

Local Law Filing

New York State Department of State
41 State Street, Albany, NY 12231

Town of North Hempstead

Local Law No. 16 of the year 2008.

A local law amending Chapter 46 Entitled "Sanitation"

Be it enacted by the Town Board of the Town of North Hempstead as follows:

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
DEC 22 2008

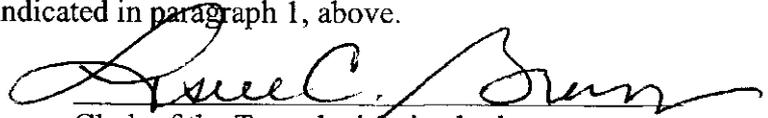
MISCELLANEOUS
& STATE RECORDS

PLEASE SEE ATTACHED:

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

I hereby certify that the local law annexed hereto, designated as local law No. 16 of 2008 of the Town of North Hempstead was duly passed by the Town Board on December 15, 2008, in accordance with the applicable provisions of law.

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

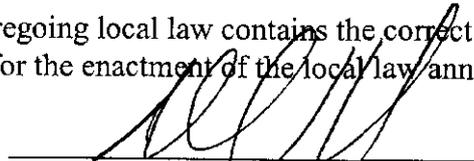

Clerk of the Town legislative body

Date: 12/18/08

(Seal)

STATE OF NEW YORK
COUNTY OF NASSAU

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


TOWN ATTORNEY
TOWN OF NORTH HEMPSTEAD

Date: 12/18/08

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. 16 OF 2008**

**A LOCAL LAW AMENDING CHAPTER 46 OF THE TOWN CODE, ENTITLED
"SANITATION"**

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to make amendments to Chapter 46 entitled "Sanitation" in order to conform the existing code with the recent U.S. Supreme Court decision that upheld the constitutionality of a local government's authority to direct solid waste to a designated publicly-owned facility, and to provide for more effective enforcement of the Town's existing solid waste management laws.

Section 2.

Chapter 46 of the Town Code is hereby amended as follows:

ARTICLE I General Regulations

§ 46-1. Title.

This chapter shall be known as the "Sanitation Code of the Town of North Hempstead."

§ 46-2. Definitions.

For the purpose of this chapter, the terms used herein are defined as follows:

ACCEPTABLE WASTE — All Solid Waste generated and collected in the Town that the Commissioner deems acceptable for disposal at a Solid Waste Management Facility, except for Recyclables, Hazardous Waste or Unacceptable Waste.

AUTHORITY — The Town of North Hempstead Solid Waste Management Authority.

AUTHORITY AGREEMENT — The Landfill Concession and Solid Waste Service Agreement dated as of March 15, 1988, between the Authority and the Town, amended from time to time.

BOTTLES — Containers made of Glass that formerly contained only food or beverages.

BULK ITEMS — Items that may be too large to fit into standard household trash cans or are typically not collected as part of weekly trash collections, such as small household appliances and housewares (microwaves, toasters, irons, pots and pans); painted, laminated and treated wood, including lumber under 4 feet in length and under 25 pounds, and plywood; furniture (wooden and upholstered); mattresses; textiles; bulky plastics; packing materials; insulation; office equipment; and small machinery, generated within the Town and which has been discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, having served their intended use.

BULKY SCRAP METALS — White goods (stoves, refrigerators, washing machines, dishwashers and hot water heaters), outdoor metal furniture, recognizable, uncontaminated metal vehicle parts, metal pipes, bed frames, metal sheds and other large metal objects, generated within the Town and which has been discarded or rejected as being spent, useless, worthless, or

in excess to the owners at the time of such discard or rejection, having served their intended use.

CANS — Containers made of aluminum, tin or steel that formerly contained only food or beverages.

COLLECT — The activity of picking up, gathering or loading of Solid Waste.

COLLECTOR — Each such individual or carting company authorized by valid license issued by the Commissioner to collect, pick-up, remove or cause to be collected, picked up or removed any Acceptable Waste and Recyclables generated within the Town and placed at Curbside or other designated area for collection.

COMMERCIAL — Any person, company, corporation, partnership, or other entity engaged in a business for profit.

COMMERCIAL WASTE — Acceptable Waste generated by stores, offices, institutions, restaurants, warehouses and nonmanufacturing activities at industrial facilities.

COMMINGLED — Source Separated, nonputrescible, noncontaminated Recyclables that have been placed in the same container.

COMMISSIONER — The Commissioner of the Department of Solid Waste Management of the Town of North Hempstead, who also serves simultaneously as Executive Director of the Town of North Hempstead Solid Waste Management Authority.

CONSTRUCTION AND DEMOLITION DEBRIS — Uncontaminated Solid Waste resulting from the construction, remodeling, repair or demolition of structures and roads. Such waste includes, but is not limited to, bricks, concrete, and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles, asphaltic pavement, Glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components containing no Hazardous Waste, and metals that are incidental to the above. Solid waste that is not "Construction and Demolition Debris" (even if resulting from the construction, remodeling, repair or demolition of roads) includes, but is not limited to, asbestos waste, garbage, corrugated paper, electrical fixtures or components (such as fluorescent light ballasts or transformers) that contain hazardous substances, carpeting, furniture, appliances, tires, drums and containers and fuel tanks. Specifically excluded from the definition of "Construction and Demolition Debris" is Solid Waste resulting from any processing technique, other than that employed at a construction and demolition processing facility, that renders individual waste components unrecognizable, such as pulverizing or shredding.

CONTAINER — Any portable device in which material is stored, transported, treated, disposed of or otherwise handled.

CORRUGATED PAPER — All corrugated cardboard normally used for packing, mailing or shipping of goods or other material, but shall not mean wax-coated or soiled cardboard.

CURBSIDE — The location within five (5) feet from the public street at which Acceptable Waste or Recyclables may be set out for collection by a Collector.

CURBSIDE RECYCLING PROGRAM — The program established pursuant to § 46-11 of this chapter.

DUMPSTER CONTAINER — A container used for the purpose of temporarily holding Construction and Demolition Debris, Solid Waste, Commercial Waste or Recyclables and which generally ranges in size from 1/2 cubic yard to 40 cubic yards.

ECONOMIC MARKETS — 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 the materials less the amount received from the sale of the material.

GLASS — All clear (flint), green and brown (amber) colored Glass containers, crystal, ceramics and plate, window, laminated or mirrored Glass, excluding wired Glass.

HAZARDOUS WASTE — Waste that appears on a list or satisfies the criteria promulgated under § 27-0903 of the New York State Environmental Conservation Law and/or Section 1004 of the Federal Resource Conservation and Recovery Act of 1976, as amended, or which any governmental agency or unit having appropriate jurisdiction or the Commissioner shall determine to be harmful, toxic, dangerous or ineligible for disposal at any Solid Waste Management Facility located within the Town, which shall include but not be limited to a Solid Waste or a combination of Solid Wastes that, because of its quantity, concentration or physical, chemical or infectious characteristics, may:

A. Cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating, reversible illness.

B. Pose a substantial present or potential hazard to human health or the environment when it is improperly treated, stored, transported, disposed of or otherwise managed.

HOUSEHOLD HAZARDOUS WASTE — Household waste that, but for its point of generation, would be a Hazardous Waste.

HOUSEHOLD WASTE — Solid Waste discarded from single or multiple dwellings, hotels, motels, campsites, public and private recreation areas and other residential sources.

