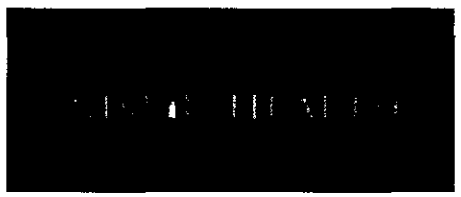
SOLID WASTE HAULING ADVISORY GROUP



Final Report to

The Honorable M. Jodi Rell, Governor
State of Connecticut

September 19, 2006

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STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

Leonard C. Boyle
Commissioner

Andrew R. Crumbie, Esq.
Executive Assistant

September 19, 2006

The Honorable M. Jodi Rell
Governor
State of Connecticut
State Capitol Building
Hartford, CT 06106

Dear Governor Rell:

On June 10, 2006, you requested that the Departments of Public Health (DPH), Consumer Protection (DCP), Environmental Protection (DEP), Public Safety (DPS), and the Office of the Chief State's Attorney (CSA) form an Advisory Group ("the Group") to make recommendations regarding the creation of an Authority to oversee and/or license businesses engaged in transporting solid waste in Connecticut. The Group previously reported its preliminary findings on July 21st, and asked that it be permitted to submit its recommendations on September 15, 2006. Those recommendations follow.

The group began its work by determining the extent to which the solid waste - or trash hauling - industry has been influenced by corrupt practices. Your request followed the federal indictment of several solid waste haulers on racketeering and related charges in Connecticut. The indictment alleges that those haulers – which operated primarily in Fairfield and New Haven counties – engaged in collusive and predatory business practices and that organized crime elements had infiltrated the industry. As a result of that indictment, the United States District Court issued a restraining order and installed a monitor to operate the indicted businesses.

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The proof of the charge already has been substantiated. On August 11, 2006 one defendant, David Magel, the General Manager of CRP Carting of Elmsford, New York, pled guilty to conspiring to violate the federal racketeering act. Magel admitted that he and others conspired to perpetuate a system, commonly called the "property rights system," by which the participants agreed that they would not service or compete for each other's customers, thereby damaging free enterprise, allowing the participating haulers to artificially inflate their prices, and leaving waste removal customers with no other options. In this scheme, which was directed at both commercial and residential customers, participating haulers agreed to quote inflated prices to customers "owned" by their co-conspirators. According to statements made by federal prosecutors at the plea hearing, the property rights system in Connecticut was enforced by extortion and threats.

In addition, we found that over the past two decades Connecticut state authorities also have initiated several criminal and civil cases against members of the industry for unlawful business and environmental practices.

In the metropolitan New York area, a number of criminal prosecutions also have established that the trash hauling industry has been susceptible to organized crime influence. As a result of those cases, the City of New York, Westchester County, and the State of New Jersey have imposed varying degrees of requirements on those engaged in the industry.

The Group now has met five times, including one public hearing, and has reviewed the existing federal, state, and municipal laws and regulations that govern the industry and its business practices. The Group also has researched the regulatory schemes that have been enacted in the City of New York, Westchester County, New York, and the State of New Jersey, and has reviewed thousands of pages of regulations, summaries, and reports emanating from those agencies. Members of the Group also have spoken with representatives of the New York, Westchester, and New Jersey Authorities regarding the strengths and weaknesses of each.

As noted in our preliminary report of July 21, 2006, in general, Westchester County has adopted the most comprehensive regulatory scheme, with New York City's being somewhat less ambitious, and New Jersey's less restrictive still. Each has its advantages and undoubtedly is tailored to the particular circumstances of each jurisdiction. The New York City scheme, after which several of our recommendations are patterned, is attached in full at Tab A.

The Group also realized that it could not accurately assess Connecticut's need without an understanding of the extent to which municipalities regulate trash hauling and disposal. Thus, we examined the ordinances of several municipalities and heard testimony from the industry as well as others familiar with municipal regulations. We learned that the scope of municipal regulations varies widely from town to town, with some imposing significant costs to haulers in the form of licenses and permits while others have adopted far less expansive controls. Municipal licensure focuses primarily on insurance and other fiscal responsibility issues, not those addressed by current or proposed DEP regulations or the proposals that follow. A representative sampling of those regulations is attached at Tab B.

As noted in our initial report, Connecticut Attorney General Richard Blumenthal has urged that because of the demonstrated history of unlawful practices within the industry, Connecticut should require that all solid waste haulers obtain a license. Currently, hazardous waste haulers are licensed by DEP, following review of past environmental compliance. See G.C.S. Chapter 446k Sec. 22a-454. The Attorney General cautioned against creating a new bureaucracy, suggesting that existing state and federal laws are largely effective in punishing wrongful business practices. Attorney General Blumenthal's recommendations are attached in full at Tab C.

Consistent with our charge, and because of the extensive role that the Connecticut DEP plays in regulating the environmental aspects of waste management, the Group limits its recommendations to the business practices of the trash hauling industry. We support the adoption of DEP's proposed Solid Waste Management Plan, as it relates to the hauling, transfer and disposal of solid waste, which offers broad-based management standards and recommendations, including licensure by DEP of solid waste haulers and regulation of the industry's environmental practices. Taken together, the licensure scheme proposed in the Solid Waste Management Plan and the business practices regulations that we propose below should provide a comprehensive, efficient and understandable mandate as to how trash haulers ought to conduct their business.

With this in mind, and in an effort to create a system that will protect the public by fostering a fair, competitive business climate, the Group makes the following recommendations:

RECOMMENDATION ONE: The State of Connecticut should establish by statute a Solid Waste Hauling Authority, ("the Authority") consisting of the Commissioners of the Departments of Consumer Protection, Public Safety, as well as the Chief State's Attorney;

RECOMMENDATION TWO: The Authority should have responsibility to investigate fraudulent, predatory, anti-competitive and other illegal conduct involving the business practices of any licensed solid waste hauler. The Authority, through the Department of Public Safety, shall conduct background investigations of all solid waste haulers.

RECOMMENDATION THREE: Any person or entity engaged in the business of solid waste hauling or in brokering solid waste hauling, transfer, or disposal should be required to obtain a license from the Department of Environmental Protection, following such background investigations as prescribed by the Authority and review of the applicant's environmental compliance history by DEP. The licensee shall bear the cost of the background investigation.

~ For these purposes, the business of solid waste hauling is defined as the removal, collection, hauling, or transfer of solid waste from either residential or commercial customers for a fee;

~ For these purposes, the business of brokering solid waste transfer is defined as arranging for an entity or person to remove, collect, haul, or transfer of solid waste from either residential or commercial customers for the purpose of further transfer processing, or disposal of such waste for a fee;

~ For these purposes, background checks by the Authority as well as environmental compliance checks by DEP would cover the applicant and any director, officer, partner, principal or owner of more than five percent of the equity of the business. See C.G.S. CH. 439 section 22a-6m.

~ DEP shall not issue a license unless the Authority has informed DEP that the applicant's background check is satisfactory to the Authority.

RECOMMENDATION FOUR: The legislation should provide that businesses having fewer than three hauling vehicles or who remove only incidental debris and materials resulting from building demolition, construction, alteration or excavation, landscaping, and residential cleanup may apply for exemption from licensure.

RECOMMENDATION FIVE: The DEP should be empowered to modify, transfer, deny, suspend, and revoke licenses for waste haulers:

1.) In the event that the Authority recommends such action.

The standards by which the Authority's decision might be made are set forth in the accompanying opinions of the New York City Business Integrity Commission, at Tab D; or

2.) In the event DEP determines such action is appropriate, in accordance with DEP's review of environmental compliance information of the hauler or any director, officer, partner, principal, or owner of more than five percent of the equity of the business. See G.C.S. Ch. 439 section 22a-6m.

RECOMMENDATION SIX: The Governor should appoint a Director to manage the daily activities of the Authority;

The Director's responsibilities should include, subject to budgetary allocation by the Office of Policy and Management:

~ The power to appoint, employ, and remove such assistants, employees and personnel as deemed necessary for the efficient and effective administration of the activities of the Authority;

~ To prepare annually and submit to the Governor and the Authority a written report concerning the work and activities of the Authority including, but not limited to, statistical information regarding the disposition of closed investigations, audits and other reviews;

~ To investigate any matter within his or her jurisdiction and to have full power to compel by subpoena the attendance of witnesses, examine and take testimony under oath of such persons as the Director may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigations. In the case of a refusal to obey a subpoena issued to any person, the Director, with the approval of the Authority, should be authorized to make application to the Superior Court for the Judicial District of Hartford, which should have jurisdiction to order the witness to appear before the Director and to produce evidence if so ordered, or to give testimony regarding the matter in question.

~ Statutory authority should provide that the Director is authorized to, on a random basis, perform audits of the books and records of all licensed solid waste haulers and brokers, which books and records shall be made available to the Director, and to inspect all contracts for the hauling of solid waste and brokering of solid waste transfer.

~ Where the Director detects any violation of state law on the part of any licensed solid waste hauler or broker, he or she should notify the appropriate law enforcement agencies. Subsequent to notifying the appropriate law enforcement agency, the Director should be permitted to assist the law enforcement agency in concluding the investigation.

~ The Director should also be authorized to make referrals to the Office of the Attorney General and to the State Ethics Commission where appropriate.

Obviously, these recommendations would require the enactment of a statutory structure setting forth the Authority's responsibilities, the standards for issuance and revocation of licenses, and the powers of the Authority's director. In addition, the recommendations, if accepted and adopted, would occasion state expenditures to fund the Director's and staff positions, conduct background checks, and other associated costs. Should our recommendations be accepted, the Group stands ready to propose specific statutory language along the lines of the attached statutes from other jurisdictions and to provide our best estimate of the costs associated with hiring personnel and performing background investigations.

Sincerely,

Leonard C. Boyle
COMMISSIONER

Conclusion

Protection of its citizens from organized crime is an imposing challenge for all aspects of government. The State of Connecticut has already made many sound decisions in this battle, but there are many more to be made. The Group believes that the preceding recommendations, if implemented, will leave the citizens of Connecticut substantially more protected from the dangers of organized crime than they currently are.

Chairman Leonard Boyle, of the Department of Public Safety, would like to thank the following individuals for their diligent efforts in service to the Advisory Group, which allowed a great deal of work to be accomplished in a short period of time. Each contributed significantly to the success of the group.

Department of Consumer Protection
- Commissioner Edwin Rodriguez
- Deputy Commissioner Jerry Farre

Department of Environmental Protection
- Deputy Commissioner Amey Marrella
- Director Robert Isner
- Robert Kaliszewski
- Dean Applefield

Department of Public Health
- Commissioner Robert Galvin

Department of Public Safety
- Attorney Dawn Hellier
- Charlene Puska, Administrative Assistant to the Commissioner
- Wilfred Blanchette, Governmental Liaison
- Trooper Seth Mancini

Office of the Chief State's Attorney
- Chief State's Attorney Kevin T. Kane
- Assistant State's Attorney Michael A. Gailor
- Assistant State's Attorney Howard Stein

Office of the Attorney General
- Attorney General Richard Blumenthal
- Assistant Attorney General Steven Rutstein

TAB A

TITLE 17

TRADE WASTE COMMISSION

CHAPTER I

LICENSING AND REGULATION

Subchapter A General Provisions
B Licensing and Registration
C Investigation of Employees and Agents
Appendix A Employees Subject to Disclosure Pursuant to Section 3-01
Subchapter D Auditors and Monitors
E Conduct of Licensee
F Conduct of Trade Waste Brokers
G Conduct of Class 1 Registrants Removing Their Own Waste and Class 2 Registrants Granted Exemption from Licensing Requirements
H Special Trade Waste Districts (Reserved)

SUBCHAPTER A
GENERAL PROVISIONS

§1-01 Definitions.
§1-02 Notice.
§1-03 Hearings.
§1-04 Penalties.
§1-05 Liability for Violations.
§1-06 Supplemental Disclosure.
§1-07 Enforcement and Compliance.
§1-08 Investigation of Customer Complaints.
§1-09 General Prohibitions.
§1-10 Forms Prescribed or Provided by the Commission.
§1-11 Commission Approval not to be Implied.
§1-12 [Reserved]
§1-13 Severability.

§1-01 Definitions.
For the purposes of this chapter, the following terms shall have the following meanings:

Applicant "Applicant" shall mean, if a business entity submitting an application for a license, or for exemption from the licensing requirement of section 16-505 of the Code, or for registration pursuant to this chapter, the entity and each principal thereof.

Code "Code" shall mean the Administrative Code of the City of New York.

Commission "Commission" shall mean the New York City Trade Waste Commission as established by section 16-502 of the Code. Except in regard to a determination to refuse to issue a license pursuant to section 16-509 of the Code, the term "Commission" shall also refer to an action of the Chair of the Commission, taken under delegation from the Commission pursuant to section 16-504 of the Code.

Disclosure "Disclosure" shall mean the information to be disclosed pursuant to section 16-508 of the Code and section 1-06 of this chapter, contained in the form provided by the Commission to be submitted with the application for a license or registration pursuant to this chapter. Disclosure of fines, penalties or settlements for regulatory violations set forth in clause i of paragraph (ii) of subdivision b of section 16-508 of the Code shall be made when any such fine, penalty, settlement is of an amount of five thousand dollars ($5,000) or more, or has resulted in the suspension or revocation of a license or other permission. Disclosure of injunctive relief with respect to such violations shall be made when such relief was or will be for a duration of six months or more.

Exempt business "Exempt business" shall mean a business granted an exemption from the licensing requirements of subdivision a of section 16-505 of the Code and issued a registration pursuant to subdivision b of such section.

Former principal "Former principal" shall mean a person or entity which was formerly a principal of the applicant business at any time during the ten year period preceding the filing of an application or registration pursuant to this chapter.

Licensee "Licensee" shall mean a business issued a license by the Commission.

Material change "Material change" shall mean a change in any information provided in response to an item identified by an asterisk on an application or disclosure form submitted to the Commission.

Position "Position" in a trade association shall mean an officer, member of the board of directors, partner, trustee, shareholder holding ten percent or more of the outstanding shares of stock in such association, or administrator, business agent or other status involving participation directly or indirectly in the management or control of such association.

Principal "Principal" shall mean, of a sole proprietorship, the proprietor; of a corporation, every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation; of a partnership, all the partners; if another type of business entity, the chief

operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent or more; and with respect to all business entities, all other persons participating directly or indirectly in the control of such business entity. Where a partner or stockholder holding ten percent or more of the outstanding shares of a corporation is itself a partnership, or a corporation, a "principal" shall also include the partners of such partnership or the officers, directors and stockholders holding ten percent or more of the outstanding shares of such corporation, as is appropriate. For the purposes of this chapter (1) an individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such individual; (ii) the spouse of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled); (iii) the children, grandchildren and parents of such individual; and (iv) a corporation in which any of such individual, the spouse, children, grandchildren or parents of such individual in the aggregate own fifty percent or more in value of the stock of such corporation; (2) a partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (3) a corporation shall be considered to hold stock in a corporation that is an applicant as defined in this section where such corporation holds fifty percent car more in value of the stock of a third corporation that holds stock in the applicant corporation.

Recyclables "Recyclables" shall mean those materials defined in subdivision i of section 16-303 of the Code.

Registrant "Registrant" shall mean a business required to be registered with the Commission or issued a registration from the Commission. "Class 1 Registrant" shall mean a business required to register pursuant to subdivision b of section 16-505 of the Code in order to remove, collect or dispose of trade waste that is generated in the course of operation of such business. "Class 2 Registrant" shall mean a trade waste broker required to register with the Commission and an exempt business issued a registration by the Commission pursuant to such subdivision.

Special trade waste district "Special trade waste district" shall mean a district established by the Commission pursuant to section 16-523 of the Code.

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

Trade waste or waste "Trade waste" or "waste" shall mean: (1) all putrescible and nonputrescible materials or substances, except as described in paragraph (2) of this subdivision, that are discarded or rejected by a commercial establishment required to provide for the removal of its waste pursuant to section 16-116 of the Code as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage,

refuse, street sweepings, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, medical waste, offal and any other offensive or noxious material. Such term shall also include recyclable materials as defined in subdivision i of section 16-303 of the Code that are generated by such commercial establishments.

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

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

§1-02 Notice.
Unless otherwise provided, all notice pursuant to this chapter, including but not limited to notice related to hearings, violations and subpoenae, may be served by first class mail addressed to the business address provided for an applicant, licensee, or registrant on the application submitted to the Commission or on the license or registration issued to the business. All such notice served on an employee or agent may be served by first class mail to the address listed for such employee or agent in the information provided to the Commission pursuant to section 2-02 of this chapter. Such notice may also be served by personal service or in any other manner reasonably calculated to achieve actual notice, including but not limited to any method authorized in the Civil Practice Law and Rules.

§1-03 Hearings.
(a) A hearing conducted pursuant to subdivision b of section 2-08, subdivision (c) of section 3-01 or subdivision (b) or (c) of section 3-02 of this chapter may be conducted by the Commission or, in the discretion of the Commission, by an administrative law judge employed or designated by the Commission, by the Office of Administrative Trials and Hearings (OATH) or by other administrative tribunal of competent jurisdiction; provided, however that hearings related to the violation of the provisions of section 16-505 of the Code and the rules of conduct set forth in subchapters 5, 6, and 7 of this chapter shall, except where the Commission is seeking revocation or suspension of a license or registration on the basis of such violations, be conducted by the Department of Consumer Affairs. All such hearings shall be conducted following the procedures set forth in the rules of OATH (48 RCNY §1-01 et seq.); except in the case of hearings conducted by the Department of Consumer Affairs, which shall be held pursuant to the procedures for adjudication set forth in the rules of such Department. In the event that a hearing is conducted by an administrative law judge employed or designated by the Commission, by

OATH or by other administrative tribunal, such administrative law judge shall make recommended findings of fact and a recommended decision to the Commission, which shall make the final determination. In the event that a hearing is held by the Department of Consumer Affairs, the Commissioner of such Department shall make the final determination.

(b) Any person who appears for a licensee or registrant at a hearing pursuant to this chapter shall present evidence that he or she is authorized to act as the representative of such licensee or registrant for all purposes related to the conduct of the hearing and the disposition of the matter adjudicated in the hearing.

§1-04 Penalties.
In addition to any other penalty provided by law:
(a) Except as otherwise provided in subdivision b or subdivision c of this section, any person who violates any provision of sections 2-05 or 2-06 or any provision of subchapters E, F or G of this chapter shall be liable for a civil penalty which shall not exceed ten thousand dollars ($10,000) for each such violation. Such civil penalty may be recovered in a civil action or pursuant to the provisions of subdivision a of section 1-03 of this chapter.

(b)(1) Any person who violates subdivision a of section 16-505 or section 16-524 of the Code shall, upon conviction thereof, be punished for each violation by a criminal fine of not more than ten thousand dollars for each day of such violation or by imprisonment not exceeding six months, or both; and any such person shall be subject to a civil penalty of not more than five thousand dollars ($5,000) for each day of such violation which may be recovered in a civil action or pursuant to the provisions of subdivision a of section 1-03 of this chapter; and

(c) Any person who violates subdivision b of section 16-505 of the Code or any rule pertaining thereto, including rules pertaining to the display of license plates issued by the Commission, shall, upon conviction thereof, be punished by a civil penalty not to exceed one thousand dollars ($1,000) for each such violation which may be recovered in a civil action or pursuant to the provisions of subdivision a of section 1-03 of this chapter.

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

(e)(1) In addition to any other penalty prescribed in this section for the violation of subdivisions a or b of section 16-505 or subdivision a of section 16-524 of the Code, or when there have been three or more violations of the provisions herein within a three year period, the Commission shall, after notice and the opportunity to be heard have been provided, be authorized: to order any person in violation of such provisions immediately to discontinue the operation of such activity at the premises from which such activity is operated; to order that any premises from which activity in violation of such provisions is operated shall be sealed, provided that such premises are used primarily for such activity; and to order that any vehicles or other devices or

instrumentalities utilized in the violation of such provisions shall be removed, sealed, or otherwise made inoperable. An order pursuant to this paragraph shall be mailed to and posted at the premises from which activity in violation of such provisions occurs.

(2) Ten days after the posting of an order issued pursuant to paragraph (1) of this subdivision, this order may be enforced by any person so authorized by section 16-517 of the Code.

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

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

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

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

§1-05 Liability for Violations.

A business required to be licensed or registered pursuant to section 16-505 of the Code shall be liable for violations of any of the provisions of chapter 1 of Title 16-A of the Code or section 2-05 or 2-06 or any provisions of subchapters D, E, F or G of this chapter committed by any of its employees or agents.

§1-06 Supplemental Disclosure.

(a) In addition to the items set forth in clauses a through m of paragraph (ii) of subdivision b of section 16-508 of the Code, disclosure by the applicant shall include the following:

(1) information concerning any involvement of applicant in unlawful activities, including without limitation the making, creation or filing of false statements or records, violations of the Taft-Hartley Act, 29 U.S.C. §186 or other provisions concerning payments to a labor union official or representative, agreements not to compete with a business, bribery, or participation in other anti-competitive or corrupt business practices and contacts with members and associates of organized crime;

(2) a listing of any criminal or civil investigation by a federal, state, or local prosecutorial agency, or investigative agency, in the five year period preceding the filing of an application for a license or registration pursuant to this chapter, wherein applicant has been granted immunity, or entered into a consent decree, order, or similar agreement;

(3) a listing of accounts held by the applicant business, during the five year period preceding the filing of an application for a license or registration pursuant to this chapter, with banks, credit unions, brokerage firms, and similar entities, and of the amounts held therein in the form of an identification of range of dollar value;

(4) a listing of any bankruptcy proceedings in which applicant or any predecessor trade waste business of applicant, as such term is defined in section 16-508 of the Code, was a debtor or any proceedings involving forfeiture, receivership, or independent monitoring, in which applicant or any predecessor trade waste business of applicant was a party or participated in during the ten year period preceding the filing of an application for a license or registration pursuant to this chapter;

(5) information concerning the acquisition, sale, assignment or loss of routes or customers by the applicant during the ten year period preceding the filing of the application; and

(6) information concerning the involvement and participation of the applicant in the activities of waste associations, including but not limited to payment of dues, attendance at meetings, participation in committee work or other decision making processes, and use of or reliance upon the trade association to facilitate business transactions or resolve business disputes.

(b) In addition to the items set forth in clauses a through m of paragraph (ii) of subdivision b of section 16-508 of the Code and in subdivision a of this section, the applicant business shall include in the form submitted by it to the Commission the following information with respect to each of its former principals:

(1) The items set forth in clauses g, h, i, j, and 1 of paragraph (ii) of subdivision b of section 16-508 of the Code, pertaining to the period during which the former principal was a principal of the applicant business; and

(2) The items set forth in paragraphs (1), (2), (5) and (6) of subdivision (a) of this section pertaining to the period during which the former principal was a principal of the applicant business.

(c) With respect to disclosure under subdivision (b) of this section, the applicant business shall supply a certification, sworn and certified under penalty of criminal prosecution, that such information is complete and accurate to the best of its knowledge and belief and has been prepared based upon a diligent search of all business and other records in its possession or control.

§1-07 Enforcement and Compliance.

The Commission may conduct lawful inspections to ensure compliance with this chapter. Such inspections may include, but need not be limited to, the inspection and audit of records required to be kept pursuant to this chapter, as well as accompanying a licensee on its collection routes and a licensee or registrant to transfer stations, recycling facilities, dumps and when transferring

waste to other vehicles, in order to determine compliance with the provisions of this chapter and Chapter 1 of Title 16-A of the Code. A licensee shall, upon request by the Commission, provide the Commission with a list of its collection routes and schedules.

§1-08 Investigation of Customer Complaints.
(a) In addition to any other investigations, the Commission may conduct an investigation into any complaint by a commercial establishment alleging violations of the provisions of Chapter 1 of Title 16-A of the Code or any provision of this chapter. The Commission may, in the course of such investigation, issue subpoenas, take depositions under oath, conduct hearings and use such other means as the Commission determines will assist such investigation, including but not limited to interviews with the complainant and other persons who may have knowledge of the facts involved in the complaint and assisting a customer in verifying the measurement of such customer's waste. The Commission may direct that a licensee conduct a waste stream survey in connection with its investigation.

(b) Where the Commission determines that evidence exists to support a complainant's allegations, the Commission may seek redress of injuries to the complainant as well as penalties as provided in section 1-04 of this chapter. Such redress and penalties may be sought in a hearing conducted pursuant to section 1-03 of this chapter, or, if the parties agree, redress may be sought in an informal proceeding. Such a hearing or proceeding may include testimony by the complainant as well as evidence presented by the Commission.

(c) Any resolution of a complaint by a customer prior to a hearing or proceeding shall be submitted to the Commission for its review and approval. Where the Commission disapproves such a resolution, the Commission may continue to seek penalties regarding any violation by the licensee underlying the customer complaint.

§1-09 General Prohibitions.
In addition to any other prohibition contained in Chapter 1 of Title 16-A of the Code or this chapter, an applicant, a licensee, a registrant, a principal of a licensee or a registrant, or an employee required to make disclosure pursuant to §16-510 of the Code as listed in Appendix A of Subchapter C of this chapter shall not: violate or fail to comply with an applicable provision of this chapter; associate with a person whom such person knows or should know is a member or associate of an organized crime group (a person who has been identified by a federal, state, or local law enforcement agency as a member or associate of an organized crime group shall be presumed to be a member or associate of an organized crime group); refuse to answer an inquiry from the Commission; violate or fail to comply with any order or directive of the Commission; make a false or misleading statement to the Commission; make a false or misleading statement to a customer or prospective customer; threaten or attempt to intimidate a customer or prospective customer; retaliate against a customer or prospective customer that has made a complaint to the Commission or has exercised or attempted to exercise a right under the Code or this chapter; engage in a deceptive trade practice; discourage a customer or prospective customer who has a

question or inquiry concerning the customer or prospective customer's rights or obligations concerning trade waste from contacting the Commission; request, participate in, or comply with, a resolution, consideration, hearing, mediation or adjudication by a trade association or any person holding a position in a trade association concerning a dispute between two or more licensees or trade waste removal businesses relating to a customer, route or stop; pay any money to a trade association or any person holding a position in a trade association for any activity relating to a sale, purchase, acquisition, or loss of a customer, route, or stop; falsify any business record; make, file, or submit a false statement or claim to a government agency or employee; violate any law concerning payments to labor unions or labor representatives; give or offer any money or other benefit to an official or employee of a private business with intent to induce that official or employee to engage in an unethical or illegal business practice; give or offer any money or other benefit to any public employee whose duties relate to the trade waste industry with the exception of funds that must be paid in accordance with a statute, rule, agency order, or court order; solicit business from a customer for any person who, or entity that, provides goods or services related to the removal, collection or disposal of trade waste and is not licensed by, or registered with, the Commission; agree with another trade waste business to divide or allocate customers or respect an existing division or allocation of customers by geography, territory or otherwise, except that this provision shall not apply to a covenant not to compete agreed to in connection with the sale of a licensee's business where the Commission has expressly approved such covenant; discuss with, or agree upon, with another private carter the prices to be submitted on a bid for a trade waste contract; fail to timely pay taxes related to a trade waste business; operate a transfer station in violation of any federal, state, or local law or regulation; or attempt to or conspire to engage in any act proscribed by this section.

§1-10 Forms Prescribed or Provided by the Commission.
Wherever any provision of this chapter requires that any document be employed, maintained, submitted or filed by a business required to be licensed or registered pursuant to this chapter, or that a form may be reviewed or approved by the Commission, the Commission may, in its discretion, prescribe the form of such document or provide an acceptable form. The Commission may also prescribe a uniform chart of accounts.

§1-11 Commission Approval not to be Implied.
Whenever any document is to be filed, submitted, or provided to the Commission pursuant to a provision of this chapter, or is otherwise provided to the Commission, the document shall not be deemed acceptable to the Commission or approved by the Commission unless the Commission or Chair expressly sets forth such approval in writing. Failure of the Commission to disapprove or object to any action that a licensee or registrant proposes to take shall not be deemed an approval of such action by the Commission.

§1-12 [Reserved]

§1-13 Severability.
The provisions of this chapter shall be severable and if any phrase, clause, sentence, paragraph, subdivision or section of this chapter, or the applicability thereof to any person or circumstance, shall be held invalid by any court of competent jurisdiction, the remainder of this chapter and the application thereof shall not be affected thereby.

SUBCHAPTER B
LICENSING AND REGISTRATION

§2-01 License Application.
§2-02 Information Required on License Application.
§2-03 Application for Exemption from Licensing Requirements for Removal of Demolition Debris.
§2-04 Registration Application.
§2-05 Notification of Arrest, Conviction or Material Change in Information; Addition of New Principal or Employee.
§2-06 Non-Transferability of Licenses and Registrations.
§2-07 Terms and Fees.
§2-08 Refusal to Issue License or to Register Trade Waste Broker, Revocation and Suspension of License, or Class 2 Registration.

§2-01 License Application.

