisions of law.

2. The term "putrescible solid waste" shall mean solid waste containing organic matter having the tendency to decompose with the formation of malodorous by-products;

3. The term "non-putrescible solid waste" shall mean solid waste, whether or not contained in receptacles, that does not contain organic matter having the tendency to decompose with the formation of malodorous by-products, including but not limited to dirt, earth, plaster, concrete, rock, rubble, slag, ashes, waste timber, lumber, plexiglass, fiberglass, ceramic tiles, asphalt, sheetrock, tar paper, tree stumps, wood, window frames, metal, steel, glass, plastic pipes and tubes, rubber hoses and tubes, electric wires and cables, paper and cardboard;

4. The term "dump" shall mean any structure, building or other premises, whether improved or unimproved, at which solid waste is received for the purpose of final disposal, unless such waste is received for a fill material operation;

5. The term "non-putrescible solid waste transfer station" shall mean any structure, building or other premises, whether improved or unimproved, at which only non-putrescible solid waste is received for the purpose of subsequent transfer to another location, regardless of whether such non-putrescible solid waste is subject to any processing or reduction in volume at such structure, building or premises;

6. The term "putrescible solid waste transfer station" shall mean any structure, building or other premises, whether improved or unimproved, at which any amount of putrescible solid waste is received for the purpose of subsequent transfer to another location, regardless of whether such putrescible solid waste is mixed with non-putrescible solid waste or is subject to any processing or reduction in volume at such structure, building or premises;

7. The term "fill material" shall mean only clean material consisting of earth, ashes, dirt, concrete, asphalt millings, rock, gravel, stone or sand, provided that such material shall not contain organic matter having the tendency to decompose with the formation of malodorous by-products; and

8. The term "fill material operation" shall mean the grading, levelling, surcharging, compacting or final disposition of fill material for the purpose of land alteration or improvement, including but not limited to change of the existing property grade, filling of lands below established grades or of lands under water to established grades, and filling of lands which requires approval by any city or state agency.

b. It shall be unlawful for any person or public agency other than the department to conduct, operate or use any pier or part thereof, or any piece or parcel of land or land under water within the city as a dump or as a non-putrescible solid waste transfer station or putrescible solid waste transfer station, or for a fill material operation

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without having first obtained for each pier or part thereof, or for each piece or parcel of land or of land under water, in addition to any other permit required by law, a permit from the commissioner and, where required by any law or rule, the prior written approval of the commissioner of ports and trade. The commissioner may establish by rule one or more classes of permits pursuant to this section and section 16-131 of this chapter.

c. Nothing contained in this section or in section 16-131 of this chapter shall be construed to allow the grading, levelling, surcharging, compacting or final disposition of any material other than fill material for the purpose of land alteration or improvement.

**§ 16-131 Rules for the operation of dumps, non-putrescible solid waste transfer stations, putrescible solid waste transfer stations and fill material operations; permits and fees.**

a. The commissioner shall have power to adopt rules:

1. controlling and providing for supervision over the conduct, operation, and use by persons or public agencies of all piers or lands or lands under water used as dumps, non-putrescible solid waste transfer stations or putrescible solid waste transfer stations, or for fill material operations;

2. requiring applicants and permittees to disclose to the department information determined by the commissioner to be necessary for the department to fulfill its duties under this title. Such information may include but need not be limited to financial statements, and any annual or quarterly report required to be filed with the state department of environmental conservation pursuant to regulations promulgated by such department to regulate solid waste management facilities;

3. requiring permittees to maintain records determined by the commissioner to be necessary for the department to fulfill its duties under this chapter and to protect the public health and safety. Such records shall include, without limitation, a log of the names of prospective customers denied the use of such dump, transfer station, or fill material operation.

b. The commissioner shall, pursuant to subdivision a of this section, adopt rules:

1. establishing, in consultation with the commissioners of health and environmental protection, requirements appropriate for protection of public health and the environment concerning siting of dumps, non-putrescible solid waste transfer stations, putrescible solid waste transfer stations and/or fill material operations in relation to other such facilities, residential premises and/or other premises for which such requirements may be appropriate. Requirements established pursuant to this paragraph shall be in addition to other applicable siting requirements;

2. limiting the hours of operation of premises required to be permitted pursuant to section 16-130 of this chapter;

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3. prescribing the use of deodorants, and other odor control measures as may be needed, at putrescible solid waste transfer stations and, where appropriate, at other facilities required to be permitted pursuant to such section;

4. prescribing the use of ventilation systems in fully enclosed structures on premises required to be permitted pursuant to this section; and

5. requiring that all activities relating to the processing, tipping, sorting, storage and compaction of solid waste at putrescible solid waste transfer stations, and, in the commissioner's discretion, at other premises required to be permitted pursuant to this section, be conducted within a fully enclosed structure. If the commissioner determines that such activities would not adversely affect a residential area if not conducted within a fully enclosed structure, then the commissioner may grant an exemption from such requirement, provided that no exemption may be granted in contravention of regulations promulgated by the state department of environmental conservation to regulate solid waste management facilities or other applicable law. Any person who, on the effective date of this local law, holds a permit for, and conducts such activities on, premises where no fully enclosed structure exists, and who shall be required to conduct such activities within a fully enclosed structure, may be granted a reasonable time, to be determined by the commissioner, to construct such structure.

c. The commissioner shall issue permits to such persons or public agencies engaged in use of piers or lands or lands under water within the city as dumps, non-putrescible solid waste transfer stations or putrescible solid waste transfer stations. The commissioner shall collect an annual fee of seven thousand dollars for each permit for any such pier or part thereof, or for each piece or parcel of land or land under water used as a dump or as a non-putrescible solid waste transfer station, and an annual fee of thirteen thousand dollars for each permit for any such pier or part thereof, or for each piece or parcel of land or land under water used as a putrescible solid waste transfer station. The commissioner shall collect an annual registration fee of seven thousand dollars for an intermodal solid waste container facility. The commissioner may by rule provide for suspension or revocation of any permit or registration issued pursuant to this subdivision for cause or violation of the orders or rules of the commissioner.

d. The commissioner shall issue permits every six months to persons or public agencies engaged in use of piers or lands or lands under water for fill material operations. The commissioner shall collect a fee every six months of twelve hundred fifty dollars for each permit for any such pier or part thereof, or for each piece or parcel of land or land under water where the anticipated or actual aggregate amount of fill material for grading, levelling, surcharging, compacting or final disposition during such six-month period is equal to or greater than one thousand cubic yards, and a fee of six hundred twenty-five dollars for each permit for any such pier or part thereof, or for each piece or parcel of land or land under water where the anticipated or actual

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aggregate amount of fill material for grading, levelling, surcharging, compacting or final disposition during such six-month period is less than one thousand cubic yards, provided that no fee shall be charged for the first six-month permit issued in a calendar year for any pier or part thereof, or for each piece or parcel of land or land under water where the anticipated or actual aggregate amount of fill material for grading, levelling, surcharging, compacting or final disposition during such six-month period is less than three hundred cubic yards. The commissioner may by regulation provide for suspension or revocation of any permit issued pursuant to this paragraph for cause or violation of the orders or rules or regulations of the commissioner. Notwithstanding any other provision of this section or of section 16-130 of this chapter, no permit or fee shall be required of an owner or occupant of residential property engaged in a fill material operation or such property where the anticipated or actual aggregate amount of fill material for grading, levelling, surcharging, compacting or final disposition during a six-month period is less than three hundred cubic yards.

e. Rules adopted by the commissioner pursuant to this section shall become effective only after filing and publication as prescribed by chapter forty-five of the charter. In addition, notwithstanding such chapter, prior to adoption by the commissioner of a final rule pursuant to subdivision e of section one thousand forty-three of the charter, and after consideration of relevant comments presented pursuant to subdivision d of such section, the commissioner shall submit to the council the draft text of the final rule proposed to be published in the City Record; the council shall have thirty days to comment upon such text. The final rule may include revisions in response to comment from members of the council and shall not be published in the City Record before the thirty-first day after such submission, unless the speaker of the council authorizes earlier publication.

f. As used in this section:

1. the terms "dump," "non-putrescible solid waste transfer station," "putrescible solid waste transfer station," "fill material" and "fill material operation" shall have the meanings ascribed in section 16-130 of this chapter; and

2. the term "intermodal solid waste container facility" shall mean a facility or premises served by rail or vessel at which intermodal containers are transferred from transport vehicle to transport vehicle for the purpose of consolidating intermodal containers for shipment by rail or vessel to an authorized disposal or treatment facility, where the contents of each container remain in their closed containers during the transfer between transport vehicles, and storage remains incidental to transport at the location where the containers are consolidated.

**§ 16-131.1 Issuance, renewal, suspension and revocation of permits.**

The commissioner shall be responsible for the issuance, renewal, suspension and revocation of permits required by section 16-130 of this chapter. An application for

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such a permit shall also be presented by the department to the New York city trade waste commission for review by such commission. The commissioner shall consider the recommendations of such commission in making a determination pursuant to this section.

a. The commissioner, consistent with article twenty-three-A of the correction law, may refuse to issue or renew a permit required by section 16–130 of this chapter, or may, after notice and the opportunity to be heard, suspend or revoke such a permit when the applicant for such permit or such permittee has been denied a license required by section 16–505 of this code to operate a business for the collection, removal or disposal of trade waste or has had such a license revoked for the reason that such applicant or licensee has been found to lack good character, honesty and integrity by the trade waste commission pursuant to the provisions of title sixteen-A of this code.

b. The commissioner, consistent with article twenty-three-A of the correction law, may refuse to issue to an applicant a permit required by section 16–130 of this chapter and may, after due notice and hearing, in addition to any other penalties provided by law, refuse to renew, suspend or revoke such permit upon the occurrence of any of the following conditions:

1. the applicant or permittee has been convicted of a crime which in the judgment of the commissioner has a direct relationship to his or her fitness or ability to perform any of the activities for which a permit is required under section 16–130 of this chapter; or

2. the applicant or permittee has been found by a court or an administrative agency of competent jurisdiction to have violated:

(A) any provision of section 16–117.1, 16–119, 16–120.1, 16–130, 16–131, 16–131.2, 16–131.3 or 16–131.5 of this chapter; or

(B) any provision of article one hundred fifty-seven of the New York city health code; or

(C) any other law or rule related to the conduct, operation or use of a dump, non-putrescible solid waste transfer station, putrescible solid waste transfer station or fill material operation; or

(D) any federal or state law prohibiting unfair trade practices or conduct in restraint of competition, including but not limited to the Sherman Anti-Trust Act (15 U.S.C. §1, §2), the Clayton Act (15 U.S.C. §18), the Robinson Patman Act (15 U.S.C. §12 et seq.), the Federal Trade Commission Act (15 U.S.C. §45 et seq.), and sections 340 et seq. of the general business law or an equivalent offense under the laws of any other jurisdiction; or

3. the commissioner has determined, after consideration of the results of an investigation conducted pursuant to this section, that the applicant or permittee has operated the business for which a permit is required by section 16–130 of this chapter in a manner inconsistent with the provisions of the federal or state laws prohibiting



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unfair trade practices or conduct in restraint of competition set forth in subparagraph (D) of paragraph two of this subdivision; or

4. the applicant or permittee has violated or failed to comply with any of the conditions for issuance of such permit as provided in this chapter or any of the rules promulgated hereunder.

c. Where the commissioner or the New York city trade waste commission has reasonable cause to believe that a permittee or an applicant for a permit required by section 16–130 of this code may lack good character, honesty and integrity, such applicant or permittee shall, in addition to providing the information required by the rules promulgated pursuant to paragraph two of subdivision a of section 16–131 of this code, also comply with the fingerprinting and disclosure requirements set forth in subdivision b of section 16–508 of this code and pay the fee for the investigation thereof set forth in the rules of the New York city trade waste commission. The commissioner may, after consideration of the results of such investigation, refuse for the reasons set forth in section 16–509 of this code to issue a permit required by section 16–130 of this chapter and, after notice and opportunity to be heard, may revoke or suspend any such permit upon a finding that the applicant or the permittee lacks good character, honesty and integrity.

d. For the purposes of this section, "applicant" or "permittee" shall mean the business of the applicant or permittee and any principal thereof, as the term "principal" is defined in section 16–501 of this code.

e. The New York city trade waste commission or the department of investigation may, at the request of the commissioner, assist the commissioner in any investigation conducted pursuant to this section.

**§ 16–131.2 Additional powers of the commissioner.**

In addition to any other enforcement procedures authorized by law, the commissioner shall have the powers described in this section.

a. The commissioner may order any person violating section 16–130 or 16–131 of this chapter or article one hundred fifty-seven of the New York city health code to discontinue such violation immediately.

b. 1. If the commissioner finds that premises for which a permit is required pursuant to section 16–130 of this chapter are being used either without such permit or in a manner which poses an imminent threat to the public health or safety, then the commissioner may order in writing that (a) such premises be sealed, secured and closed and/or (b) that equipment, vehicles or other personal property used on such premises be removed or sealed and secured. Upon the effective date of such order, no person shall have access to such premises and/or use such equipment except as authorized by the commissioner. Upon such effective date, authorized officers and employees of the department, the department of health and mental hygiene and the New York city police department shall act upon and enforce such order. The finding



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whether an imminent threat to the public health or safety exists shall be based on factors that include but are not limited to: (i) the quantity of solid waste, or of material listed in subparagraph (b) of paragraph one of subdivision a of section 16-130 of this chapter, that may pose a threat; (ii) the types of solid waste, or of such material listed in such subparagraph, that may pose a threat; and/or (iii) the risk of harm to the public or the environment. For the purpose of this paragraph: "sealed, secured and closed" or "sealed and secured" shall mean the use of any means available to render the premises or any part thereof, and/or any equipment, vehicles or other personal property contained therein, inaccessible or inoperable, including but not limited to the use of a padlock or cinder blocks.

2. Any equipment, vehicles or other personal property removed pursuant to an order issued under paragraph one of this subdivision may be stored in a garage, pound or other place of safety, and the owner or other person lawfully entitled to the possession of such equipment, vehicles or other personal property may be charged with the reasonable costs for removal and storage, payable prior to the release of such equipment, vehicles or other personal property. Equipment, vehicles or other personal property not reclaimed by such owner or other person within ninety days of the notification to such owner or other person that such order has been rescinded shall be deemed abandoned and may be disposed of by the department at a public auction, provided that vehicles deemed abandoned shall be disposed of in a manner consistent with section twelve hundred twenty-four of the vehicle and traffic law and that timely notice of any public auction shall be provided to any record holder of a security interest at the address for such holder set forth in any instrument recorded in the city of New York.

3. Any order to seal, secure and close premises pursuant to paragraph one of this subdivision, or to remove or seal and secure equipment, vehicles or other personal property issued pursuant to such paragraph, shall contain notice of the right to request a hearing within thirty days of delivery of such order and posting of such order pursuant to the first sentence of paragraph four of this subdivision. If a hearing is requested within such thirty day period, the order shall be effective as set forth in the determination of the commissioner. If no hearing is requested within such thirty day period the order shall be effective on the thirtieth day after such delivery and posting pursuant to such sentence. A hearing held pursuant to this paragraph shall be conducted by the department. The hearing officer shall submit recommended findings of fact and a recommended decision to the commissioner, who shall make the final findings of fact and the final determination. Notwithstanding the foregoing provisions of this paragraph, if such order is based upon a finding by the commissioner of an imminent threat to the public health or safety, such order may provide that it shall be effective immediately upon posting pursuant to the first sentence of paragraph four of this subdivision; in such case a hearing shall be held within three business days of a

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request for such hearing and a determination shall be rendered within four business days of the conclusion of such hearing.