LANDFILL — A disposal facility at which Solid Waste or its residue after treatment is intentionally placed and at which such waste shall remain after closure.

LICENSEE — Any Collector licensed pursuant to the provisions of this chapter.

MULTIRESIDENTIAL COMPLEX — Four or more residential units located on a single property or contiguous properties under common ownership, control or management. For this purpose, "residential unit" shall mean an enclosed space consisting of one or more rooms designed for use as a separate residence and shall include, but not be limited to, an apartment, condominium unit, townhouse cooperative unit, mobile home, living unit in a group home and room or set of rooms in a boardinghouse, but shall not include rooms within a single-family residence, motel or hotel.

MUNICIPALITY — Any municipal corporation, agency, school district, district corporation, special district or improvement district located or having jurisdiction in whole or in part within the confines of the Town.

NEWSPAPER — Newsprint and all Newspapers and Newspaper advertisements, supplements, comics and enclosures. "Newspaper" is a Recyclable.

PAPER — All office paper, fine paper, bond paper, xerographic paper, mimeo paper, duplication paper, magazines, paperback books, catalogs, junk mail, computer paper, telephone books and similar material, but shall not mean Newspaper, wax paper, plastic or foil-coated paper, styrofoam, wax-coated food or beverage containers, carbon paper, blueprint paper, food-contaminated paper or corrugated paper.

PERSON — Any natural person, individual, partnership, corporation, association, joint venture, corporation form, trust, estate or any other legal entity, including a municipality.

PLASTIC CONTAINERS — Containers composed of high-density polyethylenes (HDPE), polyethylene terephthalate (PET) or other specific plastics as the Town Board may designate.

RECYCLABLE — Any physical material designated by this chapter, the Commissioner, the Town Board from time to time or by the Authority's bylaws, or by any municipality pursuant to the implementation of a recycling program adopted by such municipality, to be segregated from Acceptable Waste without otherwise processing such Acceptable Waste. "Recyclable" includes Bottle, Cans and Plastic Containers.

RESIDENT — Any Person residing within the Town on a temporary or permanent basis, but excluding Persons residing in hotels or motels. For purposes of this chapter, "resident" does not include Commercial, industrial or institutional establishments.

SOLID WASTE — All putrescible and nonputrescible materials or substances, including but not limited to materials or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, which are being accumulated, stored or physically, chemically or biologically treated prior to being discarded; have served their intended use; or are a manufacturing or mining by-product, including but not limited to garbage, Recyclables, Bulk Items, refuse and other discarded solid materials, including such materials resulting from industrial, Commercial, mining and agricultural operations and from community activities, 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 gaseous forms, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and waste that appears on the list of Hazardous Wastes promulgated by the Commissioner of Environmental Conservation pursuant to § 27-0903 of the Environmental Conservation Law.

SOLID WASTE MANAGEMENT FACILITY — Any facility employed beyond the initial Solid Waste collection process, including but not limited to transfer stations, baling facilities, rail haul or barge haul facilities, processing systems, including resource recovery facilities or other facilities for reducing Solid Waste volume, facilities for the disposal of Construction and Demolition Debris, plants and facilities for compacting, composting or pyrolyzation of Solid Wastes, and other Solid Waste disposal, reduction or conversion facilities.

SOURCE-SEPARATE — The segregating of Solid Waste into some or all of its component parts at the point of its generation and includes the segregation of Recyclables from the Solid Waste stream.

TOWN — The Town of North Hempstead, Nassau County, New York.

TOWN BOARD — The duly elected and constituted legislative body of the Town of North Hempstead.

UNACCEPTABLE WASTE — That portion of Solid Waste, excluding Hazardous Waste, designated by the Commissioner, in writing, as being unacceptable for treatment at a Solid Waste Management Facility, which designation may include, without limitation, explosives, pathological and biological waste, medical waste, radioactive materials, foundry sand, sewage

sludge, cesspool and other human waste, human remains and animal carcasses, motor vehicles, including such major motor vehicle parts as automobile transmissions, differentials, springs, fenders, agricultural and farm machinery and equipment, marine vessels and major parts thereof or any other large machinery or equipment.

VILLAGE — Any village located in whole or in part, within the Town.

YARD WASTE — Organic yard and garden waste, leaves, grass clippings, garden debris and brush.

§ 46-3. Adoption of rules and regulations.

The Town Clerk and the Commissioner shall adopt such rules and regulations as may be necessary to effectuate the purposes of this chapter, including such regulations as may provide for interim exemptions from certain provisions of this chapter to Persons applying for licenses hereunder.

§ 46-4. Licensing. [Amended 8-9-1994 by L.L. No. 6-1994]

A. License required for the collection and/or disposal of Solid Waste.

(1) The following Persons, excluding any Village as described in subdivision A(5) below shall be required to obtain a license for the collection and/or disposal of Acceptable Waste and/or Recyclables pursuant to this section:

(a) Persons in the business of collecting and/or disposing of Acceptable Waste and/or Recyclables other than the Authority.

(b) Persons engaged in the collection and/or disposal of Acceptable Waste and/or Recyclables as an accessory to their business.

(c) Commercial establishments that dispose of their own Acceptable Waste and/or Recyclables.

(2) All Collectors shall be licensed under this section.

(3) In addition to obtaining a license as herein provided, each licensed Person shall be required to obtain a permit for each vehicle, compactor, Dumpster Container or open box used by the licensed Person for the collection and/or disposal of Acceptable Waste and Recyclables in the Town and shall be required to display the permit on each vehicle, compactor, Dumpster Container or open box as required by the rules and regulations promulgated by the Commissioner.

(4) Commercial property owners, as well as a tenant, managing agent or merchant making arrangements for the collection of Solid Waste from Commercial property, are responsible for ensuring that such waste is collected by a licensed carter. No Commercial property owner, tenant, managing agent or merchant shall contract for the collection of Acceptable Waste or Recyclables with any Person or entity unless such Person or entity has the license required by this chapter, nor shall any such owner, tenant, managing agent or merchant permit a Dumpster Container or other container used for the collection of Acceptable Waste or Recyclables to be present on its property unless such Dumpster Container or other container has displayed on an exterior side the name, phone number and Town of North Hempstead license number of the licensed carter with whom it has contracted for the collection of waste.

(5) Village's which engage in the collection of Acceptable Waste and/or Recyclables utilizing Village-owned or -leased and -operated vehicles are not required to be licensed but shall provide any information reasonably required pursuant to any rules or regulations promulgated by the Commissioner for any such Village's use of the Authority's Solid Waste Management Facilities.

B. Licenses shall be classified as Type I collection/disposal, Type IR collection/disposal, Type II collection/disposal, Type III disposal and Type IV disposal licenses, depending upon the status and /or type of business of the applicant. The Commissioner shall determine which type of license is applicable. [Amended 11-14-1995 by L.L. No. 10-1995]

(1) Type I collection/disposal license. Applicants who are in the business of collecting and/or disposing of Acceptable Waste and Recyclables generated by others are required to have a Type I collection/disposal license to engage in such collection or disposal within the Town. Such Persons include but are not limited to private carting companies and companies and businesses that provide dumpster services. Editor's Note: Former Subsection B(1)(b), regarding minimum customer requirement, which immediately followed this subsection, was repealed 3-24-1998 by L.L. No. 7-1998.

(2) Type IR collection/disposal license.

(a) Applicants who are engaged in the business of collecting only Source-Separated Recyclables pursuant to contracts with owners or tenants of property are required to obtain a Type IR collection/disposal license to engage in such collection or disposal within the Town.