(a) Except as provided in subdivisions b and c of this section, an applicant business required by section 16-505 of the Code to obtain a license for the removal, collection or disposal of trade waste shall submit the information contained in the license application form provided by the Commission and the disclosure required by the forms provided by the Commission. In addition, each principal of the applicant business shall: (i) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justices Services to be submitted by the Commission to such Division for the purpose of obtaining criminal history records; and (ii) be photographed by the Commission and submit the disclosure required by the forms provided by the Commission. Notwithstanding paragraphs (i) and (ii) of this subdivision, an applicant may submit, in lieu of such fingerprints and disclosure, copies of submissions to any Federal, State or local regulatory entity containing information comparable to that required by the Commission, provided that the Commission may require fingerprinting and disclosure pursuant to such paragraphs where it finds that it has not received sufficient information or information that is comparable to Commission requirements. The Commission may compel attendance, examine, take testimony and require the production of evidence pursuant to the provisions of subdivision c of section 16-504 of the Code as the Commission deems necessary to investigate the truth and accuracy of the information submitted. A fee of three hundred fifty dollars ($350) per applicant business and three hundred fifty dollars ($350) per principal thereof shall be paid by the applicant for such investigation. An application for a license submitted by an applicant subject to the provisions of section 14 of Local Law 42 for the Year 1996 shall be submitted no later than fourteen (14) calendar days following the effective date of this subchapter.

(b)(1) An applicant business may, prior to the submission of an application by the date specified by the Commission pursuant to section 14 of Local Law Number 42 for the Year 1996, submit a written statement to the Commission setting forth any special facts with respect to a principal in

the applicant's business that the applicant believes should allow for exemption of such principal from fingerprinting and disclosure. Such statement shall be submitted no later than ten days prior to the date for the submission of an application specified in subdivision a of this section.

(2) The Commission shall review any statement submitted pursuant to this subdivision and notify the applicant whether the person identified in such statement shall be subject to fingerprinting and disclosure. Where the Commission has notified an applicant subject to the provisions of section 14 of Local Law Number 42 for the Year 1996 that fingerprinting and disclosure shall be required of such person, the Commission shall specify the date by which such fingerprinting and disclosure must be submitted and may, in its discretion, extend the deadline set forth in subdivision a of this section with respect to the submission of such fingerprints and disclosure.

(3) No statement shall be accepted pursuant to this subdivision with respect to a principal who is a proprietor, partner, officer, director or person participating directly or indirectly in the control of the applicant's business.

(c)(1) An application submitted by an applicant business that is a regional subsidiary of or otherwise owned, managed by or affiliated with a business that has national or international operations shall identify and provide fingerprints and disclosure for those principals for whom such fingerprints and disclosure are required pursuant to subdivision b of section 16-508 of the Code. In addition, such application shall be accompanied by: (i) an organizational chart that clearly identifies relationships between the "parent" company and all affiliates and subsidiaries; and (ii) a list, in chart or other form, of all persons not employed by the applicant who have managerial responsibilities for the New York operations of the applicant and a description of the nature of such responsibilities.

(2) Upon review of the materials submitted pursuant to paragraph (i) of this subdivision, the Commission shall require fingerprints and disclosure from additional persons whom it identifies as having "direct management supervisory responsibility for the operations or performance of the applicant" within the meaning of subdivision b of section 16-508 of the Code. Where the Commission requires fingerprints and disclosure with respect to such persons, it shall notify the applicant, identifying such person and specifying the date by which such information shall be submitted.

(d) Following receipt of the license application and the disclosure required by the forms provided by the Commission, the Commission may require such additional information related to such application and disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to make a licensing determination.

§2-02 Information Required on License Application.

An application for a license shall be signed by all persons participating directly or indirectly in the control of the applicant business and by: the proprietor of an applicant if the applicant is a sole proprietorship; every officer and director and stockholder holding ten percent or more of the outstanding shares of a corporation, if the applicant is a corporation; all the partners, if the applicant is a partnership; the chief operating officer or chief executive officer, irrespective of

organizational title and all persons or entities having an ownership interest of ten percent or more, if the applicant is any other type of business entity. The application shall be sworn and certified under penalty of criminal prosecution. The application for a license shall include, but not be limited to the following information:

(a)(i) the name, address and telephone number(s) of the business submitting such application; (ii) the names, addresses, telephone number(s) and, if natural persons, the social security numbers of the principals of the applicant business and a description of the positions occupied or ownership interest held by each such principal; (iii) the names, job titles, social security numbers and addresses of all other employees or agents, or prospective employees or agents of the applicant who will perform work directly or indirectly related to trade waste removal; drivers' license numbers, with the class and expiration date, or other required operators' licenses, of all employees or agents who will operate vehicles in the business; (iv) if the applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership, or by the Secretary of State if a corporation; (v) if the applicant is a sole proprietorship, a notarized copy of the business certificate certified by the County Clerk; (vi) if the applicant is a corporation, a copy of the certificate of incorporation; and (vii) if the applicant is a partnership, a copy of partnership papers, certified by the County Clerk.

(b) A disclosure form completed by the applicant business and disclosure forms completed by all of the principals of the business, except as provided in subdivisions (b) and (c) of section 2-01 of this subchapter, and disclosure forms completed by employees and agents or prospective employees or agents in the categories specified in Appendix A to this chapter.

(c) A business telephone number and a business address within the City of New York where notices maybe delivered and legal process maybe served, and where records required by these rules shall be maintained.

(d) A Federal or state tax identification number.

(e) A listing of each vehicle that will be operated pursuant to the license, and the vehicle identification number and registration number of such vehicle and a copy of the insurance card for each such vehicle.

(f) Before a license is issued, an applicant shall submit proof that the following insurance policies have been secured:

(1) The required workers' compensation and disability benefits coverage, or that the applicant is exempt from the Worker's Compensation Law, Section 57, and the Disability Benefits Law, Section 220, subdivision 8. Proof of coverage can be established by submitting the following Workers' Compensation Board forms:

C-105.2 Application for Certificate of Workers' Compensation Insurance;

DB-120.1 Employer's Application for Certificate of Compliance with

Disability Benefits Law;

Sl-12 Affidavit certifying that compensation has been secured.

Proof that no coverage is required can be provided by submitting the following Worker's Compensation Board form:

C-105.21 Statement that applicant does not require Workers' Compensation or Disability Benefits Coverage.

(2) Liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the licensee's business pursuant to the license. The licensee may purchase such policies in connection with one or more other licensees, provided that the coverages described in this subdivision are maintained.

(3) Commercial General Liability Insurance with liability limits of no less than one million dollars ($1,000,000). The maximum deductible for such insurance shall be no more than twenty-five thousand dollars ($25,000).

(4) Business Automobile Liability Insurance covering every vehicle operated by the licensee in his or her business, whether or not owned by the applicant, and every vehicle hired by the licensee with liability limits of no less than one hundred thousand dollars ($100,000) for personal injury to any one person and three hundred thousand dollars ($300,000) for personal injury to two or more persons and twenty-five thousand dollars ($25,000) for damage to property.

(5) Employers' Liability Insurance with limits of one million ($1,000,000) dollars per accident.

The policy or policies of insurance required by these rules shall name the Commission as Certificate Holder and shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except upon sixty days prior written notice to the Commission. Failure to maintain continuous insurance coverage meeting the requirements of these rules will result in revocation of the license. Such policy or policies of insurance shall be obtained from a company, or companies, duly authorized to do business in the State of New York with a Best's rating of no less than A:X unless specific approval has been granted by the Mayor's Office of Operations to accept a company with a lower rating. Two certificates of insurance effecting the required coverage and signed by a person authorized by the insurer to bind coverage on its behalf, must be delivered to the Commission prior to the effective date of the license. A licensee shall demonstrate that he or she has secured the insurance coverage required pursuant to this section and shall maintain such required insurance coverage throughout the term of the license.

(g) If applicant transports or proposes to transport medical waste, asbestos or other hazardous materials for which a New York State Waste Transporter permit is required, a copy of such permit must be submitted with the application.

§2-03 Application for Exemption from Licensing Requirements for Removal of Demolition Debris.

(a) A business solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation may, pursuant to subdivision a of section 16-505 of the Code, apply to the Commission for exemption from the licensing requirements of section 16-505 where no principal (except for a principal of a business solely in either or both of the class seven or the class three category of licensees as defined in rules previously promulgated by the Commissioner of Consumer Affairs pursuant to subchapter 18 of Chapter 2 of Title 20 of the Code) of such applicant is a principal of a business or a former business required to be licensed during the past ten years pursuant to this chapter or such former subchapter 18.

(b) An application for an exemption pursuant to this section shall be signed by all persons participating directly or indirectly in the control of the applicant business and by: the proprietor of an applicant if the applicant is a sole proprietorship; every officer and director and stockholder holding ten percent or more of the outstanding shares of a corporation, if the applicant is a corporation; all the partners, if the applicant is a partnership; the chief operating officer or chief executive officer, irrespective of organizational title and all persons or entities having an ownership interest of ten percent or more if the applicant is any other type of business entity. The application shall be certified under penalty of criminal prosecution, and shall, in addition, contain:

(1) a statement describing the nature of the applicant business, including a statement that the applicant business removes no waste other than materials resulting from building demolition, construction, alteration or excavation, and a description of the kinds of waste removed by the applicant business, the types of site from which such waste is removed and the nature of the customers of such applicant business.

(2) the names and addresses of the principals of such business, a description of the position occupied or ownership interest held by each such principal and a statement that no such principal is or was a principal of (a) a business required to be licensed pursuant to section 16-505 of the Code and (,b) a business or former business required to be licensed pursuant to former subchapter 18 of Chapter 2 of Title 20 of the Code, except for businesses solely in the class seven or the class three category of licenses defined in the rules promulgated pursuant to such former subchapter.

(c) Such application shall, in addition, contain the following information:

(1) If applicant transports asbestos or other hazardous materials for which a New York State Department of Environmental Conservation Waste Transporter permit is required, a copy of such permit must be submitted with the application.

(2) If such applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of

State if a corporation, and in addition: if a sole proprietorship, a business certificate certified by the County Clerk, if a corporation, a copy of the certificate of incorporation; if a partnership, a copy of partnership papers, certified by the County Clerk.

(3) A business telephone number and a business address within the City of New York where notices may be delivered and legal process maybe served, and where records required by these rules shall be maintained.

(4) A Federal or state, tax identification number.

(5) Where the applicant holds, or has held at any time in the past ten years, a license for trade waste removal issued by the Department of Consumer Affairs pursuant to former subchapter 18 of Chapter 2 of Title 20 of the Code, a listing of such license number or numbers.

(6) A listing of any criminal convictions of the applicant.

(7) A listing of any pending civil or criminal actions in any jurisdiction.

(8) A listing of any judgments finding liability of the applicant in a civil or administrative action related to the conduct of a business bearing a relationship to the removal of trade waste.

(9) A listing of each vehicle that will be operated pursuant to the license, and the vehicle identification number and registration number of such vehicle.

(10) A listing of the employees who will drive vehicles operated pursuant to this license, and the driver's license numbers of such employees.

(11) Evidence of business automobile liability insurance covering every vehicle operated by the applicant in his or her business, whether or not owned by the applicant, and every vehicle hired by the applicant, with liability limits of no less than one hundred thousand dollars ($100,000) for personal injury to any one person and three hundred thousand dollars ($300,000) for personal injury to two or more persons and twenty five thousand dollars ($25,000) for damage to property. Such insurance policy shall name the Commission as Certificate Holder.

(d) An applicant eligible for an exemption pursuant to this section shall be photographed by the Commission and shall be issued a Class 2 registration by the Commission. Notwithstanding any other provision of this chapter, if at any time subsequent to the issuance of a registration to a business granted an exemption pursuant to this section, the Commission has reasonable cause to believe that any or all of the principals of such business do not possess good character, honesty and integrity, the Commission may require that such principal(s): (i) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records; and (ii) submit to the Commission the disclosure required by the form provided by the Commission; provided that the Commission may consider a written statement from an applicant setting forth any special facts with respect to a principal in the applicant's business that the applicant believes should allow exemption of such principal from fingerprinting and disclosure. Notwithstanding the fingerprinting and disclosure requirements of paragraphs (i) and (ii) of this subdivision, an applicant may submit, in lieu of such fingerprints and disclosure, copies of submissions to any federal, state or local regulatory entity containing information comparable to that required by the Commission, provided that the Commission may require fingerprinting and disclosure pursuant to such paragraph, where it finds that it has not received sufficient information or information that is comparable to Commission requirements. Following receipt of the disclosure required by the forms provided by the Commission, the Commission may require such additional

information related to such disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to render determination. The Commission may, after notice and the opportunity to be heard, revoke the registration of such business for the reasons set forth in paragraphs (i) through (x) of subdivision a of section 16-509 of the Code.

§2-04 Registration Application.

(a) *Class 1 Registration.* A person or business required, pursuant to subdivision b of section 16-505 of the Code, to register with the Commission to remove, collect or dispose of trade waste that is generated in the course of operation of such person's business shall submit a registration form, containing the information required by the Commission, including, but not limited to the following:

(1) A list of the names and addresses of all principals of the applicant and a description of the position occupied or ownership interest held by each such principal;

(2) If the applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of State if a corporation, and in addition: if the applicant is a sole proprietorship, a notarized copy of the Certificate of Business, certified by the County Clerk; if a corporation, a copy of the certificate of incorporation and a list of the names and addresses of all principals; if a partnership, a copy of partnership papers, certified by the County Clerk.

(3) A business telephone number and a business address within the City of New York where notices may be delivered and legal process maybe served, and where records required by these rules shall be maintained, and the name of a person of suitable age and discretion who shall be designated as agent for the service of legal process;

(4) A Federal and state tax identification number;

(5) A listing of each vehicle that will be operated pursuant to the registration, and the vehicle identification number and registration number of such vehicle;

(6) A listing of the employees who will drive vehicles operated pursuant to the registration, and the driver's license numbers of such employees; and

(7) A listing of the locations from which the registrant will remove trade waste and to which the waste is proposed to be removed; and a description of the kinds of waste removed and the methods used to remove such waste. If the applicant transports asbestos or other hazardous materials for which a New York State Department of Environmental Conservation Waste Transporter permit is required, a copy of such permit must be submitted with the application;

(8) Evidence of business automobile liability insurance covering every vehicle operated by the registrant that will transport waste, whether or not owned by the applicant, and every such vehicle hired by the registrant, with liability limits of no less than one hundred thousand dollars ($100,000) for personal injury to any one person and three hundred thousand dollars ($300,000) for personal injury to two or more persons and twenty-five thousand dollars ($25,000) for damage to property.

(b) *Class 2 Trade Waste Broker Registration.* An application for registration required by subdivision b of section 16-505 of the Code to register as a trade waste broker shall be signed by all persons participating directly or indirectly in the control of the applicant business and by: the

proprietor of an applicant if the applicant is a sole proprietorship; every officer and director and stockholder holding ten percent or more of the outstanding shares of a corporation, if the applicant is a corporation; all the partners, if the applicant is a partnership; the chief operating officer or chief executive officer, irrespective of organizational title and all persons or entities having an ownership interest of ten percent or more if the applicant is any other type of business entity. The application shall be certified under penalty of criminal prosecution. The principal of such applicant shall be photographed by the Commission and such application shall contain the following information:

(1) The names and addresses of all principals of the applicant and a description of the position occupied or ownership interest held by each such principal;

(2) If such applicant is doing business under an assumed name, a Certificate of Assumed Name, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of State if a corporation; if a sole proprietorship, a notarized Certificate of Business, certified by the County Clerk; if a corporation, a copy of the certificate of incorporation and a list of the names and addresses of all the principals; if such applicant is a partnership, a copy of partnership papers, certified by the County Clerk.

(3) A business telephone number and a business address within the City of New York where notices may be delivered and legal process may be served, and where records required by these rules shall be maintained, and the name of a person of suitable age and discretion who shall be designated as agent for the service of legal process;

(4) A Federal or state tax identification number;

(5) Where any principal of the applicant business holds, or has held at any time in the past ten years, a license for trade waste removal issued by the Department of Consumer Affairs pursuant to former subchapter 18 of Chapter 2 of Title 20 of the Code or a license issued by the Trade Waste Commission, a listing of such license number or numbers;

(6) Where any principal of the applicant business is, or has been at any time during the past ten years, a principal of a trade waste removal business required to be licensed pursuant to Title 16-A of the Code or former subchapter 18 of chapter 2 of Title 20 of the Code, a listing of such trade waste removal business and the nature of the involvement of such principal in such business;

(7) A listing of any contractual or other business relationship, at any time during the past ten years, between the applicant business and a trade waste removal business required to be licensed pursuant to Title 16-A of the Code or former subchapter 18 of chapter 2 of Title 20 of the Code;

(8) A listing of any criminal convictions of the applicant;

(9) A listing of any pending civil or criminal actions with respect to the applicant business in any jurisdiction; and

(10) A listing of any suspensions or revocations of licenses or permits held by the applicant for the removal or recycling of trade waste in any jurisdiction or any judgments or orders finding liability of the applicant in a civil or administrative action related to the conduct of a business that removes or recycles trade waste, a trade waste broker business or the operation of a dump, landfill or transfer station.

(c)(1) Notwithstanding any provision of this chapter, the Commission may, when there is reasonable cause to believe that an applicant for registration as a trade waste broker or any or all of the principals of such applicant does not possess good character, honesty and integrity, require that such applicant or any or all of the principals of such applicant be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records and provide to the Commission the disclosure required by the form provided by the Commission. Following receipt of such disclosure, the Commission may require such additional information relating to such disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to render a determination. The Commission may, after notice and the opportunity to be heard, refuse to register such applicant for the reasons set forth in paragraphs (i) through (x) of subdivision a of section 16-509 of the Code.

(2) If at any time subsequent to the registration of a trade waste broker, the Commission has reasonable cause to believe that any or all of the principals of such business do not possess good character, honesty and integrity, the Commission may require that such principal(s) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records and provide the disclosure required by the form provided by the Commission; provided that the Commission may consider a written statement from an applicant setting forth any special facts with respect to a principal in the applicant's business that the applicant believes should allow exemption of such principal from fingerprinting and disclosure. Notwithstanding the fingerprinting and disclosure requirements of this paragraph, an applicant may submit, in lieu of such fingerprints and disclosure, copies of submissions to any federal, state or local regulatory entity containing information comparable to that required by the Commission, provided that the Commission may require fingerprinting and disclosure where it finds that it has not received sufficient information or information that is comparable to Commission requirements. Following receipt of disclosure required by the forms provided by the Commission, the Commission may require additional information related to such disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to render determination. The Commission may, after notice and the opportunity to be heard, revoke the registration of such business for the reasons set forth in paragraphs (i) through (x) of subdivision a of section 16-509 of the Code.

§2-05 Notification of Arrest, Conviction or Material Change in Information; Addition of New Principal or Employee.

(a)(1) An applicant for a license or a licensee and an applicant for exemption from the requirement for a license or an applicant granted such exemption shall notify the Commission, within ten calendar days, of the arrest or criminal conviction subsequent to the submission of the application of any principal or any employee or agent, or any prospective employee or agent identified on the application, of which the applicant for a license or the licensee had knowledge or should have known.

(2) An applicant for a license or a licensee shall notify the Commission within ten calendar days of any material change as defined in section 1-01 of this chapter in the information submitted in an application or disclosure form submitted pursuant to this chapter.

(3) A licensee shall notify the Commission within ten calendar days of contract closing of any change in the capital stock or ownership in the business of the licensee, including but not limited to a stock transfer or sale of the outstanding shares of the business or sale or merger of such business; provided, however that a business whose equity securities are publicly traded on a national or regional stock or securities exchange shall be required to make disclosure of only such stock transfer or sale required to be disclosed by the Securities Exchange Commission or other Federal or State regulatory body. Such notification shall include a list of any persons formerly possessing ownership interest in the licensee business who will have any beneficial interest in the current business and a copy of the contract or agreement.

(4) In addition to notification of material change required by any other provision of this chapter, a licensee shall provide the Commission with notice of at least ten business days of the proposed addition of a new principal (other than a person or entity that becomes a principal through the acquisition of outstanding shares of a business whose equity securities are registered under Federal and State securities laws and publicly traded on a national or regional stock or security exchange) to the business of such licensee. The Commission may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the Commission determines within such period, based upon information available to it, that the addition of such new principal may have a result inimical to the purposes of this chapter, the licensee may add such new principal pending the completion of review by the Commission. The licensee shall be afforded an opportunity to demonstrate to the Commission that the addition of such new principal pending completion of such review would not have a result inimical to the purposes of this chapter. If upon the completion of such review, the Commission determines that such principal lacks good character, honesty and integrity, the license shall cease to be valid unless such principal divests his or her interest, or discontinues his or her involvement in the business of such licensee, as the case may be, within the time period prescribed by the Commission.

(b) An applicant for registration and a registrant, including a registrant issued a registration subsequent to the granting of an exemption from the licensing requirement of subdivision a of section 16-505 of the Code, shall notify the Commission within ten business days of:

(i) the addition of a principal to the business of a registrant subsequent to the submission of the application for registration or exemption from the licensing requirement pursuant to this chapter;

(ii) the arrest or criminal conviction of any principal of a Class 2 registrant of which such applicant or registrant had knowledge or should have known; and

(iii) any other material change in the information submitted pursuant to this subchapter.

(c) Notification pursuant to paragraphs (2), (3) and (4) of subdivision (a) and subdivision (b) of this section shall be sworn and notarized and shall be signed by all persons participating directly or indirectly in the control of the applicant business and by: the proprietor of an applicant if the applicant is a sole proprietorship; every officer and director and stockholder holding ten percent

or more of the outstanding shares of a corporation, if the applicant is a corporation; all the partners, if the applicant is a partnership; the chief operating officer or chief executive officer, irrespective of organizational title and all persons or entities having an ownership interest of ten percent or more if the applicant is any other type of business entity. Notification pursuant to paragraph i of subdivision a of this section shall be sworn and notarized and shall be signed by the chief operating officer or chief executive officer, irrespective of organizational title, of the applicant or licensee, as the case may be.

§2-06 Non-Transferability of Licenses and Registrations.
A license or registration issued by the Commission pursuant to this subchapter shall not be transferable. A licensee or registrant shall not permit the use by any other person of the license or registration number issued pursuant to this subchapter.

§2-07 Terms and Fees.
(a) The term of a license or registration shall be two years. The fee for a license shall be one thousand dollars ($1,000) and the fee for each vehicle operated pursuant to a license shall be five hundred dollars ($500). The fee for Class 2 registration pursuant to section 2-04 of this subchapter shall be six hundred dollars ($600) and the fee for each vehicle operated pursuant to a Class 2 registration shall be five hundred dollars ($500). The fee for each vehicle operated pursuant to a Class 1 registration shall be three hundred and twenty dollars ($320).

(b) The fee for a license or registration shall be submitted upon issuance of the license or registration.

§2-08 Refusal to Issue License or to Register Trade Waste Broker, Revocation and Suspension of License, or Class 2 Registration.
(a) Where the Staff of the Commission proposes that the Commission refuse, pursuant to §16-509 or 16-507 of the Code, as the case may be, to issue a license to remove, collect, or dispose of trade waste or a registration as a trade waste broker, the applicant shall be notified in writing of the reasons for the proposed refusal of such license or registration and that the applicant may, within ten (10) business days of the date of such notification, respond in writing to the Commission setting forth the reasons such applicant believes that it should not be denied such license or registration. In the exercise of its discretion, the Commission, considering the reasons for the proposed refusal to issue the license or registration, the nature of the issues raised in connection therewith, and the response submitted by the applicant, may make a final determination regarding the issuance of such license or registration or through the Chair or his or her designee, afford the applicant such further opportunity to be heard in such proceeding as is deemed appropriate. A final determination to refuse to issue a license pursuant to this section shall be by majority vote of the Commission. Such determination and the reasons therefor shall be communicated to the applicant in writing.

(b) [Reserved]

(c) The Commission may, after notice to a licensee or class 2 registrant, and the opportunity for a hearing conducted pursuant to section 1-03 of subchapter 1 of this chapter, revoke or suspend a license or a Class 2 registration issued pursuant to this subchapter for the reasons set forth in section 16-513 of the Code. The Commission may suspend a license or Class 2 registration pursuant to section 16-514 of the Code without a prior hearing. Upon notification of an emergency suspension pursuant to such section, a licensee or registrant may apply to the Chair of the Commission for immediate review of such suspension. The Chair shall determine such appeal forthwith. In the event that such appeal is denied, an opportunity for a hearing pursuant to section 1-03 of subchapter A of this chapter shall be provided on an expedited basis, within a period not to exceed four business days, and the Commission shall issue a final determination no later than four days following the conclusion of such hearing.

SUBCHAPTER C
INVESTIGATION OF EMPLOYEES AND AGENTS

§3-01 Employees and Agents Required to Submit Fingerprints and Disclosure.
§3-02 Investigation of Other Employees or Agents.
§3-03 Notification by Licensee of Additional Employee or Agent.
§3-04 Displaced Employee List.

§3-01 Employees and Agents Required to Submit Fingerprints and Disclosure.
(a) Each person not otherwise a principal as defined in section 1-02 of this chapter who is an employee or agent or prospective employee or agent of an applicant for a license or a licensee and who is in a managerial capacity or in a job category listed in Appendix A to this subchapter, shall: (i) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records; and (ii) be photographed by the Commission and provide the disclosure set forth in subparagraphs (b) through (n) of paragraph (ii) of subdivision b of section 16-508 of the Code on the form provided by the Commission and pay the fee of three hundred fifty ($350) dollars for the investigation of such information. Following receipt of such disclosure, the Commission may require such additional information, including without limitation documents and deposition testimony, as the Commission determines is necessary to render determination.

(b) Where, at any time subsequent to an investigation of an employee or agent pursuant to the provisions of subdivision a of this section, the Commission has reasonable cause to believe that such employee or agent lacks good character, honesty and integrity, the Commission may conduct an additional investigation of such employee or agent and may require, if necessary, that such employee or agent provide information updating, supplementing or explaining information previously submitted.

(c) Where, following a background investigation required by subdivision a of this section, the official designated by the Commission to review the findings of such investigation concludes that an employee or agent or a prospective employee or agent lacks good character, honesty and integrity, such person shall be provided with notice of such conclusion and the reasons therefor and may contest the conclusion in person or in writing to such official. Such official shall review such response and, in the event that he or she continues to find that such person lacks good character, honesty and integrity, shall submit such final conclusion to the Commission. In the exercise of its discretion, the Commission, considering the information which forms the basis for the conclusion of such official, the nature of the issues raised in connection therewith, and of any response submitted by the employee or agent, may: (i) make a final determination regarding such person; (ii) notify such person that he or she may appear in person to meet with the Commission or a designee of the Commission in order to present oral explanation and respond to questions prior to a final determination being made; or (iii) notify such person that he or she shall be provided the opportunity for a hearing pursuant to the provisions of section 1-03 of this chapter prior to a final determination being made. In the event that a subsequent investigation of an

employee or agent conducted pursuant to subdivision b of this section results in a conclusion by the reviewing official that such person lacks good character, honesty and integrity, the Commission shall provide such person with notice and the opportunity for a hearing pursuant to the provisions of section 1-03 of this chapter to contest such determination before the Commission makes a final determination.

§3-02 Investigation of Other Employees or Agents.
(a) Where the Commission has reasonable cause to believe that an employee or agent or prospective employee or agent of a licensee or an applicant for a license not subject to the provisions of section 3-01 of this subchapter lacks good character, honesty and integrity, the Commission shall notify such employee or agent or prospective employee or agent that he or she shall: (i) be fingerprinted by a person designated for such purpose by the Commission and pay the fee prescribed by the Division of Criminal Justice Services for the purpose of obtaining criminal history records; and (iii) provide the disclosure required in subparagraphs (b) through (n) of paragraph (ii) of subdivision b of section 16-508 of the Code on the form provided by the Commission and pay the fee of three hundred fifty dollars ($350) for the investigation of such information. Following receipt of such disclosure, the Commission may require such additional information related to such disclosure, including without limitation documents and deposition testimony, as the Commission determines is necessary to render determination.

(b) Where, in conjunction with the application for a license for trade waste removal pursuant to section 16-508 of the Code and following a background investigation conducted pursuant to this section, the official designated by the Commission to review the findings of such investigation concludes that an employee or agent or prospective employee or agent not subject to the provisions of section 3-01 of this chapter and identified on a list submitted by such applicant pursuant to section 2-02 of this chapter of the Code lacks good character, honesty and integrity, such person shall be provided with notice of such conclusion and the reasons therefor and may contest the conclusion in person or in writing to such official. Such official shall review such response and, in the event that he or she continues to find that such person lacks good character, honesty and integrity, shall submit such final conclusion to the Commission. In the exercise of its discretion, the Commission considering the information which forms the basis for the conclusion of such official, the nature of the issues raised in connection therewith, and of any response submitted by the employee or agent, may: (i) make a final determination regarding such person; (ii) notify such person that he or she may appear in person to meet with the Commission or a designee of the Commission in order to present oral explanation and respond to questions prior to a final determination being made; or (iii) notify such person that he or she shall be provided the opportunity for a hearing pursuant to the provisions of section 1-03 of this chapter prior to a final determination being made. Where, at any time subsequent to the issuance of the license and following an investigation conducted pursuant to the provisions of this subdivision of any such employee or agent identified on the list submitted by such applicant pursuant to section 2-02 of this chapter, the reviewing official concludes that such employee or agent lacks good character, honesty and integrity, such person shall be provided with notice of such conclusion and the reasons therefor and the opportunity for a hearing pursuant to the provisions of section 1-03 of

this chapter in order to contest such conclusion before the Commission makes a final determination.