4. Orders of the commissioner issued pursuant to this subdivision shall be served by delivery of the order to the permittee, owner or other person of suitable age and discretion in actual or apparent control of the premises, equipment, vehicles or other personal property, and shall be posted at the premises that have been sealed, secured and closed, or on or in the vicinity of the equipment, vehicles or other personal property that has been sealed and secured, or on the premises from which equipment, vehicles or other personal property has been removed. The commissioner shall ensure that notice is delivered and posted pursuant to this paragraph, and in addition shall ensure that such order is mailed to the permittee at the residence or business address for such permittee set forth in the records of the department, to the record owner of such premises, and any record mortgagee of such premises, at the address set forth in the recorded instrument and to the person designated as owner or agent of the premises or designated to receive real property tax or water bills for the premises at the address for such person contained in one of the files compiled by the department of finance for the purpose of the assessment or collection of real property taxes and water charges or in the file compiled by the department of finance from real property transfer forms filed with the city register upon the sale or transfer of real property, to the owner of such vehicles at the address for such owner set forth in the registration record maintained by the department of motor vehicles pursuant to section four hundred one of the vehicle and traffic law or for vehicles not registered in New York state, such equivalent record in the state of registration, and to any record holder of a security interest in equipment, vehicles or other personal property at the address for such holder set forth in any instrument recorded in the city of New York, and at the address for such holder set forth in any certificate of title issued by the department of motor vehicles pursuant to title ten of the vehicle and traffic law. In addition, such order shall be mailed to the owner of equipment or personal property, other than vehicles, at any address for such owner provided by the permittee or the person to whom such order is delivered pursuant to the first sentence of this paragraph.

5. Where premises have been sealed, secured and closed or equipment, vehicles, or other personal property has been sealed and secured or removed by order of the commissioner issued pursuant to paragraph one of this subdivision, the permittee, owner or other person lawfully entitled to the possession of the premises or equipment, vehicles or other personal property, may at any time provide to the commissioner assurances that the conditions which caused the issuance of such order have been corrected and will not reoccur and any necessary permit will be obtained. Upon receipt of such assurances, the commissioner shall within two business days either issue a written determination that such conditions have not been corrected, or are likely to reoccur, or, if such assurances are satisfactory, rescind such order; provided that no equipment, vehicles or other personal property shall be released after

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such rescission unless costs for removal and storage owed pursuant to paragraph two of this subdivision have been paid.

6. (a) No person shall remove or cause to be removed the seal from, or otherwise enter without the commissioner's authorization, any premises sealed by order of the commissioner issued pursuant to paragraph one of this subdivision.

(b) No person shall remove or cause to be removed the seal from, or otherwise tamper with or use, any equipment, vehicles or other personal property sealed by order of the commissioner issued pursuant to paragraph one of this subdivision.

(c) Any person who violates this paragraph shall upon conviction be guilty of a misdemeanor and be punished by a fine not to exceed twenty-five thousand dollars, or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

**§ 16-131.3 Removal or abatement of public nuisance.**

a. 1. Whenever the commissioner finds that there exists, on premises required to be permitted pursuant to section 16-130 of this chapter, a condition hazardous to public health or safety, the commissioner may declare such premises to be a public nuisance and order the permittee and/or owner to remove or abate such public nuisance as such order shall specify. It shall be the duty of such permittee and/or owner upon whom such an order has been served to remove or abate such public nuisance in the manner and in the time provided by such order.

2. For the purpose of this subdivision, the finding whether a condition hazardous to the public health or safety exists shall be based on factors that include but are not limited to: (i) the quantity of solid waste, or of material listed in subparagraph (b) of paragraph one of subdivision a of section 16-130 of this chapter, that may create a condition hazardous to the public health or safety; (ii) the types of solid waste, or of such material listed in such subparagraph, that may create such a condition; and/or (iii) the risk of harm to the public or the environment.

b. 1. An order of the commissioner issued pursuant to subdivision a of this section shall specify the work to be performed and shall fix a reasonable time for compliance which shall not be less than thirty days from the date of service of such order, or twenty days after the commissioner's determination pursuant to paragraph four of this subdivision, whichever is later. Such order shall contain a statement that upon the failure of the permittee and/or owner of such premises to comply with the commissioner's order within the stated time, the department may perform the work specified in the order or the department may apply for a court order directing such permittee and/or owner to comply with the commissioner's order or directing the department to perform the work specified in the commissioner's order. Such statement shall also indicate that if any of the work specified in the commissioner's order is performed by or on behalf of the department, the expense incurred in performing such work shall be a debt recoverable from such permittee and/or owner and a lien on the

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premises, including the land and buildings, with respect to which such order was issued.

2. Service of such order shall be made upon such permittee and/or owner by personal service or by certified mail addressed to the last known address of such permittee and/or owner or in any manner provided for service of process by article three of the civil practice law and rules. The commissioner may serve a copy of such order on any mortgagee or lienor of record in the same manner.

3. A copy of such order shall be filed with the office of the register in the county in which the premises with respect to which such order was issued are situated, provided, that in the county of Richmond, such copy shall be filed with the county clerk.

4. Within fifteen days after service of such order upon the permittee and/or owner, such permittee and/or owner or a mortgagee or lienor upon whom a copy of such order has been served may request a hearing. Such hearing shall be conducted by the department. The hearing officer shall submit recommended findings of fact and a recommended decision to the commissioner, who shall make the final findings of fact and the final determination.

c. If the permittee and/or owner fails to comply with the commissioner's order within the time fixed for compliance pursuant to subdivision b of this section, the department may perform the work specified in the order.

d. As an alternative to the remedy set forth in subdivision c of this section, if the permittee and/or owner fails to comply with the commissioner's order within the time fixed for compliance pursuant to subdivision b of this section, the commissioner may apply to any court of competent jurisdiction, upon such notice and in such manner as the court shall direct, for an order directing the permittee and/or owner to comply with the commissioner's order or directing the department to perform the work specified in the commissioner's order.

e. 1. Whenever the commissioner finds that there exists on premises declared to be a public nuisance pursuant to subdivision a of this section a condition that poses an imminent threat to the public health or safety which requires immediate remedial action, the commissioner may, in his or her discretion, order the permittee and/or owner to remove or abate such public nuisance, or direct the department to remove or abate such public nuisance, and, notwithstanding any provision of this section to the contrary, no hearing shall be required to be held before the time fixed in the order for compliance, or before the department removes or abates such public nuisance, and the time for compliance provided in paragraph one of subdivision b of this section shall not apply to an order issued pursuant to this subdivision. Notice of an order or direction issued pursuant to this subdivision shall be served in the manner prescribed in paragraph two of subdivision b of this section, provided, that if the commissioner determines that service in such manner would result in delay prejudicial to the public health or safety, then the commissioner may serve such order or direction by delivery

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of a copy thereof to a person of suitable age and discretion in actual or apparent control of the premises to which it relates, or, if service cannot be made in such manner, by copy posted upon the premises to which it relates. An order or direction served in the manner prescribed in this subdivision shall take effect when delivered or when posted. After such order or direction takes effect, the commissioner shall serve such order or direction in the manner prescribed in paragraph two of subdivision b of this section. Such additional service shall include notice of the earlier service of such order or direction.

2. Notwithstanding any other provision of this section, if an order or direction is issued pursuant to paragraph one of this subdivision, a hearing shall be held within three business days of a request for such hearing and a determination shall be rendered within four business days of the conclusion of such hearing. Such hearing shall be conducted by the department. The hearing officer shall submit recommended findings of fact and a recommended decision to the commissioner, who shall make the final findings of fact and the final determination.

3. For the purpose of this subdivision, the finding whether an imminent threat to the public health or safety exists shall be based on factors that include but are not limited to: (i) the quantity of solid waste, or of material listed in subparagraph (b) of paragraph one of subdivision a of section 16-130 of this chapter, that may pose a threat; (ii) the types of solid waste, or of such material listed in such subparagraph, that may pose a threat; and/or (iii) the risk of harm to the public or the environment.

f. The commissioner may request the assistance of the department of health or any city, state or federal agency to perform work on its behalf pursuant to this section.

g. 1. The expense of the department with respect to any work performed by or on behalf of the department pursuant to subdivisions c, d and e of this section shall be a debt recoverable from the permittee and/or owner and a lien upon the premises, including the land and buildings, with respect to which such work was performed.

2. The department shall keep a record of all work performed by or on behalf of the department. Such records shall be accessible to the public during business hours. Within thirty days after the issuance of a purchase or work order for such work, such order shall be entered on the records of the department. Such entry shall constitute notice to all parties.

3. All such expenses shall constitute a lien upon the premises when the amount thereof shall have been definitely computed as a statement of account by the department and the department shall cause to be filed in the office of the city collector an entry of the account stated in the book in which such charges against the premises are to be entered. Such lien shall have a priority over all other liens and encumbrances on the premises except for the lien of taxes and assessments. However, no lien created pursuant to this section shall be enforced against a subsequent purchaser in good faith or mortgagee in good faith unless such transaction occurred after the date of entry of a



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purchase or work order on the records of the department pursuant to paragraph two of this subdivision.

4. A notice thereof stating the amount due and the nature of the charge shall be mailed by the city collector within five days after such entry to the last known address of the person whose name appears on the records in the office of the city collector as being the owner or agent or as the person designated by the owner to receive tax bills or, where no name appears, to the premises, addressed to either the owner or the agent. Such notice shall have stamped or printed thereon a reference to this section.

5. If such charge is not paid within thirty days from the date of entry, it shall be the duty of the city collector to receive interest thereon at the rate of interest applicable to such property for a delinquent tax on real property to be calculated to the date of payment from the date of entry.

6. Such charge and the interest thereon shall continue to be, until paid, a lien on the premises. Such charge and interest may be collected and the lien thereof may be foreclosed in the manner provided by law for the collection and foreclosure of taxes, sewer rents, sewer surcharges and water charges due and payable to the city and the provisions of chapter four of title eleven of the code shall apply to such charges and the interest thereon and the lien thereof.

7. (a) In any proceedings to enforce or discharge the lien, the validity of the lien shall not be subject to challenge based on (i) the lawfulness of the work done; or (ii) the propriety and accuracy of the items of expenses for which a lien is claimed, except as provided in this paragraph.

(b) No such challenge may be made except by (i) the owner of the property, or (ii) a mortgagee or lienor whose mortgage or lien would but for the provisions of this section have priority over the department's lien.

(c) An issue specified in subparagraph (a) which was decided or could have been contested in a prior court proceeding to secure a court order pursuant to subdivision d of this section shall not be open to reexamination, but if any mortgagee or lienor of record was not served with an order of the commissioner pursuant to paragraph two of subdivision b and with notice of such proceeding, his or her mortgage or lien shall have the same priority over the lien of the department that it would have had but for the provisions of this section.

8. In addition to establishing a lien, the department may recover such expenses and interest by bringing an action against the permittee and/or owner. The institution of such action shall not suspend or bar the right to pursue any other remedy provided by law for the recovery of such debt.

h. Nothing contained in this section shall be construed to restrict authority to provide for the abatement of a public nuisance conferred upon any agency of the city by any other provision of law.

i. For purposes of this section, "owner" means a person having title to any premises or structure; a tenant, lessee or occupant; a mortgagee or vendee in possession; a



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trustee in bankruptcy; a receiver or any other person having legal ownership or control of any premises or structure.

§ 16–131.4 **Impoundment and forfeiture.**

a. Any equipment, vehicles or other personal property that has been used or is being used to violate the provisions of section 16–130, 16–131, 16–131.2 or 16–131.3 of this chapter or article one hundred fifty-seven of the New York city health code may be impounded by the department pending forfeiture pursuant to the provisions of this section. Such equipment, vehicles or other personal property shall be released by the end of the following business day unless the department ascertains either (i) that the owner of the premises upon which the equipment, vehicles or other personal property has been or is being used has not obtained a permit required by section 16–130 of this chapter, (ii) that the owner has been convicted of or found liable for a violation of section 16–130, 16–131, 16–131.2 or 16–131.3 of this chapter, or article one hundred fifty-seven of the New York city health code, in a civil or criminal judicial proceeding or in a proceeding before an agency of competent jurisdiction and such violation was committed within eighteen months prior to the violation of law for which such equipment, vehicles or other personal property was impounded, or (iii) that the alleged violation of such sections or article for which such equipment, vehicles or other personal property was impounded involves the unlawful handling, processing, transportation, disposal or storage of a material identified as a hazardous waste or an acute hazardous waste in regulations promulgated pursuant to section 27–0903 of the environmental conservation law.

b. Notice of impoundment and intended forfeiture shall be served together with the notice of the violation of law for which equipment, vehicles or other personal property was impounded. Such notice shall contain notice of the right to request a hearing before the department with respect to whether there is reasonable cause to believe that such equipment, vehicles or other personal property will be subject to forfeiture; a hearing shall be provided within three business days of such request, and a determination shall be rendered within four business days of the conclusion of such hearing. The hearing officer shall submit recommended findings of fact and a recommended decision to the commissioner, who shall make the final findings of fact and the final determination. If the commissioner determines that there is not reasonable cause to believe that such equipment, vehicles or other personal property will be subject to forfeiture, the department shall release such equipment, vehicles or other personal property, and no charges or fees shall be imposed as a condition of such release. If the commissioner determines that there is reasonable cause to believe that such equipment, vehicles or other personal property will be subject to forfeiture, the department may retain such equipment, vehicles or other personal property pending forfeiture pursuant to the provisions of this section. If after adjudication of the violation of law for which such equipment, vehicles or other personal property

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was impounded the court or agency of competent jurisdiction finds the respondent not guilty of or not liable for such violation, such equipment, vehicles or other personal property shall be released forthwith, and no charges or fees shall be imposed as a condition of such release. If after adjudication of such violation of law, the court or agency of competent jurisdiction finds the respondent guilty of or liable for such violation, then upon demand of the respondent the department shall either release such equipment, vehicles or other personal property upon payment of all outstanding fines and civil penalties, and removal charges and storage fees, or commence a forfeiture proceeding pursuant to this section within ten days after such demand.

c. In addition to any other penalties provided in this section, the interest of an owner in any equipment, vehicles or other personal property impounded pursuant to subdivision a of this section shall be subject to forfeiture upon notice and judicial determination thereof if such owner either (i) has not obtained a permit required by section 16-130 of this chapter and has been convicted of or found liable for a violation of section 16-130, 16-131, 16-131.2, or 16-131.3 of this chapter, or article one hundred fifty-seven of the New York city health code, in a civil or criminal judicial proceeding or in a proceeding before an agency of competent jurisdiction, (ii) has been convicted of or found liable for a violation of one of such sections, or such article, two or more times, in a civil or criminal judicial proceeding or in a proceeding before such agency, both of which violations were committed within an eighteen month period, or (iii) has been convicted of or found liable for a violation of one of such sections or such article in a civil or criminal judicial proceeding or in a proceeding before such agency where such violation involved the unlawful handling, processing, transportation, disposal or storage of a material identified as a hazardous waste or an acute hazardous waste in regulations promulgated pursuant to section 27-0903 of the environmental conservation law.

d. Except as hereinafter provided, the city agency having custody of equipment, vehicles or other personal property, after judicial determination of forfeiture, shall no sooner than thirty days after such determination upon a notice of at least five days, sell such forfeited equipment, vehicles or other personal property at public sale, provided that no sooner than thirty days after judicial determination of forfeiture or the date of final determination of a claim asserted pursuant to this subdivision, whichever is later, the city may instead convert such equipment, vehicles or other personal property to its own use. Any person, other than an owner whose interest is forfeited pursuant to this section, who establishes a right of ownership in equipment, vehicles or other personal property, including a part ownership or security interest, shall be entitled to delivery of the equipment, vehicles or other personal property if such person:

1. redeems the ownership interest which was subject to forfeiture by payment to the city of the value thereof; and

2. pays the reasonable expenses of the safekeeping of the vehicle between the time of seizure and such redemption; and

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3. asserts a claim within thirty days after judicial determination of forfeiture.