(b) The holder of a Type IR license may collect materials such as corrugated paper, high-grade paper and Construction and Demolition Debris which has been Source-Separated and placed into a separate container for collection and recycling or reuse and which will be recycled or reused. Each container used must be plainly marked as being for Recyclables only and may not be used for nonrecyclables. The holder of a Type IR license may not collect any container with nonrecyclables or mixed loads, even if the predominant material in such container is one or more Recyclables.

(3) Type II collection/disposal license. Applicants who are engaged in the collection and/or disposal of Acceptable Waste and Recyclables only as an accessory to their business are required to obtain a Type II collection/disposal license to engage in such collection or disposal within the Town. Such Persons include but are not limited to landscaping businesses and home improvement companies.

(4) Type III disposal license. Commercial establishments, other than those specifically excepted by the Commissioner, which dispose of their own Acceptable Waste and/or Recyclables are required to obtain a Type III disposal license.

(5) Type IV disposal license.

(a) Charitable, fraternal and religious organizations which maintain established meeting places within the incorporated or unincorporated areas of the Town of North Hempstead shall also qualify for a Type IV license and not-for-profit property owners associations operating principally within the Town of North Hempstead.

C. License procedure. Every applicant shall file a written verified application with the Town Clerk in such form and containing such information as the Town Clerk shall prescribe. Such information may include a list of the customers of the applicant, a list and map of the routes of the applicant, the volume of waste collected by it, the identity and relevant information as to the officers, partners and shareholders of an applicant, and the name of any affiliated or related companies engaged or formerly engaged in waste collection. [Amended 11-14-1995 by L.L. No. 10-1995]

D. Insurance and deposit. Before a license or permit may be issued by the Town Clerk, each applicant other than a municipality applying for a collection/disposal or disposal license shall file with the Town Clerk the following: [Amended 11-14-1995 by L.L. No. 10-1995]

(1) Proof of the following insurance coverage consisting of a certificate of the insurance carrier:

(a) Worker's compensation insurance.

(b) Disability benefits insurance.

(c) Comprehensive general liability/property damage in the combined single limit of, for Type I Licensees, \$5,000,000, or for other Licensees, \$1,000,000 naming the Town and the Authority as additional insured.

(d) Automobile bodily injury liability of, for Type I Licensees, \$1,000,000 (per Person)/\$1,000,000 (per accident), or for other Licensees, \$1,000,000 (per Person)/ \$1,000,000 (per accident), and \$1,000,000 property damage.

(e) Certificate cancellation requiring 30 days written notice to the Town Clerk.

(2) Cash deposit or bond. [Amended 8-4-1998 by L.L. No. 13-1998]

(a) A cash deposit or a bond from a surety company that meets the following two criteria:

(1) The company must be an admitted carrier in the State of New York.

(2) The company must have a New York State admitted carrier holding of an "A" rating from AM Best Company or equivalent.

(b) The cash deposit or bond must be in an amount equal to 250% of the average monthly charges for use of a Solid Waste Management Facility by the applicant during the previous year; or if the applicant has not used a Solid Waste Management Facility, the cash deposit or bond shall be in the amount of 250% of the estimated monthly charges to be incurred by the applicant during the current year. The Commissioner or Town Clerk may reduce the amount of the cash deposit or bond required if an applicant demonstrates that it will not have during the licensing year contracts for the collection of waste which it held during the prior year and has not obtained other contracts to substantially replace the lost waste. The Commissioner or Town Clerk may also require a Licensee to increase its cash deposit or bond during a year to 250% of a monthly charge if it incurs charges in any single month in excess of 40% of the amount of its cash deposit or bond. Notwithstanding the foregoing, the minimum cash deposit or bond shall be in the amount of \$20,000 for a Type I collection/disposal license, \$5,000 for a Type IR collection/disposal license and \$3,000 for Type II and Type III collection/disposal licenses. No deposit will be required from applicants for Type IV disposal licenses.

(1) In the event that a penalty is assessed pursuant to the provisions of this chapter, the Commissioner or Town Clerk may deduct the amount of such penalty from the cash deposit.

(2) The Licensee must maintain the required cash deposit or bond at all times, and failure to maintain said cash deposit or bond after three days' notice and demand will allow the Town Clerk to suspend such Person's license. The Town Clerk shall also be entitled to suspend the license of any Licensee which is more than 30 days late on payment of any bill for disposal from the Authority.

E. Every Licensee shall keep such records and accounts as the Commissioner shall require and shall provide the Commissioner with such reports upon a form supplied by the Commissioner.

F. The Commissioner or Town Clerk shall have the right to inspect books of account and records

maintained by the Licensee.

G. Issuance of licenses and permits.

(1) Licenses and permits required by this chapter shall be issued by the Town Clerk following a review and approval of an application and upon payment by the applicant of a fee in accordance with the fee schedule set forth below: [Amended 11-14-1995 by L.L. No. 10, 1995]

(a) Fee for a Type I collection/disposal license. The fee for a Type I collection/disposal license shall be \$600, which will include a permit for one vehicle. For each additional vehicle used by the applicant in the collection, transportation or disposal of Acceptable Waste, the permit fee shall be \$250. The permit fee for each compactor or open box shall be \$35.

(b) Fee for Type II collection/disposal license. The fee for a Type II collection/disposal license shall be \$135, which will include a permit for one vehicle used by the applicant in the collection, transportation or disposal of Acceptable Waste. For each additional vehicle used by the applicant in the collection, transportation or disposal of Acceptable Waste, the fee will be \$50.

(c) Fee for a Type III disposal license. The fee for a Type III disposal license shall be \$125, which will include a permit for one vehicle used by the applicant in the collection, transportation or disposal of Acceptable Waste. For each additional vehicle used by the applicant in the collection, transportation or disposal of Acceptable Waste the fee will be \$100.

(d) Fee for a Type IV disposal license. No license fees shall be required of applicants required to obtain Type IV disposal permits.

(e) Fee for a Type IR collection/disposal license. The fee for a Type IR collection/disposal license shall be \$300, which will include a permit for one vehicle. For each additional vehicle used by the applicant in the collection, transportation or disposal of Recyclables, the permit fee shall be \$100. The permit fee for each compactor or open box shall be \$35.

(2) Upon filing of an affidavit and such other proof as may be required by the Commissioner, a substitute permit or replacement of a lost permit may be issued upon the payment of a fee of \$25.

(3) Each license issued pursuant to this chapter shall be issued as of the date of the granting thereof and shall expire on the 31st day of December next succeeding such date, unless sooner suspended or revoked.

(4) No license shall be issued to any applicant if either its Solid Waste license has been revoked or is under a suspension, or if the applicant is affiliated with or under common ownership or control with a company whose Solid Waste license has been revoked or is under a suspension. The Town Clerk shall be entitled to all relevant information, including sworn statements, to ascertain whether an applicant is affiliated with or under common ownership or control with another company. "Control" shall mean either legal or de facto control. Where more than four years have elapsed from the date of a revocation of a license, the Town Board may by resolution waive the prohibition in this Subsection G(4) if it determines that issuance of a license will be in the public interest.

H. Acceptance of license. Acceptance of a license issued under this chapter shall be deemed a contract by the holder thereof to abide by the provisions of this chapter. In the event that the holder shall be in breach of such undertaking, the Town, in addition to all other remedies herein, shall be entitled to such liquidated damages as may be provided for in such license. [Amended 11-14-1995 by L.L. No. 10, 1995]

§ 46-5. Suspension and revocation of license.