(c) Where, within sixty days following notification by a licensee pursuant to section 16-520 of the Code that the licensee proposes to hire or retain or has hired or retained an additional employee or agent who is not subject to the provisions of section 3-01 of this subchapter, the Commission requires such person to be fingerprinted and submit the information required pursuant to this section and at any time thereafter the official designated by the Commission to review the findings of such investigation concludes that such person lacks good character, honesty and integrity, such person shall be provided with notice of such conclusion and the reasons therefor and the opportunity to respond in writing to the Commission before the Commission makes a final determination. Where, following such sixty day period, the Commission requires a background investigation pursuant to this subdivision and the reviewing official makes such a conclusion, the Commission shall provide such person with notice and an opportunity for a hearing pursuant to the provisions of section 1-03 of this chapter in order to contest such conclusion before the Commission makes a final determination.

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

§3-03 Notification by Licensee of Additional Employee or Agent.
A licensee shall provide the Commission with notice of at least ten business days of the proposed addition of a new employee or agent in a managerial capacity or in a job category listed in Appendix A to this subchapter to the business of such licensee. The Commission may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the Commission determines within such period, based upon information available to it, that the addition of such new employee or agent may have a result inimical to the purposes of Local Law 42 and this chapter, the licensee may add such new employee or agent pending the completion Of review by the Commission. The licensee shall be afforded an opportunity to demonstrate to the Commission that the addition of such new employee or agent pending completion of such review would not have a result inimical to the purposes of this chapter. If upon the completion of such review, the Commission determines that such employee or agent lacks good character, honesty and integrity, the license shall cease to be valid unless such employee or agent leaves the employ of such licensee within the time period prescribed by the Commission.

§3-04 Displaced Employee List.
(a) The Commission shall maintain a displaced employee list containing the names and contact addresses and telephone numbers of persons formerly employed by a business engaged in the collection, removal or disposal of trade waste whose employment ended following the denial or revocation of a license by the Commission.

(b) Upon the denial or revocation of a license by the Commission, a person who was employed by the business whose license has been refused or revoked and who wishes his or her name to be on the displaced employee list shall so notify the Commission in writing and provide his or her name, contact address or telephone number to the Commission. The Commission shall remove an employee's name from the list forthwith upon receipt of a written request for such removal from the employee.

(c) The addition or deletion of information regarding a former employee shall be made only at the written request of such former employee.

(d) The Commission shall make the displaced employee list available to an applicant for a license pursuant to this chapter upon the request of such applicant, and may notify applicants, licensees and registrants of the availability of such list. The provision of such list shall in no way be construed as a recommendation by the City regarding the employment of any person on such list, nor shall the City be responsible for the accuracy of the information on the list.

APPENDIX A
EMPLOYEES SUBJECT TO DISCLOSURE PURSUANT TO SECTION 3-01

Employees who perform the following functions shall be subject to disclosure pursuant to §3-01 of subchapter C of this chapter:

Solicitation of Businesses;
Bill Collection;
Evaluation of Trade Waste Stream of Customers;
Dispatchers who have regular contacts with customers;
Persons who have authority to agree or refuse to service customers;
Persons who have authority to resolve complaints.

TITLE 17
SUBCHAPTER D
AUDITORS AND MONITORS

§4-01 Responsibilities of Auditors.
§4-02 Responsibilities of Monitors.

§4-01 Responsibilities of Auditors.
Where the Commission requires, pursuant to subdivision a of section 16-511 of the Code, that a licensee enter into a contract with an independent auditor, such licensee shall cooperate with such auditor in the performance of the responsibilities set forth in such contract and this section.

(a) An auditor shall:

(1) investigate the activities of the licensee with respect to: compliance with the provisions of Local Law Number 42 for the Year 1996 and the provisions of this chapter; compliance with all Federal, State and local laws applicable to trade waste removal and any rules or regulations promulgated thereunder; any transfer of ownership interest in the business of the licensee; any litigation entered into by the licensee against a customer or another licensee or its customer or a trade waste broker; any sales, assignments or purchases of contracts; any activity of the licensee that may violate laws or regulations prohibiting anti-competitive activities or unfair trade practices; and any membership in a trade association;

(2) audit the books and records of the licensee;

(3) have authority to verify employees and capital equipment of the licensee;

(4) accompany trucks operated by the licensee in order to verify amounts of trade waste collected and the disposal of such waste;

(5) verify the costs and revenues relating to business arrangements of the licensee with truckers, transfer stations, landfills, recycleries, trade waste brokers and manufacturers, including paper processors and printing establishments; and

(6) have such additional duties and responsibilities as the Commission determines are necessary in the case of a licensee in order to ensure that such licensee performs in a manner consistent with the purposes of Local Law Number 42 for the Year 1996.

(b) An auditor shall promptly report the findings of investigations conducted pursuant to this section to the Commission but shall report to the Commission on his or her activities at least on a quarterly basis, except that an auditor shall report immediately to the Commission any failure of the licensee to cooperate in such investigation, decisions by the licensee to assign contracts for the removal, collection or disposal of trade waste, decisions to transfer ownership interest or assets in excess of ten thousand dollars($10,000) to another person or entity or the initiation of litigation against a customer, another trade waste removal business or its customer or a trade waste broker.

§4-02 Responsibilities of Monitors.
Where the Commission requires, pursuant to subdivision b of section 16-511 of the Code, that an applicant for a license or a licensee enter into a contract with an independent monitor, the applicant or licensee shall cooperate with the monitor in the exercise of his or her responsibilities set forth in such contract and this section. Where an applicant or licensee is subject to a receivership, the applicant or licensee shall furnish the monitor with the relevant orders of the court regarding such receivership.

(a) A monitor shall:

(1) investigate the activities of the applicant or licensee with respect to compliance with the provisions of any court order to which the applicant or licensee is subject; the provisions of Local Law Number 42 for the Year 1996 and the provisions of this chapter; compliance with all Federal, State and local laws applicable to trade waste removal and any rules or regulations promulgated thereunder; any transfer of ownership interest in the business of the applicant or licensee; any litigation entered into by the applicant or licensee against a customer or another applicant or licensee or its customer or a trade waste broker; any sales, assignments or purchases of contracts; any activity of the applicant or licensee that may violate laws or regulations prohibiting anticompetitive activities or unfair trade practices; and any membership in a trade association;

(2) audit the books and records of the licensee;

(3) have authority to verify employees and capital equipment of the applicant or licensee;

(4) accompany trucks operated by the applicant or licensee in order to verify amounts of trade waste collected and the disposal of such waste;

(5) verify the costs and revenues relating to business arrangements of the applicant or licensee with truckers, transfer stations, landfills, recycleries, trade waste brokers and manufacturers, including paper processors and printing establishments; and

(6) have such additional duties and responsibilities as the Commission determines are necessary in the case of the applicant or licensee in order to ensure that such applicant or licensee performs in a manner consistent with the purposes of Local Law Number 42 for the Year 1996.

(b) A monitor shall have authority to approve or disapprove: (i) the involvement in the conduct of the business of a principal who is a defendant in the criminal action for which the applicant or licensee has been indicted in any particular aspect of the business of the licensee, where the monitor has reasonable cause to believe that such involvement would be inconsistent with the purposes of Local Law Number 42 for the Year 1996; (ii) the assignment of contracts by the applicant or licensee; (iii) the transfer of ownership interest or assets of the applicant or licensee business of ten thousand dollars ($10,000) and more; (iv) cash expenditures and contracts, with the exception of collective bargaining agreements, for services of ten thousand dollars ($10,000) and more; (v) membership in a trade association; (vi) litigation against a customer, another applicant or licensee or a customer of such business or a trade waste broker; and (vii) the hiring or firing of personnel when the monitor has reasonable cause to believe that such actions are inconsistent with the purposes of Local Law Number 42 for the Year 1996. The monitor may, in addition, prohibit persons from the premises of the applicant or licensee or from involvement in

the business of the applicant or licensee, when the monitor determines that such prohibition is necessary to effectuate the purposes of Local Law Number 42 for the Year 1996.

(c) A monitor shall report the findings of investigations conducted pursuant to this section to the Commission on a monthly basis, except that a monitor shall report immediately to the Commission any failure of the applicant or licensee to cooperate in such investigation, decisions by the applicant or licensee to assign contracts for the removal, collection or disposal of trade waste, decisions to transfer ownership interest or assets in excess of ten thousand dollars ($10,000) to another person or entity or the initiation of litigation against a customer, another trade waste removal business or its customer or a trade waste broker.

SUBCHAPTER E
CONDUCT OF LICENSEE

§5-01 Sign Required; Display of License.
§5-02 Rates.
§5-03 Record Keeping; Customer, Financial and Other Reporting Requirements.
§5-04 Compliance with Applicable Law and Regulation.
§5-05 Agreements and Contracts with Customers; Service to Customers.
§5-06 Acceptance of Customers.
§5-07 Employee Information.
§5-08 Operations.
§5-09 Membership in Trade Associations.
§5-10 License Plates and Vehicle Markings.
§5-11 Labeling of Containers.
§5-12 Recycling Requirements for Licensees.

§5-01 Sign Required; Display of License.

(a) Every licensee shall provide to every recipient of its services a sign or decal which the licensee shall obtain from the Commission. A licensee shall not provide such a sign or decal to a business unless such licensee has entered into an agreement with such business to provide waste removal services. Such sign or decal shall conspicuously and legibly display the name, address, telephone number, number of license and the day and approximate time of waste collection. Such sign or decal shall be conspicuously posted as prescribed in section 16-116(b) of the Code by the owner, lessee or person in control of the commercial establishment which receives the licensee's services. The licensee shall provide each sign or decal to the customer and shall inform the customer of its obligation to post the sign or decal in accordance with the requirements of subdivision b of section 16-116 of the Code.

(b) A licensee shall not charge a fee to any business for a sign or decal issued by the Commission.

(c) A licensee shall conspicuously display its license in its place of business.

§5-02 Rates.

(a) A trade waste removal business shall not demand, charge, exact, or accept rates for the collection, removal, disposal, or recycling of trade waste greater than the following maximum rates:

(1) $12.20 per cubic yard if a customer's waste is charged on the basis of the volume of the customer's waste.
(2) $8.00 per 100 pounds if a customer's waste is charged on the basis of the weight of the customer's waste.

(3) *Exempt Waste.* This subdivision shall not apply to the removal of construction and demolition debris and infectious medical waste.

(b) The rates set forth in subdivision a of this section are maximum rates. Nothing in such subdivision shall be construed to prevent customers and trade waste removal businesses from negotiating rates lower than the rates set forth therein, and trade waste removal businesses and customers are encouraged to do so.

(c)(1) *Surveys.* In the event that a written contract or other agreement between a licensee and a customer contemplates a "flat" or "average" billing method, whether based on weight or on volume, such fee must be determined by a survey provided at no charge by the licensee. The time period over which the survey is to be conducted shall be determined by mutual agreement between the customer and the licensee. The survey must reflect an actual average amount of waste collected, either in volume or by weight, over the survey period. The cost charged to the customer for waste removal service shall be established by multiplying the negotiated dollar rate per cubic yard or per 100 pounds of waste by the amounts established by the survey. Prior to conducting the survey, the licensee shall inform the customer in writing that the survey is to be conducted and of the customer's right to participate in the survey by independently monitoring the waste collected during the survey period and by attempting to reach an agreement with the licensee on the survey information. A copy of the waste survey, in a form prescribed by the commission, must be signed by the owner of the business to be served or the owner's authorized representative and the licensee. The licensee must provide a copy of the waste survey to the customer and a copy must be retained by the licensee as part of the records required pursuant to section 5-03 of this chapter. A customer may waive its right to such a survey and instead reach an agreement with the licensee over the amount of waste, in cubic yards or by weight, that the customer places out for collection by the licensee. In the event the customer utilizes the services of a trade waste broker, the trade waste broker's survey can be used in lieu of a survey conducted by the licensee, provided the trade waste broker is registered with the commission. Any waiver of the customer's right to a survey conducted by the licensee or of the customer's right to participate in the survey shall only be effective if it is in writing describing the rights waived and signed by the owner of the business or the owner's authorized representative. A copy of the survey waiver, in a form prescribed by the commission, must be signed by the owner of the business or the owner's authorized representative, and the licensee must provide a copy of the waiver to the customer and a copy must be retained by the licensee as part of the records required to be maintained pursuant to section 5-03 of this chapter. For customers who are charged on the basis of weight, nothing in this section shall preclude such a customer's right to have its refuse accurately weighed during the survey period.

(2) When a licensee or a customer has reason to believe that a change in circumstances or conditions renders a prior survey inaccurate, the licensee or customer may require a new survey of the customer's waste stream to be provided by the licensee in the manner described in paragraph (1) of this subdivision at no charge to the customer or to be conducted by a registered trade waste broker.

(3) A licensee shall not submit a false or misleading survey to a customer or prospective customer.

(d) *Scales.* Licensees who charge on the basis of the weight of a customer's waste shall not use any weighing devices, whether owned, rented or borrowed by the licensee, that are not tested, sealed, and approved by the New York State Department of Agriculture and Markets' Bureau of Weights and Measures or its agents, including but not limited to the New York City Department of Consumer Affairs. Such devices must comply with Article 16 of the New York State Agriculture and Markets Law and local laws, including Title 20, Chapter 3 of the New York City Administrative Code and Title 6, Chapter 3 of the Rules of the City of New York. Licensees or their agents shall not use any weighing devices that are out of order, incorrect, or not in balance. Licensees or their agents shall not state the weight of the customer's waste unless the weight indicator of the weighing device on which it is being weighed is at zero when not in use. Licensees or their agents shall not render inaccurate any weighing device that has been tested, sealed and approved by the New York State Department of Agriculture and Markets' Bureau of Weights and Measures or its agents, including but not limited to the New York City Department of Consumer Affairs. Licensees who own weighing devices shall have these devices inspected annually and retain as part of the records required pursuant to section 5-03 of this chapter the annual inspection certificate issued by the New York State Department of Agriculture and Markets' Bureau of Weights and Measures or its agents, including but not limited to the New York City Department of Consumer Affairs, as evidence that the devices have been tested, sealed and approved in accordance with law for each device used. Licensees who rent or borrow weighing devices to weigh a customer's waste have the responsibility of insuring that such devices comply with the requirements of this section and such licensees and their agents shall not use such devices if the devices do not comply with Article 16 of the New York State Agriculture and Markets Law and local laws, including Title 20, Chapter 3 of the New York City Administrative Code and Title 6, Chapter 3 of the Rules of the City of New York. Licensees who use the services of a person or entity to weigh a customer's waste have the responsibility of insuring that the weighing devices used by such person or entity comply with the requirements of this section and shall not use such devices if the devices do not comply with Article 16 of the New York State Agriculture and Markets Law and local laws, including Title 20, Chapter 3 of the New York City Administrative Code and Title 6, Chapter 3 of the Rules of the City of New York.

§5-03 Record Keeping; Customer, Financial and Other Reporting Requirements.
(a) A licensee shall maintain records concerning its business including but not limited to: bills and purchase invoices (with notations identifying whether the bill or invoice was paid and, if so, the check number and date), deposit slips, copies of checks received from payors, bank statements, cancelled checks, tax returns (copies of Federal, State, and local returns with all supporting schedules), copies of accountants' work papers, insurance policies, drivers' route trip sheets, collective bargaining agreements, petty cash disbursement records, IRS W-2 forms, IRS W-4 forms, IRS 1099 forms, 1-9 forms, internal memoranda concerning the licensee's finances or one or more customers or prospective customers of the licensee, contracts, documents concerning route sales and contract assignments, waste surveys, rate schedules, discount rate lists, documents concerning mergers, acquisitions, subcontracts and asset sales, copies of cash receipts, documents reflecting electronic fund transfers, written correspondence, lists of

collection routes and schedules, submissions to and notices from the Commission, and all documents supporting, evidencing, or used to create the reports, books, journals, registers, and ledgers that the licensee is required to maintain pursuant to this section.

(b) A licensee shall provide each payor with a written receipt for all cash payments setting forth the name and address of the licensee, the license number of the licensee, the date of the payment, the amount of the payment and the identity of the payor. Each such receipt shall be signed by the licensee or the licensee's authorized agent. A duplicate copy of the receipt shall be kept by the licensee as part of its books and records. For the purposes of this section, the term "payor" shall mean any person who remunerates the licensee for any purpose.

(c) A licensee shall not make any payment in excess of one thousand dollars ($1,000) in cash or by check made payable to "Petty Cash". A licensee shall not make any check payable to "Cash".

(d) A licensee shall maintain a complete and accurate set of books of account reflecting the operation of the licensee's business. Such books may be maintained on a computerized accounting system, and shall be kept on either a cash or an accrual basis of accounting in accordance with Generally Accepted Accounting Principles. The books shall be kept on a quarterly or monthly basis and shall be brought up to date no later than thirty days after the end of each preceding quarter or month. The books shall include the following journals and ledgers:

(1) Cash Receipts Journal showing for each payment received (A) the date payment was received; (B) the identity of the payor; (C) the amount of the payment; (D) the check number; and (E) a brief explanation of the purpose of the payment. Payments for routes or contracts sold shall be described in detail.

(2) Cash Disbursements Journal showing for each payment made (A) the date payment was made; (B) the identity of the payee; (C) the amount of the payment; (D) the check number; and (E) a brief explanation of the purpose of the payment. Payments for routes or contracts purchased shall be described in detail.

(3) Disposal Expense Subsidiary Journal showing details of all expenses incurred, and credits (including cash) obtained in connection with disposing or recycling collected waste including the name of the disposal facility or vehicle or recycling facility, the type of disposal or recycling facilities used (e.g., landfill, transfer station, or recycling center), the complete address of each disposal facility or vehicle or recycling facility, the date on which the disposal or recycling occurred, the date on which payment was made, the check number, the invoice number, the type of collected waste, the amount of collected waste that was delivered to such disposal or recycling facility or facilities (in compacted cubic yards and tons), the rate charged per cubic yard or ton, the total amount billed by the vehicle or facility, and the amount paid. The monthly or quarterly closing shall include a total of the amount of collected waste that was delivered to each disposal or recycling facility or vehicle (in compacted cubic yards and tons), a total of the amount billed by each disposal or recycling vehicle and facility, and the amount paid, and shall also include a total for each of these categories for all of the vehicles and facilities;

(4) Payroll Journal showing (A) the name of the employee; (B) job title and position of the employee; (C) the home address of the employee; (D) the social security number of the employee; (E) Gross pay; (F) Deductions; (G) Net Pay.

(5) General Journal showing all non-cash transactions including adjusting entries, reversing entries, correcting entries, and reclassifying entries with explanations.

(6) General Ledger maintaining an account for each kind of asset, liability, capital, income and expense accounts. Each posting to an account must include date, folio page and amount. Balances of each account must be updated on a monthly basis.

(7) Customer Subsidiary Ledger shall include a separate account for each customer, arranged alphabetically, showing (A) the name of the customer; (B) the address(es) where the waste is collected; (C) the customer's billing address; (D) telephone number; (E) the current negotiated rate per cubic yard or per 100 pounds charged; (F) the actual weekly or monthly charges; and (G) the date, check number and amount of payments.

(8) Fixed Assets Subsidiary Ledger shall include an account or record for each kind of fixed asset, including trucks, containers and other waste removal equipment, showing (A) the date the asset was acquired; (B) the amount paid for the asset; (C) a description of the asset including the serial number, VIN number if applicable, make, year of manufacture, capacity, and type; (D) estimated life of each asset; (E) estimated salvage value of each asset; and (F) method of depreciation, additions and disposals, invoice number and check number.

(9) Accounts Payable Subsidiary Ledger shall show the following for each account (A) the date of purchase; (B) the name of the vendor or supplier; (C) the amount payable; and (D) a brief explanation.

(10) Other Subsidiary Ledgers shall be kept for accounts that are not maintained elsewhere, including subsidiary ledgers for Loans and Notes Payable and Loans and Notes Receivable (which shall include details of each loan and note including the date of the payment, the identity of the debtor or creditor, the form of the payment, and the check number, if applicable).

(e) A licensee shall maintain annual financial statements in a form or computer format prescribed by the Commission and audited by an independent certified public accountant who is not employed by or related to the licensee or any principal of the licensee and has no financial interest in the licensee or any principal of the licensee. The financial statements shall include a balance sheet, an income statement, a statement of cash flows and a statement of retained earnings or (if the licensee is a sole proprietorship or partnership) capital. The auditor shall render an opinion as to whether the financial statements accurately reflect the financial position of the licensee as of the balance sheet date and the results of its operations and cash flows for the year ended, except that the auditor need not opine on paragraphs (3) and (4) of this subdivision. The auditor shall also issue a supplemental opinion on the licensee's compliance with the financial recordkeeping and reporting requirements of the Commission. Such supplemental opinion shall detail each and every variance or deviation from the Commission's requirements noted during the auditor's examination of the licensee's financial books and records. The licensee shall certify, and the principal responsible for the licensee's financial affairs shall swear under oath upon penalty of perjury, that the financial statement accurately reflects the licensee's accounts and financial operations. At the completion of the audit, the licensee shall obtain from the auditor copies of the accountant's work papers, and shall retain such papers with the licensee's records.

(1) The balance sheet shall include the balance for each group or type of asset, liability, and capital amount at the end of the accounting period.

(2) The income statement shall include the balance of each group or type of income and expense for the accounting period. Income and expenses related to waste removal, collection, disposal and recycling shall be shown in such a manner as to be traceable from the income statement to the General Ledger, Customer Ledger, Cash Receipts Journal, Cash Disbursements Journal, Disposal Expense Subsidiary Journal, invoices, cancelled checks, cash receipts, bank statements, and deposit slips.

(3) The following schedules shall be included in the financial statement in support of the balance sheet and income statement: (A) a truck and container analysis; (B) a schedule of investments; (C) allowances for doubtful accounts; (D) prepaid expenses; (E) miscellaneous current and other assets; (F) fixed assets, depreciation and accumulated depreciation; (G) route purchases; (H) notes payable and receivable; (I) taxes prepaid and accrued; (J) miscellaneous current and accrued liabilities; (K) capital stock; (L) additional paid-in capital; (M) retained earnings; (N) intangible assets and accumulated amortization; and (O) waste collection analysis.

(4) Operating, administrative and general expenses shall be summarized and shall include schedules as follows: (A) a payroll analysis with details of drivers' and helpers' wages, mechanics' wages, workers' compensation insurance, disability insurance, payroll taxes, and pension and welfare fund payments; (B) a truck and container analysis with details of garage, rent, gas, oil, tolls, truck insurance, repairs, maintenance, truck rental, license plates, license fees, truck mileage taxes, depreciation, and other related expenses; (C) a disposal analysis with details of all expenses incurred, and credits (including cash) obtained in connection with disposing or recycling collected waste including the name of the disposal facility or vehicle or recycling facility, the type of disposal or recycling facilities used (e.g., landfill, transfer station, or recycling center), the complete address of each disposal facility or vehicle or recycling facility, the amount of collected waste that was delivered to such disposal or recycling facility or facilities (in compacted cubic yards and tons), the rate charged per cubic yard or ton, the total amount billed by the vehicle or facility, and the amount paid; (D) a compensation schedule for officers, directors and owners; (E) a revenue analysis; (F) an analysis of interest paid and received; and (G) an amortization expense analysis.

(f) On or before June 30 of each year but not later than six (6) months following the end of the licensee's fiscal year, all licensees shall file a report on a form or computer format prescribed by the Commission. In the event that a revision of the report is required by the Commission subsequent to review by an auditor on the Commission's staff, an amended report shall be submitted to the Commission no later than the date specified by the Commission. The Commission may require that the annual report include the financial statement described in subdivision (e) of this section and other information and documents concerning the licensee's operations, including but not limited to: financial information reported on a calendar year basis, the management letter issued by the licensee's auditor to the licensee, information concerning affiliations with other licensees; organization and control of the licensee, corporate control over the licensee; corporations controlled by the licensee; officers and directors of the licensee; allocation of recyclables and non-recyclables; security holders of and voting powers within the licensee; subcontracting, management, engineering and contracts of the licensee.

(g) A licensee shall maintain a complete and accurate Customer Register on a form or in a computer format approved by the Commission, and file the Customer Register with the Commission.

(1) The Customer Register shall contain a list of all customers served by the licensee and shall include the customer's name and the name of an authorized representative of the customer, any trade name, the address or addresses of service, the billing address, the telephone number, the date on which services commenced, the total charge per month, and such other information as may be specified by Commission directives.

(2) A complete and up-to-date Customer Register shall be filed twice each year: on January 30 for the period from June 1 through December 31, and on July 31 for the period from January 1 through June 20, or as often as ordered by the Commission. In the event that the Commission grants a new license, the newly licensed company shall submit its first Customer Register to the Commission no later than 90 days after the granting of its license, unless otherwise directed by the Commission. This subdivision shall apply to companies operating with temporary permission of the Commission, pending decision on their license application.

(h) A licensee shall maintain a register of all complaints that such licensee receives from customers or prospective customers.

(i) All records, receipts, documents, journals, ledgers, registers, and books that must be maintained pursuant to this section shall be maintained for five years unless the Commission directs otherwise. This period for record keeping shall only be reduced if the Commission so directs in a specific case in writing. The Commission may in specific instances, in its discretion, require more or less exacting record-keeping and reporting requirements and may require the retention of identified records for a period of time exceeding five years.

(j) All records, receipts, documents, journals, ledgers, registers, and books that must be maintained pursuant to this section shall be made available for inspection and audit by the Commission. The Commission may conduct such an inspection or audit at the licensee's place of business or, at the Commission's discretion, at the offices of the Commission. The licensee shall cooperate with the representatives of the Commission conducting any such inspection or audit.

(k) If any due date under this section falls on a weekend or City holiday, the due date shall be deemed to be the first business day following such weekend or holiday.

(1) In the event that, during the first year following the effective date of this subchapter, a licensee has not previously had its financial statements audited by an independent certified public accountant, the Commission may accept an income statement and a cash flow statement for that first year that has been "reviewed". However, the ending balance sheet for the period under submission shall be audited.

§5-04 Compliance with Applicable Law and Regulation.
All licensees shall at all times comply with all the laws, rules and regulations of Federal, State and local governmental authorities having jurisdiction over any of the licensees' activities, including, but not limited to, rules and regulations of the Department of Environmental Protection, the Department of Health, the Department of Sanitation and the Department of Transportation concerning the vehicle specifications, sanitary requirements, handling, transport, receipt, transfer or disposal of trade waste, regulated medical waste or waste containing asbestos or other hazardous, toxic or dangerous material. Failure to comply with these laws, rules or regulations shall be grounds for suspension and/or revocation of the license and, in addition to any other penalty provided by law, the imposition of penalties pursuant to section 1-04 of this chapter.

§5-05 Agreements and Contracts with Customers; Service to Customers.
(a) *Term and form of contract; requirements; service and discontinuation of service, increase of rates.* (1) An oral agreement for the collection, removal or disposal of trade waste shall be terminable at will by the customer and upon fourteen (14) days written notice by the licensee. A contract for the collection, removal or disposal of trade waste shall not exceed two years in duration and contracts entered into before the effective date of this chapter shall expire in accordance with the provisions of section 11 of Local Law 42. A written contract for the removal, collection or disposal of trade waste that contains no provision regarding duration shall be terminable at will by the customer and upon fourteen (14) days written notice by the licensee. A written contract shall provide that the licensee shall remove the customer's waste from the location designated by the customer. A sample standard contract form shall be submitted to the Commission no later, in the case of an applicant whose application is pending as of the effective date of this subchapter, than seven (7) days following such effective date and, for all other applicants at the time an application for a license is submitted, and a licensee shall submit any subsequent changes in the standard form to the Commission thirty (30) days prior to implementing such change. Nothing in this provision shall be construed to prevent a licensee from negotiating terms at variance with the standard form contract, except that a licensee shall not vary such contract in any manner identified by the Commission as inconsistent with the purposes of Chapter 1 of Title 16-A of the Code by the Commission after review of such standard form. All written contracts entered into by a licensee and all amendments thereto shall be filed with the Commission by the licensee no later than five (5) days after the signing of such contract or amendment.