Notwithstanding the foregoing provisions establishment of a claim shall not entitle such person to delivery if the city establishes that the activity in violation of law for which the equipment, vehicles or other property was seized was expressly or impliedly permitted by such person.

e. For purposes of this section, "owner" means a person, other than a holder of a security interest, having the property in or title to equipment, vehicles or other personal property, including but not limited to a person entitled to use and possession of equipment, vehicles or other personal property subject to a security interest in another person and also includes any lessee or bailee having exclusive use thereof.

**§ 16-131.5 Inquiries and subpoena power.**

The commissioner shall have the power to conduct such inquiries as may assist him or her in the performance of the functions of the department pursuant to sections 16-117.1, 16-120.1, 16-119, 16-130, 16-131, 16-131.1, 16-131.2, 16-131.3, 16-131.4 or 16-133 of this chapter and for such purpose shall have subpoena power to compel the attendance of witnesses, to administer oaths, examine witnesses and to compel the production of books, papers and documents.

**§ 16-132 Lease of advertising space on litter baskets.**

Notwithstanding any other provision of local law, the commissioner shall have the power, subject to the approval of the board of estimate, to lease, rent or otherwise grant advertising space to any person on any basket, container or receptacle placed in a public place by the department or its authorized agent for the public disposal of litter and to collect rentals, fees, charges or accept any other consideration for the lease, rental or other grant of such advertising space.

**§ 16-133 Enforcement.**

a. 1. Any person who violates any provision of section 16-129, 16-130, 16-131, 16-131.2, 16-131.3 or 16-131.5 of this chapter, or article one hundred fifty-seven of the New York city health code, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed twenty-five thousand dollars, or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

2. In addition to any other penalties provided under paragraph one of this subdivision, any violation of section 16-129, 16-130, 16-131, 16-131.2, 16-131.3 or 16-131.5 of this chapter, or article one hundred fifty-seven of the New York city health code, shall be punishable by a civil penalty of not less than twenty-five hundred dollars nor more than ten thousand dollars for the first violation, not less than five thousand nor more than ten thousand dollars for the second violation committed in a period of three years, and ten thousand dollars for the third and any subsequent

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violation committed in such period. Every owner of premises or of equipment, vehicles or other personal property shall be punishable by a civil penalty of not less than twenty-five hundred dollars nor more than ten thousand dollars for the first violation, not less than five thousand nor more than ten thousand dollars for the second violation committed in a period of three years, and ten thousand dollars for the third and any subsequent violation committed in such period by any person using or operating the same, in the business of such owner or otherwise, with the permission, express or implied, of such owner. In the case of a continuing violation, every day's continuance thereof may be deemed to be a separate and distinct violation. Civil penalties shall be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board, provided however that civil penalties for violations of article one hundred fifty-seven of the New York city health code may only be recovered as provided by law for violations of the New York city health code. As used in this paragraph, "owner" means a person, other than a holder of a security interest, having the property in or title to premises or equipment, vehicles or other personal property, including but not limited to a person entitled to use and possession of premises or equipment, vehicles or other personal property subject to a security interest in another person and also includes any lessee or bailee having exclusive use thereof.

b. 1. Any person who violates any provision of section 16-117 of this chapter shall be guilty of a violation, and upon conviction thereof shall be punished by a fine of not less than two hundred fifty dollars nor more than five hundred dollars, or by imprisonment for a term of not more than fifteen days, or by both such fine and imprisonment.

2. In addition to any other penalties provided under paragraph one of this subdivision, any violation of section 16-117 of this chapter shall be punishable by a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars. Civil penalties shall be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board.

c. The commissioner shall have the power to issue notices of violation for violations of article one hundred fifty-seven of the New York city health code and such notices of violation shall be returnable as provided by law for violations of the New York city health code.

d. The commissioner of health shall have the power to issue notices of violation for violations of sections 16-130 and 16-131 of this chapter, and such notices of violation shall be returnable in a civil action brought in the name of the commissioner of health or in a proceeding before the environmental control board.

e. Nothing contained in this section shall be construed to restrict existing authority of any agency to enforce any other provision of law, including but not limited to any provision of the New York city health code.

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**§ 16-134 Comprehensive study of commercial solid waste management system required.**

a. 1. "Long haul transport vehicle" shall mean any motor vehicle used to remove solid waste or other material from a putrescible or non-putrescible solid waste transfer station for final disposal, reuse or recycling.

2. "Private carter" shall mean any individual or business entity required to obtain a license from the trade waste commission pursuant to subdivision a of section 16-505 of this title.

3. "Trade waste commission" shall mean the New York city trade waste commission as established by section 16-502 of this title.

b. The department, in consultation with the trade waste commission, shall enter into one or more contracts for the performance of a comprehensive study of the existing commercial solid waste management system within the city of New York. In performing the study, the department and/or the contractor or contractors shall solicit and consider the views of elected officials, the citywide recycling advisory board, the borough solid waste advisory boards and the public, including residents of affected communities, environmental advocacy organizations, transfer station operators, private carters, business entities and academicians, and respond to substantive issues raised. The study shall include, but need not be limited to, an analysis of the following.

1. the effectiveness of procedures employed and the criteria applied by the department for the issuance and renewal of permits for the operation of putrescible and non-putrescible solid waste transfer stations in minimizing potential adverse environmental economic and public health impacts on the communities in which such transfer stations are located by examining such issues as (i) the effectiveness of the criteria applied by the department to the siting of putrescible and non-putrescible solid waste transfer stations, including the aggregate effect of the geographic proximity of solid waste transfer stations to each other and (ii) the scope and effectiveness of the operational restrictions imposed upon putrescible and non-putrescible solid waste transfer stations including the hours of operation and any performance standards established in the zoning resolution of the city of New York;

2. the manner in which all applicable laws, rules and regulations relating to the operation of putrescible and non-putrescible solid waste transfer stations, private carters and long haul transport vehicles are enforced, including who should be responsible for such enforcement and the effectiveness of such enforcement in obtaining compliance with such laws, rules and regulations and in minimizing potential environmental economic and public health impacts and an analysis of rules relating to routes for transporting material to or from such transfer stations;

3. the means and potential effects of limiting the number and capacity of putrescible and non-putrescible solid waste transfer stations in the city; 4. the size and type of vehicles that should be authorized to transport solid waste to or from



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putrescible and non-putrescible solid waste transfer stations and fuel-type requirements for such vehicles;

5. whether putrescible and non-putrescible solid waste transfer stations and city-owned marine transfer stations should receive and process both residential and commercial solid waste and the options for transporting such solid waste to and from such transfer stations, including an analysis of potential environmental, economic and public health impacts; and

6. potential environmental, economic and public health impacts on communities in which large numbers of privately-owned putrescible and non- putrescible solid waste transfer stations are located such as, but not limited to, potential impacts related to air quality, water quality, odors, traffic congestion and noise.

c. The study required by subdivision b of this section, and a report containing a detailed analysis of the findings of such study, as well as recommendations based on such analysis and findings, shall be completed no later than eighteen months after registration of the consultant contract and at least two months before the next draft comprehensive solid waste management plan is submitted to the council or the New York state department of environmental conservation. Such report shall be submitted to the mayor and the council immediately upon its completion. A preliminary report containing data necessary to perform the analyses described in subdivision b of this section shall be submitted by the department to the mayor and the council during or before the last quarter of calendar year two thousand one.

d. Such study shall be performed and such report shall be prepared in a manner designed to assist in the preparation of the next comprehensive solid waste management plan for the city of New York required by section 27-0107 of the New York state environmental conservation law.

**§ 16-140 Solid Waste Management Plan.**

(a) No final solid waste management plan for the city shall be submitted pursuant to article twenty-seven of the environmental conservation law unless such submission has been authorized by the council by local law, except as provided in subdivisions c, d and e of this section.

(b) A draft solid waste management plan for the city which is to be submitted pursuant to article twenty-seven of the environmental conservation law shall be presented to the council at or before the time of such submission, but in no event later than the thirty-first day of March, nineteen hundred ninety-two. Any comments by the New York State department of environmental conservation shall be transmitted to the council immediately upon their receipt.

(c) A proposed final solid waste management plan shall be presented to the council within forty-five days after the receipt of comments by the New York State department of environmental conservation but in no event later than the twenty-sixth day of June, nineteen hundred ninety-two. The council shall, not later than the thirty-



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first day of August, nineteen hundred ninety-two, pass a local law which either grants or denies the authority for the submission of a proposed final solid waste management plan for the city.

(d) Notwithstanding the provisions of subdivision c of this section, in the event that on or before the tenth day of July, nineteen hundred ninety-two, the council passes a local law which denies the authority for the submission of a proposed final solid waste management plan for the city pursuant to article twenty-seven of the environmental conservation law and the mayor disapproves such law, such proposed plan shall not be submitted until either two-thirds of all the members of the council have voted whether to repass such local law, or the period within which such repassing may occur has expired, pursuant to section thirty-seven of the charter. In the event that such local law is repassed by a two-thirds vote of all the members of the council, such proposed plan shall not be submitted.

(e) Notwithstanding the provisions of subdivisions a and c of this section, in the event the council does not act in accordance with subdivision c of this section, such proposed final solid waste management plan may be submitted pursuant to article twenty-seven of the environmental conservation law.

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**Chapter 2: Solid Waste Management**

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**§ 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 regulation 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.

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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;

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(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 or 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.

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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.

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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

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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.



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**§ 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.

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**Chapter 3: Solid Waste Recycling**

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**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

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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:

"Architectural paint" means interior and exterior architectural coatings, including paints and stains purchased for commercial or residential use, but does not include architectural coatings purchased for industrial use or for use in the manufacture of products.

"Compostable waste" means any material found in the waste stream that can be broken down into, or otherwise become part of, usable compost, such as food scraps, soiled paper, and plant trimmings. Such term may also include disposable plastic food service ware and bags that meet the american society for the testing of materials standard specification for compostable plastics, but shall not include liquids and textiles.

"Department-managed solid waste" means all solid waste that the department and its contractors collect, all solid waste that the department receives for free disposal, all solid waste collected for recycling or reuse through special events or programs promoted, operated or funded by the department, and all solid waste diverted from collection by the department that is accepted through non-department infrastructure for recycling or reuse and counted towards the department's recycling goals as set forth in subdivision h of section 16-305 of this chapter.

"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.

"Household and institutional compostable waste" means any compostable waste, excluding yard waste, in or otherwise destined for any waste stream collected by the department.

"Household hazardous waste" means:

1. any household waste that is ignitable, corrosive, reactive or toxic and that, but for its point of generation, would be a hazardous waste under part three hundred seventy-one of title six of the New York code, rules and regulations, as may be amended from time to time, and includes all pesticides, as defined in article thirty-three of the environmental conservation law, and hazardous waste, as defined in section 27-0901 of the environmental conservation law, as such laws may be amended from time to time; and
2. any other household waste that the commissioner determines, by rule, to be hazardous and require special handling.

"Post-collection separation" means the dividing of solid waste into some or all of its component parts after the point of collection.

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"Post-consumer material" means 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.

"Private carter" means any person required to be licensed or permitted pursuant to chapter one of title sixteen-A of this code.

"Publicly accessible textile drop-off bin" means any enclosed container that allows for members of the public to deposit textiles into such container for reuse or recycling in accordance with the textile reuse and recycling program established by section 16-310.1 of this chapter.

"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, yard waste and any other solid waste required to be recycled or composted pursuant to this chapter, solid waste collected for recycling or reuse through special events or programs promoted, operated or funded by the department, and solid waste accepted through non-department infrastructure for recycling or reuse.

"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.

"Recycling center" means any facility operated to facilitate the separation, collection, processing or marketing of recyclable materials for reuse or sale.

"Recycling district" means any borough or smaller geographic area the commissioner deems appropriate for the purpose of implementing this chapter.

"Rigid plastic container" means any plastic container having a semi-flexible or inflexible finite shape or form that is capable of maintaining its shape while holding other products and is designed to hold food, beverages, and consumer household products, including, but not limited to, the following types of containers: plastic bottles, plastic jugs, plastic tubs, plastic trays, plastic cups, plastic buckets, plastic crates and plastic flower pots, and any other rigid plastic material that the commissioner may designate by rule, but not including containers made of polystyrene foam.

"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

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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 (A) 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 or (B) food waste;

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.

"Source separation" means the dividing of solid waste into some or all of its component parts at the point of generation.

"Yard waste" means leaves, grass clippings, garden debris, and 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. [Repealed]**

§ 16-305 **Recycling of department-managed solid waste.**

a. 1. The following recycling percentage goals are established for the recycling of department-managed solid waste:

i. by July first, two thousand eleven, sixteen percent of department-managed solid waste;

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- ii. by July first, two thousand thirteen, nineteen percent of department-managed solid waste;
- iii. by July first, two thousand fourteen, twenty-one percent of department-managed solid waste;
- iv. by July first, two thousand sixteen, twenty-four percent of department-managed solid waste;
- v. by July first, two thousand eighteen, twenty-seven percent of department-managed solid waste;
- vi. by July first, two thousand nineteen, thirty percent of department-managed solid waste; and
- vii. by July first, two thousand twenty, thirty-three percent of department-managed solid waste.

2. In addition, the following recycling goals are established for curbside and containerized waste collected by the department:

- i. By July first, two thousand eleven, sixteen percent of curbside and containerized waste collected by the department;
- ii. By July first, two thousand thirteen, eighteen percent of curbside and containerized waste collected by the department;
- iii. By July first, two thousand fourteen, nineteen percent of curbside and containerized waste collected by the department;
- iv. By July first, two thousand sixteen, twenty-one percent of curbside and containerized waste collected by the department;
- v. By July first, two thousand eighteen, twenty-three percent of curbside and containerized waste collected by the department;
- vi. By July first, two thousand nineteen, twenty-four percent of curbside and containerized waste collected by the department; and
- vii. by July first, two thousand twenty, twenty-five percent of curbside and containerized waste collected by the department.

b. The commissioner shall adopt and implement rules designating at least six recyclable materials, including plastics to the extent required in subdivision c of this section and yard waste to the extent required in section 16-308 of this chapter, contained in department-managed solid waste and requiring households to source separate such designated materials.

c. 1. Prior to commencing delivery of department-managed recyclable materials to the designated recycling processing facility at the South Brooklyn Marine Terminal, the commissioner shall designate as recyclable materials, and require the source separation of, rigid plastic containers.