A. Town Board's authority to revoke or suspend. Any license or permit issued hereunder may be suspended or revoked by the Town Board after a hearing upon notice, as set forth below, which establishes the requisite grounds in the discretion of the Town Board. No permit shall be suspended, except as provided in § 46-5D hereof, or revoked hereunder without a hearing thereon upon written notice to the permittee.

B. Grounds for suspension only. The Town Board shall be empowered to suspend a license or permit if the Licensee is indicted or charged, upon an information duly filed with public authorities, for or with the commission of any crime or offense until the Licensee is either convicted or acquitted.

C. Grounds for suspension or revocation. The Town Board, in its discretion, is empowered to either suspend or revoke a license or permit if the Licensee is:

- (1) Convicted of any crime.
- (2) Convicted of any violation of any:
 - (a) Provision of this chapter;
 - (b) Rule or regulation adopted under this chapter;
 - (c) Authority bylaw;
 - (d) Town ordinance;
 - (e) Ordinance or regulation of the state; or
 - (f) Ordinance or regulation of any municipality within the state.
- (3) Guilty of making a false statement or misrepresentation in his application for any permit issued pursuant to this chapter.

D. *Temporary suspension of license or permit pending a hearing.* The Town Clerk, upon receiving information giving him reasonable cause to believe that any Licensee hereunder violated any provision of this chapter, has been convicted of any violation listed in § 46-5B or C, has been either indicted for or charged with any crime or offense or is guilty of having made a false statement or misrepresentation in his application for any license or permit issued hereunder, may forthwith temporarily suspend such license or permit until the Town Board is able to conduct a hearing.

E. Procedure for hearings.

- (1) Timing. Whenever the Town Board holds a hearing, to revoke or suspend a permit issued pursuant to this chapter, such hearing shall be held on a date and at a place and hour designated by the Town Board. Such designation must conform to the time limits established hereunder.
- (2) Notice. A written notice of any hearing to be held by the Town Board for the revocation or suspension of any permit issued pursuant to this chapter shall be given to the permittee either in Person or by registered or certified mail. Any mailing shall be forwarded to the permittee's last known address and shall be postmarked not less than 10 or more than 30 days prior to the hearing date. The notice shall advise the permittee of the date, place and time designated for the hearing and shall set forth specifically the grounds for complaint.
- (3) Rights of the permittee. The permittee involved shall be entitled to:
 - (a) Be represented by legal counsel.

(b) Present competent and material testimony.

(c) Present any other competent and material evidence in his own behalf as may be relevant to the subject matter of the hearing.

(d) Speak on his own behalf.

(4) Unsworn testimony. There shall be no requirement of sworn testimony by any of the witnesses or the permittee.

F. Finality of Board determination. The findings of the Town Board at the hearing shall determine whether there are sufficient grounds for suspending a permit, pursuant to § 46-5B or C or for revoking a permit pursuant to § 46-5C. Where the findings establish sufficient grounds for suspension, the Town Board may suspend the permit. Where the findings establish sufficient grounds for either revocation or suspension, the Town Board, in its discretion, may suspend or revoke the permit. The Town Board, after such hearing, shall make such decision or determination as, in its opinion, ought to be made.

§ 46-6. Unlawful activities; enforcement.

A. It shall be unlawful for:

(1) Any Person, other than a Licensee or a Village not required to be licensed under Section 46-4(A)(5), to collect Acceptable Waste that has been placed at the Curbside for collection pursuant to this chapter.

(2) Any Person, other than a Licensee or a Village not required to be licensed under Section 46-4(A)(5), to collect any Recyclable that has been placed at the Curbside for collection or within a recycling collection area pursuant to this chapter.

(3) Any Person to violate or to cause or to assist in the violation of any provision of this chapter or any implementing rule or regulation promulgated by the Commissioner.

(4) Any Person to hinder, obstruct, prevent or interfere with Town or Authority employees or any other authorized Persons in the performance of any duty under this chapter or in the enforcement of this chapter.

B. All unlawful conduct set forth in this section shall constitute a violation. Each day or a part of a day on which violation(s) or failure continues shall constitute a separate violation(s). Each violation of this chapter shall constitute a separate offense.

C. It shall be the responsibility of the Commissioner and the Town Clerk, in consultation with the Town Attorney, to enforce the provisions of this chapter and all rules and regulations promulgated hereunder, including regulations of the Commissioner and bylaws of the Authority. Such enforcement shall be by such legal or equitable proceedings, including without limitation damages or for injunction to restrain a violation of this chapter or specific performance brought in the name of the Town of North Hempstead, as may be provided or authorized by law.

§ 46-6.1. Penalties for offenses.

A. Any Person, other than a Village, located in whole or in part within the Town, its officers and employees, acting within their municipal duties, who violates any of the provisions of this chapter other than § 46-14 of this chapter, or who fails to perform any duty imposed by this chapter or any rules or regulations promulgated pursuant to it or any final determination or order of the Commissioner or Town Board made pursuant to this chapter, shall be guilty of a violation and, upon conviction thereof in a court of competent jurisdiction, shall be punished by the

following fines: [Amended 8-6-1996 by L.L. No. 16, 1996]

- (1) For conviction of a first offense, by a fine of not less than \$1,000 and not more than \$5,000.
- (2) For conviction of the second of two offenses, both of which were committed within a period of two years, by a fine of not less than \$2,500 and not more than \$10,000.
- (3) For conviction of a third or subsequent offense of a series of offenses, all of which were committed within a period of five years, by a fine of not less than \$5,000 and not more than \$25,000.

B. Any Person, other than a Village, located in whole or in part within the Town, its officers and employees, acting within their municipal duties, who violates § 46-14 of this chapter, shall be guilty of a violation and, upon conviction thereof in a court of competent jurisdiction, shall be punished by a fine not to exceed \$5,000 or imprisonment for a period not to exceed 15 days or by a term of community service related to the purpose of this chapter, or any combination of the above penalties. For a conviction of a second offense, both of which were committed within a period of three years, punishment shall be by a fine of not less than \$2,500 nor more than \$10,000 or imprisonment for a period not to exceed 15 days or by a term of community service related to the purpose of the chapter, or any combination of the above penalties. Upon conviction for a third or subsequent offense, all of which were committed within a period of three years, punishment shall be by a fine of not less than \$5,000 nor more than \$25,000 or imprisonment for a period not to exceed 15 days or by a term of community service related to the purposes of the chapter, or any combination of the above penalties.

C. Violations by any Person, other than a Village, located in whole or in part within the Town, its officers and employees, acting within their municipal duties, shall be recorded by designated enforcement staff and issued through formal notices of violations and/or uniform appearance tickets. Uniform appearance tickets shall be answerable in District Court.

D. In addition to the penalties provided in this section, licenses or permits shall be subject to suspension or revocation for any of the reasons set forth in § 46-5.

E. In lieu of enforcement of this Local Law by way of prosecution, revocation of permits, or other means, the Commissioner, or his duly authorized representative, may seek to obtain the voluntary compliance with this Local Law by way of notice, warning or educational means, as deemed appropriate in the discretion of the Commissioner taking into consideration all of the circumstances surrounding such violation. This section shall not be construed to require that such non-compulsory methods must be employed or attempted before proceeding by way of compulsory or other legally proscribed procedures.