(2) A licensee shall comply with the service and other terms set forth in the written contract or oral agreement with the customer, including the agreed-upon frequency and time schedule for the collection of waste. A schedule agreed to in writing shall not be altered without the written agreement of the customer's owner or authorized representative. When a licensee offers to provide a commercial establishment with trade waste services, the licensee shall provide such customer with a copy of the Commission's informational notice to customers. The licensee shall provide the customer with such additional informational notices as the Commission shall require throughout the term of service to the customer by the licensee.

(3) A licensee shall not discontinue service to any customer, or raise the rates charged to such customer, unless at least fourteen (14) days written notice to the customer shall have been given. No contract for the removal, collection or disposal of waste shall provide that a licensee may discontinue service upon shorter notice.

(b) *Subcontracting, assignment of contracts, mergers and acquisitions.* (1) A licensee shall apply for review by the Commission before subcontracting or assigning a contract and shall seek such review by the Commission thirty (30) days before such subcontract or assignment is proposed to take effect. The Commission may issue any order with respect to the transaction consistent with the purposes of Local Law 42. An assignee or subcontractor of contracts for the removal, collection or disposal of trade waste shall notify, within fifteen (15) days of the effective date of such assignment or subcontract, each party to a contract so assigned of such assignment or subcontract and of the right of such party to terminate such contract upon thirty days notice during the three months subsequent to receiving notice of such assignment or subcontract. Such notification shall be by certified mail with the receipt of delivery retained by the assignee or subcontractor and shall be upon a form approved by the Commission. Where no written contract exists with a customer for the removal, collection or disposal of trade waste, a company that assumes such trade waste removal from another company shall provide such customer with notification, within fifteen (15) days of such assignment or subcontract, on a form approved by the Commission by certified mail with the receipt for delivery retained by the assignee or subcontractor, that a new company will be providing such trade waste removal and that the customer has the right to terminate such service.

(2) A licensee shall apply for review by the Commission before acquiring, selling or merging with another trade waste removal, collection or disposal business and shall seek such review by the Commission no later than thirty (30) days before such acquisition, sale or merger is to take effect. The Commission may issue any order with respect to the transaction consistent with the purposes of Local Law 42. The Commission may, in its discretion, require that either the purchaser or seller post a bond or place money in escrow with the Commission in an amount that the Commission believes, in its discretion, is needed to cover any outstanding or potential fines or penalties owed or that may be owed to the Commission, any customer complaints that have been heard pursuant to section 1-03 of this chapter in regard to which a final determination has not been rendered, and any restitution ordered by the Commission which the selling or dissolving licensee has failed to make to the customer. In the event that the seller fails to post such bond or place money in escrow as set forth in this paragraph, the Commission may seek from the purchaser any and all outstanding fines or penalties for violations of Chapter 1 of Title 16-A of the Code and this chapter, and any outstanding ordered customer restitution.

(3) *Investigation, inspection, and evaluation fee.* The fee for investigation and review of any proposed asset sale, assignment of contract, merger, acquisition, or similar transaction, shall be fifteen hundred dollars ($1500) per principal and entity involved. After submission to the Commission of an appropriate request for review of such a transaction, the Commission shall notify the parties to the transaction of the total fee amount due and owing, which shall be paid in full within ten days after such notification. For all transactions submitted to the Commission after June 3, 1996, but before the effective date of this rule, the fees shall become due and owing by the parties on the effective date of this rule upon written notice by the Commission. The

Commission, in its discretion, may waive or reduce fees upon written request in light of one or more of the following reason(s):

(i) specified persons or entities have recently undergone completed background investigations by the Commission;
(ii) the value of the transaction under review is minimal;
(iii) specified persons or entities need not undergo background investigations because of their attenuated connection to the transaction;
(iv) the transaction does not involve the sale, assignment, or other transfer of any accounts or customer contracts (e.g. trucks or other non-customer assets);
(v) the transaction involves less than 5 customers;
(vi) the transaction involves unique characteristics or other mitigating factors that would warrant a reduction or waiver of fees.

(4) Requests for authorization of subcontracting, assignment, and other such arrangements. All trade waste subcontracting, assignment, and similar arrangements must be submitted to the Commission for authorization, regardless of whether the arrangement was previously submitted to, or approved by, another City agency (such as the Department of Consumer Affairs). Requests for approval of such an arrangement should be submitted in writing to the Deputy Commissioner for Licensing; in the case of arrangements not previously approved by another City agency, the arrangement shall not go forward unless it has been approved in advance by the Commission. The request shall identify the customer(s) involved (including name, address, contact person, and contract terms), state the requested length of the arrangement, and describe the business justification for the arrangement. Copies of all affected contracts or proposed contracts must be submitted with the request.

(5) Customer's thirty (30) day termination right during ninety (90) day post-assignment period. During the ninety (90) day period following the assignment or other transfer of a customer contract to another trade waste removal business, the customer has the right to terminate its carting contract on thirty (30) days notice. All contracts signed by affected customers during the ninety (90) day period subsequent to contract assignment or transfer remain terminable on thirty (30) days notice throughout the ninety (90) day period and any such contract signed during that ninety (90) day period must contain prominent notice of this fact.

(c) Customer's contract termination right after denial of license application or revocation of license. During the ninety (90)-day period following the effective date of the denial of the license application of a trade waste removal business or the revocation of the license of such a business, the customers of that business have the right to terminate any contracts for trade waste removal entered into during that period, on thirty (30) days' written notice to the other contracting party. Any contract for trade waste removal entered into by any such customer during the ninety (90)-day post-denial period shall be terminable at will by the customer throughout that period, on said written notice. Any such contract shall contain prominent notice of the customer's right to terminate the contract at any time within such period upon such notice.

(d) *Written contract.* At the time service to a customer is commenced, the licensee shall take all steps necessary to attempt to reach an agreement with the customer on the terms and conditions of the service to be provided, and within forty (40) days of the commencement of service shall

prepare a written contract that clearly and legibly sets forth the terms and conditions of the agreement negotiated by the licensee and the customer, and deliver such contract to the customer. Such contract shall provide that it shall be effective only upon being dated and signed by the licensee and the customer's owner or authorized representative and that a change of any term or condition of such contract must be made in writing, dated, signed by both the licensee and the customer's owner or authorized representative before such term or condition takes effect. The proposed contract offered by the licensee shall be accompanied by a notice that shall state: "You are not required to sign this contract. If you have any questions or complaints, call the Trade Waste Commission at 212-676-6300." One copy of such signed and dated contract and a copy of any signed and dated amendments must be provided to the customer's owner or authorized representative by the licensee.

(e) Customer's decision not to sign a contract. A customer is not required to sign a contract. In the event a customer fails or refuses to sign a contract that has been tendered to the customer pursuant to subdivision c of this section a licensee will be deemed to have complied with such subdivision if the licensee complies with the requirements in paragraphs (1) through (4) of this subdivision, provided however that a licensee shall not discontinue service to such a customer, or raise the rates charged such a customer, unless at least fourteen (14) days written notice of such discontinuance or-rate increase shall have been given such customer. Where a written contract with a customer has not been obtained by the licensee, the licensee shall:

(1) demonstrate that a contract has been tendered to the customer in accordance with subdivision c of this section, within 40 days of the commencement of service, by certified mail;

(2) notify the Commission in writing immediately following such 40 days of the customer's failure or refusal to sign a contract; and

(3) keep a copy of the contract tendered on file along with the signed returned postal receipt for a period of one year after the eventual discontinuance of service to the customer; and

(4) make available to the Commission upon its request a copy of the contract and the return receipt.

(f) *Liability for negligence.* No contract or contract amendment shall provide that the licensee is exempt from liability for damage caused by its negligence or the negligence of any of its agents.

(g) *Standard bills, statements, invoices.* A licensee shall provide a written bill, statement or invoice at least once every month to each and every customer to which such licensee provides services. Such bill, statement or invoice must conspicuously contain all of the following:

(1) The licensee's name, address, telephone number, license number;

(2) the customer's name, complete address and sign or decal number;

(3) a notice to customers as follows:

NOTICE TO CUSTOMERS - The maximum rate that may be charged by your trade waste removal business is regulated by the New York City Business Integrity Commission. If you should have a question or a complaint concerning waste removal, contact the New York City Business Integrity Commission (Telephone Number: 212-676-6300); and

(4) the maximum rates in effect with a statement indicating that the rates so identified are maximum legal rates and that lower rates maybe lawfully charged;

(5) the negotiated rate per cubic yard or per 100 pounds on which the invoice is based;

(6) an itemized list of charges detailing the cubic yards or weight of trade waste removed, and any additional charges, plus a separate statement of sales tax collected; and

(7) where applicable, a statement that the customer is being charged on a "flat" or "average" billing basis.

§5-06 Acceptance of Customers.

(a) Whenever a prospective or actual customer has been unable to obtain a licensee to remove his or her waste upon terms and conditions satisfactory to both the prospective or actual customer and licensee, the Commission may require a licensee collecting trade waste in or near the area in which the customer conducts business, to collect and remove such waste at a rate designated by the Commission.

(b) A licensee who has been ordered to serve a customer pursuant to subdivision a of this section may, within five days of such directive, object to the Commission, setting forth the reasons why such licensee should not be compelled to serve such customer, but must comply with any final order to serve. Failure to comply with such an order shall be a violation of this section.

§5-07 Employee Information.

A licensee shall provide to the Commission the names of any employees hired or to whom offers of employment are extended subsequent to the issuance of a license and the information required in regard to employees and such prospective employees on the application for a license pursuant to section 2-02 of this chapter.

§5-08 Operations.

(a) A licensee shall maintain any premises where trade waste removal vehicles and machinery are kept in a safe and sanitary condition.

(b) All vehicles operated pursuant to a license shall be loaded at all times in such a manner and by such methods as to prevent the release or discharge of dust and to prevent spilling of materials upon sidewalks or streets and every operator of a vehicle shall remove immediately from sidewalks or streets all materials spilled, littered, or thrown thereon in loading operations or in the handling and return of receptacles or while traveling.

(c) Materials loaded into vehicles shall be dumped or unloaded and disposed of only at points where disposal of the particular material may be made lawfully.

(d) Vehicles with open top box type bodies and containers on or in platform or panel type body vehicles shall not be filled or loaded over their capacity. In no case shall such vehicles be filled or loaded above water level of body or container.

(e) Trade waste vehicle operators of all types of vehicles shall exercise care at all times to prevent the making of unnecessary or avoidable noise in the course of operating such vehicles or loading trade waste.

(f) Each open top box type vehicle body shall be loaded only from front to rear and the partial load kept securely and fully covered at all times. Each such vehicle shall have a heavy tarpaulin cover which shall be secured over the vehicle body at all times other than when the vehicle body is being loaded or unloaded or is empty.

(g) Materials loaded in or upon vehicles shall not be re-worked, re-sorted, picked over, or rehandled while vehicle is on the streets and material shall not be transferred nor reloaded from a vehicle while on the streets to or into any other vehicle, except that operators of vehicles of the totally enclosed walk-in door type may sort materials only within and inside the body, during which periods the door or doors may be kept open.

(h) Materials shall not be carried at any time upon any vehicle other than solely within the vehicle body or solely within containers on or in the vehicle body when such materials are to be removed in containers.

(i) After materials are dumped for disposal the vehicle body and each container used, shall be emptied thoroughly and cleared of all loose materials.

(j) Vehicles and containers shall be thoroughly cleaned inside and outside frequently so that they shall present a good appearance and be maintained free of dirt and offensive odors at all times.

(k) Bodies of dead animals shall not be dissected outside of the premises from which removed, in the loading process or in the vehicle.

(1) All loading hoppers, doors, covers, or other closures of loading openings of all vehicles shall be kept closed and secured at all times excepting during actual loading through the particular opening.(m) A licensee shall provide for the general cleanliness of, and the control of odors and extermination of pests and rodents on and around, the vehicles used to transport trade waste and the locations where such vehicles are stored when not in use.

(n) A licensee shall provide for off-street parking for vehicles used to transport waste, and shall not permit such vehicles to be parked on the street during the hours when they are not in use.

(o) A licensee shall keep closed the doors of any garage, or the gate to any outdoor premises, from which vehicles used in the transport of waste are dispatched except when such vehicles are

entering or leaving such premises. The perimeter of any outdoor location used to store vehicles shall be surrounded by an opaque fence which shall be at least eight (8) feet high.

(p) A vehicle used to transport waste shall operate in compliance with all traffic laws, rules and regulations and shall not be permitted to stand with the motor idling in violation of section 24-163 of the Code.

(q) Any waste receptacle provided by a licensee to a customer shall be made of metal or other material or grade and type acceptable to the Department of Sanitation, the Department of Health and the Department of Housing Preservation and Development, as provided in section 16-120 of the Code. Receptacles used for liquid waste provided by the licensee shall be constructed, and maintained by the licensee, so as to hold their contents without leakage. All containers provided by the licensee shall be provided and maintained with tight fitting covers.

(r) A licensee shall, after removing the waste of a customer, return the receptacle from which such waste was removed to a place inside or in the rear of the premises from which such waste was removed. If this is not feasible, the licensee shall place such receptacle against the building line.

(s) A licensee who removes, collects or disposes of trade waste shall keep the sidewalk, flagging, curbstone and roadway abutting any area from which waste is removed free from obstruction, garbage, litter, debris and other offensive material resulting from the removal by the licensee of such trade waste.

§5-09 Membership in Trade Associations.
(a) No licensee or principal thereof shall be a member or hold a position in any trade association: (i) where such association, or a predecessor thereof as determined by the Commission has violated state or federal antitrust statutes or regulations, or has been convicted of a racketeering activity or similar crime, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time; (ii) where a person holding a position in such trade association, or a predecessor thereof as determined by the Commission, has violated state or federal antitrust statutes or regulations, or has been convicted of a racketeering activity or similar crime, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time; (iii) where a person holding a position in such trade association, or a predecessor thereof as determined by the Commission, is a member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency; or (iv) where the trade association has failed to cooperate fully with the Commission in connection with any investigation conducted pursuant to this chapter. The Commission may determine, for purposes of this subdivision, that a

trade association is a predecessor of another such trade association by finding that transfers of assets have been made between them or that all or substantially all of the persons holding positions in the two associations are the same.

(b) Notwithstanding the provisions of subdivision a of this section, the Commission may permit a licensee to be a member of a trade association where such membership would be prohibited by such subdivision upon a determination that such association no longer operates in a manner inconsistent with the purposes of this chapter.

§5-10 License Plates and Vehicle Markings.
(a) Upon issuance of a license, the Commission shall issue to the licensee two plates for each vehicle that will transport trade waste pursuant to such license and for which a fee has been paid pursuant to section 2-07 of this chapter. Such plates shall at all times be affixed in the manner prescribed by the Commission to a visible and conspicuous part of each such vehicle. A licensee shall not permit a vehicle to be used in the course of collecting, removing or disposing of waste that has not been identified and covered by the license and for which a fee has not been paid. A license plate issued by the Commission for such a covered and identified vehicle shall not be transferred to any other vehicle. Upon the sale, dissolution, suspension or discontinuance, whether voluntary or due to the revocation of a license, of the business of a licensee, such plates shall be forthwith surrendered to the Commission.

(b) Each vehicle shall have the name and business address of the licensee lettered legibly in letters and figures not less than eight inches in height, and in a color that contrasts with the color of the vehicle, on each side of the vehicle body or upon each door of the vehicle cab at all times.

§5-11 Labeling of Containers.
(a) All containers or receptacles from which trade waste is collected by any licensee shall have the volume capacity of each container or receptacle painted on the front of the container or receptacle in Arabic numerals at least 4 inches in height and followed by the indication "cu. yd." when the volume of the container or receptacle is measured in cubic yards or "GAL." when the volume of the container or receptacle is measured in gallons.

(b) If a container is provided by a licensee, it shall be the responsibility of that licensee to imprint and maintain the licensee's name and license number along with the accurate true measurement of the volume of the container. A licensee shall, at no charge, mark each unmarked container provided by a customer with the name of the owner of the container and the accurate true measurement of the volume of the container.

(c) If trade waste is collected from any container which does not have the volume capacity imprinted, the licensee collecting waste from such container shall report the exact location of such container to the Commission within three business days of the time it had actual or constructive knowledge of this matter.

(d) For the purposes of this section, a container is defined as any receptacle that is used to collect waste for disposal and which is not disposed of after such use generally.

§5-12 Recycling Requirements for Licensees.
(a) Designated recyclable materials. For purposes of this section, designated recyclable materials, also referred to as designated materials, shall mean materials that have been designated for recycling by the Department of Sanitation in 16 RCNY §1-10(a).

(b) *Licensees required to recycle.* A licensee that collects or transports designated recyclable materials that have been separated as required in 16 RCNY §1-10(c) or materials that have been commingled pursuant to 16 RCNY §1-10(d) and paragraph (5) of subdivision c of this section shall transport such materials to putrescible or non-putrescible transfer stations or other facilities that accept such materials for recycling, reuse or sale for reuse. Such licensee shall not bring such materials for disposal, or cause such materials to be brought for disposal to any solid waste disposal facility, whether or not such disposal facility is operated by the Department of Sanitation, in an amount that should have been detected through reasonable inspection efforts by the licensee.

(c) *Collection restrictions for designated recyclable materials.*

(1) *Designated paper materials and textiles*: The following collection restrictions apply to high grade office paper, newspaper, magazines, catalogs, phone books, corrugated cardboard (collectively referred to as designated paper materials) and textiles that have been properly separated by customers in accordance with the requirements of 16 RCNY §1-10: Designated paper materials and textiles shall not be collected and transported in the same vehicle compartment with non-designated materials, except as otherwise provided in paragraph (5) of this subdivision; with metal components of bulk waste that are substantially soiled with a contaminating material; or with construction waste.

(2) *Designated glass, metal and plastic containers, aluminum foil and aluminum foil products:* The following collection restrictions apply to containers made of glass or metal, bottles and jugs made of polyethylene terephthalate plastic (PET, plastic resin #1) or high density polyethylene plastic (HDPE, plastic resin #2) (collectively referred to as designated glass, metal, and plastic containers), and aluminum foil and aluminum foil products that have been properly separated by customers in accordance with the requirements of 16 RCNY §1-10: (i) designated glass, metal and plastic containers and aluminum foil and aluminum foil products that have not been separately bagged in transparent or translucent bags shall be collected and transported in a vehicle compartment that contains only such designated materials or materials that have been commingled pursuant to paragraph (5) of this subdivision; (ii) designated glass, metal and plastic containers and aluminum foil and aluminum foil products and non-designated glass, metal or plastic materials that have been commingled pursuant to paragraph (5) of this subdivision and have been separately bagged by customers in transparent or translucent bags shall not be collected and transported in the same vehicle compartment as designated or non-designated

construction waste, but may be collected and transported in the same vehicle compartment with any other designated or non-designated materials.

(3) *Metal components of bulk waste.* The following collection restriction applies to metal components of bulk waste that have been properly separated by customers in accordance with the requirements of 16 RCNY §1-10: metal components of bulk waste that are substantially soiled with a contaminating material shall not be collected and transported in the same vehicle compartment as designated paper materials or textiles.

(4) *Construction waste.* The following collection restrictions apply to components of construction waste that have been designated for recycling under 16 RCNY §1-10: designated construction waste may be collected and transported in the same vehicle compartment as non-designated components of construction waste, but shall not be collected and transported in the same vehicle compartment as any other designated or non-designated materials.

(5) *Commingling non-designated materials with designated recyclable materials:* Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, a licensee may collect and transport in the same vehicle compartment: non-designated paper and wood materials with designated paper materials and textiles, and non-designated glass, metal or plastic materials with designated glass, metal and plastic containers and aluminum foil and aluminum foil products, provided such non-designated materials are not substantially soiled with a contaminating material, and provided further that a written agreement exists between the customer and licensee that provides for the recycling, reuse or sale for reuse of all materials commingled pursuant to this subdivision. Such written agreement shall identify, by type, each non-designated material that will be commingled. The types of non-designated materials are non-designated paper and wood materials, or non-designated glass, metal or plastic materials. Where such an agreement exists between the customer and licensee, the licensee shall dispose of the commingled designated and non-designated materials at putrescible or non-putrescible transfer stations, or other facilities that shall cause such materials to be recycled, reused or sold for reuse.

(d) *Contract and bill requirements.* (1) Contracts entered into with customers in accordance with §5-05 shall state the estimated volume or weight of designated recyclable materials to be collected and transported pursuant to subdivision c of this section. In the event the customer and licensee agree to commingle designated materials with non-designated materials pursuant to paragraph (5) of subdivision c of this section, the contract shall include such agreement and shall also provide for the recycling, reuse or sale for reuse of all materials commingled pursuant to such paragraph. Such contract shall also state the total combined volume or weight of commingled designated and non-designated materials to be collected and transported, and shall identify, by type, each non-designated material to be collected and transported. The types of non-designated materials are non-designated paper and wood materials, or non-designated glass, metal or plastic materials.

(2) For customers billed on an actual volume or weight basis, the written bill, statement or invoice provided to customers pursuant to §5-05 shall include an itemized list of charges detailing the cost per cubic yard or per 100 pounds and the volume or weight of designated recyclable materials collected and transported pursuant to paragraphs (1) and (2) of subdivision (c) of this section; or the cost per cubic yard or per 100 pounds and the volume or weight of

designated recyclable materials and non-designated materials collected and transported pursuant to paragraph (5) of subdivision, (c) of this section.

(e) *Reports.* (1) The Customer Register required to be kept pursuant to §5-03 of this subchapter in a form or in a computer format approved by the Commission, shall state the name and address of each putrescible solid waste transfer station, non-putrescible solid waste transfer station, or other facility used during the period for which the report is submitted. Such report shall also state the total volume or weight and type of designated recyclable materials collected and transported pursuant to paragraphs (1) through (3) of subdivision (c) of this section; and/or the total combined volume or weight and type of designated recyclable materials and non-designated materials collected and transported pursuant to paragraph (5) of subdivision (c) of this section that were delivered to putrescible solid waste transfer stations, non-putrescible solid waste transfer stations, or other facilities during the period for which the report is submitted.

(2) A complete and up-to-date Customer Register shall be filed twice each year: on January 30 for the period from June 1 through December 31, and on July 31 for the period form January 1 through June 30, or as often as ordered by the Commission.

SUBCHAPTER F
CONDUCT OF TRADE WASTE BROKERS

§6-01 Presentation of Registration to Customer; Posting of Registration.
§6-02 Acceptance of Payment.
§6-03 Collection of Fees Prohibited.
§6-04 Records and Reporting Requirements.

§6-01 Presentation of Registration to Customer, Posting of Registration.
A trade waste broker shall not conduct an evaluation or analysis of a business' trade waste stream or broker a transaction between a commercial establishment and a trade waste business required to be licensed pursuant to this chapter, unless such broker has first presented a copy of his or her registration to such customer or prospective customer. A trade waste broker shall conspicuously post the registration issued by the Commission at the broker's place of business.

§6-02 Acceptance of Payment.
(a) A trade waste broker who conducts an evaluation or analysis of a trade waste stream shall not request or accept any payment in regard to such evaluation or analysis from a party other than the customer or prospective customer for whom such services are performed unless such broker has first disclosed to such customer or prospective customer in writing that the broker proposes to request or accept such payment. A copy of such notice to the customer or prospective customer shall be submitted to the Commission within fifteen (15) days of such disclosure.

(b) A trade waste broker who brokers a transaction between a customer or prospective customer of trade waste removal, collection or disposal services and a trade waste business required to be licensed pursuant to this chapter shall not request or accept payment from such trade waste business.

(c) A trade waste broker who brokers a transaction between a customer or prospective customer of trade waste removal, collection or disposal services and a trade waste business required to be licensed pursuant to this chapter shall state in writing to such customer or prospective customer that such broker has examined the rate schedules made available by the Commission pursuant to section 5-02 of this chapter.

§6-03 Collection of Fees Prohibited.
(a) A trade waste broker shall not engage in the collection of fees from commercial establishments for trade waste removal by a trade waste business required to be licensed pursuant to this chapter except where: (i) the contract for such fee collection complies with standards set forth in subdivision (b) of this section; (ii) such fee collection is upon he request of the customer;

and (iii) such fee collection is part of an agreement providing for other services such as periodic waste evaluation and consulting with respect to source separation, recycling or other business practices relating to trade waste.

(b) A contract that includes provision for the collection by a trade waste broker of fees for trade waste removal shall be submitted to the Commission and shall set forth the fee charged for such collection, the rates charged by the trade waste removal business, the method of billing employed by the trade waste removal business and shall provide that the trade waste broker provide the customer with a monthly statement detailing the volume of trade waste removed.

§6-04 Records and Reporting Requirements.
A trade waste broker shall maintain a complete and accurate set of books of account reflecting operation of the broker's business and documents, receipts, bills and other written records that concern such business. Such records shall be maintained for five years unless the Commission directs otherwise. The period for which records must be retained may be reduced only where the Commission so directs in a specific case in writing. The Commission may, in specific instances at its discretion, require more or less exacting record keeping and reporting requirements and may require the retention of identified records for a period exceeding five years. Such records shall be made available for inspection and audit by the Commission. The Commission may conduct such an inspection or audit at the trade waste broker's place of business or, at the Commission's discretion, at the offices of the Commission. The trade waste broker shall cooperate with the representatives conducting any such inspection or audit.

(a) A trade waste broker shall keep a register of customers in a form or in a computer format approved by the Commission. This register shall contain a list of all businesses that have been served by the trade waste broker during the period covered by such register and shall describe the services performed for each business, the fees charged to such business by the trade waste broker for such services, any fee collected from any other source in relation to such services, and the name of the business to which such fees were charged.

(b) in addition to the requirements for the customer ledger set forte in subdivision a of this section, where, pursuant to section 6-03 of this chapter, a trade waste broker collects fees from a commercial establishment for trade waste removal by a trade waste removal business required to be licensed pursuant to this chapter, such broker shall include in the customer register a description of the other services provided for the customer as required by paragraph (iii) of such subdivision and shall retain for inspection by the Commission a copy of the customer's request for such collection service as required by paragraph (ii) of such subdivision and the contract governing the agreement to provide services.

SUBCHAPTER G
CONDUCT OF CLASS 1 REGISTRANTS REMOVING THEIR OWN WASTE AND CLASS 2 REGISTRANTS GRANTED EXEMPTION FROM LICENSING REQUIREMENTS

§7-01 Posting of Registration.
§7-02 Compliance with Applicable Law Required.
§7-03 License Plates.
§7-04 Recycling Requirements.
§7-05 Operations.

§7-01 Posting of Registration.
A registrant shall conspicuously post the registration issued by the Commission at the registrant's place of business.

§7-02 Compliance with Applicable Law Required.
All registrants shall at all times comply with all the laws, rules and regulations of Federal, State and local governmental authorities having jurisdiction over any of the registrants' activities, including, but not limited to, rules and regulations of the Department of Environmental Protection, the Department of Health, the Department of Sanitation and the Department of Transportation concerning the vehicle specifications, sanitary requirements, handling, transport, receipt, transfer or disposal of trade waste, regulated medical waste or waste containing asbestos or other toxic or dangerous material. Failure to comply with these laws, rules or regulations shall be grounds for suspension and/or evocation of the registration and, in addition to any other penalty provided by law, the imposition of penalties pursuant to section 1-05 of this chapter.

§7-03 License Plates.
(a) Upon issuance of a registration, the Commission shall issue to a registrant who removes trade waste generated in the course of operation of his or her business and to a registrant exempt from the licensing requirements of this chapter two license plates for ach vehicle that will transport trade waste pursuant to such registration and for which a fee has been paid to the Commission pursuant to section 2-07 of this chapter. A registrant shall not permit a vehicle to be used in the course of collecting, removing or disposing of waste that has not been identified and covered by the registration and for which a fee has not been paid. A license plate issued by the Commission for such a covered and identified vehicle shall not be transferred to any other vehicle. Upon the sale, dissolution, suspension or discontinuance, whether voluntary or due to the revocation of such registration, of the business of the registrant, such plates shall be forthwith surrendered to the Commission. Notwithstanding any other provision of this chapter, the penalty for violation of this section shall not exceed one thousand dollars ($1,000) for each such violation.

(b) Each vehicle shall have the name and business address of the registrant lettered legibly in letters and figures not less than eight inches in height, in a color that contrasts with the color of the vehicle, on each side of the vehicle body or upon each door of the vehicle cab, in a manner prescribed by the Commission, at all times.

§7-04 Recycling Requirements.
(a) A registrant shall comply with the requirements for recycling set forth in subdivisions (a) through (c) of section 5-12 of this chapter, except that notwithstanding the provisions of paragraphs (1) and (2) of subdivision (c) of such section, a registrant may collect and transport in the same vehicle compartment: non-designated paper and wood materials with designated paper materials and textiles, and non-designated glass, metal or plastic materials with designated glass, metal and plastic containers and aluminum foil and aluminum foil products, provided such non-designated materials are not substantially soiled with a contaminating material. The registrant shall dispose of the commingled designated and non-designated materials at putrescible or non-putrescible transfer stations, or other facilities that shall cause such materials to be recycled, reused or sold for reuse.