2. If the commissioner, in his or her discretion, determines that the cost to the city of recycling rigid plastic containers required to be designated as recyclable materials pursuant to paragraph one of this subdivision is not reasonable in comparison with the cost of recycling only metal, glass and plastic that have been designated as recyclable

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materials as of the effective date of the local law that added this subdivision, the commissioner shall within ten business days notify and provide documentation to the council of the factors relied upon to make such determination and shall not be required to designate any such rigid plastic containers as recyclable materials.

3. If the commissioner determines that the cost to the city of recycling rigid plastic containers is not reasonable in comparison with the cost of recycling only metal, glass and plastic that have been designated as recyclable materials as of the effective date of the local law that added this subdivision, the commissioner shall annually reevaluate the cost to the city of designating such rigid plastic containers as recyclable materials, and shall annually make a new determination as to whether the cost of designating such containers as recyclable materials is reasonable in comparison with the cost of recycling only metal, glass and plastic that have been designated as recyclable materials as of the effective date of the local law that added this subdivision and shall report such evaluations to the council as part of the department's annual recycling report required pursuant to subdivision k of section 16-305 of this chapter. The department shall not promulgate rules designating rigid plastic containers as recyclable materials, and need not conduct outreach or education relating thereto if, pursuant to paragraph two of this subdivision, the commissioner determines that the cost to the city of recycling rigid plastic containers is not reasonable in comparison with the cost of recycling only metal, glass and plastic that have been designated as recyclable materials as of the effective date of the local law that added this subdivision.

4. Immediately following the promulgation of rules designating rigid plastic containers as recyclable materials, the department shall undertake outreach and education, in cooperation with any other agency or entity designated for that purpose by the commissioner, to inform residents of such new designation and to provide instruction on compliance with the requirements of this subdivision and the rules promulgated pursuant thereto.

d. The commissioner shall adopt and implement rules 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. Under such rules, no person shall be liable for incorrectly placing a non-designated rigid plastic container in the recycling stream.

e. Where the department provides solid waste collection services to a building containing at least four and no more than eight dwelling units, the commissioner shall adopt and implement rules requiring the owner, net lessee or person in charge of such building to:

1. provide for the residents, where practicable, a designated area and, where appropriate, containers in which to store the source separated or other designated recyclable materials to be collected by the department; and



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2. inform all residents of the requirements of this chapter and the rules promulgated pursuant thereto by, at a minimum, posting instructions on source separation in or near the designated recycling area and making available to each resident at the inception of a lease, where applicable, a department-issued guide to recycling, which shall be made available to the owner, net lessee or person in charge of such building by the department pursuant to section 16–315 of this chapter in print form or on the department's website, or in an alternative guide containing similar information to the guide required by section 16–315 of this chapter.

If reasonably accessible space for the storage of source separated or other designated recyclable materials is not available in such building, and such space is available behind the building's property line, such space behind the property line may be designated as the area for the storage of source separated or other designated recyclable materials. If no such space is available, the owner, net lessee or person in charge of such building shall post instructions on recycling and source separation in or near a designated area that is visible to all residents in the building.

With respect to solid waste generated by households in the aforesaid buildings, the obligations of an owner, net lessee or person in charge of such building under this chapter shall be limited to those set forth in this subdivision and subdivisions d and g of this section or rules promulgated pursuant to such subdivisions.

f. Where the department provides solid waste collection services to a building containing nine or more dwelling units, the commissioner shall adopt and implement rules 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 store the source separated or other designated recyclable materials to be collected by the department;

2. inform all residents of the requirements of this chapter and the rules promulgated pursuant thereto by, at a minimum, posting instructions on source separation in or near the designated recycling area, and making available to each resident at the inception of a lease, a department-issued guide to recycling, which shall be made available to the owner, net lessee or person in charge of such building by the department pursuant to section 16–315 of this chapter in print form or on the department's website, or in an alternative guide containing similar information to the guide required by section 16–315 of this chapter; 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, net lessee or person in charge of such building under this chapter shall be limited to those set forth in this subdivision and subdivisions d and g of this section or rules promulgated pursuant to such subdivisions.

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g. The commissioner shall adopt and implement rules for any building containing four 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 rules 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 of such building has complied with this subdivision, subdivision d of this section and, as applicable, subdivision e or subdivision f of this section or rules promulgated pursuant to such subdivisions 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 may 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.

h. 1. In calculating the extent to which the department has met the recycling percentage goals set forth in paragraph one of subdivision a of this section, the department shall include in its calculations all curbside and institutional recycling it collects, including materials collected from households, schools, not-for-profit institutions and city agencies, and all recyclable materials collected as part of the public space recycling program pursuant to section 16-310 of this chapter, and may include yard waste collected pursuant to section 16-308 of this chapter and any other material collected for composting pursuant to this chapter, Christmas trees collected pursuant to section 16-309 of this chapter, clothing and textiles donated or collected pursuant to section 16-310.1 of this chapter, household hazardous waste diverted pursuant to section 16-310.3 of this chapter, rechargeable batteries collected pursuant to chapter four of this title, beverage containers returned within the city pursuant to title ten of article twenty-seven of the environmental conservation law, electronic waste collected within the city or otherwise diverted from the city's waste stream, including such waste collected or diverted pursuant to title twenty-six of article twenty-seven of the environmental conservation law, and plastic bags collected within the city or otherwise diverted from the city's waste stream, including such plastic bags collected or diverted pursuant to title twenty seven of article twenty seven of the environmental conservation law. Only recyclable materials specifically enumerated in this paragraph shall be counted for purposes of calculating the extent to which the department has met the recycling percentage goals set forth in paragraph one of subdivision a of this section.

2. In calculating the extent to which the department has met the recycling percentage goals set forth in paragraph two of subdivision a of this section, the

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department shall include in its calculations all curbside and institutional recycling it collects, including materials collected from households, schools, not-for-profit institutions and city agencies, and all recyclable materials collected as part of the public space recycling program pursuant to section 16–310 of this chapter.

3. In calculating the extent to which the department has met the recycling percentage goals set forth in paragraphs one and two of subdivision a of this section, the department shall not include recycling of abandoned vehicles or recycling from lot cleaning operations, asphalt and mill tailings, construction and demolition debris or other commercial recycling programs. The commissioner shall not designate any such materials as recyclable materials under this section for purposes of calculating the extent to which the department has met such recycling percentage goals.

4. In calculating the percent of the department-managed solid waste stream recycled in connection with the percentage goals set forth in paragraph one of subdivision a of this section, the department shall ensure that any quantity of material counted as recycled must be fully included in the calculation of the city's total department-managed solid waste stream.

5. All data used to make calculations pursuant to paragraphs one and two of this subdivision shall be made available on the department's website in raw form disaggregated by material type and using a non-proprietary format on a monthly basis, or, if such data is not generated by the department, within one month from the date that the department receives reports of such information.

i. In the event that the department does not meet any recycling percentage goal set forth in paragraphs one or two of subdivision a of this section by the dates specified therein, the department shall, within sixty days of the date for meeting such goal, expand recycling outreach and education and shall take such other appropriate measures including, but not limited to, directing such outreach and education to the neighborhoods and community districts in which recycling diversion rates fall below the median city recycling diversion rate and consulting with the council to explore additional measures to meet the recycling percentage goals set forth in such subdivision. In expanding recycling outreach and education, the department may work with other agencies or entities designated for that purpose by the commissioner.

j. In the event that the department is unable to achieve two consecutive recycling percentage goals set forth in paragraphs one and two of subdivision a of this section by the dates specified therein, in addition to the requirements of subdivision i of this section, the commissioner shall retain a special advisor, who shall be selected by the mayor and the speaker, provided that the commissioner need not retain such special advisor more than once every three years. Within one hundred twenty days of such retention, such adviser shall submit a report to the mayor and council recommending additional measures that may be taken by the city following such report in order to meet such recycling percentage goals.

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k. 1. Beginning on March first, two thousand eleven and annually thereafter, the department shall submit to the mayor and the council and make available on its website, an annual department recycling report which shall include provisions addressing: the extent to which the department has met the recycling percentage goals set forth in paragraphs one and two of subdivision a of this section and including a description of the methodology used to arrive at its recycling percentages; city agency recycling pursuant to section 16–307 of this chapter; department of education recycling pursuant to section 16–307.1 of this chapter; yard waste composting pursuant to section 16–308 of this chapter; Christmas tree composting or recycling pursuant to section 16–309 of this chapter; the public space recycling program pursuant to section 16–310 of this chapter; the clothing and textiles collection program pursuant to section 16–310.1 of this chapter; household hazardous waste collected pursuant to section 16–310.3 of this chapter or otherwise collected by the department; and any composting capacity determinations or food waste composting pilot programs pursuant to section 16–316.2 of this chapter.

2. Beginning the year that the department commences delivering department-managed recyclable materials to a designated recycling processing facility, the department shall annually report to the council the cost to the city of designating as recyclable materials any rigid plastic containers not previously designated by the commissioner pursuant to subdivision c of this section, and the then-current market value of any such materials.

**§ 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.

b. Effective July first, two thousand three, and notwithstanding any inconsistent provision of this chapter, the department shall be authorized, by written order of the commissioner, to implement and maintain alternate week collection of designated recyclable materials in all local service delivery districts, provided that the department may, by written order of the commissioner, provide for more frequent collection of designated recyclable materials in designated local service delivery districts. Any such written order of the commissioner implementing alternate week collection shall expire no later than March thirty-first, two thousand four.

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 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.

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**§ 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 business integrity 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 business integrity 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-



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515 of this code for violation of the provisions of chapter one of title 16-A of this code. 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.

c. The department shall complete a study of commercial recycling in the city no later than January first, two thousand twelve. Such commercial recycling study shall focus on the putrescible portion of the commercial waste stream, and shall include, but need not be limited to, the following: (i) an integration of all data on commercial waste in the city collected and transported through transfer stations and recycling processors; (ii) an assessment of current practices, operations and compliance with applicable local laws and rules, consistent with the scope of study set forth in the 2006 Solid Waste Management Plan; (iii) estimates of waste composition and recycling diversion rates from research conducted with respect to other jurisdictions; (iv) a computer-based model to measure the amount and composition of waste generated by different commercial sectors; (v) recommendations of methods to encourage waste prevention, reuse, recycling and composting for each of the commercial sectors studied, including any recommended changes to applicable law; and (vi) an assessment of the efficiency of the transportation of commercial waste within the commercial system by, among other things, mapping and monitoring routes along which commercial waste and recycling trucks travel, including long-haul carriers within and outside the city. Following completion of the commercial recycling study, the commissioner shall determine whether any additional studies are necessary in order to improve commercial recycling practices in the city and shall promptly report such determination to the mayor and the council.

**§ 16-307 City agency waste.**

a. The commissioner shall adopt, amend and implement rules, as necessary, governing the source separation or post-collection separation, collection, processing, marketing, and sale of designated recyclable materials including, but not limited to, designated metal, glass, plastic and paper generated by any agency, as such term is defined in section 1-112 of the code.

b. Every agency shall, no later than July first, two thousand eleven, prepare and submit to the commissioner for approval, a waste prevention, reuse and recycling plan. Such plan shall provide for the source separation of designated metal, glass, plastic and paper, and such other designated recyclable materials as the commissioner deems appropriate, in all offices and buildings occupied by agencies that receive collection service from the department and, to the extent practicable, in those that receive private carter collection. Such plans shall provide for the source separation of designated recyclable materials in the lobbies of such offices or buildings that receive



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department collection, unless the placement of bins for the source separation of designated recyclable materials would be in violation of any other provision of law, and, to the extent practicable, in the lobbies of such offices or buildings that receive private carter collection. Each agency shall designate a lead recycling or sustainability coordinator to oversee implementation of such plans. If an agency has offices in more than one city-owned building, then such agency shall designate one assistant coordinator for each building in which such agency has offices, except the building in which the lead coordinator has his or her office, to assist the agency's lead coordinator.

c. On or before July first, two thousand twelve and annually thereafter, every lead recycling or sustainability coordinator shall submit a report to the head of his or her respective agency and to the commissioner, summarizing actions taken to implement the waste prevention, reuse and recycling plan for the previous twelve-month reporting period, proposed actions to be taken to implement such plan, and updates or changes to any information included in such plan. The department shall consolidate the information contained in all reports prepared pursuant to this subdivision and include such information as part of the department's annual recycling report required pursuant to subdivision k of section 16-305 of this chapter.

**§ 16-307.1 School recycling.**

a. The chancellor of the department of education shall designate a sustainability director for the department of education, who shall be responsible for (i) setting policies, guidelines and goals to promote waste prevention, reuse and recycling practices, and (ii) coordinating the department of education's waste prevention, reuse and recycling program in all school buildings, charter school locations, office buildings, and any other facilities under the jurisdiction of the department of education that receive department collection service.

b. The chancellor of the department of education shall promulgate such rules as may be necessary to require that each school building, charter school location, office building, and any other facility under the jurisdiction of the department of education that receives department collection service, develop a site-specific waste prevention, reuse and recycling plan. Each such plan shall be implemented by January first, two thousand eleven. Such plan shall include, at a minimum, a requirement that each classroom maintain a separate receptacle, container or bin for the collection of designated recyclable paper, and that such receptacle, container or bin be appropriately labeled or decorated with recycling information. Such plan shall also provide that separate receptacles, containers or bins for the collection of designated metal, glass and plastic be appropriately labeled or decorated with recycling information and be placed as close as practicable to school entrances, unless the placement of such bins would be in violation of any other provision of law, and in locations within schools where food and beverages are routinely consumed.

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c. The principal of each school under the jurisdiction of the department of education shall designate a sustainability coordinator for his or her school who shall be responsible for implementing his or her school's waste prevention, reuse and recycling plan. The principal or the sustainability coordinator shall complete, and submit to the department of education sustainability director and to the chancellor, an annual survey regarding such school's compliance with its waste prevention, reuse and recycling plan.

d. On or before January first, two thousand twelve, the chancellor shall submit a report to the commissioner regarding compliance with the requirements of this section for the period of January first, two thousand eleven through June thirtieth, two thousand eleven, and shall submit an annual compliance report by January first of each year thereafter for the preceding July first through June thirtieth. The department shall include the chancellor's report as part of the department's annual recycling report required pursuant to subdivision k of section 16-305 of this chapter.

e. The department shall distribute a model school waste prevention, reuse and recycling plan to all primary and secondary schools not under the jurisdiction of the department of education that receive department collection service. All such primary and secondary schools shall designate a sustainability coordinator for each such school, and develop a site-specific waste prevention, reuse and recycling plan. Each such plan shall be implemented by January first, two thousand eleven. Such plan shall include, at a minimum, a requirement that each room used primarily as a classroom for students between kindergarten and the twelfth grade maintain a separate receptacle, container or bin for the collection of designated recyclable paper, and that such receptacle, container or bin be appropriately labeled or decorated with recycling information. Such plan shall also provide that separate receptacles, containers or bins for the collection of designated metal, glass and plastic be appropriately labeled or decorated with recycling information and be placed as close as practicable to school entrances, unless the placement of such bins would be in violation of any other provision of law. Such bins shall also be placed in centralized locations within such schools where food and beverages are routinely consumed, other than classrooms, such as cafeterias and lunchrooms, or, if such school lacks a cafeteria or lunchroom, in a location readily accessible to all students in such school.