F. In the case of violations alleged to have been committed by a Village, its officers, employees or agents, the Town or Commissioner, or duly authorized representative, shall first send a notice of violation to the Village Mayor and Board of Trustees, or other governing body, for consideration of corrective action, prosecution or enforcement. Upon the expiration of 30 days from the giving of such notice and the failure to cure said violation, the Town and the Authority may enforce this law by pursuing civil remedies.

§ 46-7. Fees for acceptance of Solid Waste. [Amended 4-9-1991 by L.L. No. 6, 1991]

Charges for the acceptance of Solid Waste shall be at such a rate as the Town Board or the

Authority, pursuant to the Authority agreement, by resolution shall determine. Any change of a rate shall be effective as applicable to Licensees 30 days after notice thereof is mailed to such Licensees. As to all other users of the facilities, a change of rate shall be effective upon the action of the Board or the Authority, as the case may be. Notwithstanding the above, the rate charged to Villages shall only be modified annually as set forth in Section 46-21.

§ 46-8. Collection vehicles; operations.

A. Collection vehicles. Every collection vehicle shall be maintained, operated and used at all times only in full compliance with all applicable provisions of law, federal, state and local, and of this Sanitation Code and all applicable rules and regulations adopted thereunder. Every collection vehicle shall be loaded at all times in such a manner and by such methods as to prevent the release or discharge of dust and so prevent the spillage of refuse upon the sidewalks or streets, and every operator of a vehicle shall remove immediately from sidewalks or streets all refuse which is spilled, littered or thrown thereon in loading operations or in the handling and return of receptacles or while traveling.

B. Vehicle operations. The following specific regulations regarding collecting Acceptable Waste and the operation of collection vehicles shall be observed:

(1) Solid waste disposal. It shall be unlawful for any Person to leave, deposit or dump any Solid Waste anywhere in the Town except at any of the Town Solid Waste management facilities designated by the Commissioner. This shall not apply to any Village and officers and employees thereof acting within their municipal duties, which engages in the collection of Acceptable Waste and/or Recyclables and utilizing Village-owned or -leased and -operated vehicles and which declared itself exempt under Section 46-22 of this Chapter and which has not applied for and been granted reinstatement under Section 46-23 thereof.

(2) Watertight containers or vehicles required. No Person shall remove any Solid Waste of any kind from the premises of any Person or cart or transport the same through or upon any street, avenue, parkway or highway within the Town except in trucks or wagons securely covered with tarpaulins and having watertight bodies and covered containers.

(3) Careful operation. Operators of all types of collection vehicles shall exercise care at all times to prevent the making of unnecessary or avoidable noise in their operations. Each open top box-type vehicle body shall be kept securely and fully covered, except when actually engaged in collection, so as to prohibit any refuse from being discharged while the vehicle is in transit.

(4) Reworking loads. Refuse loaded in or upon collection vehicles shall not be reworked, resorted, picked over or rehandled while the vehicle is on the streets, and refuse shall not be transferred nor reloaded from a vehicle to or into any other vehicle while on the streets. Refuse shall not be carried at any time upon any collection vehicle other than solely within the vehicle body or solely within containers on or in the vehicle body.

(5) Emptying vehicles. After refuse is dumped for disposal, the vehicle body and each container used shall be emptied thoroughly and cleaned of all loose materials.

(6) Cleaning vehicles. Each collection vehicle and each container shall be frequently cleaned and washed and periodically disinfected in order to prevent obnoxious odors, unsightly conditions, vermin infestation and other conditions inimical to the public health, safety and welfare.

(7) Vehicle closure. All loading hoppers, doors, covers and other enclosures of loader openings of all collection vehicles, transfer vehicles, roll-off containers and boxes shall be kept closed and

secured at all times, except during actual loading and unloading of the particular opening.

(8) Collecting hours. No collection of Solid Waste shall be made between the hours of 6:00 p.m. and 6:00 a.m., unless authorized by a Village rule, regulation, or ordinance.

§ 46-9. Vehicle weight and identification of vehicles and containers. [Amended 11-14-1995 by L.L. No. 10, 1995]

Each vehicle engaged in the collection and disposal of Acceptable Waste and operating under a permit shall be numbered, lettered and weighed pursuant to the rules and regulations promulgated by the Commissioner. Each Dumpster, container, open box or other container used by a Licensee, except a Village not required to be licensed under Section 46-4(A)(5), for the collection of Solid Waste or Recyclables shall display the name, telephone number and Town license number of the Licensee or name of such Village on an exterior side of said container. Except for such Village's vehicles and containers, the Commissioner may promulgate a rule establishing a minimum size for such lettering.

§ 46-10. Hazardous and Unacceptable Waste.

No license for the collection and/or disposal of Acceptable Waste within the Town shall authorize or entitle a Person holding such a license to collect Hazardous Waste or Unacceptable Waste within the Town and/or to dispose of the same at any Solid Waste Management Facility within the Town. Household Hazardous Waste shall be Source-Separated and disposed of pursuant to regulations promulgated by the Commissioner.

ARTICLE IA Recycling

§ 46-11. Policy. [Added 8-31-1993 by L.L. No. 11, 1993]

A. The Town Board hereby declares that it is the policy of the Town of North Hempstead to promote recycling and to thereby conserve resources and reduce the amount of Solid Waste which is disposed of at landfills or by incineration.

B. The Town, through this Article IA of Chapter 46, Sanitation, and in accordance with the requirements of General Municipal Law § 120-aa, seeks to have all Solid Waste generated in the Town separated into recyclable, reusable or other components for which Economic Markets for alternate uses exist. For purposes of this Article, "components" shall include paper, corrugated paper, Glass, metals, plastics, Yard Waste and any other materials designated by the Town Board.

C. In determining whether Economic Markets for alternate uses exist, the Town Board and, in the case of Commercial, industrial and institutional establishments seeking relief from requirements pursuant to § 46-11.3B, the Commissioner shall give due consideration to:

- (1) Existing source separation in the Town.
- (2) Recycling of non Source-Separated waste realized pursuant to the Town's Solid Waste management plan.
- (3) The additional effort and expense which will be incurred in meeting any additional source separation requirements.

§ 46-11.1. Mandatory residential source separation and recycling. [Amended 8-31-1993 by L.L. No. 11, 1993]

A. Upon adequate notice for a garbage and refuse district or for a particular collection area, there shall be a mandatory Curbside Recycling Program pursuant to which all Persons who are owners, lessees or occupants of residential dwellings in the Town (except as provided in § 46-11.2) shall be required to Source-Separate for pickup all components of Solid Waste for which Economic Markets for alternate uses exist.

(1) Mandatory source separation for Newspapers, magazines, corrugated paper, Bottles and Cans, plastics and Yard Waste has been enacted for residential dwellings.

(2) The Town Board, by resolution, may expand the mandatory source separation and Curbside Recycling Program to include one or more of the following materials:

(a) Paper, or specific types or grades of paper.

(b) Construction and Demolition Debris.

(c) All other Recyclables as designated by resolution of the Town Board.

B. Residents shall separate Recyclables from all other residential Solid Waste and place them for collection in accordance with the following:

(1) Newspapers shall be compacted and securely bagged in paper bags or bundled and tied, in packages not exceeding 50 pounds, with a rope or cord sufficient in strength to facilitate handling. Newspaper shall be placed separately at Curbside for collection on days specified by the Commissioner under the rules and regulations prescribed.