(b) Registrants shall submit to the Commission quarterly reports, which shall state the name and address of each putrescible solid waste transfer station, non-putrescible solid waste transfer station, or other facility used during the quarter for which the report is submitted. Such report shall also state the total volume and type of designated recyclable materials, and/or the total volume and type of commingled designated and non-designated materials delivered to putrescible solid waste transfer stations, non-putrescible solid waste transfer stations, or other facilities during the quarter for which the report is submitted. Where applicable, such report shall also state the volume of construction waste delivered to construction and demolition debris transfer stations during the quarter for which the report is submitted. The report for the quarter ending on March 31 shall be due on April 30; the report for the quarter ending on June 30 shall be due on July 30; the report for the quarter ending on September 30 shall be due on October 30; and the report for the quarter ending on December 31 shall be due on January 30.

§7-05 Operations.
(a) A registrant who removes, collects or disposes of trade waste shall keep the sidewalk, flagging, curbstone and roadway abutting any area from which waste is removed free from obstruction, garbage, litter, debris and other offensive material resulting from the removal by the registrant of trade waste and shall comply with the requirements for operation contained in subdivisions (a) through (p) of section 5-08 of this chapter.

SUBCHAPTER H
SPECIAL TRADE WASTE DISTRICTS [RESERVED]

TAB B

Derby Code

Chapter 167: SOLID WASTE MANAGEMENT
[HISTORY: Adopted by the Board of Aldermen of the City of Derby as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES
Junk dealers — See Ch. 105.
Abandoned refrigerators — See Ch. 144.

ARTICLE I Disposal Area [Adopted 8-13-1981]
§ 167-1. Definitions.

As used in this article, the following terms shall have the meanings indicated: SMALL BUSINESS — A commercial establishment that generates no more than three fifty-five-gallon refuse containers each week. [Amended 9-28-2000]

SOLID WASTE — Unwanted or discarded materials, including solid, liquid, semisolid or contained gaseous material.

SOLID WASTE DISPOSAL AREA — The municipal landfill located on Marshall Lane, so called, more particularly bounded and described in Volume 128, Pages 525-527, of the Derby Land Records.

§ 167-2. Operation of disposal area continued.

The city shall continue to operate a solid waste disposal area for the benefit and use of the residents of the city and other duly authorized persons, in accordance with rules and regulations established by the State Department of Environmental Protection and State Health Department.

§ 167-3. Use of disposal area.

Use of the solid waste disposal area shall be limited to the following persons: A. Municipally authorized solid waste collectors depositing wastes generated within the city.
B. Derby residents and taxpayers, except that no resident or taxpayer shall use a vehicle with a registered capacity of more than one ton at any one time.
C. Commercial solid waste collectors with written permits depositing wastes generated within the city.
D. Such other persons as the Board of Aldermen shall permit.

§ 167-4. Hours of operation of disposal area.

The Street Commissioner of the city shall establish hours for the use of the solid waste disposal area, which shall be posted at the site and on file in the office of the City Clerk.

§ 167-5. Hours of prohibited use.

It shall be unlawful for any person to use or cause to be used the solid waste disposal area except within the hours established in § 167-4.

§ 167-6. Disposal fees; waiver of fees. [Amended 12-8-1988] A. No solid waste shall be disposed of at the solid waste disposal area except upon payment of a fee as established by the Board of Aldermen of the city, which fee shall be $12, with a minimum charge of $12 per load, which fee shall be paid at the main gate to the disposal area in the form of a dump ticket which shall be available for purchase at the office of the City Clerk, except that Derby residents and taxpayers transporting noncommercial and nonindustrial solid waste, and the municipally authorized solid waste collector, disposing of solid waste generated by the residential collection, shall have said fee waived.
B. Any individual or entity disposing of the items listed below at the Derby Landfill shall pay disposal fees as follows:

Item	Fee
Stoves, refrigerators, freezers, washers, dryers, dishwashers, etc.	$5
Air conditioners, console televisions, water heaters, etc.	$3
Portable televisions, microwaves, etc.	$2
Tires	
16 inches or under	$2
Over 16 inches	$5
Gallon of engine or transmission oil	$0.50

§ 167-7. Determination of fees by vehicle capacity.

The fee as established in § 167-6 shall, at the option of the vehicular owner or user, be determined by either: A. The maximum carrying capacity of the vehicle containing the material to be disposed of as indicated by the registration of such vehicle; or
B. The weight of the load on such vehicle as indicated on a weight ticket issued at a scale operated by a weighmaster duly licensed by the State of Connecticut, including the date and time of weighing.

§ 167-8. Permits. A. All applications for permits pursuant to § 167-3 shall be in writing, in a form prescribed by the Street Commissioner and obtained therefrom, including the submission of a sworn list of all vehicles, with license plate numbers, proposed to be used by the permittee.
B. No permit issued hereunder shall be assignable or transferable.
C. Use of the solid waste disposal area by other than those vehicles registered with the Street Commissioner shall constitute violation of this section and shall bar the permittee from use of said area for one year from the date of said violation.

§ 167-9. Disposal of hazardous wastes prohibited.

No solid waste classified as hazardous according to the Department of Environmental Protection regulations shall be disposed of at the solid waste disposal area.

§ 167-10. Collections.

No person other than the municipally authorized solid waste collector shall collect and transport solid waste within the city without written permit from the City Clerk, except residents and taxpayers as provided in § 167-3C.

§ 167-11. Registration of collectors.

Collectors of solid waste within the city shall, as required by this article, register upon forms to be provided by the Street Commissioner and made available in the office of the City Clerk.

§ 167-12. Frequency of collection.

Collections of community solid waste shall occur at least once per week.

§ 167-13. Duty of residents regarding collection. [Amended 9-28-2000] A. All solid waste to be collected by the collector shall be in containers suitable for holding said wastes, with a maximum capacity of 30 gallons and maximum weight of 50 pounds, except that: (1) Ashes, sawdust and swill are to be put in plastic bags and tied securely.
(2) Garbage in paper bags will not be accepted unless placed in proper containers.
(3) All newspapers and magazines are to be tied in average size bundles.
(4) All cardboard boxes are to be broken apart, folded flat and tied securely.
(5) Each family is limited to two barrels of loosely packed leaves or grass or two bundles of shrubbery securely tied for each pickup or any amount of leaves, grass or clippings, provided that the same are deposited for pickup in large durable plastic bags and tied securely, except for bulk pickup as announced by the Commissioner.

(6) Furniture, appliances, plaster, rocks and large pieces of lumber will not be accepted.

B. All solid waste which cannot be placed in containers or bundles as defined in Subsection A above shall be designated as "oversize solid waste" for purposes of § 167-15, and shall require the scheduling of an "oversize solid waste pickup" for collection as defined in § 167-15C.

§ 167-14. Duty of commercial establishments regarding collection. A. Commercial establishments are to use the same type barrels and are subject to the same restrictions as set forth above, with the following limitations: (1) Garages are limited to three barrels.
(2) Grocery stores are limited to three barrels.
(3) Restaurants, eating establishments and bars are limited to four barrels.

B. Owners of commercial property shall be subject to a fine of $100 for each violation by themselves or their tenants.

§ 167-15. Placement of containers. [Amended 9-28-2000] A. All solid waste containers and other solid waste as specified shall be placed at the shoulder or curb for removal, except that, if any solid waste cannot be placed at the shoulder or curb, the collector shall not refuse to make collection from the premises providing such solid waste if the owner or occupant thereof who desires removal is willing to pay the collector the reasonable and customary fee for removal from said premises, and has scheduled an oversize solid waste pickup as defined in Subsection C below.
B. No solid waste container shall be placed along the public right-of-way before 12:00 p.m. on the day prior to the scheduled pickup day. All solid waste containers shall be removed from the public right-of-way no later than 8:00 p.m. on the scheduled pickup day. Penalties for failure to comply with this provision shall be as follows: (1) First offense: warning.
(2) Second offense: $25 fine.
(3) Third and subsequent offense(s): $75 fine.

C. Oversize solid waste pickup. (1) Any owner or occupant desiring collection of oversize solid waste shall schedule an oversize solid waste pickup through the City of Derby Department of Public Works. Collection of oversize solid waste will be provided according to the following fee schedule:

Type of Use
Fee

1- or 2-dwelling units

First pickup
No charge1

Second pickup
No charge1

Third pickup
No charge1

Fourth pickup
$751

Subsequent pickup(s)
$1501

3+ dwelling units

First pickup:
No charge1

Second pickup
$2501

Third and subsequent pickup(s)
$5001

Condominium

First pickup per 5 units
No charge1

Second pickup
$2501

Third and subsequent pickup(s)
$5001

Type of Use
Fee

Small business

First pickup
No charge1

Second pickup
$2501

Third and subsequent pickup(s)
$5001

NOTE:

1Additional charges may apply for excess tonnage as detailed in the Transfer Facility Fee Schedule maintained by the Director of Public Works.

(2) For purposes of the foregoing fee schedule, the terms "dwelling unit" and "condominium" shall have the same meaning as defined in § 195-7 of the Code. The term "small business" shall be defined as. Editor's Note: See the definition of "small business" in § 167-1, Definitions.
(3) In the event that oversize solid waste is presented at the shoulder or curb for removal on the scheduled pickup day and the owner or occupant has not properly scheduled an oversize solid waste pickup, the oversize solid waste shall be collected; however, the owner or occupant shall be charged for such unscheduled oversize solid waste pickup at the rate specified on the fee schedule for "third and subsequent pickup(s)." All records and invoicing for oversize solid waste pickup shall be maintained by the Public Works Department.

§ 167-16. Duty of collector.

All solid waste collected by the municipally authorized collector shall be done in a thorough and clean manner, with containers emptied and replaced with cover in an upright position at the place of removal.

§ 167-17. Condominium-generated trash. [Amended 6-29-1987]

The City of Derby shall pay for the cost of one weekly trash pickup for condominiums within the city, and the City of Derby shall not charge a dumping fee to any trash hauler for the disposal of Derby condominium-generated trash in the Derby landfill. However, the City of Derby shall not pay for nor be responsible for the cost of any additional trash pickups, rental of condominium trash containers or any other cost incidental to the pickup of trash from condominiums within the city.

ARTICLE II Collection and Recycling [Adopted 3-9-1995]

§ 167-18. Enactment of regulations.

The Board of Aldermen of the City of Derby is hereby authorized to enact from time to time such regulations as it shall deem in the public interest regarding the separation, recovery, collection, removal, storage and disposition of garbage, rubbish and other refuse, including recyclables. Such regulations shall become effective upon publication twice in a daily newspaper having circulation in the City of Derby and shall be immediately posted in a conspicuous place in City Hall.

§ 167-19. Definitions.

As used in this article, the following terms shall have the meanings indicated: CARDBOARD — Corrugated boxes and similar corrugated and kraft paper materials which have a minimum of contamination by food or other material.

GLASS FOOD CONTAINER — A glass bottle or jar of any size or shape used to package food products suitable for human or animal consumption.

LEAVES — The foliage of trees.

METAL FOOD CONTAINER — An aluminum, bimetal, steel, tin-plated steel or other metallic can, plate or tray of any size or shape used to package food products suitable for human or animal consumption.

NEWSPAPER — Used or discarded newsprint which has a minimum of contamination by food or other material.

OFFICE PAPER — Used or discarded high-grade white paper and manila paper, including but not limited to paper utilized for file folders, tab cards, writing, typing, printing, computer printing and photocopying, which is suitable for recycling and which has a minimum of contamination.

RECYCLE — To separate or divert an item or items from the solid waste stream for the purposes of processing it or causing it to be processed into a material product, including the production of compost, in order to provide for disposition of the item or items in a manner, other than incineration or landfilling, which will best protect the environment. Nothing in this definition shall preclude the use of waste oil as fuel in an oil burner.

SCRAP METAL — Used or discarded items which consist predominantly of ferrous metals, aluminum, brass, copper, lead, chromium, tin, nickel or alloys thereof, including but not limited to white goods and metal food containers.

STORAGE BATTERY — Lead acid batteries or other batteries used in motor vehicles such as automobiles, airplanes, boats, recreational vehicles, tractors and like applications.

WASTE OIL — Crankcase oil that has been utilized in internal combustion engines.

§ 167-20. Powers of Board.

The Board of Aldermen of the City of Derby is authorized to employ or make contracts with individual persons or corporations for the separation, recovery, collection, removal, storage or disposition of garbage, rubbish and other refuse including recyclables.

§ 167-21. Classification of recyclables.

The following material shall be classified as recyclable material and subject to the separation and collection requirements as established in this article: A. Newspaper.
B. Cardboard.
C. Glass food and beverage containers.
D. Metal food and beverage containers.
E. Plastic food and beverage containers.
F. Waste oil.
G. Scrap metal.
H. Storage batteries and nickel cadmium batteries.
I. Leaves.
J. Office paper.

§ 167-22. General separation requirements. A. It shall be mandatory for all residents who are owners, lessees or occupants to separate from other solid waste all recyclables as defined in this article. All recyclables shall be separated from nonrecyclables in the following manner: (1) All clean and unsoiled newspapers shall be separated from the refuse and other recyclables and piled loose on top of the recycling container or as otherwise specified by the City of Derby and placed at the curb for scheduled pickup. Newspapers shall not be wet or contaminated with food or other waste materials.
(2) All clean and unsoiled corrugated cardboard shall be separated from the refuse and other recyclables, collapsed and flattened and stacked neatly underneath the recycling container at curbside for scheduled pickup. Corrugated cardboard shall not be wet or contaminated with food or other waste materials.
(3) All containers including but not limited to metal and glass food containers and aluminum foil products shall be rinsed and devoid of food products, placed in the recycling container and placed at the curb for scheduled pickup. All labels must be removed from cans and all corks, neck rings, lids or caps must be removed and placed with the refuse.
(4) Leaves and other organic (plant) matter will be picked up by the Public Works Department on a posted schedule.
(5) All storage batteries, used motor oil and vehicle tires generated by residences shall be brought to the transfer facility located on Pine Street, Derby, Connecticut, or as otherwise described by the City of Derby and placed in the marked containers or locations as established by the City of Derby except in the case of storage batteries which may be brought to a local retailer as provided by state law. Used motor oil shall be transported in plastic or metal closed containers and poured into the waste oil tank. Tires shall be placed in the pile provided.
(6) Recyclables from residents shall not be placed in plastic bags for collection, removal or disposal. Recyclables from residences shall not be placed in the same refuse container as or otherwise mixed with solid waste for collection, removal or disposal.
(7) Recyclables shall be separated from other garbage and refuse and placed at the street curb or curbline for collection. Recyclables not handled as specified will not be collected if combined with other garbage and rubbish. No solid waste container shall be placed along the public right-of-way before 12:00 p.m. on the day prior to the scheduled pickup day. All solid waste containers shall be removed from the public right-of-way no later than 8:00 p.m. on the scheduled pickup

day. Penalties for failure to comply with this provision shall be as follows: [Amended 9-28-2000]
(a) First offense: warning.
(b) Second offense: $25 fine.
(c) Third and subsequent offense(s): $75 fine.

B. No person having custody or control of residential premises from which garbage, rubbish or other refuse, including recyclables, is collected for disposal by the City of Derby shall permit or cause any garbage, rubbish or other refuse, including recyclables, within its custody or control to become a hazard to public travel, health or safety or to become a nuisance of any sort.

§ 167-23. Authorization requirements.

No person engaged in the business of separation, recovery, collection, removal, storage or disposition of garbage, rubbish or other refuse within the City of Derby, except as specifically authorized by the Board of Aldermen of the City of Derby, shall pick up or procure any garbage, rubbish or other refuse deemed recyclable under this article or a valid regulation. This restriction shall also include any independent citizen, resident, taxpayer or person who might engage in such practice for personal gain.

§ 167-24. Reporting requirements.

The following persons or firms must comply with reporting requirements as described herein: A. All haulers, permitted by the City of Derby, shall submit documentation no less frequently than quarterly on their recycling activities in the form of weight slips or a signed business letter indicating the total amount of each item described in § 167-21 recycled each quarter, the names of those nonresidential multifamily establishments within the city that they service, those contracts not complying with the provisions of this article and any changes made to the system employed for recycling. The first report shall also describe the recycling system utilized by the hauler, in general, including items to be recycled, methods of collection and destination of materials. Reports must be submitted to the City Public Works Director commencing January 1, 1995. Recycling documentation will be due on or before the eighth day of the month following the end of each quarter.
B. Any hauler who has reason to believe that any person from whom he collects garbage has violated the separation requirements detailed in this article shall issue a warning notice (provided by the city) and properly notify the Mayor or his designee of the alleged violation. The hauler shall also assist the town in identifying persons responsible for creating loads with mixed recyclables and solid waste.
C. All haulers and recycling facilities shall report any chapter violation occurring on their route to the Mayor or his designee within 24 hours of the occurrence, including the name of the individual committing the violation and the type of violation involved.
D. It shall be mandatory for all recycling facilities permitted by the City of Derby to submit documentation no less frequently than quarterly on their recycling activities in the form of weight slips or a signed business letter indicating the amounts recycled, those contracts not complying with the provisions of this article and any changes made to the system employed for recycling. The first report shall described the recycling system utilized by the company, in general, including items to be recycled, methods of collection and projected residue level. Reports must be submitted to the City Department of Public Works commencing on or about January 1, 1995. Recycling documentation will be due on or before the eighth day of the month following the end

of each quarter. Those not complying shall be subject to the penalties described in § 1-14. In addition, all recycling facilities shall be required to report monthly concerning the total amount of recyclables obtained from each business in the City of Derby and the amount of residue remaining after recycling has taken place. Such report shall be in the form of certified weight slips or a signed business letter.

§ 167-25. Businesses, multifamily residences, nonresidential establishments, public institutions.
A. All persons who are owners, lessees or occupants of multifamily residences, nonresidential establishments and public institutions and facilities shall establish recycling programs and shall separate from other solid waste or arrange to separate, collect, transport and market all items designated as recyclable, including but not limited to newspapers, glass food containers, metal foods containers, office paper, corrugated cardboard, waste oil, storage batteries, leaves, yard waste and scrap tires for recycling. In no case shall such person or firm commingle paper or cardboard recyclables with food waste, garbage or other putrescible waste prior to collection for recycling. All processing, separating and marketing of recyclables must take place at a state-certified recycling facility.
B. All owners of multifamily residences and owners, lessees or occupants of nonresidential establishments and public or private institutions or facilities shall submit yearly documentation of their recycling system on forms provided by the city. The first report shall describe the system in general, including items to be recycled, haulers receiving the materials and frequency of pickup or delivery. Reports must be submitted to the City Department of Public Works commencing March 1, 1995, and every year thereafter by January 1.

§ 167-26. Penalties for offenses.

Any person, hauler or facility violating any provision of this article or the regulations enacted hereunder shall be fined not more than $99 for each offense. In addition, the City of Derby or its agent reserves the right to refuse to collect garbage, rubbish or other refuse or to allow disposal where the spirit or letter of the chapter or the regulations enacted hereunder is ignored. The Board of Aldermen shall have full discretionary authority in deciding all disputed questions arising under the provisions of this article or the regulations enacted hereunder. Notwithstanding any penalties outlined above, the city may pursue any civil remedies for any damages at common law or statutory law. Each day any such violation shall continue shall constitute a separate offense and shall be punishable as such.

§ 167-27. Inconsistency with other ordinances.

All ordinances or parts of ordinances, resolutions, regulations or other documents inconsistent with the provisions of this article are hereby repealed to the extent of such inconsistency.

Middletown Code
Chapter 253: SOLID WASTE
[HISTORY: Adopted by the Common Council of the City of Middletown 2-4-1980. Amendments noted where applicable.]

GENERAL REFERENCES
Sanitation Commission — See Ch. 14, Art. XII.
Open burning — See Ch. 126.

Property maintenance — See Ch. 228.

ARTICLE I Regulation of Solid Waste Disposal Areas
§ 253-1. Definitions. [Added 4-4-1983; amended 9-5-1989; 12-10-1990]

As used in this article, the following terms shall have the meanings indicated: COLLECTOR — Any person who holds himself out for hire to collect solid waste and recyclable material(s) from residents or business, commercial or other establishments.

SOLID WASTE — As defined in C.G.S. § 22a-207, as amended.

SOLID WASTE DISPOSAL AREA — As defined in C.G.S. § 22a-207, as amended.

VEHICLE — Every device in, upon, or by which any solid waste and/or recyclable material is transported.

§ 253-2. License required for use of City facilities; voluntary registration; termination of licenses. [Added 4-4-1983; amended 12-10-1990; 7-1-1996] A. License required for disposal of solid waste at City disposal facilities. All persons engaged in the business of collection of solid waste and recyclable materials who dispose of the solid waste collected at City disposal facilities shall obtain a license from the Director of Public Works.
B. Voluntary registration of solid waste haulers. All persons engaged in the business of collection and disposal of solid waste and recyclable materials who do not dispose of the material at a City-designated facility may voluntarily register with the Department of Public Works in order to receive updated information from the Department. No financial or insurance requirements will accompany this registration.
C. Termination of all licenses. Notwithstanding any other provision of this article, the City reserves the right to terminate all licenses issued pursuant to this article at any time during the license period. If all licenses are terminated, the City will refund a prorated portion of the fee for the unused portion of each license.

§ 253-3. Application for license; terms; vehicles to be marked. [Amended 6-2-1980; 4-4-1983; 9-5-1989; 12-10-1990] A. All licenses shall be for a period of one year from July 1, or other date in the event of a partial year, to the following June 30. The license fee shall be paid in advance with the application. The application shall be made on a form prescribed by the Director of Public Works. The fee shall be $25 per vehicle.
B. The following information shall be submitted in writing with the application on forms prescribed by the Director of Public Works: (1) A list of all vehicles and removable bodies to be used to transport solid waste and recyclable materials to a disposal area. The list shall state as to each vehicle the name of the manufacturer, the Connecticut registration number, its cubic yard capacity and its tare weight and gross weight. The list shall state the manufacturer, an identification number, the cubic yard capacity and the tare weight and gross weight of each removable body. All vehicles and removable bodies that may be used are to be listed. The vehicles and removable bodies to be regularly used shall be so designated. The other vehicles and removable bodies may be used when regular vehicles are being repaired or maintained.

(2) A written list of the names and residence and business addresses of all persons who will be authorized to operate vehicles used to transport solid waste to a disposal area.
(3) A certificate of insurance certifying to the City that general liability and automobile liability insurance in the amount of $1,000,000 is in effect naming the City of Middletown, its officers, agents, servants and employees as additional insureds. Said certificate shall state that the City of Middletown shall be given at least 30 days' prior written notice of the expiration of or any change in such insurance. The certificate of insurance shall certify that workers' compensation insurance coverage, as required by the State of Connecticut, is provided.
(4) If the licensee is an individual proprietor, a written statement of the full name, business telephone number, business address and residence address of the proprietor and of the person in charge of the licensee's activities under the license; if a corporation, the same information as to each officer, director, statutory agent for service of process and person in charge of the licensee's activities under the license; and if a partnership or association, the same information as to each partner and associate and person in charge of the licensee's activities under the license.
(5) Such other information as may be required by the Director of Public Works.

C. The license is not transferable, and no licensee shall permit another person engaged in the business of collection or disposal of solid waste, other than its own agents and employees, to operate under its license.
D. Each body of each vehicle used to transport solid waste and recyclable materials, whether the body is permanently affixed to the vehicle or a removable body, shall have prominently and legibly painted or otherwise displayed on at least one side, so as to be easily read by a disposal site attendant, the cubic yard capacity of the body. Each removable body that may be used by the licensee shall also have so painted or displayed an identifying number which is to be listed with the City in the same manner as vehicles. No vehicle will be allowed to dispose of waste if it does not comply with this subsection. The door of any private vehicle used to haul solid waste shall be clearly marked with the business name and address of the hauler.

§ 253-4. Licensee to provide notice of changes. [Amended 6-2-1980; 12-10-1990]

Each licensee shall give immediate written notice to the City of each change in vehicle or removable bodies used to transport solid waste and recyclable materials and of each change in personnel. The licensee shall be responsible for the operation of any vehicle in the solid waste disposal area included on its list submitted to the City until such time as the City is given written notice that such vehicle is no longer used by him for that purpose. No vehicle, removable body or operator of any licensee not listed on the original list or any subsequent written notice filed with the City will be allowed into a solid waste disposal area. Each licensee shall, within 15 days, give written notice to the City of any change in the amount of waste to be deposited each week.

§ 253-5. Waste permitted to be deposited. A. No solid waste shall be deposited in any solid waste disposal area maintained by the City except the following: (1) Solid waste generated within the territorial limits of the City of Middletown.
(2) Solid waste generated outside of the territorial limits of the City of Middletown permitted to be disposed of within a solid waste disposal area maintained by the City pursuant to an agreement approved by the Common Council.

B. Disposal of any solid waste from any other source in a solid waste disposal area maintained by the City is hereby specifically prohibited.

§ 253-6. Disposal of waste collected within Middletown. [Added 12-10-1990]

All collectors licensed in Middletown shall deliver all solid waste, except for those recyclable materials as defined in § 253-16B(1) through (9), inclusive, and § 253-16C(4), as amended, which is collected from within the boundaries of Middletown to a site as designated by the Director of Public Works. The disposal of refuse at any other area is prohibited, unless approved by the Director of Public Works, in writing, prior to disposal.

§ 253-7. Refusal to permit disposal of waste.

Officials and employees of the City shall refuse to permit any vehicle to deposit solid waste in a solid waste disposal area maintained by the City if said vehicle contains in whole or in part solid waste not authorized to be disposed of in such area under the terms of this article.

§ 253-8. Written certification of source and class of waste. A. The Director of Public Works, prior to allowing disposal, may require that each licensee, its agent or employee certify in writing, under the penalties of false statement as provided in the Connecticut General Statutes, as to the source and class of each load of solid waste brought to a Middletown solid waste disposal area.
B. If any licensee, its agent or employee fails or refuses, upon request by the Director of Public Works, to provide the certification in writing specified in Subsection A above as to any load of waste, the licensee, its agent or employee shall not be permitted to dispose of the waste in the vehicle in the solid waste disposal area and shall be ordered to remove the vehicle from the area immediately.

§ 253-9. Licensees to obey rules and regulations. [Amended 12-10-1990]

All licensees shall obey all the orders and directions of employees of the City employed at or in charge of the City-maintained solid waste facility, shall dispose of their collections at the points designated by such employees and shall comply with all regulations issued by the Director of Public Works for the collection of solid waste and disposal thereof in the City solid waste disposal areas.

§ 253-10. Licensees to comply with all applicable laws. [Amended 12-10-1990] A. All licensees shall comply with all state, federal and local laws, including but not limited to every section of this article, all statutes, regulations, ordinances, bylaws, permits and orders applicable to the transportation or disposal of solid waste.
B. All collectors of solid waste excluding recyclable material must be licensed by the facility designated by the City of Middletown and must bring all solid waste generated within the City of Middletown to the facility so designated and must follow all rules and requirements of the facility and must have all insurances and letters of credit as may be required by that facility. Any hauler which has its license revoked by that facility will automatically have its Middletown license revoked.
C. Collectors who fail to comply with the provisions of this section will be subject to a fine in an amount so designated by the Connecticut General Statutes, as amended, and to the revocation of the license to haul solid waste, bulky waste or recyclable materials within the City of Middletown.

§ 253-11. Director of Public Works to make additional regulations.

The Director of Public Works may make additional regulations consistent with this article and all other applicable laws to promote the orderly collection of solid waste and disposal thereof in solid waste disposal areas maintained by the City and for the enforcement of this article. Each regulation shall be in writing and shall become effective upon publication in a newspaper having a general circulation in Middletown and filing of a copy with the City/Town Clerk.

§ 253-12. Deposit by Middletown residents, businesses, institutions and organizations. [Added 4-4-1983; amended 12-10-1990] A. Any person who resides in Middletown and any business, institution, or social or other organization having a place of business in the City of Middletown may bring brush, bulky waste or recyclable materials generated at such residence or place of business to an area maintained by the City. The Director of Public Works may monitor the deposit by use of a register, permit or other system. No such resident or business, institution or organization shall, directly or indirectly, deposit brush, bulky waste or recyclable materials generated outside of the City in an area maintained by the City. If the Director of Public Works finds, after hearing as provided in § 253-13, that any such resident, business, institution or organization has violated any applicable law, he may revoke the right or suspend the right for a reasonable period, provided he shall, for the first violation, at least suspend the right to dispose of waste in a disposal area for a period of not less than 10 days, and in the event of two violations within a fiscal year he shall revoke the right.
B. Revocation or suspension shall be effective as provided in § 253-13. Any resident, business, institution or organization having its right revoked shall not be eligible to deposit materials in a City disposal area for a period of one year after the time the right is revoked. No resident, business, institution or organization whose right has been suspended or revoked will be allowed to defeat the purposes of this article by obtaining or using such right under an assumed name or the name of another person, business, institution or organization. Anyone having such right revoked may apply for reinstatement in the time and manner as provided in § 253-13.
C. Residents may not bring any solid waste directly to the facility so designated by the Director of Public Works for the disposal of solid waste.