**§ 16-308 Yard waste.**

a. Except as provided in subdivision b of this section, within twenty-four months of the effective date of the local law that amended this section, the commissioner shall provide for the source separation, collection and composting of department-managed 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

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composting or mulching. In addition, the commissioner shall provide for the collection and composting of yard waste generated and source separated at residential properties owned or operated by the New York city housing authority. There shall be operated by or on behalf of the department one or more yard waste composting facilities through which the department shall compost yard waste collected by or delivered to the department pursuant to this section. In order to comply with this provision, the department may utilize the services of privately-owned or operated facilities. The department shall also work in consultation with the composting facility siting task force established by the 2006 solid waste management plan to identify additional locations to site yard waste composting facilities with the goal of establishing at least one such composting facility in each borough where the department conducts yard waste composting collection.

b. Any city agency, or person under contract with a city agency, that generates a substantial amount of yard waste shall, in coordination with the department, provide for the source separation, collection and composting of such yard waste. Unless otherwise provided by law, the department shall accept for composting any city agency yard waste source separated for department collection pursuant to this subdivision.

c. Within twenty-four months of the effective date of the local law that amended this section, no landfill, waste transfer station, intermodal facility, incinerator or resource recovery facility owned, operated or used by the department shall accept truckloads of department-managed waste primarily composed of yard waste for final disposal from March 1 to July 31 and September 1 to November 30 of each year, except that composted yard waste may be used as part of the final vegetative cover for a department landfill.

d. 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 yard waste in all land maintenance activities.

e. Generators of yard waste, except those identified in subdivision f of this section, shall separate, tie, bundle, or place into paper bags or unlined rigid containers, in accordance with rules promulgated by the commissioner, any yard waste set out for collection by the department pursuant to subdivision a of this section. The commissioner shall notify all residents in districts that receive yard waste collection by the department of such pre-collection procedures, and undertake any other action necessary to effectuate the purposes of this subdivision.

f. No person engaged in a business that generates yard waste shall leave such yard waste for collection by the department, or disperse such yard waste in or about the curb or street. Any person engaged in a business that generates yard waste shall be required to collect and dispose of such yard waste at a permitted composting facility; provided, however, that if the department, by written order of the commissioner, determines that there is insufficient capacity at permitted composting facilities within

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the city of New York or within ten miles of the borough in which any such person generates yard waste, then such yard waste may be disposed of at any appropriately permitted solid waste management facility.

g. Each permitted composting facility within the city, including those operated by city agencies, shall annually report to the commissioner the amount of yard waste and any other compostable waste collected and disposed of by weight at such composting facility. All such reports shall be submitted prior to February first of each calendar year and shall contain the amount collected and disposed of for the previous calendar year. The department shall consolidate the information contained in all reports prepared pursuant to this subdivision and include such information as part of the department's annual recycling report required pursuant to subdivision k of section 16-305 of this chapter.

h. No person residing in a district where the department provides residential yard waste composting collection pursuant to subdivision a of this section shall dispose of grass clippings as regular waste for collection by the department during the period of time when the department conducts such composting collection. The department shall conduct outreach and education to inform residents within such districts of the dates when it will conduct yard waste composting collection. No person residing in a district where the department provides residential yard waste composting collection shall be held liable for a violation of this subdivision during the first year the department provides such residential yard waste composting collection.

**§ 16-309 Christmas trees.**

The commissioner shall establish and implement a curbside collection system for Christmas trees during a minimum of two weeks in January of each year and provide for the composting or recycling of the Christmas trees the department collects or receives for disposal.

**§ 16-310 Public space recycling.**

a. The department shall expand its public space recycling program by increasing the number of public space recycling receptacles for the collection of recyclable materials including, but not limited to, metal, glass, plastic and paper designated as recyclable materials by the commissioner, to a cumulative total of at least five hundred public space recycling receptacles within three years of the effective date of this section, and to a cumulative total of at least one thousand public space recycling receptacles within ten years of the effective date of this section, at public locations in the city, which shall be in or near public parks, transit hubs, or commercial locations with high-pedestrian traffic. As part of such expansion, the department shall place public space recycling receptacles in all business improvement districts that provide public litter basket maintenance. Wherever practicable, public space recycling receptacles placed pursuant to this section shall be placed adjacent to public litter baskets.

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b. Notwithstanding the provisions of subdivision a of this section, the department shall not be required to expand the public space recycling program beyond existing or newly-established collection routes that can be efficiently serviced by the department. The commissioner shall have the authority to remove any public space recycling receptacle placed pursuant to this section, provided that the department replaces any such public space recycling receptacle, within thirty days of removal, with additional public space recycling receptacles at the same or in a different location on a one-to-one basis.

c. No person responsible for removing or transporting recyclable materials placed in public space recycling receptacles shall commingle such recyclable materials with non-recyclable materials or otherwise improperly dispose of such recyclable materials.

d. The department shall report the total number of public space recycling receptacles added during the relevant reporting year, and the locations in which they were placed. Such report shall be included as part of the department's annual recycling report required pursuant to subdivision k of section 16-305 of this chapter.

e. The department may enter into sponsorship or partnership agreements with entities such as for-profit and not-for-profit corporations and district management associations established in accordance with section 25-414 of the code to further the goals of this chapter.

**§ 16-310.1 Textile reuse and recycling program.**

a. On or before January first, two thousand eleven, the department shall establish a citywide textile reuse and recycling program that shall, at a minimum, provide for the recovery of textiles by placing department-approved publicly accessible textile drop-off bins at appropriate locations on city property or property maintained by the city and organizing public textile reuse and recycling sites throughout the city that provide convenient drop-off locations for all city residents. In addition, the commissioner shall explore opportunities to work cooperatively with private entities, including, but not limited to, not-for-profit corporations and religious institutions, to promote expanded siting of publicly accessible textile drop-off bins on private property throughout the city. The department shall consider using department personnel and/or facilities in order to implement the provisions of this section.

b. No publicly accessible textile drop-off bin placed pursuant to this section shall be placed on city property or property maintained by the city, or on a public sidewalk or roadway, unless otherwise authorized by the city. No publicly accessible textile drop-off bin shall be placed on private property without the written permission of the property owner or the property owner's authorized agent. The owner or other person responsible for each such bin shall report at least every three months to the department the amount of textiles collected in such bin by weight. Each publicly accessible textile drop-off bin shall prominently display on the front and on at least one other side of the



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bin, the name, address and telephone number of the owner or other person responsible for the bin. This information shall be printed in characters that are plainly visible. In no event shall a post office box be considered an acceptable address for purposes of this subdivision.

c. The department shall report by weight the amount of textiles collected in publicly accessible textile drop-off bins located on city property or property maintained by the city, through public textile reuse and recycling sites pursuant to subdivision a of this section and in publicly accessible textile drop-off bins maintained on private property. Such report shall be included as part of the department's annual recycling report required pursuant to subdivision k of section 16-305 of this chapter.

**§ 16-310.2 Paint stewardship program.**

a. Within one year of the effective date of this section, the commissioner shall establish a voluntary paint stewardship program under which manufacturers of architectural paint, in cooperation with distributors of architectural paint and retail establishments that sell, or offer for sale, architectural paint in the city of New York, may establish a collection or other reclamation system to collect architectural paint from consumers for reuse, recycling or environmentally sound disposal.

b. The commissioner shall provide assistance or guidance to participating architectural paint manufacturers, distributors and retail establishments in developing and implementing strategies to reduce the quantity of architectural paint in the waste stream, promote the reuse of architectural paint that would otherwise be discarded and disseminate information regarding options to recycle architectural paint including, but not limited to, posting information regarding the voluntary paint stewardship program on the department's website.

**§ 16-311 Recycling outreach and education.**

a. The department shall provide instruction and materials for residential building owners, net lessees or persons in charge of such buildings, and their employees and residents, in order to improve compliance with the provisions of this chapter.

b. The commissioner shall establish a recycling education program that shall include recycling instructional workshops, training curricula and other relevant materials for residential building owners, net lessees or persons in charge of such buildings, and their employees and residents, including an internet-based recycling tutorial. Such program shall also provide instructional workshops, training curricula, and other relevant material to employees of city agencies, including a leaf and yard waste training program for employees of any such agencies that generate significant leaf and yard waste. The commissioner may utilize a private entity or not-for-profit corporation to assist with the establishment or performance of such program.

**§ 16-312 Processing recyclable materials.**



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The commissioner shall establish procedures and standards for processing recyclable materials designated pursuant to section 16–305 of this chapter 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 annually review such procedures and standards and make any changes necessary to conform to the requirements of the marketplace.

**§ 16–313 Marketing recyclable materials.**

The department shall establish procedures, standards and strategies to market the 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.

**§ 16–314 Recycling program revisions.**

The commissioner shall annually review the recycling program and all rules promulgated thereunder, 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. Where the commissioner determines that it is appropriate to delete a designated material, the department shall provide notice of such deletion to the mayor and the council, including the reason for such deletion, and shall provide any relevant data supporting such decision.

**§ 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 rules 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 rules, of the requirements of the rules, by posting notices containing recycling information 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. The commissioner shall compile relevant recycling, reuse and composting information, including material available on the department's website, to create and make available a guide to the city's residential recycling program. Such guide shall, at

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a minimum, summarize and explain the laws and rules governing curbside recycling, list the collection locations and collection dates for non-curbside collected recyclable materials such as household hazardous waste and textiles, and provide detailed information and instructions on how to recycle any materials not collected by the department for which non-city or non-department recycling programs exist. Such guide shall be made available to residential building owners, or the net lessees or persons in charge of such buildings, community boards, not-for-profit organizations, public schools, and other relevant agencies and entities, and shall also be made available on the department website. The commissioner shall update the recycling guide biennially, or as necessary, based on changes to recycling laws, rules or other relevant information to be included therein.

c. The department shall develop and implement an educational program, in conjunction with the department 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.

d. 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 Studies**

**§ 16-316 Recycling and composting economic development study.**

Within two years of the effective date of this section, the department, in conjunction with the mayor's office of long-term planning and sustainability and the New York city economic development corporation, shall perform a study on the economics of recycling and composting and the development of recycling and composting-related industries in the city of New York. Such study shall: (i) assess the New York city recycling market including but not limited to a growth forecast for recycling markets and related industries for the next five years; (ii) describe those industries or businesses that would address shortcomings in the city's recycling and composting infrastructure and areas where opportunities for recycling and composting-related job growth in the city appear practical, describing barriers to recycling and composting

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businesses, and outlining financial and other incentives that might be successful in attracting new recycling and composting-related businesses or encouraging the expansion of existing recycling and composting-related businesses; (iii) examine existing markets for processing and purchasing recyclable materials and the potential and steps necessary to expand these markets; and (iv) look at the city's taxation and finance authority to stimulate recycling and the demand for recycled materials. Sections of such study may be shared with or derived from the composting report required pursuant to section 16–316.2 of this subchapter.

**§ 16–316.1 Waste characterization study.**

a. The commissioner shall complete follow-up studies to the studies performed in two thousand five regarding the characteristics of the city's residential and institutional waste streams for department-managed solid waste on or before January thirty-first, two thousand twelve, and on or before January thirty-first, two thousand eighteen. The results of each such study and an analysis of those results shall be submitted to the council and the mayor within sixty days of their completion.

b. On or before January thirty-first, two thousand twenty-four, the commissioner shall complete a detailed, comprehensive citywide multi-season study of the city's residential and institutional waste streams for the purpose of determining the composition of the waste stream characterized by type of material. The results of such study and an analysis of those results shall be submitted to the council and the mayor within sixty days of its completion.

**§ 16–316.2 Food waste composting study.**

The department, in conjunction with the mayor's office of long-term planning and sustainability, shall issue a report by July first, two thousand twelve recommending methods to expand the diversion of compostable waste from the city's waste stream. In preparing such report, the department or the office of long-term planning and sustainability shall (1) study the viability of a curbside collection program for household and institutional compostable waste including, but not limited to, cost considerations and any concerns regarding siting composting facilities to conduct such a curbside collection program; (2) identify existing private and public facilities within three hundred miles of the city that accept compostable waste for composting and determine the available capacity at and cost to deliver compostable waste to such facilities and any siting considerations concerning such facilities; (3) review capacity at putrescible solid waste transfer stations permitted by the city, and putrescible solid waste transfer stations within sixty miles of the city, and determine whether any such transfer stations are capable of accepting source-separated compostable waste for consolidation and transportation, the cost to deliver source-separated compostable waste to such facilities and any siting considerations concerning such facilities; (4) explore opportunities to expand the currently available capacity to compost

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compostable waste at existing sites within the city or, in conjunction with the study required by section 16–316 of this chapter, explore opportunities to develop one or more new facilities within the city or within sixty miles of the city for the composting of compostable waste, including, but not limited to, opportunities to work with one or more entities to develop such facilities and any siting considerations concerning such a facility; (5) compile a comprehensive list of sites around the city including, but not limited to, city botanical gardens and greenmarkets, that accept household and institutional compostable waste on a voluntary basis, and recommend methods to encourage and expand options for voluntary composting; and (6) provide a plan to study the viability of instituting a food waste composting program for the residential or commercial waste stream, to be completed within two years of the issuance of such report.

**§ 16–316.3 Household hazardous waste collection.**

a. No later than July first, two thousand eleven, the commissioner shall establish a citywide program for the diversion of household hazardous waste from department-managed solid waste which shall include, but need not be limited to, at least one annual drop-off collection event at one or more designated sites in each borough.

b. The department shall report annually the total amount of household hazardous waste diverted by the program established pursuant to subdivision a of this section. Such report shall specify each category of material and the amount of such material collected at each collection event or site established pursuant to subdivision a of this section. Such report shall be included as part of the department's annual recycling report required pursuant to subdivision k of section 16–305 of this chapter.

c. The commissioner shall study opportunities to establish additional household hazardous waste collection events and sites, as well as opportunities to provide for the collection of household hazardous waste at designated sites on a regular basis. The commissioner shall report on such opportunities to the mayor and the council within two years of the effective date of this section, and annually thereafter, and such report shall be included as part of the department's annual recycling report required pursuant to subdivision k of section 16–305 of this chapter.

**§ 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

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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.

**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 portion of the biennial report addressing the city's recycling program that is prepared pursuant to the city's two thousand six solid waste management plan, simultaneous with the submission of such report to the mayor and the council. Each borough president shall distribute copies of such portion to each member of the citizens' board in his or her borough. Within ninety days thereafter, each citizens' board shall review such portion, conduct a public hearing on such portion 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 goals equal to or greater than those set forth in section 16-305 of this chapter and the methods proposed to achieve such goals;
2. means to encourage community participation in the recycling program; and



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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.**

There shall be a citywide recycling advisory board (the "citywide board") 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, real 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 that relate to processing or disposal of solid waste or of waste described in paragraph three of the definition of solid waste in section 16-303 of this chapter or to recycling, or has an interest in a firm that 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,



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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 department 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 an 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,

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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 step-daughter 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.