(2) Bottles, Cans and plastics shall be cleaned and then placed in a recycling container provided to Residents beside bags or bundles of Newspapers.

(3) Yard Waste shall be separated from other waste and placed in bags or containers and put at the curb for collection on the Yard Waste collection day established for a garbage district or collection area. Nothing herein shall preclude Residents from leaving grass clippings on their lawn, or from a Village providing for alternative measures for the collection of Yard Waste.

(4) All other Recyclables subject to the Curbside recycling program shall be prepared for collection in accordance with regulations promulgated by the Commissioner.

(5) Corrugated paper shall be compacted and securely bundled and tied, in packages not exceeding 50 pounds, with a rope or cord sufficient in strength to facilitate handling. Corrugated paper shall be placed separately at Curbside for collection on days specified by the Commissioner under the rules and regulations prescribed.

(6) Recyclables that are added to the Curbside recycling program pursuant to Subsection A(2) of this section shall be collected in accordance with a schedule set by the Commissioner and advertised by the Town, after adequate notice has been published, posted and publicized for a garbage district or for a particular collection area.

C. Notwithstanding any other provision of this chapter to the contrary, Residents may dispose of their Recyclables by selling or donating the same to recyclers, but these Recyclables may not be picked up at Curbside.

§ 46-11.2. Mandatory recycling program for multiresidential complexes. [Amended 8-31-1993 by L.L. No. 11, 1993]

A. In any garbage district or area subject to the mandatory source separation and Curbside Recycling Program pursuant to § 46-11.1 of this Article, there is also established a recycling program for the Source Separation, collection and delivery of Recyclables included in the mandatory recycling program from all non-physically-disabled Residents of multiresidential complexes.

B. The owner, manager or superintendent of every multiresidential complex subject to Subsection A of this section shall provide and maintain in a neat and sanitary condition recycling collection areas to receive Recyclables that are generated by Residents of the complex. In cases where a condominium, cooperative, homeowner or similar association exists, the association shall be responsible for provision and maintenance of the recycling collection areas. All recycling collection areas shall be constructed and capable of receiving Newspapers, corrugated paper, magazines Bottles, Cans and plastic containers; and any and all other Recyclables as may be included in or added to the mandatory separation and Curbside Recycling Program within 60 days of such inclusion or in addition to the Curbside Recycling Program. Multiresidential complexes covered by this section shall also be required to separate and recycle Yard Waste collected on the premises of such complex.

C. All non-physically-disabled Residents of the complex shall Source-Separate Recyclables and place them in the appropriate containers or areas within the recycling collection area.

D. The number and design of the recycling collection areas required by this section for each multiresidential complex shall be consistent with regulations promulgated by the Commissioner.

E. Recyclables required to be placed in recycling collection areas pursuant to this section shall be prepared for collection in accordance with regulations promulgated by the Commissioner.

§ 46-11.3. Mandatory Commercial, industrial and institutional source separation and recycling program. [Amended 8-31-1993 by L.L. No. 11, 1993]

A. All Commercial, industrial and institutional establishments within a garbage district or other area of the Town subject to a Curbside Recycling Program established pursuant to § 46-11.1 of this chapter shall Source-Separate Solid Waste into recyclable, reusable or other components for which Economic Markets for alternate uses exist and arrange for their collection for recycling. In addition to those materials presently required to be recycled in residential and multiresidential complexes, i.e., Newspapers, Bottles and Cans, plastic and Yard Waste, Commercial establishments shall additionally be required to recycle Construction and Demolition Debris, corrugated paper, magazines and high-grade paper where there exist Economic Markets for alternate uses for such additional components. High-grade paper shall include white letterhead paper, white bond paper, white typing paper, white copier paper, white note pad paper, white writing paper, white envelopes, other nonglossy white office paper without plastic, computer printout paper, computer tab cards and white onion skin paper.

B. A Commercial, industrial or institutional establishment may, upon written application to the Commissioner, request relief from some or all of the requirements of Subsection A above. Upon receipt of such application, the Commissioner shall conduct a survey of such establishment to determine if there is sufficient generation to warrant recycling of the component or components in question and/or Economic Markets for alternate uses. If there is insufficient generation and/or

an insufficient economic market for alternate uses of a particular recyclable material, the Commissioner may issue an exemption.

C. The arrangement for collection of separated Recyclables for disposition under the Commercial recycling program shall be the responsibility of the Person who owns, manages or operates the Commercial, industrial or institutional establishment at which the Recyclables are generated ("generator") or the Person contractually obligated to the generator to arrange for collection and disposal of its Solid Waste. These arrangements may include, without limitation, direct marketing of Recyclables, contracts with Licensees for separate collection of any or all Recyclables, direct delivery to a Solid Waste Management Facility designated by the Commissioner or, in the case of Newspapers, Bottles and Cans and plastics, Curbside collection once per week in accordance with provisions for collection of such components from residential dwellings.

D. The mandatory Commercial, industrial and institutional source separation and recycling program may be expanded by resolution of the Town Board where it determines that Economic Markets for alternate uses exist for such additional components.

E. Generators of recyclable material who use private carters or recyclers for collection and marketing of recyclable materials must be provided with sufficient containers by such carter to allow for source separation of all components being recycled. All containers must be clearly identified as recyclable containers with lettering of at least six inches.

F. A generator which utilizes a private carter or recycler to collect one or more components shall provide written reports on a monthly basis to the Commissioner containing the following information:

- (1) The identity of the carter/recycler.
- (2) The components being recycled.
- (3) The approximate quantity of each such component.

G. Any carter or recycler collecting Source-Separated components from a generator shall provide written reports to the Commissioner on a monthly basis containing the following information:

- (1) Gross tons of Recyclables, by type collected.
- (2) Locations of all Commercial stops serviced during the particular month of each commodity recycled.
- (3) Disposal (marketing) location for Recyclables collected.

H. No carter or recycler may commingle nonrecyclable Solid Waste with any Source-Separated Recyclables.

I. Exemption for Existing Commercial Recycling Programs with Recyclers.

- (1) Any Commercial entity having in place a recycling program upon the effective date of this law, whereby that entity's Recyclables are collected by or delivered directly by such entity to a recycler, shall be exempt from the recycling requirements of this § 46-11.3.
- (2) Any such exempt Commercial entity must have registered its recycling program with the Authority and received written confirmation from the Authority of its exemption from this § 46-11.3.
- (3) Any such exempt Commercial entity shall not place its Recyclables at Curbside or other designated area for collection by a Collector.

J. Notwithstanding any other provision of this chapter to the contrary, Recyclable industrial and Commercial by-products may be sold or donated by an industrial and/or Commercial enterprise to any scrap metal enterprise or recycler. Said by-products cannot be placed at the Curbside for collection by said scrap metal enterprise or recycler.

ARTICLE II Solid Waste Management

§ 46-12. Legislative Intent.

A. The Board finds that it is in the best interest of the Town of North Hempstead to make amendments to Chapter 46 entitled "Sanitation" in order to conform the existing code with the recent U.S. Supreme Court decision that upheld the constitutionality of a local government's authority to direct solid waste to a designated publicly-owned facility, and to provide for more effective enforcement of the Town's existing solid waste management laws. The intent and purpose of Article II of this chapter is to provide for the management of all Solid Waste generated within the Town of North Hempstead and municipalities located therein and to authorize the supervision and regulation of the collection, transportation and disposition of all or part of any Acceptable Waste and Recyclables generated within such Town and municipalities so that the same is delivered to publicly-owned Solid Waste Management Facilities or such other publicly-owned disposal facilities as may be designated by the Town for processing or for other disposition or handling.