§ 253-13. Hearing; suspension or revocation of license; appeals. [Added 4-4-1983; amended 9-5-1989] A. Hearing. The Director of Public Works may, based on information received by him, and shall, upon written application supported by an affidavit setting forth the facts which, if true, would warrant suspension or revocation of a license issued under this article, hold a hearing to make a determination as to whether such license should be suspended or revoked. (1) Written notice of such hearing setting forth the alleged violation and the time and place of hearing shall be given to the licensee at least seven days prior to the date scheduled for commencement of the hearing.
(2) The hearing may be continued from time to time by the Director as the circumstances require.
(3) At the hearing, evidence on which a suspension or revocation of the license may be based may be presented. The licensee may be represented by counsel and may cross-examine witnesses and present testimony, documentary evidence or other evidence in support of the licensee's claim. If requested to do so, the Director may allow the licensee a reasonable time to submit a written memorandum in support of its claims.
(4) Within 10 days of the close of the hearing or the date for submission of the memorandum, the Director shall make a decision as to whether or not the license shall be suspended or revoked. The decision shall be in writing and a copy shall be mailed by certified mail or hand delivered to the licensee.
(5) If the license is suspended or revoked, the suspension or revocation shall be effective on the close of business of the sixth calendar day after the day the notice is received by the licensee

unless another day is specified in the notice. A revocation shall be stayed if an appeal is filed with the Public Works Commission until the issuance of a decision by the Commission.

B. Suspension; revocation. If, after hearing and based on evidence presented at the hearing, the Director of Public Works decides that any licensee has violated any applicable law, including but not limited to any section of this article, he will suspend the license for a period of not less than 60 calendar days and, in the event of two violations, will revoke the license, and the licensee will never again be allowed to dispose of solid waste in a disposal area maintained by the City of Middletown. No individual, proprietor, corporation, partnership, or association whose license has been suspended or revoked will be allowed to defeat the purposes of this article by using or obtaining a license under an assumed name or the name of another person, corporation, partnership or association. Notwithstanding any of the foregoing, in addition to the penalties stated in this section, any collector, as defined in C.G.S. § 22a-220a, as amended, shall be subject to fines and penalties as set forth in that section for violations as defined therein.
C. Appeal of revocation to Public Works Commission. Any person having a license revoked may, within five calendar days of the receipt of the written notice of revocation, apply in writing to the Public Works Commission for reinstatement of the license. The application is to be filed with the Department of Public Works office in the Municipal Building, which shall immediately notify the Chairman of the Commission. (1) Within five calendar days of the filing of the application, the Chairman of the Commission shall set a date for a hearing, which date shall be within 20 calendar days of the filing of the application. Written notice of the time and place of hearing shall be given to the licensee.
(2) The hearing may be continued from time to time by the Chairman as the circumstances require.
(3) At such hearing, the licensee may present evidence in support of its claim that its license should be reinstated, and the evidence on which the revocation was based shall be presented.
(4) If the Commission, based on evidence presented at the hearing, decides that the license should be reinstated, it shall so advise the Director of Public Works and the licensee in writing and the Director shall reinstate the license. If the Commission decides the license should not be reinstated, it shall so advise the Director and licensee in writing. The notice shall be hand delivered or sent by certified mail to the licensee. If not reinstated, the revocation shall become effective five calendar days after receipt of the Commission's decision by the licensee.

§ 253-14. Suspension of license or right to dispose of waste prior to hearing. [Added 4-4-1983]

Notwithstanding any other provision of this Code of Ordinances, the Director of Public Works, upon the receipt of information from which there is cause to believe that a licensee or any City resident, business, institution or organization is disposing of hazardous waste in a solid waste disposal area maintained by the City, or disposing of any waste so as to create a danger of immediate injury or damage to persons or property, shall immediately suspend such license or right to dispose and schedule a hearing as soon as is practicable. The suspension shall be in writing. After the hearing the Director shall make a determination as to whether the license or right shall be suspended for a further period of time, revoked, or reinstated. Any party whose license or right is revoked after such hearing shall have the right to apply to the Public Works Commission for reinstatement as provided in § 253-13.

§ 253-15. Bulky waste, construction waste and oversized municipal solid waste tipping fee schedule. [Added 5-12-1988; amended 3-5-1990; 7-6-1993; 12-4-2000; 7-1-2002] A. Unless otherwise provided by agreement authorized by the Common Council, bulky waste, construction

waste and oversized municipal solid waste by Middletown residents or businesses located in Middletown when accepted at the Middletown Transfer Station located on Johnson Street, Middletown, Connecticut, shall be subject to the following established and approved fee schedule. Alternate private sites may be provided by the City of Middletown in which case the fees will be established by the operator of the site.
B. Definitions. As used in this section, the following terms shall have the meanings indicated:
BULKY WASTE — Demolition and construction debris, including wood, insulation, sheetrock and shingles, inert material and land-clearing debris such as branches over six inches in diameter.

OVERSIZED MUNICIPAL SOLID WASTE — Wooden and stuffed furniture, mattresses, scrap metal, bicycles, hot water heaters and other large household items.

C. All bulky waste and oversized municipal solid waste brought to the Transfer Station will be weighed and charged the cost plus 10% per ton for disposal.
D. The minimum payment per load will be $10.
E. Tires will be accepted at the Transfer Station for a charge of $3 per passenger car tire, $10 per tire mounted on a rim. There is a limit of four tires per load.
F. Refrigerant-containing items (for example, refrigerators and air conditioners) will be accepted at the Transfer Station at a cost of $15 per item.

§ 253-16. Recycling. [Added 10-4-1988; amended 9-5-1989; 6-4-1990; 12-5-1990; 7-6-1992] A. Definitions. As used in this section, the following terms shall have the meanings indicated:
CARDBOARD — Corrugated boxes and similar corrugated and kraft paper materials which have a minimum of contamination by food or other material.

COLLECTOR — Any person who holds himself out for hire to collect garbage and recyclable material(s) from residential, business, commercial or other establishments.

GARBAGE — All animal, fish, fowl, and fruit waste and/or vegetable matter and/or any combination thereof produced or resulting from the preparation, use, cooking, dealing in or storing of food for human consumption.

GLASS FOOD CONTAINERS — Glass bottles or jars of any size or shape used to package food products suitable for human or animal consumption.

INTERMEDIATE PROCESSING CENTER — A facility which can recycle an item or items and market or deliver for reuse the resulting material product or products. Such facilities may be owned by public or private entities or combinations thereof and may offer service on a state, regional, municipal or submunicipal level.

LEAVES — The foliage of trees.

METAL FOOD CONTAINERS — Aluminum, bimetal, steel, tin-plated steel, or other metallic cans, plates, or trays of any size or shape used to package food products suitable for human or animal consumption.

NEWSPAPER — Used or discarded newsprint which has a minimum of contamination by food or other material.

OFFICE PAPER — Used or discarded high-grade white paper, including but not limited to paper utilized for writing, typing, printing, computer printing and photocopying, which is suitable for recycling and which has a minimum of contamination. Office paper generated by households is excluded.

PERSON — Any individual, organization, trust, foundation, group, association, partnership, corporation, society or any combination of them, whether principal or agent.

PLASTIC CONTAINERS — Plastic containers, no bigger than one gallon or three liters, made of polyethylene terephthalate (PET, Code 1) or high-density polyethylene (HDPE, Code 2), excluding motor oil, antifreeze and pesticide containers.

RECYCLABLE MATERIALS — Materials which have been so designated in the Middletown Code of Ordinances. These will include but not be limited to those materials designated as recyclable under the Connecticut General Statutes, as amended, and the regulations of the Connecticut Department of Environmental Protection, as amended, prior to or at the time designated by those statutes and/or regulations.

RECYCLING — The reuse of recovered resources through the processes of sorting, cleaning, treating, and reconstituting materials otherwise destined for disposal.

RESIDENTIAL PROPERTY — Real estate containing one or more dwelling units but not including hospitals, motels, or hotels.

SCRAP METAL — Used or discarded items which consist predominantly of ferrous metals, aluminum, brass, copper, lead, chromium, tin, nickel or alloys hereof, including but not limited to white goods and excluding metal food containers as defined in this section.

STORAGE BATTERIES — Lead acid batteries or other batteries used in motor vehicles such as automobiles, airplanes, boats, recreational vehicles, tractors and like applications.

WASTE OIL — Crankcase oil that has been utilized in internal combustion engines.

B. It shall be the goal of the City of Middletown to recycle 100% of each recyclable material. For the purposes of this section, the following shall be classified as recyclable material: (1) Newspapers;
(2) Cardboard;
(3) White goods and other scrap metal;
(4) Leaves;
(5) Waste oil;
(6) Glass food containers;
(7) Metal food containers;
(8) Office paper;
(9) Storage batteries; and
(10) Plastic containers.

C. Separation of recyclables enumerated in Subsection B. (1) All persons who generate solid waste from residential property shall separate recyclable materials from the rest of their solid waste. Persons who own or operate multifamily housing complexes shall provide sufficient areas and/or receptacles on the premises for the separation and storage of newspapers, corrugated

cardboard and commingled bottles, cans and plastic containers. All recycling receptacles must be clearly labeled.
(2) All persons who own or operate nonresidential property, including but not limited to businesses, industries, and institutions, must establish recycling programs and either separate recyclable materials from the rest of their solid waste or make such provision for the separation of the recyclable materials as will prevent the contamination of those recyclables. In no case shall any person commingle paper or cardboard recyclables with food waste, garbage, or other putrescible wastes prior to collection for recycling.
(3) All collectors serving residential properties where solid waste is collected from individual households at the curb must offer separate curbside collection of newspapers and corrugated cardboard and of commingled bottles, cans and plastic containers. All collectors serving residential properties where solid waste is placed in dumpsters must offer separate dumpsters or containers for commingled corrugated cardboard and newspapers and for commingled bottles, cans and plastic containers. No collector shall mix previously separated recyclable materials with each other or with other solid waste. No collector shall knowingly collect recyclable material if it is mixed with other solid waste.
(4) All collectors of newspapers, bottles, cans, plastic containers and corrugated cardboard from residential properties shall transport those materials to a transfer area, processing center, or market as may be designated by the Director of Public Works or his/her duly authorized designee.
(5) All collectors of recyclable materials from nonresidential properties shall arrange for the processing or marketing of those recyclable materials.

D. Recyclable materials shall be prepared and collected as follows: (1) Newspapers must be clean. Use of plastic bags to bundle newspaper is not acceptable. Corrugated cardboard must be clean and flattened. Glass and metal food containers must be rinsed. Glass must not be broken. Glass, metal food containers and plastic containers coded 1 and 2 may be commingled but kept separate from the other recyclable materials. The following items may not be placed with the glass and metal food containers: plastic containers coded 3 to 9, window glass, mirrors, ceramics, scrap metal, coat hangers, aerosol cans, paint cans, or light bulbs. Residents not served by dumpsters for recyclables must place their commingled glass, metal and plastic food containers in durable metal or plastic containers for collection at the curb.
(2) In the Middletown Sanitary Disposal District, as defined by Special Act of the Connecticut State Legislature and Chapter VII of the Charter of the City of Middletown, corrugated cardboard, newspapers and glass, metal and plastic food containers shall be placed out for collection separately on those days designated by the Director of Public Works or his/her duly authorized designee. The dates for such collection shall be posted in the City/Town Clerk's office and shall be published at least twice in a newspaper of general circulation in the City of Middletown. Newspapers from non-dumpster accounts shall either be tied securely in flat bundles not weighing more than 35 pounds or placed flat in containers deemed suitable by the Director of Public Works or his/her duly authorized designee weighing not more than 35 pounds. Loose newspapers will not be collected. Large quantities of corrugated cardboard must be stacked neatly and tied with string or rope. Staples, labels and other packing material should be removed as much as possible. Corrugated cardboard larger than two by three will not be accepted. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
(3) Outside of the Middletown Sanitary Disposal District, as defined in this section, newspaper, corrugated cardboard and glass, metal and certain plastic containers shall be placed out for collection as designated by the particular private collector, licensed by the City of Middletown, of each Middletown resident. Collection must occur at a minimum of once monthly. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

(4) Corrugated cardboard must be flattened, tied in a bundle and free of contaminants, which shall include but not be limited to styrofoam, wooden pallets, and/or garbage. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
(5) White goods, including but not limited to stoves, refrigerators, washers, dryers and dishwashers, from one- to three-family dwellings shall be placed out for collection separately on those days designated by the Director of Public Works or his/her duly authorized designee. Notice of said collection shall be posted in the City/Town Clerk's office and shall be published at least twice in a newspaper of general circulation within the City of Middletown. White goods from one- to three-family dwellings can be brought to the areas designated in the City of Middletown Landfill by persons residing in the City of Middletown and/or collectors.
(6) Leaves will be placed out on the curb for collection separately by property owners on those days designated by the Director of Public Works or his/her duly authorized designee. Notice of said collection shall be posted in the City/Town Clerk's office and shall be published at least twice in a newspaper of general circulation within the City of Middletown. Leaves can be composted on a person's property as long as all health, safety and environmental statutes, ordinances, rules and regulations, as amended, are followed.
(7) Waste oil must be free of any contaminants, including but not limited to antifreeze, gas and solvents.

E. The provisions of this section shall not preclude residential waste generators from bringing recyclable materials to drop sites provided by the City of Middletown at locations designated by the Director of Public Works or his/her duly authorized designee.
F. All loads of recyclable materials delivered to a recycling area or container provided by the City of Middletown or a processing center/market designated by the City must be free of contaminants. Commingled metal and glass food containers must be substantially free of broken glass.
G. All garbage collected and/or transported within the City of Middletown shall be carried in watertight covered vehicles or in watertight covered containers in or on said vehicles. All other solid waste and recyclable material collected and/or transported in the City of Middletown in open-top vehicles shall be covered in a suitable manner as determined by the Director of Public Works or his/her duly authorized designee so as to prevent the scattering of these materials within the City of Middletown.
H. All collectors' vehicles utilized for the collection and/or transportation of solid waste and/or recyclable materials from persons in the City of Middletown shall be licensed by the City of Middletown.
I. The Middletown Director of Public Works shall enact rules and regulations in conformity with this section. Such rules and regulations shall be published at least once in a newspaper of general circulation within the City of Middletown and shall be posted in the City/Town Clerk's office.
J. No person shall permit any solid waste or recyclable material(s) within the person's control, or shall cause any solid waste or recyclable material(s), to become a hazard to public health, travel and/or safety.
K. The Director of Public Works shall receive notices of violation from collectors and disposal facilities. The Director of Public Works or his/her designee shall be responsible for enforcing the provisions of this section. Any person violating any provision of this section and/or any rules or regulations enacted hereunder shall receive a written warning for the first offense. Any person violating any provision of this section and/or any rules or regulations enacted hereunder shall be fined not more than $100 for each subsequent offense, unless otherwise specified. Each continuing day of violation shall be considered a separate offense. Notwithstanding the foregoing, commercial establishments that fail to provide for separation of recyclables from solid waste may be fined not more than $500 for each subsequent violation. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II). (1) Any collector who knowingly mixes

recyclable materials with other solid waste shall be subject to the fines and penalties set forth in C.G.S. § 22a-220a, as amended, for violations as defined therein.
(2) Notwithstanding the above, any collector may have his or her license suspended or revoked pursuant to §§ 253-13 and 253-14 of this article for any violation and/or continuing violation of the provisions of this section and/or any of the rules and regulations enacted hereunder.

L. Any collector who has reason to believe that a person from whom he or she collects solid waste has put recyclable materials in with the solid waste shall notify the Director of Public Works in writing of the alleged violation. (1) When asked to do so by the Director of Public Works or his/her designee, a collector shall provide warning notices to any person suspected of violating separation requirements. A collector shall also assist the City in tracing persons responsible for creating solid waste loads containing significant quantities of recyclables delivered by that collector to a resource recovery facility or solid waste facility.
(2) All collectors must provide quarterly reports to the City recycling coordinator of the quantities of all nonresidential recyclable materials collected within the City of Middletown. Such reports must be on a form provided by the City and must include a list of recyclable materials collected, the location to which each recyclable material was delivered, and the weight of each recyclable material. Supporting documentation such as weight slips shall be included with the form. Notification must be provided within 30 days of the end of each quarter.

M. No person shall remove recyclable material(s) from designated recycling bins or from curbside without authorization from the Director of Public Works or his/her duly authorized designee.
N. The subsections of this section pertaining to the recycling of office paper and corrugated cardboard from residential properties, only, shall not go into effect until January 1, 1991. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 253-17. Use of transfer station. [Added 7-5-1994]

Any transfer station constructed in the City of Middletown, Connecticut, for the purpose of receiving solid waste and recyclables shall receive only such solid waste and recyclables generated within the City of Middletown, Connecticut, and received from residences and businesses located within the City of Middletown, Connecticut.

§ 253-18. Refuse and garbage tipping fees. [Added 4-3-1989; amended 8-7-1989; 4-2-1990; 6-4-1990; 9-4-1990; 7-6-1992]

Unless otherwise provided by agreement authorized by the Common Council, refuse and garbage generated by Middletown residents or businesses located in Middletown, when accepted at the Middletown Sanitary Landfill located on Johnson Street, Middletown, Connecticut, or any refuse facility controlled by the City of Middletown, shall be subject to the following established and approved fee schedule. A. Classification. All persons with vehicles over 8,600 pounds' gross vehicle weight utilizing the Middletown Sanitary Landfill will be required to pay a tipping fee.
B. Requirements. (1) The user must be a person residing, paying real estate taxes or having a place of business in Middletown or a refuse contractor licensed by the City of Middletown.
(2) The user must certify on the City of Middletown's standard disclosure form, obtained from the Middletown Department of Public Works, Administration Office, in City Hall, signed by the owner or his/her duly authorized designee, that Middletown is the origin of the waste. Said form must be presented to the Department of Public Works at the time of obtaining a permit and to the attendant on duty at the Middletown Sanitary Landfill when dumping.

(3) Refuse contractors licensed by the City of Middletown and residential, commercial or industrial facilities in the City of Middletown that transport their own refuse to the Middletown Sanitary Landfill must file a cash bond or an irrevocable letter of credit, unlimited as to time, with the Department of Public Works. The bond or letter of credit amount shall be at least equal to a two-month tip fee charge for those businesses subject to this section, and said amount shall be set by the Director of Public Works and/or his/her duly authorized designee. If a cash bond is filed, said bond may be deposited at a bank with a place of business in the City of Middletown, Connecticut, chosen by the applicant in the name of the City of Middletown, with the Mayor of the City and the Director of Public Works as joint signatories on the bond. Said bond or letter of credit may be forfeited to the City of Middletown upon failure to pay the monthly tipping fee within 20 days of receipt of the tipping fee invoice. If the City of Middletown receives written notification from a business subject to these provisions that it will no longer be dumping at the City of Middletown's Sanitary Landfill, the City of Middletown will, within a reasonable period of time, release the cash bond or irrevocable letter of credit.
(4) Any and all other forms, as required by the Director of Public Works or his/her duly authorized designee, must be executed by the person subject to these provisions or his/her duly authorized designee.
(5) Fee: $55 per ton.
(6) With the exception of those vehicles with a gross vehicle weight of 8,600 pounds or less, the Department of Public Works will send, on a monthly basis, each person subject to the terms of this section an invoice for the total number of tons of refuse deposited at the landfill times the tip fee of $55 per ton. Said invoice is due and payable upon receipt. Failure to pay said invoice will prevent the dumping of waste at the Middletown Landfill. (a) Upon the approval of the Mayor, upon the recommendation of the Director of Public Works or his/her duly authorized designee, the Director of Finance shall be authorized to forfeit the bond and/or irrevocable letter of credit.
(b) The revenue generated as a result of the tip fees is to be deposited in the Fund for Landfill, Waste Disposal and Recycling Editor's Note: See Ch. 47, Art. V. or in such other place as the Common Council may designate.

(7) Upon the City of Middletown entering into an agreement to dispose of Middletown refuse at a site other than the Middletown Sanitary Landfill, the tipping fee shall be adjusted automatically to reflect the amount agreed upon by and between the City and future refuse disposal facility operated, plus transportation costs.
(8) A tipping fee or charge per load will not be assessed for the following excepted items: (a) Newspapers and magazines which are prohibited under §§ 253-16 and 253-17 of this article and must be separated from each load.
(b) Clean glass food containers and clean metal food containers which are kept separate from trash and placed in specially designated recycling bins.
(c) White goods made of metal, including but not limited to refrigerators, stoves, washers, dryers and freezers, which are kept separate from trash and placed in a specially designated area.
(d) Leaves and brush under six inches in diameter from one- to three-family units which are kept separate from trash and placed in a specially designated area.
(e) Any other recyclable materials for which the City of Middletown provides separate containers at the landfill for their collection and recycling.

ARTICLE II Sanitary Disposal District
§ 253-19. Boundaries.

The Sanitary Disposal District shall constitute that portion of the City lying within the boundaries of the former first taxing district, together with any other territory contiguous thereto which has been, or may hereafter be, added in accordance with the Middletown Charter. Editor's Note: See Chapter VII of the Charter.

§ 253-20. Director of Public Works to make regulations.

The Director of Public Works shall make all regulations necessary or appropriate for the orderly collection of solid waste within the Sanitary Disposal District. Each regulation shall be in writing and shall become effective upon publication in a newspaper having a general circulation in Middletown and filing of a copy with the City/Town Clerk.

§ 253-21. Rates established. [Added 9-6-1983; amended 11-5-1984; 8-13-1985; 3-3-1986; 3-6-1989; 5-1-1989; 2-5-1990; 4-2-1990; 11-5-1990; 12-5-1990; 4-1-1991; 3-1-1993; 3-4-1996; 3-16-1998; 8-4-2003; 3-7-2005 by Ord. No. 3-05]

Unless otherwise provided by the Common Council, the rents, fees or charges as may be necessary to effectuate the collection of garbage and refuse, as proposed by the Sanitation District Commission of the City of Middletown and the Public Works Commission, are hereby approved and on file in the Department of Public Works.

§ 253-22. Billing procedure. [Added 10-6-2003] A. Billing shall be made twice per year in advance. This semiannual billing shall be issued on May 1 and November 1 of each calendar year.
B. It shall be the responsibility of the property owner to pay for the refuse service. Property owners shall be responsible for payment regardless of whether a bill is received. It shall be the property owner's responsibility to identify and protest incorrect bills to the Sanitation District within the month (May or November) that such bill is issued. Any incorrect bills so identified shall be corrected and reissued by the Sanitation District.
C. In the event that a building is empty or unoccupied, it shall be the property owner's responsibility to notify the City Public Works Department in writing within 30 days of such vacancy. The Sanitation Commission may authorize a refund of fees in such event; however, such a refund shall be limited to one billing cycle from the date of vacancy. The Sanitation Commission may require such proof as it reasonably deems appropriate prior to authorizing the issuance of a refund. The property owner shall notify the Sanitation District within 30 days of a new occupancy. In preparation of the semiannual billing, any annual fee or rate that is divided by two for the six-month charge shall be rounded down to the nearest one-hundredth of a dollar. [Amended 7-3-2006 by Ord. No. 17-06]

Bethel Code
Chapter 94: SOLID WASTE
[HISTORY: Adopted by the Board of Selectmen of the Town of Bethel as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES
Resources Recovery Authority — See Ch. 21.
Dumpsters — See Ch. 52.

Recycling — See Ch. 80.
Solid waste transfer station — See Ch. 93.

ARTICLE I Solid Waste Management and Flow Control [Adopted 5-26-1993, effective 6-26-1993]

§ 94-1. Purpose; program established.

There is hereby established a program for the disposal of municipal solid waste within the Town of Bethel in accordance with the provisions of Section 22a-220 of the Connecticut General Statutes, thereby providing for the health and welfare of the citizens of the Town of Bethel, Connecticut.

§ 94-2. Definitions.

As used in this article, the following terms shall have the meanings indicated: ACCEPTABLE WASTE — All household garbage, trash, rubbish, refuse and combustible agricultural, commercial, governmental and light industrial waste now normally or which may be hereinafter collected and disposed of by or on behalf of the Town, but excluding the following: A. Explosives and ordnance materials, pathological wastes, chemicals, radioactive materials, oil, sludges, highly inflammable substances, cesspool or other human wastes, human and animal remains, motor vehicles or parts thereof, farm or other large machinery, nonburnable construction materials and demolition debris (but home remodeling waste and debris in reasonable quantities are not considered "demolition debris") and hazardous refuse of any type or kind [including those addressed by regulations adopted by the United States Environmental Protection Agency (EPA) pursuant to the Resource Conservation Recovery Act of 1976, as amended, or other federal statutes or adopted by the Connecticut Department of Environmental Protection (DEP), such as but not limited to cleaning fluids, crankcase oils, cutting oils, hazardous paints, acids, caustics, poisons, drugs, radioactive materials, fine powdery earth used to filter cleaning fluid and refuse of similar nature].
B. Any item of waste exceeding six feet in any one of its dimensions or being in whole or in part of a solid mass, the solid mass portion of which has dimensions such that a sphere with a diameter of eight inches could be contained within such solid mass portion.
C. All large household appliances commonly referred to as "white goods," including, without limitation, refrigerators, stoves, washing machines, drying machines and the like.
D. All items designated from time to time by the Commissioner of the Connecticut DEP pursuant to the provisions of Section 22a-241b(a) of the Connecticut General Statutes as suitable for recycling and such other items as are actually recycled.
E. All other items of waste which the Town and the Authority reasonably believe would be likely to pose a threat to health or safety or the acceptance and disposal of which may cause damage to the transfer station or be in violation of any judicial decision, order or action of any federal, state or local government or any agency thereof or any other regulatory authority or applicable law or regulations. The Town recognizes that some substances which are not, as of the date of this article, considered harmful or of a toxic nature or dangerous may be determined as such by the DEP and/or EPA subsequent to the date hereof as hazardous, toxic, dangerous or harmful, and at the time of such determination such substances shall cease to be acceptable waste.

BOARD — The Board of Selectmen of the Town of Bethel, Connecticut; when used in reference to a voting body, it shall be taken to include the phrase "or a majority thereof."

COLLECTOR — Any person who holds himself out as a collector to collect either solid waste or recyclables from residential, business, commercial or other establishments.

DEP — The Connecticut Department of Environmental Protection.

DESIGNATED TRANSFER STATION — The transfer station as designated by the Housatonic Resources Recovery Authority (HRRA) as the location where acceptable waste from Bethel shall be taken for disposal.

DIRECTOR — The Director of Public Works for the Town of Bethel or his authorized representative.

MUNICIPALITY or TOWN — The Town of Bethel.

PERSON — Any individual, corporation, partnership, association or other entity or organization of any kind.

RESIDENTIAL PROPERTY — Real estate containing one or more dwelling units, but shall not include hospitals, motels or hotels.

§ 94-3. Registration of collectors; permit fee; duties and qualifications. A. In accordance with the provisions of Subsection 22a-220a(d) of the Connecticut General Statutes, any collector hauling solid waste generated by residential, business, commercial or other establishments in the Town of Bethel shall register with the Town on forms prescribed by the Board. Upon registration and payment of an annual permit fee of $25, each such collector shall be issued a permit to collect or continue the collection of solid waste within the Town. Permits issued hereunder shall not be transferred by the holder thereof. Each such collector shall disclose the name of any other municipality in which such collector hauls such solid waste. The door of any private vehicle used to haul solid waste shall be clearly marked with the business name and address of the collector. Each collector shall further be required to sign an affidavit of origin, under the penalty of false statement, that all recyclables disposed of in the name of the Town of Bethel or its residents shall originate from properties located within the corporate limits of the Town or from such other locations as the Town may permit.
B. Each collector permitted to collect solid waste within the Town pursuant to the provisions of Chapter 80, Recycling, and Subsection A hereof shall, subject to the further provisions hereof, collect or cause to be collected all recyclables generated by their Bethel customers and required to be recycled pursuant to the requirements of this article.
C. No collector shall be required to provide collection services to any customer who is more than 30 days delinquent in the payment of collector's fees. If the delinquent customer shall discharge his delinquency, the collector shall immediately resume collection services to the customer.
D. As conditions of the permits issued pursuant to this section, all collectors shall comply with the following requirements: (1) Collectors shall conform to all provisions of federal, state and local law.
(2) Collectors shall keep accurate records of and report to the Town or to any other entity designated by it the amounts in the aggregate of all acceptable waste collected by such collector within the Town.