**Subchapter 5: City Purchase of Recycled Products**

§ 16–322 **City purchase of products made from secondary materials.**  
[Repealed]

**Subchapter 6: Regulations Submitted to Council and Enforcement**

§ 16–323 **Rules submitted to council.**

Rules adopted by the commissioner pursuant to this chapter shall become effective only after filing and publication as prescribed by chapter forty-five of the charter. In addition, notwithstanding the provisions of chapter forty-five of the charter, prior to adoption by the commissioner of a final rule pursuant to subdivision e of section one thousand forty-three of the charter, and after consideration of relevant comments presented pursuant to subdivision d of such section, the commissioner shall submit to the council the text of the final rule proposed to be published in the city record. The council shall have thirty days from the date of such submission to comment upon such text. The final rule may include revisions in response to comments from the council and shall not be published in the city record before the thirty-first day after such submission, unless the speaker of the council authorizes earlier publication.

§ 16–324 **Enforcement.**

a. Subject to the provisions of subdivision b of this section, any person who violates this chapter, except subdivision f of section 16–308 of this chapter or 16–310.1 of this chapter, or any rule promulgated pursuant thereto, shall be liable for a civil penalty

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recoverable in a civil action brought in the name of the commissioner or in a proceeding returnable before the environmental control board, as follows:

1. For residential buildings containing fewer than nine dwelling units, the civil penalty shall be in an amount of twenty-five dollars for the first violation, fifty dollars for the second violation committed on a different day within a period of twelve months, and one hundred dollars for the third and each subsequent violation committed on a different day within a period of twelve months, 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.

2. For residential buildings containing nine or more dwelling units and commercial, manufacturing or industrial buildings, the civil penalty shall be in an amount of one hundred dollars for the first violation, two hundred dollars for the second violation committed on a different day within a period of twelve months, and four hundred dollars for the third and each subsequent violation committed on a different day within a period of twelve months, 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. The owner, net lessee or person in charge of any residential building of nine or more dwelling units or a commercial, manufacturing or industrial building with respect to which four or more violations were committed on different days within a period of six months shall be classified as a persistent violator.

3. For persistent violators only, each container or bag containing solid waste that has not been source separated or placed out for collection in accordance with the rules 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 such notices of violation to a persistent violator on a per bag or per container basis, the commissioner shall give such violator a reasonable opportunity to correct the condition constituting the violation.

4. There shall be a rebuttable presumption that the number of dwelling units designated on a notice of violation issued pursuant to this section reflects the number of dwelling units in the residential building for which the notice of violation was issued. Where such presumption is rebutted, the number of dwelling units on such notice of violation shall be deemed modified accordingly, and in no event shall such notice of violation be dismissed solely on the ground that the number of dwelling units on the original notice of violation was incorrectly stated.

5. The commissioner or the commissioner's designee shall establish a recycling training program for owners or employees of residential buildings of nine or more dwelling units for which at least three notices of violation for failing to properly source separate designated recyclable material have been issued within a twelve-month period and which the commissioner determines to be in need of recycling training. Such training program shall require the building owner, or an employee who

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is primarily responsible for waste disposal and/or janitorial services for any such building, to attend a training program established by the commissioner or the commissioner's designee designed to improve recycling practices at such building and a fee may be imposed on any owner or employee who participates in such training program. Such training program may be held in any location designated by the commissioner or the commissioner's designee, including, in order to facilitate tenant participation, at such building.

b. Any person who violates subdivision f of section 16-308 of this chapter shall be liable for a civil penalty in the amount of two hundred fifty dollars for the first violation, one thousand dollars for the second violation committed within a twelve-month period, and two thousand five hundred dollars for the third and each subsequent violation committed within a twelve-month period.

c. Any owner or other person responsible for a publicly accessible textile drop-off bin who violates subdivision b of section 16-310.1 of this chapter shall be liable as follows:

1. In the event that a publicly accessible textile drop-off bin is impermissibly placed on city property, or property maintained by the city, or on any public sidewalk or roadway, the owner of the publicly accessible textile drop-off bin, if the address of such owner is ascertainable, shall be notified by the department by certified mail, return receipt requested, that such publicly accessible textile drop-off bin must be removed within thirty days from the mailing of such notice. A copy of such notice, regardless of whether the address of such owner or other responsible person is ascertainable, shall also be affixed to the publicly accessible textile drop-off bin. This notice shall state that if the address of the owner or other responsible person is not ascertainable and notice is not mailed by the department, such publicly accessible textile drop-off bin shall be removed within thirty days from the affixing of such notice. This notice shall also state that the failure to remove the publicly accessible textile drop-off bin within the designated time period will result in the removal and disposal of the publicly accessible textile drop-off bin by the department. This notice shall also state that if the owner or other responsible person objects to removal on the grounds that the publicly accessible textile drop-off bin is not on city property, or property maintained by the city, or on any public sidewalk or roadway, such owner or other responsible person may send written objection to the department at the address indicated on the notice within twenty days from the mailing of such notice or, if the address of such owner or other responsible person is not ascertainable and notice is not mailed by the department, within twenty days from the affixing of such notice, with proof that the publicly accessible textile drop-off bin is not on city property, or property maintained by the city, or on any public sidewalk or roadway. Proof that the publicly accessible textile drop-off bin is not on city property, or property maintained by the city, or on any public sidewalk or roadway shall include, but not be limited to,

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a survey of the property prepared by a licensed surveyor that is certified by the record owner of such property.

2. Any owner or other person responsible for an impermissibly placed publicly accessible textile drop-off bin that fails to respond within twenty days of receipt of such notice under paragraph one of this subdivision or otherwise fails to establish that the publicly accessible textile drop-off bin is not on city property, or property maintained by the city, or on any public sidewalk or roadway pursuant to paragraph one of this subdivision, shall be liable for a civil penalty in the amount of one hundred dollars, recoverable in a proceeding returnable before the environmental control board.

d. Any notice of violation or notice of hearing for a violation issued to the owner, net lessee or person in charge of a premises at which a violation of this chapter or any rule promulgated pursuant thereto is alleged to have occurred shall be served by delivering a copy of the notice thereof at the address maintained in the records of the department of housing preservation and development or the department of finance. The notice of violation or notice of hearing may be served by regular mail or in accordance with section one thousand forty-nine-a of the charter.

**Subchapter 7: Temporary Emergency Recycling Requirements**

**§ 16-325 Temporary emergency recycling requirements.**

a. Notwithstanding any inconsistent provision of this chapter, the department shall be authorized, by written order of the commissioner, to suspend the collection of glass, plastic and beverage cartons as designated recyclable materials. Any such suspension with regard to glass shall take effect no earlier than July first, two thousand two and shall expire no later than March thirty-first, two thousand four. Any such suspension with regard to plastic and beverage cartons shall take effect no earlier than July first, two thousand two and shall expire no later than June thirtieth, two thousand three. During any period in which the collection of glass, plastic or beverage cartons as designated recyclable materials, is suspended pursuant to this subdivision, the department shall be authorized to collect the suspended recyclable materials with other non-recyclable solid waste.

b. Notwithstanding any inconsistent provision of this chapter, the department shall be authorized, by written order of the commissioner, to suspend the provisions of section 16-308 of this chapter. Any such suspension shall take effect no earlier than July first, two thousand three and shall expire no later than June thirtieth, two thousand four. During any period in which the provisions of section 16-308 of this chapter are suspended pursuant to this subdivision, the department shall be authorized to collect yard waste with other non-recyclable solid waste.

c. Notwithstanding any inconsistent provision of this chapter, during a period of suspension, the department shall only be required to maintain fiscal year two thousand



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two tonnage amounts for those recyclable materials whose collection has not been suspended. Upon expiration of any period of suspension, the department shall resume collection of recyclable materials whose suspension has ended and shall be required to maintain fiscal year two thousand two tonnage amounts for those materials, unless other standards are agreed upon by the council and the mayor.

d. Notwithstanding any inconsistent provision of this chapter, the department shall not be required to designate additional recyclable materials during any period in which the collection of glass, plastic or beverage cartons as designated recyclable materials, or material designated pursuant to section 16-308 of this chapter, is suspended pursuant to subdivision a or b of this section.

e. The mayor and council shall create a temporary task force in order to develop a long term recycling plan in compliance with the provisions of this chapter. The task force shall be comprised of six mutually agreed upon appointees, three proposed by the mayor and three proposed by the speaker of the council. The task force shall meet on or before July fifteenth, two thousand two and monthly thereafter and issue a report to the mayor and speaker on February twenty-first, two thousand three. The task force shall examine and make recommendations that include steps necessary to improve the efficiency of source separation and collection of recyclable materials; appropriate recycling standards; the identification and development of markets for recyclable materials; the expansion of the New York State Returnable Container Act; and the development and implementation of strategies to educate residents on compliance with the recycling laws.

**Subchapter 8: Solid Waste and Recyclable Materials at Street Events**

**§ 16-326 Definitions.**

For purposes of this subchapter, the following terms shall have the following meanings:

a. "Producer/Event Manager" means any person or entity hired by a sponsor to organize or manage a street event.

b. "Recyclable Materials" means metal cans, glass bottles and jars, plastic bottles and jugs, lightly-soiled aluminum foil and aluminum foil products, and any other material designated by the department for recycling at street events.

c. "Sponsor" means any person or entity that is required to apply for and obtain a street activity permit and that either organizes or manages a street event or hires a producer/event manager to organize or manage a street event.

d. "Street Event" means any street fair or festival on a public street where such activity may interfere with or obstruct the normal use by vehicular traffic of such street, but does not include street activities that occupy no more than one block for no more than one day where no licensed vendor participates.



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**§ 16–327 Sponsor and producer/event manager responsibilities at street events.**

a. Every producer/event manager shall ensure that solid waste and recyclable materials generated at a street event are properly disposed of or recycled.

b. 1. Every producer/event manager shall provide a sufficient number of public solid waste receptacles and public recycling receptacles for street events as determined by the department, provided that the producer/event manager shall place at least two receptacles within or near each intersection within the street event area, one for solid waste and one for recyclable materials.

2. Every producer/event manager shall regularly monitor all solid waste and recycling receptacles throughout the street event area in order to prevent spillage of solid waste and recyclable materials into the street and shall remove any solid waste that has been deposited into receptacles designated for recyclable materials and remove any recyclable materials that have been deposited into receptacles designated for solid waste.

3. Every producer/event manager shall bag and bundle separately and tie securely all accumulated solid waste and recyclable materials at the end of each day of the street event.

4. Every producer/event manager shall ensure that all bagged and bundled solid waste and recyclable materials are placed at a predetermined location designated by the department for collection.

c. Every sponsor and producer/event manager shall comply with all applicable rules governing street events, including, but not limited to, rules set forth in chapter fourteen of title sixteen of the rules of the city of New York, to the extent such rules are not inconsistent with the provisions of this subchapter.

d. The provisions of subdivisions a and b of this section shall apply to the sponsor when there is no producer/event manager.

**§ 16–328 Penalties.**

In addition to any other applicable penalties, any producer/event manager, or any sponsor when there is no producer/event manager, who violates subdivision a or b of section 16–327 of this subchapter shall be liable for a civil penalty of one hundred dollars for each such violation, except that a sponsor or producer/event manager shall not be liable for more than five hundred dollars per day or more than two thousand dollars per street event. Such civil penalties shall be recoverable in a proceeding returnable before the environmental control board.

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**Chapter 4: [Rechargeable Batteries; Recycling Program]**

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**§ 16-401 Short title.**

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This chapter shall be known as and may be called the "New York City Rechargeable Battery Law".

**§ 16-402 Declaration of policy.**

It is hereby declared to be the public policy of the city of New York to reduce environmental pollution, to reduce the toxicity of waste materials in the solid waste stream directed to resource recovery and sanitary landfill facilities, and to maximize the removal of used rechargeable batteries and products that contain rechargeable batteries and encourage their recycling by entities that manufacture rechargeable batteries by banning the disposal of used rechargeable batteries from the solid waste stream and requiring manufacturers of rechargeable batteries to take back and recycle the used rechargeable batteries sold or disposed of in the city of New York.

**§ 16-403 Definitions.**

When used in this chapter:

- a. "Battery manufacturer" means every person, firm or corporation that: (i) produces rechargeable batteries sold or distributed in the city of New York, or packages such batteries for sale in the city of New York, except that if such production or packaging is for a distributor having the right to produce or otherwise package that same brand of battery in the city of New York, then such distributor shall be deemed to be the battery manufacturer; or (ii) imports rechargeable batteries into the United States that are sold or distributed in the city of New York.
- b. "Consumer" means any person who purchases one or more rechargeable batteries, or products containing such batteries at the time of sale, for personal use.
- c. "Place of business" means the location at which a retailer sells or offers for sale to consumers, rechargeable batteries, or products containing such batteries at the time of sale.
- d. "Rechargeable battery" means any rechargeable nickel-cadmium, sealed lead, lithium ion, nickel metal hydride battery, or any other such dry cell battery capable of being recharged weighing less than twenty-five pounds, or battery packs containing such batteries, but shall not include a battery used as the principal electric power source for a vehicle, such as, but not limited to, an automobile, boat, truck, tractor, golf cart or wheelchair, for storage of electricity generated by an alternative power source, such as solar or wind-driven generators, or for memory backup in an electronic device.
- e. "Retailer" means a person, firm or corporation that engages in the sale of rechargeable batteries, or products containing such batteries, to a consumer in the city of New York, including, but not limited to, transactions conducted through sales outlets, catalogs, by mail, telephone or the internet. For the purposes of this section retailer shall not include a "food store".

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f. "Food Store" means a store selling primarily food and food products for consumption or use off the premises that occupies less than 14,000 square feet of display space.

§ 16-404 **Rechargeable battery disposal ban.**

a. No person shall knowingly dispose of rechargeable batteries as solid waste at any time in the city of New York.

§ 16-405 **Rechargeable battery recycling program.**

a. Rechargeable batteries shall be returned to a retailer that sells such batteries that are similar in shape, size and function to those to be disposed of. Rechargeable batteries contained in electronic products must be removed prior to disposal of such product.

1. Retailers having a place of business in the city of New York shall accept from consumers at any time during normal business hours rechargeable batteries of a similar size and shape as the retailer offers for sale. Retailers shall take up to ten such batteries per day from any person regardless of whether such person purchases replacement batteries, and retailers shall also accept as many such batteries as a consumer purchases from the retailer. Retailers shall conspicuously post and maintain, at or near the point of entry to the place of business, a legible sign, not less than 8 1/2 inches by 11 inches in size, stating that used rechargeable batteries of the size and shape sold or offered for sale by the retailer may not enter the solid waste stream, and that the retail establishment is a collection site for recycling such batteries. Such sign shall state the following in letters at least one-inch in height: "It is illegal to dispose of rechargeable batteries in the city of New York as solid waste. We accept used rechargeable batteries for return to the manufacturer."

2. Retailers that sell rechargeable batteries to consumers in the city of New York through non-retail outlets such as through catalogs, or by mail, telephone or the internet shall provide at the time of purchase or delivery to the consumer notice of an opportunity to return used rechargeable batteries at no cost to the consumer for reuse or recycling.