B. The management of Solid Waste is the inherent responsibility of local government, whose authority in this area is derived from its police powers. Town-wide collection and disposition of municipal Solid Waste, more commonly referred to as "flow control", allows for more effective and environmentally responsible waste planning and management, and more effective implementation of the Town's integrated Solid Waste management plan. Flow control will serve important environmental and public health and safety objectives.

C. The powers and duties enumerated in Article II of this chapter constitute proper Town purposes intended to benefit the health, welfare and safety of Town Residents. It is hereby found that, in the exercise of control over the collection, transportation and disposition of Solid Waste on a Town-wide basis, the Town is exercising essential and proper governmental functions.

§ 46-13. Authority to supervise and regulate collection of Acceptable Waste.

The Town Board hereby designates the Commissioner to be responsible for the supervision and regulation of the collection, transportation and disposition of all Acceptable Waste which was originated, generated or located within the Town and the municipalities therein. In undertaking such responsibilities, the Commissioner shall act pursuant to the standards established in this chapter.

§ 46-14. Collection and disposal of Acceptable Waste.

A. Requirements for Preparation, Collection, and Disposal of Residential Acceptable Waste. ("Collector" as used in this section shall include Villages with their own owned, leased and operated vehicles).

(1) In order to provide for public health and safety, each Resident shall provide for the separation of Acceptable Waste from all other types of waste and shall provide for the placement of such Acceptable Waste into a suitable container at Curbside or other designated area for collection by

a Collector.

(2) All Acceptable Waste placed at Curbside or other designated area for collection by a Collector must be delivered to a publicly-owned Solid Waste Management Facility designated by the Commissioner.

(3) All Bulky Scrap Metals must be separately placed at Curbside or other designated area for collection by a Collector. Such Bulky Scrap Metals must be delivered to a publicly-owned Solid Waste Management Facility designated by the Commissioner.

B. Requirements for Preparation, Collection, and Disposal of Residential Recyclables.

(1) Pursuant to § 46-11.1 of this chapter, Residents shall separate their Recyclables from all other types of waste and shall provide for the placement of such separated Recyclables into separate containers.

(2) All Recyclables placed at Curbside or other designated area for collection must be delivered to a publicly-owned Solid Waste Management Facility designated by the Commissioner.

(3) All Recyclables prepared in accordance with § 46-11.2 of this chapter and placed at Curbside for collection must be delivered to a publicly-owned Solid Waste Management Facility designated by the Commissioner.

C. Requirements for Preparation, Collection, and Disposal of Residential Yard Waste.

(1) In order to provide for public health and safety, Residents shall prepare Yard Waste for collection in accordance with § 46-11.1 of this chapter.

(2) All Yard Waste placed at Curbside or other designated area for collection must be delivered to a publicly-owned Solid Waste Management Facility designated by the Commissioner.

(3) This section shall not prohibit private non-commercial composting of Yard Waste or mulching of leaves, grass clippings and cuttings.

D. Requirements for Preparation, Collection, and Disposal of Construction and Demolition Debris.

(1) In order to provide for public health and safety, all Construction and Demolition Debris that has been placed into a Dumpster Container or other suitable container for collection by a Collector or otherwise collected by a Collector must be delivered to a publicly-owned Solid Waste Management Facility designated by the Commissioner.

(2) In order to facilitate the conservation of vital, natural resources through recycling, each Person shall separate their Construction and Demolition Debris from all other types of waste and shall provide for the placement of such separated Construction and Demolition Debris into separate suitable containers designated for each type of Construction and Demolition Debris material (e.g., wallboard, nails, clean wood, asphalt), respectively.

E. Requirements for Preparation, Collection, and Disposal of Commercial Waste.

(1) In order to provide for public health and safety, each Commercial entity that generates Commercial Waste shall provide for the separation of such waste into its recyclable and non-recyclable components and shall provide for the placement of such waste into a Dumpster Container or other suitable container and place such container at Curbside or other designated area for collection by a Collector.

(2) All such Commercial Waste placed at Curbside or other designated area for collection by a Collector must be delivered to a publicly-owned Solid Waste Management Facility designated by

the Commissioner.

(3) All Bulky Scrap Metals must be separately placed at Curbside or other designated area for collection by a Collector. Such Bulky Scrap Metals must be delivered to the publicly owned solid waste facility designated by the Commissioner.

F. Requirements for Preparation, Collection, and Disposal of Commercial Recyclables.

(1) In order to provide for public health and safety, each Commercial entity shall prepare Recyclables for collection in accordance with § 46-11.3 of this chapter.

(2) All Recyclables placed at Curbside or other designated area for collection must be delivered to a publicly-owned Solid Waste Management Facility designated by the Commissioner.

(3) The provisions of this section shall not apply to any Commercial entity having in place a recycling program approved by the Authority.

G. Prohibition Against Unauthorized Dumping and Scavenging.

(1) It shall be a violation of this chapter for any Person to place for the purpose of collection Solid Waste, Recyclables, or Yard Waste at a property other than the property generating said material.

(2) It shall be a violation of this chapter for any Person to place Solid Waste, Recyclables, or Yard Waste in dumpster containers and/or containers designated for solid waste use by Commercial and/or industrial establishments.

(3) It shall be a violation of this chapter for any Person to bury and/or burn Solid Waste on public or private property, unless authorized by the applicable municipality.

(4) It shall be a violation of this chapter for any Person to throw, dump, deposit or place Solid Waste, Recyclables, and/or Yard Waste along the roadside or on public and/or private property within the Town.

(5) It shall be a violation of this chapter for any Person to cause to be thrown, dumped, deposited, or placed Solid Waste, Recyclables, or Yard Waste along any public or private road or on lands bordering such roads.

(6) It shall be a violation of this chapter for any Person to burn, break, destroy, scatter, scavenge, collect or take any Recyclables without the consent of the owner of such materials.

H. No Person holding or required to hold a license pursuant to § 46-4 of this chapter shall deposit, deliver, store or process any Acceptable Waste or Recyclables which were generated or originated within the Town other than at a publicly-owned Solid Waste Management Facility designated by the Commissioner.

I. Except as may be provided by the Commissioner and except as provided elsewhere herein, no Person required to hold a license pursuant to § 46-4 of this chapter, other than a municipality, may collect any Acceptable Waste or Recyclables within the Town, including the municipalities located wholly or in part therein, without such a license.

J. Except as may be provided by the Commissioner and except as provided elsewhere herein, no Person required to hold a license pursuant to § 46-4 of this chapter, other than the Authority and any Person acting pursuant to a contract with the Authority, may dispose of any Acceptable Waste within the Town, including municipalities located wholly or in part therein, without such a license.

K. Nothing contained in this chapter shall be deemed or interpreted to prohibit any municipality located wholly or in part within the Town from itself engaging in the collection or transportation of Acceptable Waste which was originated, generated or located within such municipality; provided, however, that all Acceptable Waste so collected and transported shall be disposed of only at a publicly-owned Solid Waste Management Facility designated by the Commissioner.

L. Nothing contained in this chapter shall be deemed or interpreted to prohibit the Town, or municipalities located wholly or in part therein, from adopting or implementing programs to reduce the volume of Solid Waste, including composting and recycling programs.