(3) Collectors shall pay to the Housatonic Resources Recovery Authority or Wheelabrator Environmental Systems, Inc., (WES) or to any other entity designated by them or the Board the applicable tipping fees and charges with respect to acceptable waste delivered to the designated transfer station by such collector.
(4) When delivering acceptable waste to the designated transfer station, collectors shall use only equipment compatible with the efficient operation of the designated transfer station, which equipment shall be subject to the reasonable approval of the operator thereof.
(5) Collectors shall be responsible for all costs or damages relating to the delivery by them to the designated transfer station of materials other than those listed as acceptable waste.
(6) Collectors shall provide to the Housatonic Resources Recovery Authority and Wheelabrator Environmental Systems, Inc., a suitable performance bond or letter of credit to insure the performance of the collector's obligations hereunder. Said security shall be in such forms and amounts as determined by the WES and approved by HRRA.
(7) Collectors shall provide insurance covering their solid waste collection operation, which shall include the Town, the Housatonic Resources Recovery Authority and the designated transfer station owner and its operator as additional insureds. Such coverage shall include but not be limited to general liability, automotive liability, excess liability, worker's compensation and employers liability in the amounts reasonably deemed by WES and approved by HRRA.

E. Collectors shall use only those highway routes designated by the Town or by WES with the approval of the HRRA and the Town for the delivery of acceptable waste to the designated transfer station.
F. Collectors shall deliver acceptable waste in a clean, orderly and safe manner and adhere to all reasonable safety rules and regulations as made known to the collector by the Town or HRRA or by WES with the approval of the HRRA at all times when vehicles and/or personnel of the collector are at the transfer station.
G. Collectors registered with and holding valid permits issued by the Town pursuant to the provisions hereof shall deliver all acceptable waste collected within the Town to the designated transfer station. Only the Town and collectors so registered and permitted shall be designated or otherwise authorized to collect and deliver acceptable waste to the designated transfer station. In case of the temporary unavailability of the designated transfer station, acceptable waste may be diverted to another transfer station by the Town.

§ 94-4. Designation of transfer station site.

The Town does hereby designate the following authorized sites for the disposal of acceptable waste generated within the corporate limits of the Town of Bethel. A. Each collector authorized to collect solid waste within the Town shall deliver all acceptable waste to the designated transfer station.
B. All Bethel residents not served by a collector who wish to dispose of their own acceptable waste, if generated within Bethel from residential property, shall deliver said waste to the Bethel residential dropoff for subsequent delivery and disposal by the Town.
C. All persons generating solid waste from nonresidential properties shall make arrangements to have all acceptable waste collected in a manner consistent with the provisions of state law and this article.
D. Except as may be permitted by the Board, the disposal of acceptable waste originating from a source outside the Town of Bethel shall be prohibited.

§ 94-5. Enforcement; violations and penalties. A. Any collector found to have violated the collection requirements of § 94-3B hereof shall be subject to a fine in the amount of $100 for each offense. In addition, the Town reserves the right to suspend or revoke the permit of any such collector. Any collector whose permit is either suspended or revoked as provided for herein shall be entitled to a hearing before the Board.
B. Any person who violates the provisions of § 94-3A and B shall be subject to the following penalties: (1) Upon a first or second offense, the violator shall receive a written warning.
(2) Upon a third offense occurring within a period of one year from the date of the original offense, the violator shall be subject to a fine in the amount of $50
(3) Upon any subsequent offense occurring within a period of one year from the date of the original offense, the violator shall be subject to a fine of $100.

C. In accordance with the authority provided in Section 2 of Public Act No. 90-249, Editor's Note: See C.G.S. § 22a-241i. any commercial establishment that is found to have violated the provisions of Subsection (c) of Section 22a-241b of the Connecticut General Statutes shall be subject to a fine in the amount of $500 for each violation.
D. Any person who violates any other provision of this article shall be subject to a fine of $100 for each such offense.

§ 94-6. Authority to adopt regulations.

The Board is hereby authorized to adopt such regulations as it deems necessary to implement the provisions of this article. At least one public hearing, notice of which shall be given at least 10 days in advance by publication in a newspaper having a general circulation in the Town and by posting a notice of such hearing in a public place, shall be held by the Board before any such regulation is adopted. After adoption, every regulation shall, within 10 days, be published in its entirety in a newspaper having a general circulation in the Town and, unless it shall specify a later date, become effective on the 31st day after such publication.

East Hampton Code
Chapter 269: SOLID WASTE
[HISTORY: Adopted by the Town of East Hampton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES
Littering — See Ch. 232.

ARTICLE I Use and Operation of Refuse Disposal Area [Adopted by the Board of Selectmen 8-23-1983 (Ord. No. 4.11)]
§ 269-1. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning ascribed to them in this section: PERSON — Any institution, public or private corporation, individual, partnership or other entity.

REFUSE — All solid wastes of a community, including garbage, trash, ashes, offal, rubbish, small dead animals, street cleanings, brush, grass clippings, trees, building materials and solid market and industrial wastes.

REFUSE DISPOSAL AREA — Any area of land owned, rented, or leased by the Town, now or in the future, which is specifically set aside for the disposal and/or transfer of refuse.

TOWN — The Town of East Hampton, a municipal corporation located in Middlesex County of the State of Connecticut.

§ 269-2. Hours of operation.

The refuse disposal area shall normally be open to the public for the disposal of refuse from 7:30 a.m. to 3:00 p.m., Tuesday through Saturday, except as provided under § 269-3.

§ 269-3. Days closed.

The refuse disposal area shall be closed or opened for the disposal of refuse on legal holidays and such other day, days or hours that the Town Manager may designate.

§ 269-4. Use by nonresidents; permit required. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

A person who neither resides nor has a place of business in the Town may dispose of refuse in the refuse disposal area, provided that said refuse is a direct result of work, operations, or business undertaken by him, whether by contract or otherwise, in the Town, and that said person obtains a permit from the Town Manager, each such permit requiring payment of a fee as set from time to time by the Town Council and expiring after 10 days; except that nonresident refuse collectors shall be governed by the provisions of § 269-6.

§ 269-5. Use by residents; licensing of collectors; insurance. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Any person, whether or not he resides or has a place of business in the Town, may dispose of refuse in the refuse disposal area, provided he is licensed by or employed by the Town of East Hampton as a refuse collector. Said license shall require an annual fee to be due on or before July 1 of each year for vehicles in an amount as set from time to time by the Town Council. In addition, each refuse collector will be required on or before July 1 each year to provide the Town Manager with proof of public liability insurance for personal injury and property damage in an amount not less than $100,000 per person and $300,00 per occurrence, along with $50,000 property damage coverage.

§ 269-6. Use by refuse collectors.

Any person, whether or not he resides or has a place of business in the Town, may dispose of refuse in the refuse disposal area provided he is licensed by or employed by the Town of East Hampton as a refuse collector.

§ 269-7. Nonlocal refuse.

No person, whether or not he resides or has a place of business in the Town, may dispose of refuse in the refuse disposal area when such refuse is the direct result of work, operations, or business undertaken by him, whether by contract, or otherwise, in a location or area outside the Town. However, the Town Manager, upon approval of the Town Council, may enter into agreement with another municipality or agency for convenience, and may negotiate fees for the use of the refuse disposal area.

§ 269-8. Tree trunks, stumps, bulky waste, demolition materials.

No person may dispose of tree trunks or stumps, measuring eight inches or more in diameter at the butt or largest end, at the refuse disposal area. Other bulky waste material, demolition materials, junk motor vehicles and farm machinery are not permitted in the refuse disposal site. Acceptable bulky waste shall include large and/or heavy waste items such as empty refrigerators with doors off, washing machines, stoves, household furniture, etc., and other similar material that cannot be broken down.

§ 269-9. Refuse prohibited.

The Town Manager may prohibit the disposal of any refuse or hazardous waste (as defined by appropriate state or federal laws or regulations) by any person in the refuse disposal area when said refuse is of such nature and quantity as to be in his opinion dangerous to the public health, welfare or safety, or prejudicial to the proper operation of the refuse disposal area. Prohibited materials shall include, but not be limited to, explosives, pathological and biological waste, infected material, chemicals, radioactive materials, any kind of material containing hot coals or fire, oil sludges, highly inflammable substances, cesspool or other human wastes, human and animal remains, motor vehicles, by-product wastes such as rubber, leather and plastics, farm and other large machinery, liquid wastes, nonburnable construction material and demolition debris.

§ 269-10. Placement of refuse in disposal area.

Any person disposing of refuse in the refuse disposal area shall dispose of such refuse by dumping or otherwise in specific locations as determined by, and under the supervision of, the custodian of the refuse disposal area. No refuse or junk may be tossed over the fence or left on the roadside adjacent to the refuse disposal area at any time.

§ 269-11. Scavenging prohibited.

Scavenging at the refuse disposal area is prohibited.

§ 269-12. Trespassing; vehicle identification stickers.

No person shall enter or be permitted within the refuse disposal area except during the hours when the area is open to the public and the custodian is on duty. Vehicles using the refuse disposal area shall be required by the Town Manager to obtain a windshield sticker to permit entry to the site.

§ 269-13. Covered loads.

Any vehicle carrying refuse to the refuse disposal area shall carry such refuse, either by covering it or protecting it or in some suitable manner, so that such refuse shall not blow or fall off the vehicle and create an unsightly roadside condition.

§ 269-14. Maintenance of area.

The custodian of the refuse disposal area shall compact refuse for transit, segregate materials and maintain the disposal area in accordance with state and local regulations.

§ 269-15. Penalties for offenses. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Violations of any provisions of this article shall be an infraction. Any person who violates any provisions of this article shall be fined an amount not to exceed $100 for each offense. Each day on which an offense occurs shall be deemed a separate offense.

ARTICLE II Storage, Collection and Disposal [Adopted by the Town Council 3-12-1991 (Ord. No. 4.12)]

§ 269-16. Findings.

The accumulation, collection, removal and disposal of solid waste must be controlled by the Town of East Hampton for the protection of the public health, safety, and general welfare. It is consequently found and declared that: A. The Town of East Hampton is authorized by law to regulate the disposition of solid waste generated within its boundaries and to collect a charge therefor and to license refuse collectors; and

B. The Town of East Hampton is also authorized by C.G.S. § 22a-209 to designate the area where solid waste generated within its boundaries shall be disposed of; and

C. The Town of East Hampton has executed the Municipal Service Agreement, requiring it to cause all solid waste generated within its boundaries and which meets the contractual standards to be delivered to the Mid-Connecticut System; and

D. The public health, safety and general welfare of the Town of East Hampton will be best served by requiring the delivery of such solid waste to the Mid-Connecticut System for processing by the Mid-Connecticut System and the generation of electricity; and

E. The enactment of this article is in furtherance of the municipality's regional Solid Waste Management Plan.

§ 269-17. Definitions.

As used in this article, the following terms shall have the following meanings: AUTHORITY — The Connecticut Resources Recovery Authority established pursuant to Chapter 446e of the Connecticut General Statutes, as amended.

CONTRACTUAL STANDARDS — For solid waste delivered to the Mid-Connecticut System, the contractual standards are as follows: A. It must be solid waste emanating from within the corporate boundaries of the Town of East Hampton;

B. It must not be of such a quantity, quality, or other nature as to materially impair the operation or capacity of the Mid-Connecticut System or any portion thereof, normal and reasonable wear and usage expected;
C. It must not be of such quantity, quality or other nature as to materially impair the strength or durability of the structures, equipment or works which are part of the Mid-Connecticut Systems or any portion thereof;
D. It must not be of such quantity, quality or other nature as to create flammable or explosive conditions in the Mid-Connecticut Systems or any portion thereof;
E. It must not contain chemical or other properties which are deleterious, as determined by the Authority, or capable of causing material damage to any part of the system or to personnel; and
F. It must not include any hazardous waste.

DISPOSAL CHARGE — The amount of money to be charged for each ton of solid waste delivered to the Mid-Connecticut System as established by the procedures authorized in the Municipal Service Agreement.

HAZARDOUS WASTE — Pathological, biological, cesspool or other human wastes, human and animal remains, radioactive, toxic, and other hazardous wastes which, according to federal, state or local rules or regulations from time to time in effect, require special handling in their collection, treatment or disposal, including those regulated under 42 U.S.C. §§ 6921 to 6925 and regulations thereunder adopted by the United States Environmental Protection Agency pursuant to the Resource Conservation Act of 1976, 90 Stat. 2806, 42 U.S.C. § 6901, such as cleaning fluids, crank-case oils, cutting oils, paints, acids, caustics, poisons, drugs, fine powdery earth used to filter cleaning fluid and refuse of similar nature.

MID-CONNECTICUT SYSTEM — The system for processing of solid waste and the recovery of energy therefrom constructed by the Authority pursuant to the Municipal Service Agreement.

MUNICIPAL SERVICE AGREEMENT — The Municipal Solid Waste Management Services Contract between the Town of East Hampton and the Authority, dated as of 1981.

REFUSE COLLECTOR — Includes any person, firm or corporation engaged in the business of collecting and transporting commercial, household or industrial solid waste for hire within the Town of East Hampton.

SOLID WASTE — Unwanted or discarded materials consistent with the meaning of that term pursuant to § 22a-260(7) of the Connecticut General Statutes, excluding semi-solid or liquid materials collected and treated in a sewerage system.

SUPERINTENDENT — The Superintendent of Public Works.

§ 269-18. License required for refuse collection.

All solid waste accumulated in the Town of East Hampton shall be collected, conveyed and disposed of by the Town of East Hampton or by persons licensed by the Town of East Hampton to perform such work in accordance with the provisions of this article and in accordance with other local, state or federal regulations, as may apply. No solid waste collected from outside the

Town of East Hampton shall be disposed of under a license or registration issued pursuant to this article.

§ 269-19. Licensing of refuse collectors; registration of vehicles. A. Licensing and registration authority designated. The Superintendent shall be the licensing and registration authority for refuse collectors, vehicles and containers. The Superintendent shall grant a license within a reasonable period of time following the filing of a proper application and payment of the prescribed fees, as outlined in Subsections B and D below, unless it is found that one or more of the following conditions prevail: (1) The applicant has been irresponsible in the conduct of solid waste collection and hauling operations based upon previous suspensions and/or revocations of licenses; or
(2) The applicant lacks suitable equipment with which to collect solid waste in a safe and nuisance-free manner and in compliance with this article.

B. License required. Each refuse collector shall apply annually, on or before July 1, for a license from the Superintendent on such form or forms as shall be prescribed to engage in the business of solid waste collection in the Town of East Hampton. An annual licensing fee as set from time to time by the Town Council shall be paid prior to the issuance of any such license. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
C. Registration of vehicles and containers. Each licensed refuse collector shall obtain a separate registration for each vehicle used to collect, transport and/or deposit solid waste in the Town of East Hampton or its system.
D. Registration term, fee, renewal. All registrations shall be issued for a term not to exceed one year and shall be renewable on or before July 1 each year. The registration fee for each vehicle and/or container with a capacity of 10 or more cubic yards and for each vehicle and/or container of a capacity of less than 10 cubic yards shall be as set from time to time by the Town Council. Containers of less than one cubic yard shall not be subject to the registration and fee requirement. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
E. Reinspection upon sale or transfer of vehicle during registration year. Whenever a duly registered vehicle is sold or transferred to another refuse collector licensed in the Town of East Hampton during the registration year, said vehicle shall be reinspected within seven days of such transfer date, but no additional fees shall be required.
F. Display of registration. The registration issued shall be conspicuously displayed on the left front of the body of each vehicle or container so licensed, or as may be directed.
G. License nontransferable. Licenses are not transferable. When any licensee shall sell or transfer all or part of his business to any refuse collector not licensed in the Town of East Hampton, he shall first notify the Superintendent in writing, no less than 10 days prior to the sale date, and the transferee shall, at the same time, make application for a license to operate in the Town of East Hampton.

§ 269-20. Residential refuse collection policy.

The Town of East Hampton shall be responsible for licensing residential refuse haulers, who shall engage in collection of refuse in accordance with the following conditions: A. Refuse shall only be removed when it is properly placed along a Town-owned or state-owned public right-of-way or in the right-of-way of an approved subdivision road not presently accepted. Requests for an exception to the above must be submitted to the Superintendent by July 1 of each year.
B. Refuse shall only be removed when it is stored in Town-approved containers.
C. Refuse shall be removed from one- and two-family residential structures along public streets. Exceptions may be granted for noncommercial properties upon written applications to the

Superintendent. Requests for extensions must be submitted to the Superintendent by February 1 of each year.
D. Refuse shall not be allowed to accumulate, and pick-up service must be provided on a regular and continuing basis in accordance with the policy set forth by the Superintendent.
E. Refuse shall be placed at curbside in accordance with the policy set forth by the Superintendent.
F. Refuse may not be placed at curbside prior to 4:00 p.m. the day before pickup.
G. Refuse containers must be removed from curbside no later than 7:00 a.m. the day after pickup.
H. Items designated as recyclables shall be placed at curbside in accordance with Article III of this chapter.
I. Refuse shall not include any item listed as recyclable or any item deemed unacceptable by the Connecticut Resources Recovery Authority.
J. The following refuse shall be considered not acceptable for collection: (1) Material which has not been prepared, bound, containerized and/or placed for collection in accordance with the rules and regulations of the Town of East Hampton.
(2) Materials and waste resulting from the repair of buildings or structures, such as earth, stone, concrete, plaster, mortar and roofing material, trees or tree stumps over six inches in diameter, junkyard wastes, dangerous material or substances such as poisons, acids, caustics, sanitary wastes, infected materials, explosives or radioactive material, auto-car bodies, fine powdery earth used to filter cleaning fluid or refuse of similar nature.
(3) Body wastes or solid industrial wastes.
(4) Bulky waste which has a dimension in excess of six feet and/or exceeds 300 pounds in weight.
(5) All other material deemed unacceptable by the Connecticut Resource Recovery Authority.

K. Any refuse or rubbish left in public view, not in accordance with the provisions of this article, shall be deemed a public nuisance and a violation of the article.

§ 269-21. Revocation or suspension of license or registration. A. General. A license to engage in solid waste collection in the Town of East Hampton and to use the Mid-Connecticut System or other refuse facilities provided by the Town of East Hampton is a privilege, not a right. Failure to comply with the provisions of this article shall be grounds for revocation or suspension of any license or registration issued under the provisions of this article, in addition to any other penalty imposable by law.
B. Notice requirement. Revocation or suspension shall only become effective 10 calendar days after receipt of written notice from the Superintendent.
C. Request for review, filing, effect of failure to file. If a refuse collector objects to the Superintendent's action described in Subsection B above, to revoke or suspend his license or registration, he may, within five calendar days of receipt of said notice, file a written request for review with the Town Manager. Failure to timely file such request for review shall make the Superintendent's action final and binding upon the refuse collector.
D. Effect of timely filing. Timely filing of such request for review shall operate as an automatic stay of the Superintendent's action.
E. Hearing. The Town Manager shall, within 15 days, hear and decide the matter. Such hearing shall be private, except, however, such hearing may be public if so requested, in writing, by the refuse collector. The decision of the Town Manager shall be final and binding upon the refuse collector.
F. Refusal of permission to use Mid-Connecticut System. Notwithstanding anything to the contrary herein, the Superintendent shall have power to refuse permission to a refuse collector to use the Mid-Connecticut System when, in his opinion, such refuse collector has violated this article or any other applicable rule or regulation.

§ 269-22. Promulgation of rules and regulations. A. The Superintendent shall administer the licensing of any refuse collector engaged in the collecting and transporting of solid waste in the Town of East Hampton.
B. The Superintendent shall, when considering an application for a solid waste collection license, including renewal, ascertain that the applicant has adequate liability insurance, as required in the Solid Waste Permitting Disposal and Billing Regulations of the Authority.
C. The Superintendent may promulgate additional collection and disposal procedures from time to time as he deems proper, but such rules shall not be inconsistent with this article. Any such procedure, however, must first be approved by the Town Manager.

§ 269-23. Refuse collector's responsibilities and obligations. A. Prohibition on delivery. No licensee shall deliver any solid waste meeting the contractual standards to any final place other than the Mid-Connecticut System unless the Mid-Connecticut System is incapable of accepting such solid waste at the time of delivery, in which event such solid waste shall be delivered to the place designated by the Superintendent.
B. Construction and maintenance of vehicles and containers. All vehicles registered to collect and transport solid waste to the Mid-Connecticut System shall be automatic unloading vehicles of a watertight construction and shall be maintained free of obnoxious odors and accumulated solid waste. Any such vehicle with a capacity in excess of 10 cubic yards shall be of a closed construction. A container utilized primarily for non-liquid solid waste need not be of watertight construction and shall be completely enclosed and maintained free of obnoxious odors and accumulated solid waste. If any such vehicle shall have a capacity of less than 10 cubic yards, it may have an open top, provided that it be covered when it is in motion, to prevent the escape of solid waste.

§ 269-24. Penalties for offenses.

Any person violating the terms of this article shall be fined not more than $100 for each offense, in addition to any other penalty which may be imposed by law.

ARTICLE III Recycling [Adopted by the Town Council 3-12-1991 (Ord. No. 4.13)]
§ 269-25. Findings.

The accumulation, collection, removal and disposal of solid waste must be controlled by the Town of East Hampton for the protection of the public health, safety and general welfare. It is consequently found and declared that: A. The Town of East Hampton is authorized by law to regulate the disposition of solid waste generated within its boundaries and to collect a charge therefor, and to license refuse collectors; and
B. The Town of East Hampton is also authorized by Connecticut General Statutes to designate the area where solid waste generated within its boundaries shall be disposed of and to assist in the statewide recycling efforts; and

C. The Town of East Hampton has executed the Municipal Service Agreement requiring it to cause all solid waste generated within its boundaries and which meets the contractual standards to be delivered to the Mid-Connecticut System; and
D. The public health, safety and general welfare of the Town of East Hampton will be best served by reducing the amount of solid waste by encouraging and requiring the recycling of certain materials; and
E. The enactment of this article is seen as a cost-saving method for the Town and its citizens and as a way to preserve the quality of our environment;
F. The Town of East Hampton is required by P.A. 87-544, P.A. 90-220 and P.A. 90-249 to make provisions for the separation of recyclables from solid waste generated within the boundaries of the Town of East Hampton.

§ 269-26. Definition of recyclables.

Recyclables are any discarded material which may be reclaimed and which are considered saleable and/or reusable by the Town of East Hampton or are designated as recyclable pursuant to the Connecticut General Statutes or regulations of the Commissioner of the Environmental Protection of the State of Connecticut. For purposes of this article, the following are considered recyclables: A. Newspaper, clean and unsoiled, including newsprint, all newspapers, advertisements, supplements, comics and enclosures;
B. Glass jars and bottles, and all types of metals, including cans (aluminum and other metals);
C. Corrugated boxes, cardboard, cardboard cartons;
D. Waste motor oil;
E. Plastic polyethylene terephthalate and high-density polyethylene;
F. Leaves;
G. Car batteries;
H. Office paper, computer paper;
I. Scrap metal;
J. Other items which may now or in the future be designated as recyclable by the Superintendent of Public Works or the Commissioner of the Department of Environmental Protection.

§ 269-27. Separation of recyclables; maintenance of containers.

All recyclables shall be separated from nonrecyclables in the following manner. No person shall dispose of recyclables except in accordance with this article. A. Clean and unsoiled newspaper shall be separated from other rubbish and placed into designated recycling containers as defined by the Superintendent of Public Works;
B. Glass jars and bottles and all types of metals shall be separated from other rubbish and combined in recycling containers as defined by the Superintendent of Public Works. These recyclables must be rinsed clean, with the lids, corks and tops removed.

C. All recycling containers must be kept clean and in such a place so as not to constitute a nuisance or otherwise be objectionable.

§ 269-28. Collection of recyclables. A. All residents shall be required to separate recyclables and to place them at curbside or at designated locations for pickup. Recyclables shall be collected or transported to designated sites from residential properties at least twice a month, according to the policy set forth in the office of the Superintendent of Public Works.

B. All businesses, institutions, and other nonresidential property owners shall make provisions for recycling of corrugated, newspaper, computer paper, white office paper, scrap metal, waste motor oil, PET, HDPE, glass jars, and metal food containers. Amounts of each material recycled shall be reported to the Superintendent of Public Works twice per year.
C. All refuse collectors licensed to perform service in the Town of East Hampton shall provide for collection of recyclables from residences not less than twice per calendar month; and from businesses, institutions or other properties not less than once per week or as necessary.
D. All recyclables collected from residential property shall be delivered to the Mid-Connecticut System or such other location as the Superintendent of Public Works may direct.

§ 269-29. Penalties for offenses. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Any person violating any provision of this article or the regulations enacted hereunder shall be fined not more than $1,000 for each offense. In addition, the Town of East Hampton reserves the right to refuse to collect garbage, rubbish or other refuse where the spirit or letter of this article or the regulations enacted hereunder are ignored. The Superintendent of Public Works shall have full discretionary authority in deciding all disputed questions arising under the provisions of this article or the regulations enacted hereunder.

Mansfield Code

Chapter A196: SOLID WASTE REGULATIONS
[HISTORY: Adopted by the Mansfield Resource Recovery Authority of the Town of Mansfield 5-27-1994, amended 10-1-1995. Subsequent amendments noted where applicable.]

GENERAL REFERENCES
Solid waste — See Ch. 161.

§ A196-1. Facilities for use by residents and permitted collectors only. [Amended 3-10-2003, effective 4-8-2003]

All Mansfield solid waste facilities, including the Town transfer station, recycling area or other disposal or processing facilities are exclusively for and shall be used only by the residents and businesses of the Town, and upon request, the driver of any private or commercial vehicle must satisfactorily demonstrate to the person in charge that he or she is a resident of the Town of Mansfield or a permitted solid waste collector. The Town Manager may issue and require the use of vehicle stickers to be displayed by the Town residents (other than solid waste collectors) in lieu of the above.

§ A196-2. Proof of refuse; contractor delivery and transportation. A. All persons employed by a resident of the Town of Mansfield to dispose of refuse must show dated proof of refuse source demonstrating that said refuse was generated in the Town of Mansfield.
B. Contractors (tree services, site contractors, demolition companies, etc.) must make arrangements with the Town Department of Public Works in advance of delivering refuse or bulky waste to any Town solid waste facility; otherwise, a delay in unloading may result. Effective August 1, 2003, commercial (contractor hauled) bulky waste will not be accepted by the Town's transfer station. Dated proof of refuse source and prepayment of disposal fees shall be required for everyone other than licensed collectors. [Amended 7-28-2003, effective 8-23-2003]

C. All vehicles must transport all refuse in a closed, covered or secure manner. Unless the vehicle is capable of being completely closed, all cans, barrels or other containers must be tightly covered. Littering of the highways, including the access road to any Town solid waste facility, shall be considered as a violation of Chapter 161, Solid Waste, and Chapter 179, Vehicles, Abandoned.

§ A196-3. All collectors to be licensed; Mansfield trash only.

All solid waste collectors must obtain and hold a current permit to collect solid waste in the Town. Application for a permit must be made to the Town Health Department. Solid waste collectors shall not deposit any solid waste that is not collected in Mansfield in any Mansfield solid waste facility.

§ A196-4. Facility use regulations and prohibitions. A. The following materials are prohibited from any Town solid waste facility: (1) Dead animals of any kind.
(2) Live ammunition.
(3) Hazardous waste as defined by the United States Environmental Protection Agency pursuant to 42 U.S.C.S. Section 6903(5) of the Resource Conservation and Recovery Act of 1976, chemicals including large quantities of insecticides, paint, oil, etc., or radioactive waste.
(4) Motor vehicles or equipment (cars, trucks, whole or otherwise).
(5) Burning ashes.
(6) Liquid waste, including septic tank pumpings, sewage or sludge.
(7) Mercury batteries.

B. The speed limit in all solid waste facilities is a maximum of 20 miles per hour.
C. Smoking is prohibited in all solid waste facilities.
D. Children under 12 years of age must remain inside vehicle at all times.
E. Pets of any kind are prohibited in Town solid waste facilities unless confined inside a vehicle at all times.
F. No scavenging, picking or salvaging operations are permitted at Town solid waste facilities.
G. All Connecticut State Department of Environmental Protection and Department of Health regulations regarding the use of the solid waste facilities must be complied with at all times.

§ A196-5. Designated materials for source separation and recycling.

The following major types of materials shall be separated from other refuse for recycling by all persons or establishments in the Town of Mansfield. These materials shall not be placed in the same garbage can as or otherwise mixed with other forms of solid waste for collection, removal or disposal. A. Newspaper and magazines.
B. Corrugated cardboard.
C. Glass and metal food and beverage containers.
D. Scrap metal.
E. Waste oil and oil filters.
F. Yard waste.
G. Storage batteries.
H. Office paper.
I. Antifreeze (automobile).
J. Household cardboard.
K. PETE No. 1 and HDPE No. 2 plastic containers.