3. Retailers in the city of New York shall conspicuously maintain, at a location within the retail establishment convenient for use by consumers, collection boxes or other suitable receptacles, supplied by the manufacturer, into which consumers may deposit used rechargeable batteries.

b. Every battery manufacturer, or any combination of battery manufacturers working together, shall, at the battery manufacturer's own expense, arrange for the return of, and recycle, all used rechargeable batteries collected by retailers. Battery manufacturers shall be responsible for, at a minimum, the following:

1. Every battery manufacturer, or any combination of battery manufacturers working together, shall, within six months of the passage of this law, submit a plan to

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the commissioner, or any other person responsible for the city of New York's recycling programs, that identifies the methods by which battery manufacturers will collect, transport, and recycle rechargeable batteries collected by retailers at the expense of the battery manufacturer.

2. Every battery manufacturer, or any combination of battery manufacturers working together, shall submit annual reports concerning the amount of rechargeable batteries received and recycled within the city of New York, either by number or by weight; the costs of such efforts; and any other relevant information to the commissioner or any other person responsible for the city of New York's recycling programs.

3. Every battery manufacturer, or any combination of battery manufacturers working together, shall undertake efforts to educate the citizens of the city of New York regarding the appropriate ways to recycle rechargeable batteries.

c. The commissioner, or any other person responsible for the city of New York's recycling programs, shall approve or reject any battery manufacturer's collection, transportation, and recycling plans described in paragraph one of subdivision (b) of this section within thirty days of submission and, if rejected, inform the battery manufacturer in writing as to any deficiencies in the plan. Battery manufacturers shall amend and resubmit any rejected plans for reconsideration within sixty days of notification of the rejection of said plan. The commissioner or any other person responsible for the city of New York's recycling programs shall approve or reject said plan within thirty days of resubmission.

d. The commissioner, or any other person responsible for the city of New York's recycling programs, shall analyze the information provided by battery manufacturers pursuant to paragraph two of subdivision (b) of this section and report to the Mayor and the City Council every two years.

e. The commissioner, or any other person responsible for the city of New York's recycling programs, shall promulgate any rules needed to implement this law.

**§ 16-406 Penalties.**

a. Any person who violates section 16-404 of this chapter shall be liable for a civil penalty recoverable in a proceeding before the environmental control board in the amount of fifty dollars for the first violation, one hundred dollars for a second violation committed within twelve months of a prior violation and two hundred dollars for a third or subsequent violation committed within twelve months of any prior violation.

b. Any retailer who violates section 16-405 of this chapter shall be liable for a civil penalty in a proceeding before the environmental control board in the amount of two hundred dollars for the first violation, four hundred dollars for a second violation committed within twelve months of a prior violation, and five hundred dollars for a third or subsequent violation committed within twelve months of any prior violation.

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c. Any battery manufacturer who violates section 16-405 of this chapter shall be liable for a civil penalty recoverable in a proceeding before the environmental control board in the amount of two thousand dollars for the first violation, four thousand dollars for a second violation committed within twelve months of a prior violation, and five thousand dollars for a third or subsequent violation committed within twelve months of any prior violation.

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**Chapter 4a: Electronic Equipment Collection, Recycling and Reuse**

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§ 16-420 [Short title.]

This local law shall be known and may be cited as the "Electronic Equipment Collection, Recycling and Reuse Act".

§ 16-421 **Definitions.**

As used in this chapter:

a. "Brand name" means a manufacturer's name, brand designation, make or model name or number, or other nomenclature by which covered electronic equipment is offered for sale by a manufacturer.

b. "Cathode ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

c. "Computer" means an electronic, magnetic, optical, electrochemical or other high-speed data processing device performing a logical, arithmetic or storage function, and may include both a computer central processing unit and a monitor; but such term shall not include an automated typewriter or typesetter, a portable hand-held calculator, a portable digital assistant, or other similar device.

d. "Covered electronic equipment" means any computer central processing unit; cathode ray tube; cathode ray tube device; keyboard; electronic mouse or similar pointing device; television; printer; computer monitor, including but not limited to a liquid crystal display and plasma screens, or similar video display device that includes a screen that is greater than four inches measured diagonally and one or more circuit boards; a laptop or other portable computer; or a portable digital music player that has memory capability and is battery-powered. "Covered electronic equipment" does not include any automobile; mobile phone; household appliances such as clothes washers, clothes dryers, refrigerators, freezers, microwave ovens, ovens, ranges or dishwashers; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development or commercial setting; security, anti-terrorism or medical equipment that utilizes a cathode ray tube, a cathode ray tube device or a flat panel display or similar video display device that is not separate from the larger piece of equipment; or any other device, as that term is defined in section three hundred twenty-one of title twenty-one of the United States code.

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e. "Electronic recycler" means a person who 1. refurbishes or otherwise processes covered electronic equipment for reuse or resale; or 2. removes, segregates or otherwise extracts components or commodities from covered electronic equipment, either by manual or mechanical separation or by changing such equipment's physical or chemical composition, for the purpose of reusing or recycling such components or commodities.

f. "Label" means information, as required by this chapter, on the surface of covered electronic equipment, which must be permanently attached to, printed or engraved on or incorporated in any other permanent manner on such equipment, and obvious and visible to users of such equipment.

g. "Manufacturer" means a person who: 1. assembles or substantially assembles, or has assembled or substantially assembled, covered electronic equipment for sale in the city; 2. manufactures or has manufactured covered electronic equipment under its own brand name or under any other brand name for sale in the city; 3. sells or has sold, under its own brand name, covered electronic equipment produced by another person for sale in the city; 4. owns a brand name that it licenses or has licensed to another person for use on covered electronic equipment sold in the city; 5. imports or has imported covered electronic equipment for sale in the city; or 6. manufactures or has manufactured covered electronic equipment for sale in the city without affixing a brand name.

h. "Monitor" means a separate visual display component of a computer, whether sold separately or with a central processing unit and includes the cathode ray tube, liquid crystal display, or other image projection technology, and its case, interior wires and circuitry, all exterior and interior cables, and power cord.

i. "Orphan waste" means covered electronic equipment, the manufacturer of which cannot be identified or is no longer in business and for which no successor-in-interest has been identified.

j. "Person" means any individual, business entity, partnership, company, corporation, not-for-profit corporation, association, governmental entity, public benefit corporation, public authority, or firm.

k. "Recycle" means to use the materials contained in covered electronic equipment or components thereof as raw materials for new products or components, but not for energy recovery or energy generation by means of combustion, gasification, pyrolysis or other means.

l. "Reuse" means any operation by which covered electronic equipment or components thereof are used for the same purpose for which they were conceived.

m. "Sell" or "sale" means any transfer for consideration, by lease or sales contract of title to or the right to use covered electronic equipment from a manufacturer or retailer to any person, including, but not limited to, transactions conducted through retail sales outlets, catalogs, or the internet; "sell" or "sale" includes transfer of new,



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used or refurbished covered electronic equipment, but does not include transfers between end users of such equipment.

n. "Television" means a display system containing a cathode ray tube or any other type of display primarily intended to receive broadcast video programming, having a viewable area greater than four inches when measured diagonally.

**§ 16-422 Responsibility of Manufacturer Collection.**

a. Beginning July first, two thousand nine or one hundred eighty days after a manufacturer's electronic waste management plan is approved by the department, whichever date is later, such manufacturer must accept for collection, handling and recycling or reuse covered electronic equipment that is offered for return by any person in the city, and has been assembled, manufactured, or imported by such manufacturer, or has been sold under such manufacturer's brand name.

b. Beginning July first, two thousand nine or one hundred eighty days after a manufacturer's electronic waste management plan is approved by the department, whichever date is later, such manufacturer must accept for collection, handling and recycling or reuse on a one-to-one basis with the purchase of the same type of covered electronic equipment other than orphan waste that is offered for return by any person in the city, and has been assembled, manufactured or imported by persons other than such manufacturer, or has been sold under the brand name of a person other than such manufacturer.

c. Beginning July first, two thousand nine or one hundred eighty days after a manufacturer's electronic waste management plan is approved by the department, whichever date is later, and ending on June thirtieth, two thousand eleven, such manufacturer must accept for collection, handling, and recycling or reuse orphan waste that is offered for return by any person in the city on a one-to-one basis with the purchase of the same type of product by such person.

d. Beginning July first, two thousand eleven, each manufacturer must accept for collection, handling, and recycling or reuse orphan waste of the same type sold by such manufacturer in the city that is offered for return by any person in the city.

**§ 16-423 Manufacturer Electronic Waste Management Plan.**

a. No later than September first, two thousand eight, a manufacturer shall submit to the department an electronic waste management plan for the collection, handling, and recycling or reuse of covered electronic equipment and orphan waste. Any person who becomes a manufacturer on or after September first, two thousand eight shall submit to the department an electronic waste management plan for the collection, handling, and recycling or reuse of covered electronic equipment and orphan waste prior to selling any covered electronic equipment in the city.

b. A manufacturer's submission of an electronic waste management plan pursuant to subdivision a of this section shall be accompanied by a fee of one thousand five

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hundred dollars. A manufacturer's submission of an annual report pursuant to subdivision a of section 16-428 of this chapter shall be accompanied by a fee of one thousand two hundred fifty dollars. Any manufacturer who submits such plan or report without the requisite fee shall be deemed not to have submitted such plan or report and shall be subject to the penalties set forth in paragraph one of subdivision d of section 16-427 of this chapter for failure to submit such plan or report.

c. The manufacturer shall not impose a fee or other charge on any person for the collection, handling, and recycling or reuse of covered electronic equipment or orphan waste, except that a fee or other charge may be imposed by contractual agreement between a manufacturer and a business entity, partnership, company, corporation or firm having more than fifty full time employees other than a not-for-profit corporation as defined in subparagraph five or seven of subdivision a of section one hundred two of the New York not-for-profit corporation law, association, governmental entity, public benefit corporation or public authority.

d. An electronic waste management plan shall include, at a minimum:

1. details for the collection, handling, and recycling or reuse of covered electronic equipment and orphan waste as required by this chapter, including but not limited to the methods by which a person can return to the manufacturer such covered electronic equipment and orphan waste. Such methods shall be convenient for residents of the city;

2. how the manufacturer will inform residents and businesses of the city about the manufacturer's plan for the collection, handling, and recycling or reuse of covered electronic equipment and orphan waste, which shall include an internet website and a toll-free telephone number;

3. information on the manufacturer's plan for the disposition of covered electronic equipment and orphan waste, including any plan for the recycling or reuse of such covered electronic equipment and orphan waste. If the manufacturer provides a plan for the recycling or reuse of covered electronic equipment and orphan waste, the manufacturer shall include details about anticipated end markets and electronic recyclers expected to be utilized by the manufacturer, including but not limited to details on the methods of collection, handling and recycling or reuse of covered electronic equipment used by such electronic recyclers, details on any disassembly or physical recovery operation to be used by such electronic recyclers, the locations of any such operations, and details on the manufacturer's compliance with applicable laws and regulations relating to the disposition, recycling or reuse of covered electronic equipment;

4. a description of how the manufacturer will plan to attain the performance standards established in paragraph a of section 16-424 of this chapter;

5. annual city sales data of the manufacturer's covered electronic equipment for the previous three calendar years;

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6. the method to be used to destroy all data in any covered electronic equipment and orphan waste collected, either through physical destruction of the data storage components thereof or through data wiping meeting or exceeding United States Department of Defense standard 5220.22M;

7. a list of the manufacturer's brand names, including: (i) any brand name under which the manufacturer assembles or substantially assembles, or has assembled or substantially assembled covered electronic equipment; (ii) any brand name under which the manufacturer manufactures and sells, or has manufactured and sold, covered electronic equipment; (iii) any brand name under which the manufacturer sells or has sold covered electronic equipment produced by another person under such manufacturer's own brand; (iv) any brand name that the manufacturer owns and licenses or has licensed to another person for use on covered electronic equipment; (v) any brand name under which the manufacturer imports or has imported covered electronic equipment for sale in the city; and (vi) any brand name of covered electronic equipment of which the manufacturer has become the successor-in-interest;

8. a certification that the manufacturer's collection, handling, and recycling or reuse of covered electronic equipment complies with all local, state, federal and international laws and regulations; and

9. any other information as may be required by department rules.

e. The department shall approve or disapprove a proposed electronic waste management plan submitted by a manufacturer within one hundred eighty days of its submission. The department may approve a submitted electronic waste management plan that does not conform with every one of the requirements of this chapter upon application and a showing of good cause by such manufacturer. If the department approves an electronic waste management plan, it shall expeditiously notify the manufacturer of the approval in writing. If the department disapproves an electronic waste management plan, it shall expeditiously notify the manufacturer in writing of the disapproval and specify the reasons for such disapproval. The manufacturer shall have thirty days to resubmit a revised electronic waste management plan after the department notifies the manufacturer of its disapproval. The department shall approve or disapprove a resubmitted electronic waste management plan within ninety days of resubmission.

f. Beginning on July first, two thousand nine, or one hundred eighty days after an electronic waste management plan is approved by the department, whichever date is later, a manufacturer of covered electronic equipment shall implement its approved plan for the collection, handling and recycling or reuse of covered electronic equipment and orphan waste.

g. An electronic waste management plan may provide for the sharing of resources by one or more manufacturers, provided that such plan meets the requirements of this section. Any electronic waste management plan providing for the sharing of resources must include a list of manufacturers participating in such plan.

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h. 1. Proposed modifications to a previously approved manufacturer's electronic waste management plan shall be submitted to the department which shall approve or disapprove such modification within sixty days and expeditiously notify the manufacturer of its determination in writing. If the department disapproves such modification, it shall specify the reasons for such disapproval in writing and the manufacturer shall have thirty days to submit a revised modification to the department.

2. At any time, the department may require submission of a proposed modification where it determines that the manufacturer is not in compliance with the collection standards as set forth in section 16-424 of this chapter. The department shall approve or disapprove such modification in accordance with paragraph one of this subdivision.

i. Notwithstanding the provisions of section 16-423 of this chapter, any person who becomes a manufacturer of covered electronic equipment subsequent to the effective date of this section may include within a submitted electronic waste management plan a proposed schedule for compliance with the minimum collection standards set forth in section 16-424 beyond the respective compliance dates set forth in such section. The commissioner may approve such proposed schedule or may approve a modification to such proposed schedule that provides for a reasonable compliance time beyond that provided for in such section.

j. All decisions of the department pursuant to this section shall be made public.

**§ 16-424 Performance Standards.**

a. A manufacturer shall demonstrate whether, pursuant to its electronic waste management plan, it is collecting for recycling or reuse at least its share of covered electronic equipment. Such manufacturer's share of covered electronic equipment is determined by applying the following minimum collection standard percentage by the average annual sales of the manufacturer's covered electronic equipment in the city, reported by weight, during the previous three calendar years; by July 1, 2012, the minimum collection standard is twenty-five percent; by July 1, 2015, the minimum collection standard is forty-five percent; by July 1, 2018, the minimum collection standard is sixty-five percent.

b. For purposes of calculating achievement of the minimum collection standard specified in paragraph a of this subdivision, a manufacturer may count the collection of a single item of covered electronic equipment as twice its weight when that item is donated free of charge for reuse to the New York city department of education, or to any not-for-profit corporation, as defined in subparagraphs five or seven of subdivision a of section one hundred two of the New York not-for-profit corporation law, a principal mission of which is to assist low-income children or families living in city. To qualify for the donation reuse credit under this subdivision, the covered electronic equipment must be: (a) no older than three years old, (b) in full working condition, and (c) accepted as a donation by the recipient in writing.