M. Nothing contained in this chapter shall be deemed or interpreted to exempt any Person from any other applicable permitting or licensing requirements or rules or regulations, not inconsistent with this chapter, of the Town, municipalities within the Town or any other governmental entity.

N. Except as may be provided by the Commissioner, no Person shall enter into a contract for collection or disposal of Acceptable Waste located within the Town, including municipalities located wholly or in part therein, with a Person required to be licensed pursuant to § 46-4 of this chapter unless such Person holds such a license.

O. No Person, other than the Authority or a Person acting pursuant to an agreement with the Authority, disposing of Acceptable Waste at any Solid Waste Management Facility located within the Town shall have any interest in recovered materials or energy derived from such Acceptable Waste so disposed.

P. Except as provided by the Commissioner, any Acceptable Waste which was generated, originated or collected outside of the Town may not be deposited or disposed of at any Solid Waste Management Facility located within the Town.

Q. Nothing contained in this chapter shall prevent the Authority or any Person acting pursuant to any agreement with the Authority from delivering and/or disposing of Acceptable Waste or Recyclables that were generated or originated within the Town outside the territorial limits of the Town.

R. It shall be a violation of this law for any Person to place at Curbside or other designated area for collection any appliance containing Freon where such appliance has been crushed, or otherwise handled in a manner that allows Freon to escape into the atmosphere.

§ 46-15. Solid waste reduction.

It is hereby declared the policy of the Town to reduce the volume of Solid Waste generated within the Town.

§ 46-16. Contracts.

A. Every contract for the collection of Solid Waste, including Acceptable Waste which was generated, originated or located within the Town, including municipalities located wholly or in part therein, entered into, renegotiated or renewed after the effective date of this chapter, between any Person required to be licensed pursuant to § 46-4 of this chapter and any other Person located in whole or in part within the Town, shall provide that such licensed Person shall comply, in all respects and at all times during the term of such contract, with the provisions of this chapter and any rules and regulations hereunder, including, without limitation, those provisions requiring that all Acceptable Waste collected pursuant to such contract be delivered to a Solid Waste Management Facility designated by the Commissioner. The Town shall be deemed a third party beneficiary of such contractual undertaking. Copies of those provisions of such contract purporting to comply with the requirements of this § 46-16 shall be submitted to the

Commissioner not less than 10 days prior to the execution of such contract.

B. No renewal of any existing contract upon the expiration of its original term and no new contract for the collection, transportation, processing or purchase of Solid Waste or Recyclables shall be entered into after the effective date of this chapter unless the contract or renewal conforms to the requirements of this chapter.

§ 46-17. Delivery of Hazardous and Unacceptable Waste prohibited.

No Hazardous Waste or Unacceptable Waste shall be delivered by any Person to a Solid Waste Management Facility owned by the Town or the Authority or any other Town disposal facility.

§ 46-18. Effect on other provisions.

Pursuant to Chapter 544 of the Laws of 1983 of the State of New York, this chapter takes precedence over and shall supersede any inconsistent provisions of any local law enacted by any municipality within the Town.

§ 46-19. Severability; repealer.

If any provision of this chapter of the rules and regulations promulgated hereunder or any directive, order or instruction given by anyone authorized to enforce this chapter shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the particular provision, rule or regulation involved. All provisions of any other local law or ordinance that are inconsistent with this chapter are repealed.

§ 46-20. Implementation.

The Commissioner shall cause to be drawn up an implementation schedule or schedules which shall list all portions of this Local Law which remain to be implemented. Such schedule or schedules shall be mailed by certified mail return receipt requested to the Town Board and to each municipality, addressed to the clerk of each such body. Said schedule or schedules shall be effective upon the date of such mailing.

ARTICLE III Municipal Applicability

§ 46-21. Rate and Provision Guarantee

All municipal entities covered by the Sanitation Code of the Town of North Hempstead shall be guaranteed the per-ton rates for disposal provided to North Hempstead operated garbage districts. These rates shall include only those disposal costs as outlined in the long-term waste disposal agreement then in effect, plus costs directly associated with the operation and oversight of the North Hempstead solid waste transfer station.

The rate guarantee provided herein shall be contained in an intermunicipal agreement duly approved and executed by a Village and the Town and returned to the Commissioner prior to the commencement of the long-term disposal agreement on May 1, 2010. Said intermunicipal agreement shall contain provisions for changes in tipping fees and other rates to be made by the Authority solely on an annual basis with every Village party to the intermunicipal agreement to be notified by the Authority no later than the 1st day of June of each year of said intermunicipal

agreement, or renewal period thereof, and shall also contain a provision that the Town will guarantee that it will abide by the terms of the Sanitation Code of the Town of North Hempstead in effect as of the date of the intermunicipal agreement, as those terms relate to Villages.

§ 46-22. Exemption

A Village shall be exempt from the provisions set forth in Section 46-14, subsections A through K and N and O, of Article II of this chapter requiring such Village to dispose of all Acceptable Waste, Recyclables, Yard Waste, or Construction and Demolition Debris at a Solid Waste Management Facility designated by the Commissioner where such items are generated within its borders, and collected directly by the Village or by a vendor retained by the Village, and from the provisions of Section 46-16 of Article II of this chapter requiring every contract or renewal thereof for the collection, transportation, processing or purchase of Solid Waste or Recyclables made by such Village to conform to said provisions of Section 46-14 and Section 46-16, upon filing with the Authority and the North Hempstead Town Clerk a declaration of exemption adopted by the Village Board. Said declaration of exemption must be made by May 1, 2009 to take effect May 1, 2010; by May 1, 2019 to take effect on May 1, 2020; by May 1, 2024 to take effect May 1, 2025; and by May 1, 2029 to take effect May 1, 2030. The Town shall provide all Villages with written notification of the time limits set forth in this section at least 30 days prior to the 1st day of May, 2009, 2019, 2024 and 2029.

If a Village declares an exemption pursuant to this Section, any such declaration shall include a provision indemnifying the Town and the Authority from responsibility or liability under any applicable New York State law, rule or regulation relating to solid waste collection, disposal or recycling activities conducted or authorized by said Village, including but not limited to New York State Environmental Conservation Law Section 27-0107 (Local Solid Waste Management Plans) and 6 NYCRR Part 360, subpart 15 (Comprehensive Solid Waste Management Planning).

A Village's declaration of exemption pursuant to this Section shall not prevent the Town or the Authority from enforcing the provisions of Article II of this Chapter upon Commercial and/or private (non-municipal) Collectors.

§ 46-23. Reinstatement

Any Village which has been exempted pursuant to Section 46-22 of the Sanitation Code of the Town of North Hempstead may submit an application to the Secretary of the Authority requesting the withdrawal of their exemption. Such application shall be in writing and must be received by the Secretary between the 1st of September and the 1st of December in order to go into effect on May 1st of the following year. Such application shall contain a resolution, duly adopted by the Village Board, requesting withdrawal of their exemption and detailing the type and quantity of Acceptable Waste and Recyclables to be covered.

Withdrawal of the exemption shall be granted upon establishing that disposal of the additional Acceptable Waste and Recyclables at a publicly-owned Solid Waste Management Facility designated by the Commissioner does not exceed available capacity at such facility under the existing long term disposal agreement.

The Town and the Authority shall not be responsible for costs associated with such application. This provision does not apply to work performed by full-time Town and Authority personnel.

§ 46-24. When effective.

This chapter, as amended, shall take effect immediately upon filing with the Secretary of State.

Section 3.

This Local Law shall take effect immediately upon filing with the Secretary of State.