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c. The commissioner may grant an annual waiver, in whole or in part, from the minimum collection standards set forth in subdivision a of this section where a manufacturer who has an approved electronic waste management plan has demonstrated to the commissioner's satisfaction that such minimum collection standards could not be met despite the best efforts of the manufacturer because the manufacturer has substantially increased the amount of covered electronic equipment sold within the city over the three-year period during which compliance with subdivision a of this section is to be measured and it was not practicable to meet the applicable minimum collection standard.

**§ 16-425 Labeling.**

a. Beginning July first, two thousand nine or one hundred eighty days after a manufacturer's electronic waste management plan is approved by the department, whichever date is later, such manufacturer may not sell or otherwise distribute for sale in the city covered electronic equipment unless such equipment has a label that identifies such manufacturer.

b. Beginning July first, two thousand nine or one hundred eighty days after a manufacturer's electronic waste management plan is approved by the department, whichever date is later, such manufacturer shall provide at the point of sale information on how a person can return covered electronic equipment pursuant to such manufacturer's electronic waste management plan. Such information shall include a toll-free telephone number or internet website address describing how covered electronic equipment can be returned pursuant to the manufacturer's electronic waste management plan.

c. Beginning July first, two thousand nine, the department shall post on its web site all information provided to it from manufacturers describing how covered electronic equipment can be returned pursuant to a specific manufacturer's electronic waste management plan.

**§ 16-426 Disposal ban.**

a. Beginning July first, two thousand ten, no person shall dispose of covered electronic equipment as solid waste in the city.

b. Beginning July first, two thousand nine, no manufacturer shall dispose of covered electronic equipment as solid waste in the city.

**§ 16-427 Enforcement.**

a. The department and the department of consumer affairs shall have the authority to enforce the provisions of this chapter. Any notice of violation charging a violation of any provision of this chapter shall be returnable to the environmental control board, which shall have the power to impose civil penalties as provided herein.



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b. Any person who violates the provisions of subdivision a of section 16-426 of this chapter shall be liable for a civil penalty of one hundred dollars for each violation.

c. Any manufacturer who violates the provisions of subdivision b of section of 16-426 of this chapter shall be liable for a civil penalty of one thousand dollars for each violation.

d. 1. Beginning September first, two thousand eight, a manufacturer who fails to submit an electronic waste management plan or an annual report as required by this chapter shall be liable for a civil penalty of one thousand dollars per day for each day that an electronic waste management plan or an annual report is not submitted.

2. Beginning September first, two thousand eight, a manufacturer who submits an electronic waste management plan that has been disapproved by the department more than two times shall be liable for a civil penalty of one thousand dollars per day for each day that an electronic waste management plan is not submitted and approved by the department following the date of such second disapproval.

3. Beginning July first, two thousand nine, a manufacturer who knowingly submits an annual report as required by this chapter that contains a false or misleading statement as to a material fact or omits to state any material fact necessary in order to make a statement therein not false or misleading shall be liable for a civil penalty of ten thousand dollars.

4. Beginning July first, two thousand nine, or one hundred eighty days after a manufacturer's electronic waste management plan is approved by the department, whichever date is later, a manufacturer who fails to accept covered electronic equipment or orphan waste offered for return by any person in the city pursuant to such manufacturer's electronic waste management plan shall be liable for a civil penalty of two thousand dollars for each piece of covered electronic equipment or orphan waste not accepted.

5. Beginning July first, two thousand twelve, a manufacturer who has not met the performance standards set forth in subdivision a of section 16-424 of this chapter shall be liable for a civil penalty of fifty thousand dollars for each percentage point that said manufacturer falls below the performance standards, and shall also submit a modified electronic waste management plan to the department with details explaining how said manufacturer intends to comply with the performance standards. The department shall review such modified electronic waste management plan as provided in subdivision h of section 16-423 of this chapter.

**§ 16-428 Reporting Requirements.**

a. On or before July first, two thousand nine, and annually on or before July first thereafter, a manufacturer that offers any covered electronic equipment for sale in the city shall submit an annual report to the department that includes the following information for the prior calendar year: 1. any approved modification to the manufacturer's electronic waste management plan; 2. sales data for the manufacturer's



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covered electronic equipment sold in the city; 3. the quantity of covered electronic equipment collected for recycling or reuse in this city, expressed both in terms of the total weight of such covered electronic equipment and as a percentage of the average annual sales of the manufacturer's covered electronic equipment in the city, reported by weight, during the previous three calendar years, and categorized by the type of covered electronic equipment collected pursuant to such manufacturer's electronic waste management plan, and further categorized, to the extent possible, by the quantity of such covered electronic equipment collected from individuals and government entities; 4. the weight of orphan waste collected, categorized by the type of covered electronic equipment collected, pursuant to such manufacturer's electronic waste management plan; 5. information on the manufacturer's compliance with the performance standards established in section 16-424 of this chapter; 6. information on the end markets and electronic recyclers utilized by the manufacturer, including details on the methods of collection, handling and recycling or reuse of covered electronic equipment used by electronic recyclers, details on any disassembly or physical recovery operation to be used, the locations of any such operations, and details on the manufacturer's compliance with applicable laws and regulations relating to the disposition, recycling and reuse of covered electronic equipment and orphan waste; 7. examples of how the manufacturer has informed residents and businesses of the city about the manufacturer's plan for the collection, handling and recycling or reuse of covered electronic equipment and orphan waste; 8. the number of visits to the internet website and calls to the toll-free telephone numbers established by the manufacturer's electronic waste management plan; and 9. any other information required by department rules.

b. The department shall submit a report on implementation of this chapter to the mayor and the city council by January fifteenth, two thousand eleven, and yearly thereafter. The report must include, at a minimum: 1. data on the amount of electronic waste collected, categorized by manufacturer; 2. an evaluation of the recycling and reuse rates in the city for covered electronic equipment and orphan waste; 3. a discussion of compliance and enforcement related to the requirements of this chapter; and 4. any recommendations for any changes to the system of collection, handling and recycling or reuse of covered electronic equipment and orphan waste in the city.

**§ 16-429 Confidential Information and Trade Secrets.**

Information relating to covered electronic equipment submitted to the department pursuant to this chapter may be designated by the department as confidential upon a showing of good cause by the person submitting it. Except as otherwise provided by or pursuant to law or court order, such information may be used only by the department, its agents and employees, other city agencies, and as authorized by the mayor, employees of the United States Environmental Protection Agency or the attorney general of the state of New York.

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**§ 16-430 Application by the department of collected covered electronic equipment toward recycling goals.**

The department shall be allowed to apply the amount of covered electronic equipment and orphan waste collected by manufacturers pursuant to this chapter towards achieving its recycling goals.

**§ 16-431 Severability.**

The provisions of this chapter shall be severable, and if any provision of this chapter is declared to be void or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected, and shall remain in full force and effect.

**§ 16-432 Rulemaking authority.**

The department shall be authorized to promulgate rules as necessary to implement the provisions of this chapter.

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**Chapter 4b: [Recycling Program for Plastic Carryout Bags and Film Plastic]**

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**§ 16-450 Title.**

This chapter shall be known as and may be cited as the "New York City Plastic Carryout Bag and Film Plastic Recycling Law".

**§ 16-451 Declaration of policy.**

It is hereby declared to be the public policy of the city of New York to reduce environmental pollution, to reduce the toxicity of waste materials in the solid waste stream directed to resource recovery and sanitary landfill facilities, and to maximize the removal of plastic carryout bags and film plastic from the waste stream in order to recycle them. Plastic carryout bags and film plastic do not biodegrade, which means that such bags and film plastic ultimately break down into smaller pieces that enter the ecosystem. These pieces of plastic cause illness, injury and death to animal and marine life by entangling them or contaminating their food supplies. The production of plastic bags and film plastic worldwide uses over 12 million barrels of oil per year, which causes significant environmental impacts.

**§ 16-452 Definitions.**

When used in this chapter:

a. "Chain of stores" means five or more stores located within the city of New York that are engaged in the same general field of business and (1) conduct business under the same business name or (2) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

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b. "Consumer" means any person who purchases a product from a store that is placed in a plastic carryout bag at the time of sale.

c. "Film plastic" means uncontaminated non-rigid film plastic packaging products composed of plastic resins that include, but are not limited to, newspaper bags, dry cleaning bags and shrink-wrap.

d. "Food service establishment" means any establishment (1) where the primary business is providing food for individual portion service directly to the consumer, whether consumption of such food occurs on or off the premises or such service is provided in a premises or from a pushcart, stand or vehicle, and (2) that is subject to the permit requirement contained in section 81.05 of the New York city health code.

e. "Manufacturer" means every person, firm or corporation that: (1) produces plastic carryout bags that are sold or distributed within the city of New York, or (2) imports plastic carryout bags into the United States that are sold or distributed within the city of New York.

f. "Operator" means a person, firm or corporation that owns or is in control of, or has responsibility for, the daily operation of a store.

g. "Plastic carryout bag" means a plastic bag provided by a store to a consumer at the point of sale that is not a reusable bag.

h. "Reusable bag" means (1) a bag made of cloth or other machine washable fabric that has handles, or (2) a durable plastic bag, with handles, that is at least 2.25 mils thick and is specifically designed and manufactured for multiple reuse.

i. "Store" means a retail or wholesale establishment, other than a food service establishment, that sells products and provides plastic carryout bags to consumers in which to place these products and (1) has over five thousand square feet of retail or wholesale space or (2) is one of a chain of stores.

**§ 16-453 Recycling program requirements.**

a. Every operator shall establish an in-store recycling program that shall include, but need not be limited to, the following:

1. every plastic carryout bag provided by a store shall have printed or displayed on the outside face of the bag (i) the words "PLEASE REUSE OR RECYCLE AT A PARTICIPATING STORE" using letters at least one-half inch in height or (ii) a similar message encouraging the reuse or recycling of plastic carryout bags that is no less than one inch in height and uses letters at least one quarter inch in height; provided, however, that such store shall be allowed, for six months from the effective date of the local law that added this subdivision, to use its existing stock of plastic carryout bags and may apply to the commissioner for a waiver, based on economic hardship, to extend such six-month period;

2. a bin for the collection of plastic carryout bags and other film plastic shall be placed in a visible location that is easily accessible to the consumer, and clearly

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marked as available for the purpose of collecting plastic carryout bags and other film plastic for recycling;

3. all plastic carryout bags and other film plastic returned to a store are to be collected, transported and recycled in a manner consistent with the provisions of this chapter or any rule promulgated pursuant to this chapter; 4. plastic carryout bags and other film plastic collected by a store that are free of foreign material shall not be disposed of in any solid waste or hazardous waste facility; and

5. the operator shall make available to consumers within a store at or near the place where plastic carryout bags are dispensed, reusable bags, which may be purchased and used in lieu of a plastic carryout bag or paper bag.

b. Each operator or its designee shall maintain records indicating the weight of the plastic carryout bags and film plastic that are collected by such operator's store and transported for recycling.

c. Each operator or its designee shall submit an annual report to the department covering the preceding calendar year, beginning with a report covering calendar year two thousand nine, which shall include for all stores that it operates within the city of New York the amount of carryout plastic bags and other film plastic by weight that is collected and transported for recycling, the costs to the operator of such efforts, and any other information the commissioner shall require by rule. Such annual report shall be submitted to the department no later than February twenty-eighth following the calendar year to which the annual report relates.

d. The commissioner shall, in consultation with operators, manufacturers and recyclers, develop a system to monitor and determine the weight of all plastic carryout bags and other film plastic collected under this chapter and shall analyze the information and report to the mayor and the council every two years beginning on December thirty-first, two thousand ten, regarding the implementation and enforcement of this chapter.

**§ 16-454 Manufacturer responsibilities.**

a. A manufacturer whose plastic carryout bags are sold or distributed to a store subject to the provisions of this chapter shall make arrangements with the operator, upon the operator's request, for the collection, transport and recycling of all plastic carryout bags and other film plastic collected consistent with the provisions of this chapter. Such arrangements may include contracts or other agreements with third parties.

b. A manufacturer that arranges with an operator for the collection, transport and recycling of plastic carryout bags and other film plastic shall report annually to such operator the total amount by weight of plastic carryout bags and other film plastic that has been collected from such operator. Such annual report shall cover the preceding calendar year, beginning with a report covering calendar year two thousand nine, and

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be submitted to such operator no later than January thirty-first following the calendar year to which the annual report relates.

c. A manufacturer whose plastic carryout bags are sold or distributed to a store subject to the provisions of this chapter shall make arrangements with the operator, upon the operator's request, to provide such operator, educational materials that encourage the reduction, reuse and recycling of plastic carryout bags.

**§ 16-455 Penalties.**

a. Any operator who violates subdivision a of section 16-453 of this chapter shall be liable for a civil penalty recoverable in a proceeding before the environmental control board in the amount of three hundred dollars per day for each day that a recycling program meeting the requirements of such subdivision is not in effect. It shall be an affirmative defense to a violation of paragraph one or five of subdivision a of section 16-453 of this chapter that the operator used its best efforts to comply with such paragraph but was unable to because of circumstances beyond such operator's control.

b. Any operator who violates subdivision b of section 16-453 of this chapter shall be liable for a civil penalty recoverable in a proceeding before the environmental control board in the amount of: (1) one hundred dollars for the first violation; (2) seven hundred dollars for the second violation within a twelve-month period of the first violation; and (3) one thousand dollars for the third violation within such twelve-month period.

c. Any operator who violates subdivision c of section 16-453 of this chapter shall be liable for a civil penalty recoverable in a proceeding before the environmental control board in the amount of: (1) one hundred dollars for the first violation within twelve months of the date the report referred to in such subdivision is due; (2) seven hundred dollars for the second violation within such twelve-month period; and (3) one thousand dollars for the third violation within such twelve-month period.

d. Any manufacturer who violates subdivision a of section 16-454 of this chapter shall be liable for a civil penalty recoverable in a proceeding before the environmental control board in the amount of five hundred dollars per day for each day that such violation continues.

e. Any manufacturer who violates subdivision b of section 16-454 of this chapter shall be liable for a civil penalty recoverable in a proceeding before the environmental control board in the amount of: (1) one hundred dollars for the first violation within twelve months of the date the report referred to in such subdivision is due; (2) one thousand dollars for the second violation within such twelve-month period; and (3) fifteen hundred dollars for the third violation within such twelve-month period.

f. Any manufacturer who violates subdivision c of section 16-454 of this chapter shall be liable for a civil penalty recoverable in a proceeding before the environmental control board in the amount of: (1) one hundred dollars for the first violation; (2) one

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thousand dollars for the second violation within a twelve-month period of the first violation; and (3) fifteen hundred dollars for the third violation within such twelve-month period.

g. The failure of an operator or manufacturer to provide the report or maintain the records, or of a manufacturer to provide educational materials requested by an operator, required by sections 16-453 and 16-454 of this chapter shall constitute a continuing violation that subjects such operator or manufacturer to up to three notices of violation within the twelve-month periods provided in subdivisions b, c, e and f of this section.

h. The department shall have the authority to enforce all provisions of this chapter. The department of consumer affairs also shall have the authority to enforce paragraphs one, two and five of subdivision a of section 16-453 of this chapter.