L. Flourescent lights. [Added 9-24-2001, effective 11-1-2001]
M. Computers. [Added 9-24-2001, effective 11-1-2001]
N. Televisions. [Added 9-24-2001, effective 11-1-2001]
O. Microwave ovens. [Added 3-10-2003, effective 4-8-2003]

§ A196-6. Residential recycling. A. It shall be mandatory for all persons, except those physically disabled, who are owners, lessees or occupants of residential property, single-family or multifamily, to separate or cause to have separated from other solid waste all materials designated as recyclable in § A196-5 above. Cause to have separated for each rental property having collection service shall include: (1) Beginning 60 days after the effective date of this amendment, causing to have all lessees and/or principal occupants sign and date a document stating the lessee and/or principal occupant has received and read the Town's current recycling information, been informed of the day and place of recycling collection and has a recycling bin in their unit (if pertinent), and thereafter requiring notification of the responsibilities of Chapter 161, Solid Waste, and regulations to be included in each lease.
(2) Providing for the collection and removal of recyclables.
(3) Providing individual recycling bins for each unit for the term of the lease or providing centralized containers with a prominent description of mandated items on or near the containers.
(4) Disseminating current recycling information, provided by the Town, to each unit no more than twice yearly.
(5) Instructing on-site managers in recycling procedures.
(6) Assisting and cooperating with Town enforcement personnel in determining recycling compliance.

B. Residential recycling collection of newspaper, magazines, household cardboard, glass and metal food containers and other paper shall be only as authorized by the MRRA utilizing the recycling/refuse collector under contract with the Authority.
C. Residential recycling collection shall be available to the owners of all single-family and multifamily residences only at such times, schedules, fees and service levels as shall be designated by the MRRA. At the owner's option, said collection may be refused in favor of self-hauling one's own recyclables to the Town's designated recycling facility.
D. Effective October 1, 1990, the provisions of this section shall apply to all residences in Mansfield, with the exception of multifamily residences (apartments and condominiums) where owners have current collection contracts that extend past October 1, 1990. The owners of said establishments shall, at their option, continue with their contract collection until such time as their current contract expires, at which time the full provisions of this section shall become effective.
E. Clean and unsoiled newspaper and magazines shall be tightly placed in standard grocery shopping bags, placed in corrugated boxes or securely tied in flat bundles, none of which shall weigh more than 35 pounds. Junk mail may also be included in said bags, boxes or bundles, provided that all plastics are removed. Plastic bags shall not be used to contain recyclables.
F. Corrugated cardboard and boxes shall have all packing materials removed and shall be collapsed and placed in paper grocery shopping bags or tied in bundles not weighing more than 35 pounds. Flattened household cardboard shall also be included in said bundles, provided that all plastic materials, inner liners and packing materials have been removed.
G. Unbroken glass and metal food and beverage containers shall be separated from other refuse and recyclables and combined in one or more upright containers used only for this category of recyclables and containing no paper or other rubbish. These recyclables should not be flattened or processed in any way, but should be rinsed. Labels, lids and neck rings need not be removed. Container(s) must be kept clean and in such a place as not to constitute a nuisance or be otherwise

objectionable. PETE No. 1 and HDPE No. 2 plastic containers shall be included with said food containers as per Subsection M below.
H. Yard waste shall be separated from all other refuse and recyclable materials and either composted or disposed of on the property from which it was generated. Yard waste may also be taken to the Town's recycling area after first being further separated into brush and trees, leaves, grass clippings and stumps. Yard waste shall not be disposed of with other refuse or recyclables.
I. Storage batteries shall be separated from all other refuse and recyclable materials and taken to the designated dropoff area at the Town's solid waste/recycling area, or otherwise recycled, reused or sold for scrap in a manner consistent with these regulations and Connecticut DEP requirements.
J. Waste oil, used oil filters and antifreeze shall be collected in clean, covered containers and taken to the designated dropoff area at the Town's solid waste/recycling area or otherwise recycled, reused or sold to a state-licensed waste oil collector in a manner consistent with these regulations and Connecticut DEP requirements.
K. Scrap metals shall be separated by type from all other refuse and recyclable materials and taken to the Town's solid waste/recycling area or otherwise recycled, reused or sold for scrap in a manner consistent with these regulations and Connecticut DEP requirements.
L. For the purposes of these regulations only, multifamily residential establishments shall refer to apartments, trailer parks and condominiums which include two or more dwelling units owned or managed by a common entity as well as buildings or parts thereof containing two or more dwelling units, including apartments, row houses and townhouses. Dormitories (including fraternity and sorority houses) shall also be considered multifamily residential establishments. [Amended 10-12-2004, effective 10-12-2004]

M. PETE No. 1 and HDPE No. 2 plastic containers excepting motor oil containers shall be separated from other refuse and included with the glass and metal food and beverage containers, provided that they are clean. Labels, lids and neck rings need not be removed.
N. Unbroken fluorescent lights shall be separated from all other refuse and recyclable materials and taken to the designated drop-off area at the Town's solid waste/recycling area, or otherwise recycled in a manner consistent with these regulations and Connecticut DEP requirements. [Added 9-24-2001, effective 11-1-2001]
O. Computer monitors, computer accessories and televisions shall be separated from all other refuse and recyclable materials and taken to the designated drop-off area at the Town's solid waste/recycling area, or otherwise recycled or reused in a manner consistent with these regulations and Connecticut DEP requirements. [Added 9-24-2001, effective 11-1-2001]

§ A196-7. Commercial recycling. A. Effective October 1, 1990 it shall be mandatory for all persons who are owners, lessees or occupants of nonresidential establishments and public institutions or facilities to establish recycling programs and to separate from other solid wastes or arrange to separate, collect, transport and market all materials so designated as recyclable in § A196-5 of these regulations.
B. This section shall also apply to multifamily residential establishments having a current collection contract that extends past October 1, 1990, until said contract expires.
C. All solid waste collectors permitted to collect refuse and recyclables in Mansfield under Code § 161-11 who collect refuse or recyclables from nonresidential establishments or public institutions are required by this section to: [Added 9-24-2001, effective 11-1-2001] (1) Distribute the Town's current recycling brochure to each new customer.
(2) Report to the Town's Refuse/Recycling Coordinator recycling violations, including a lack of recycling and the mixing of recyclables with trash.

(3) Where the solid waste collector has assumed responsibility for providing recycling containers, provide dear, accurate labeling on containers.

§ A196-8. Separation of other materials for disposal at the Town solid waste facility.

The following other types of materials shall be separated from other refuse and deposited in the locations specifically designated for such materials: A. Demolition materials.
B. Stumps.
C. Mattresses, sofas, other furnitures, tires, etc.
D. Tires.
E. Clean lumber, with or without nails, but free from any drywall or other contaminants. [Added 3-10-2003, effective 4-8-2003]

§ A196-9. Residential refuse collection. A. Residential refuse collection shall be only as authorized by the MRRA utilizing the recycling/refuse collector under contract with the Authority.
B. Residential refuse collection shall be available to the owners of all single-family and multifamily residences only at such times, schedules, fees and service levels as shall be designated by the MRRA. At the owner's or occupant's option, said collection may be refused in favor of self-hauling one's own refuse to the Town's transfer station in accordance with these regulations.
C. The provisions of this section shall apply to all residences in Mansfield effective October 1, 1990, with the exception of multifamily residences (apartments and condominiums) whose owners have current collection contracts that extend past October 1, 1990. The owners of said establishments shall at their option continue with their contract collection until such time as their current contract expires, at which time the full provisions of this section shall become effective.

§ A196-10. Commercial refuse collection. A. It shall be the responsibility of all persons who are owners, lessees or occupants of nonresidential establishments and public institutions or facilities to arrange for the collection of refuse and its transportation to and disposal in the Town-designated refuse disposal facility in accordance with these regulations.
B. This section shall also apply to multifamily residential establishments having a current collection contract that extends past October 1, 1990 until said contract expires.

§ A196-11. Designation of solid waste and recycling facilities. A. The Southeast Regional Resource Recovery facility located in the Town of Preston shall be the designated Mansfield refuse disposal area for all solid waste generated and collected in the Town of Mansfield.
B. The transfer station located on Route 89 in Mansfield shall be the designated Mansfield refuse disposal area for residents hauling their own refuse in their own vehicles. [Amended 3-10-2003, effective 4-8-2003]
C. The transfer station located on Route 89 in Mansfield shall be the designated Mansfield disposal area for bulky wastes for residents hauling their own bulky waste in their own vehicles. [Amended 3-10-2003, effective 4-8-2003; 7-28-2003, effective 8-23-2003]
D. The Willimantic Waste Paper Company's bulky waste receiving facility located on Route 32 in Windham shall be the designated Mansfield disposal facility for commercially hauled or generated bulky wastes. [Added 7-28-2003, effective 8-23-2003 Editor's Note: This enactment

also repealed former Subsection D, which designated the facility for residents hauling their own recyclables.]
E. The Willimantic Waste Paper Company located in Windham shall be the designated recycling facility for paper, corrugated and mixed cans and bottles collected in the Town of Mansfield.

§ A196-12. Fees and service levels. A. The fee for a commercial collection vehicle permit for collecting, hauling or transporting refuse or recyclables within the Town shall be $10 for each vehicle per year.
B. The application fees for filing an application for a solid waste collector's permit shall be: (1) Three hundred dollars for a new or renewed permit.
(2) One hundred fifty dollars for a modification to an existing permit.

C. The tipping fees for dumping Mansfield refuse at any facility shall be the current charge per ton to the Town of Mansfield, plus an administrative fee of $4 per ton, payable to the Town of Mansfield by all licensed solid waste collectors hauling refuse from Mansfield to said facility on a monthly basis based on the weight of refuse delivered to the facility as reported by said facility. [Amended 9-23-2002, effective 10-18-2002]
D. Fees and hours for the Town transfer station, bulk waste landfill and recycling area. [Amended 8-25-1997, effective 10-1-1997; 11-9-1998, effective 1-1-1999;12-11-2000, effective 4-1-2001; 9-24-2001, effective 11-1-2001; 9-23-2002, effective 11-1-2002] (1) Hours: Tuesday and Saturday, from 8:30 a.m. to 4:00 p.m.; Thursday from 12:00 noon to 4:00 p.m.
(2) Fees for refuse, effective January 1, 2006: [Amended 3-10-2003, effective 4-8-2003; 9-12-2005, effective 1-1-2006]

Item	Charge
Garbage bags	$3.25 each
Up to 35-gallon garbage can	$6.50 each
55-gallon drum (full)	$8.50
55-gallon drum (less than 1/2 full)	$4.25
Compact pickup (1 cubic yard)	$32.50
Flat loaded pickup (2 cubic yards)	$65.00

High loaded pickup (4 cubic yards)
$130.00

All other garbage
$32.50 per cubic yard, as measured on site

Stumps
$22.50 per cubic yard

Capacitor
$2.00 each

Passenger car tires (up to 19.5 inches on or off rims)
$1.50

Large truck tires

Off rims
$6.00

On rims
$16.00

Large off-road tires
$20.00

Bulky waste/brush construction debris
$25.00 per cubic yard

(3) Fees for recycling. [Amended 3-10-2003, effective 4-8-2003; 9-12-2005, effective 1-1-2006]

Scrap metal
$2.50 per cubic yard

CFC appliances
$11.00 each

Capacitors or ballasts
$2.50 each

Stumps
$12.00 per cubic yard

Wood grindings
$5.00 per scoop (when available only)

Computers/televisions

Screens up to19 inches
$6.00 each

Screens 20 inches and up
$12.00 each

Microwave ovens
$12.00 each

E. Other transfer station regulations and service levels. [Amended 9-23-2002, effective 1-1-2003]
(1) A maximum of four cubic yards of refuse per vehicle is permitted for use of the transfer station.
(2) A maximum of four cubic yards of bulky waste per vehicle is permitted for use of the transfer station, except under written permission from the Town's Department of Public Works. [Amended 7-28-2003, effective 8-23-2003]
(3) No solid waste collector shall be permitted the use of the transfer station for the depositing of refuse or recyclables except under contract or written permission with the Town's Department of Public Works.

F. Fees and service levels for single-family refuse and recycling collection shall be as follows: [Amended 5-10-1999, effective 7-1-1999; 9-23-2002, effective 1-1-2003; 9-12-2005, effective 1-1-2006]

Level of

Service
Description
Monthly Fee

Mini-mini
Weekly curbside pickup of 1 kitchen-size (15-gallon) garbage bag.
$11.00

Curbside pickup of tied or bagged newspaper and magazines, flattened corrugated cardboard and commingled glass and metal food containers every week

Unlimited curbside refuse pickup on the regular pickup day 1 week in the spring and 1 week in the winter, as designated by the Town.

Mini-service
Weekly curbside pickup of 1 small garbage can (up to 20 gallons) or 1 standard size (35-gallon) garbage bag.
$14.25

Curbside pickup of tied or bagged newspaper and magazines, flattened corrugated cardboard and commingled glass and metal food containers every week.

Unlimited curbside refuse pickup on the regular pickup day 1 week in the spring and 1 week in the winter, as designated by the Town.

1-can service
Weekly curbside pickup of 1 standard size garbage can (35-gallon) or 2 standard size (35-gallon) garbage bags.
$20.00

Curbside pickup of tied or bagged newspaper and magazines, flattened corrugated cardboard and commingled glass and metal food containers every week.

Unlimited curbside refuse pickup on the regular pickup day 1 week in the spring and 1 week in the winter, as designated by the Town.

Standard service
Weekly curbside pickup of 2 standard size garbage cans (35-gallon) or 4 standard size (35-gallon) garbage bags.
$25.25

Curbside pickup of tied or bagged newspaper and magazines, flattened corrugated cardboard and commingled glass and metal food containers every week.

Unlimited curbside refuse pickup on the regular pickup day 1 week in the spring and 1 week in the winter, as designated by the Town.

Maxi-service
Weekly curbside pickup of 4 standard size garbage cans (35-gallon) or 8 standard size (35 gallon) garbage bags of refuse.
$31.50

Curbside pickup of tied or bagged newspaper and magazines, flattened corrugated cardboard and commingled glass and metal food containers every week.

Backyard service
Additional cost to have 1 can, standard or full service, provided in the yard, adjacent to the house or location (other than curb) designated by the subscriber. (Maximum off-road distance: 100 yards.)
$10.00
(Town's cost)

Backyard service for long or unusual driveways
Additional cost for service provided at a location designated by the subscriber for long (greater than 100 yards) or unusual driveways.
$13.25
(Town's cost)

Extra bag tags
Pickup of tagged standard sized garbage bags (33-gallon) over and above the selected level of service for the single-family residence
$3.00

G. Fees and service levels for multifamily refuse and recycling collection shall be as follows: [Amended 4-24-2000, effective 7-1-2000; 9-24-2001, effective 11-1-2001; 9-23-2002, effective 1-1-2003; 11-10-2003, effective 12-1-2003]

Level of
Service
Description
Monthly Fee

Mini-service
Weekly pickup of 1 small garbage can (up to 20 gallons) or 1 standard size (35-gallon) garbage bag per dwelling unit at a designated area for said can or bag.
$13.00

Pickup of mixed paper, flattened cardboard and commingled containers at the same designated area every week.

Individual can
Weekly pickup of 1 standard-size garbage can (35-gallon) per dwelling unit at a designated area for said can.
$16.75

Pickup of mixed paper, flattened corrugated cardboard and commingled containers at the same designated area every week.

1-cubic-yard container
Providing and emptying a 1-cubic-yard covered refuse container once per week.
$66.50

Pickup of mixed paper, flattened corrugated cardboard and commingled containers in centralized recycling containers at or adjacent to the refuse container every week.

2-cubic-yard container
Providing and emptying a 2-cubic-yard covered refuse container once per week.
$88.25

Pickup of mixed paper, flattened corrugated cardboard and commingled containers in centralized recycling containers at or adjacent to the refuse container every week.

3-cubic-yard container
Providing and emptying a 3-cubic-yard covered refuse container once per week.
$129.50

Pickup of mixed paper, flattened corrugated cardboard and commingled glass and metal food containers at or adjacent to the refuse container every week.

4-cubic-yard container
Providing and emptying a 4-cubic-yard yard covered refuse container once per week.
$167.00

Pickup of mixed paper, flattened corrugated cardboard and commingled containers in centralized recycling containers at or adjacent to the refuse container every week.

6-cubic-yard container
Providing and emptying a 6-cubic-yard covered refuse container once per week.
$235.00

Pickup of mixed paper, flattened corrugated cardboard and commingled containers in centralized recycling containers at or adjacent to the refuse container every week.

6-cubic-yard container (twice a week)
Providing and emptying a 6-cubic-yard covered refuse
$440.00

Pickup of mixed paper, flattened corrugated cardboard and commingled containers in centralized recycling containers at or adjacent to the refuse container every week.

8-cubic-yard container
Providing and emptying an 8-cubic-yard covered refuse container once per week. Pickup of mixed paper, flattened corrugated cardboard and commingled containers in centralized recycling containers at or adjacent to the refuse container every week.
$303.00

8-cubic-yard container (twice a week)
[Added 3-14-2005, effective 4-4-2005] Providing and emptying an 8-cubic-yard covered refuse container twice per week. Pickup of mixed paper, flattened corrugated cardboard and commingled containers in centralized recycling containers at or adjacent to the refuse container every week.
$566.00

10-cubic-yard container
Providing and emptying a 10-cubic-yard covered refuse container once per week.
$385.00

Pickup of mixed paper, flattened corrugated cardboard and commingled containers in centralized recycling containers at or adjacent to the refuse container every week.

Individual unit recycling
In place of centralized recycling containers. Weekly pickup of tied or bagged mixed paper, flattened and tied corrugated cardboard, and commingled containers in individual recycling bins.
$2.00 per dwelling unit

H. Fee waivers. (1) Service fee waivers for curbside refuse collection and/or normal household quantities of refuse, recycling and bulky waste dropoff at the transfer station shall be available as prescribed in the Mansfield Code of Ordinances, Chapter 122, Article III. Applications for said waiver shall be made to the Town's Social Services Department. Fee waivers for greater than household quantities of refuse, recycling or bulky waste must be approved by the Town's Zoning Agent or the Director of the Eastern Highlands Health District. [Amended 9-23-2002, effective 10-18-2002; 4-26-2004, effective 5-17-2004]
(2) For persons who are physically impaired and have no household members able to make it feasible for them to get refuse to the curbside, fee waivers shall be available to enable them to subscribe to backyard service at curbside fees. Applications for waivers shall be made to the Town's Social Services Department. Medical documentation will be required.

§ A196-13. Enforcement provision. [Amended 3-10-2003, effective 4-8-2003]

Pursuant to § 161-12 of the Solid Waste Ordinance, enforcement of the ordinance and these regulations shall be as follows: A. The Director of Public Works, the Recycling/Refuse Coordinator and/or other individuals designated by the Town Manager are responsible for the enforcement of these regulations. Said individuals are hereby authorized to take such enforcement actions as authorized in these regulations.
B. The Town of Mansfield, through its designated enforcement officer, shall serve written notice of the violation(s) of this ordinance to any person responsible for the violation. The notice may be hand delivered or mailed by certified mail, return receipt requested to the last known address of each responsible person.
C. Such notice shall state the violation(s) as outlined hereinafter and demand its correction within 10 calendar days or, if applicable, the next scheduled refuse/recycling collection, date. If the person cited fails to correct the violation before the deadline the Town of Mansfield may issue a citation. Said citation shall inform the responsible person of the allegations against him or her, the amount of the fine due, and the date on which payment of the fine is due, which shall be no later than 10 days after the date of the citation.
D. Citations shall be punishable with a fine ranging from $50 to $100 for each violation.
E. If any such fine is unpaid beyond the due date, the Town may initiate proceedings to collect such fine pursuant to the Hearing Procedure for Citations Ordinance Editor's Note: See Ch. 129, Hearing Procedure for Citations. enacted pursuant to Connecticut General Statutes Section 7-152c.
F. Recycling violations. (1) Any person who fails to separate and recycle or cause to have recycled all designated recyclable materials from other solid waste, as defined by Chapter 161, the Solid Waste Ordinance, and these regulations shall be subject to the following penalties: (a) Fine of $50 for the first citation; and
(b) Fine of $100 for any second or subsequent citation.

(2) The Town, or its agents or contractors, reserves the right to refuse to collect or accept for disposal refuse or recyclables that have not been separated and/or recycled in accordance with these regulations.
(3) In addition to the penalties provided for in Subsection (f) of Section 22a-220a of the Connecticut General Statutes, any solid waste collector who mixes other solid waste with items designated for recycling in Mansfield (per § A196-5 of these regulations) shall be subject to the following penalties: (a) Fine of $100 for the first citation;
(b) Thirty-day suspension of his/her collector's permit for any second citation; and
(c) Revocation of his/her collector's permit for any subsequent citation.

(4) Any owner of a single-family or multifamily residential establishment who fails to cause to have separated and recycled all designated recyclable materials from other solid waste as defined in § A196-6A above shall be subject to the following penalties: (a) Fine of $50 for the first citation; and
(b) Fine of $100 for any second or subsequent citation.

G. Refuse violations. (1) The Town, or its agents or contractors, reserves the right to refuse to accept for disposal any refuse set out for collection that exceeds or otherwise does not comply with the requirements of the current service level for that specific location or establishment.

(2) Any person who, intentionally or unintentionally, places or allows the placement of persistent refuse or recyclables on. their property creating an unsanitary or nuisance condition shall be assessed a fine of $100 for any first and/or subsequent citation.
(3) Any person who places or allows refuse and/or recyclables to be located at the curb for more than 24 hours before and/or after trash collection shall be assessed a fine of $50 for any first and/or subsequent citation.
(4) Any person who deposits or causes to have deposited in any designated Mansfield solid waste or recycling facility any refuse or recyclables not generated within the Town of Mansfield shall be subject to the following penalties: (a) Fine of $100 for the first citation; and
(b) Revocation of his/her dumping privileges and/or collector's permit for any second or subsequent citation.

(5) Any person who deposits or causes to have deposited in any designated Mansfield solid waste or recycling facility any commercial refuse or recyclables not so designated as commercial refuse, shall be subject to the applicable tipping fees and the following penalties: (a) Fine of $100 for the first citation; and
(b) Revocation of his/her dumping privileges and/or collector's permit for any second or subsequent citation.

(6) After October 1, 1990, except as provided for in §§ A196-6C and A196-9C above, any person who utilizes a vendor or source other than the Town's designated solid waste collector for residential collection shall be assessed a fine of $100 for any first and/or subsequent citation.
(7) Any person who throws or deposits any discarded, used or unconsumed substance or waste material (litter) in or upon any road or sidewalk, in any catch basin, drain or watercourse, or other public place within the Town, except in public receptacles, in authorized private receptacles for collection, or in any designated Mansfield solid waste or recycling facility, shall be assessed a fine of $100 for any first or subsequent citation.
(8) Any person who throws or deposits any household refuse, bulky waste or recyclables in or upon any road or sidewalk, in any catch basin, drain or watercourse, public place or unauthorized private property within the Town, or in unauthorized private receptacles for collection, shall be assessed a fine of $100 for any first or subsequent citation.

§ A196-14. Recycling containers. A. The Town will facilitate residential recycling by providing, at no cost, one recycling container for use by each residential household. Recycling containers can be obtained from the Town Department of Public Works. Containers shall be marked with a recycling decal and will remain the property of the Town.
B. The owner or occupant of each household shall label the recycling container or cause said container to be labeled with the address where the container shall be used. All containers must be so labeled by the first time they are set out at the curb for collection.
C. If the resident or occupant moves, the container shall remain at the address for use by the next occupant. Replacement containers shall be purchased for $5 from the Town and are the responsibility of the owner of the residence.
D. Recycling containers must be kept clean and placed so as not to constitute a nuisance or otherwise objectionable condition. Recyclables shall not be placed in plastic bags.
E. Multifamily residences that have private refuse and recycling collectors under contracts existing prior to October 1, 1990 (as provided for in §§ A196-7 and A196-9 of these regulations) shall be provided with recycling containers when their existing private collection contracts expire and they begin refuse and recycling pickup with the Town's contracted collector.

F. Owners of multifamily residences will be required to sign recycling container agreements with the Town Department of Public works prior to receiving recycling containers.
G. After said recycling containers are available and distributed, residents shall have 90 days to claim their recycling container from the Town. After this ninety-day period (the date which shall be published in the local papers), residents will be required to purchase bins from the Town for $5.

West Hartford Code

Chapter 94: GARBAGE, RUBBISH AND REFUSE
[HISTORY: Adopted by the Town Council of the Town of West Hartford 9-28-1976. Amendments noted where applicable.]

GENERAL REFERENCES
Outdoor burning — See Ch. 64.
Health and sanitation — See Ch. 101.
Littering — See Ch. 115.
Rubbish in parks and playgrounds — See Ch. 128.

§ 94-1. Definitions. [Amended 1-27-1981; 12-16-1986; 12-18-1990]

As used in this chapter, the following terms shall have the meanings indicated: COLLECTOR — Any person who holds himself or herself out for hire to collect solid waste from residential, business, commercial or other establishments.

COMMERCIAL PREMISES — Premises used for wholesale or retail trade, schools, hotels, motels, nonprofit organizations and fraternal organizations.

CONDOMINIUM PREMISES — Real property and any incidents thereto and interest therein defined as a "Condominium" in C.G.S. § 47-68a or defined as a "Common Interest Community" in C.G.S. § 47-202. [Amended 5-10-2005]

DEPARTMENT — The Department of Public Works of the Town of West Hartford acting through its Director or its designee. [Amended 5-10-2005]

INDUSTRIAL PREMISES — A premises used for the manufacture or assembly of a product.

INTERMEDIATE PROCESSING CENTER — As defined in Section 22a-241b-1 of the Regulations of Connecticut State Agencies.

RECYCLABLE MATERIALS — Any items designated by the Department of Environmental Protection pursuant to the C.G.S. § 22a-241.

RESIDENTIAL PROPERTY — Real estate containing one or more dwelling units but shall not include hospitals, motels or hotels.

§ 94-2. License to haul refuse. Editor's Note: Former Sec. 7-12 of the 1972 Code, entitled "License to engage in business: required, compliance with rules and regulations," which

immediately preceded this section, was repealed 1-27-1981. [Added 1-27-1981; amended 12-18-1990] A. Any person collecting, hauling or transporting garbage, refuse, rubbish or recyclable materials, as defined in §§ 94-1 and 115-1 of the Town Code, within the Town of West Hartford shall register with the Town and license each vehicle used for such purpose.
B. These licenses and registrations shall be valid for one calendar year and shall expire on the last day of February in each year; however, the Department may issue a temporary license, which shall be valid for one week only from the date of issue. Editor's Note: Former Sec. 7-13 of the 1972 Code, entitled "Receptacles required," which immediately followed this section, was repealed 1-27-1981.

§ 94-3. Bulk refuse.

The Department shall issue regulations concerning the collection of bulk refuse not placed in approved containers.

§ 94-4. Hazardous refuse.

No hazardous refuse will be collected by or disposed of by the Department. It shall be the responsibility of the generator of such waste to provide for the disposal of same in accordance with applicable state regulations.

§ 94-5. Residential, condominium, private school, church and synagogue collection. [Amended 1-27-1981; 12-18-1990]

Residential property with fewer than four dwelling units, condominiums, private schools, churches and synagogues shall be provided once-a-week collection on a schedule to be determined by the Department. Editor's Note: Former Sec. 7-17 of the 1972 Code, entitled "Commercial and industrial collection," amended 6-26-1979 as "Private schools, churches and synagogues," and which immediately followed this section, and former Sec. 7-18 of the 1972 Code, entitled "Fees and charges," as amended, were repealed 1-27-1981.

§ 94-6. Fees and charges. [Added 1-27-1981]

The Council, by resolution, may establish fees for: A. Tipping or disposing at or using any Town disposal facility or transfer station.
B. Licenses to haul refuse.

§ 94-7. Authority of Director of Public Works. [Amended 11-13-1979; 1-27-1981; 12-16-1986; 5-10-2005]

The Director of the Department of Public Works shall have the authority to establish rules and regulations concerning the separation, collection, removal, storage, hauling, licensing and disposition of refuse, garbage, trash, commercial and industrial waste and all salvageable material. Editor's Note: Former Sec. 7-20 of the 1972 Code (originally adopted by the Town as Sec. 7-22), entitled "Collection of fees, charges," which immediately followed this section, was repealed 6-26-1979.

§ 94-8. Salvage by private operators restricted. [Amended 6-28-1994; 5-10-2005]

No salvage operations by private operators will be permitted from refuse material placed at the curb for collection by the Department of Public Works.

§ 94-9. Enforcement. [Amended 1-27-1981; 12-16-1986; 5-10-2005]

It shall be the duty of the Director of Public Works or designee to enforce the provisions of this chapter and any rules or regulations promulgated under this chapter in conjunction with any other appropriate department heads.

§ 94-10. Disposal area designated. [Added 6-11-1985]

In accordance with C.G.S. § 22a-220a, the CRRA landfill and facility in Hartford are designated as the areas where refuse generated within the Town of West Hartford by residential, business, commercial or other establishments, and acceptable at those areas, shall be disposed.

§ 94-11. Hours of prohibited removal. [Added 10-27-1987]

No refuse shall be collected from any premises in the Town of West Hartford from 9:00 p.m. to 6:00 a.m.

§ 94-12. Nonresidential recycling program establishment and requirements. [Added 12-18-1990]

Effective on and after January 1, 1991: A. All properties, other than residential property as defined in § 94-1 of this chapter, shall provide for the separation of designated recyclable materials from solid waste pursuant to C.G.S. § 22a-241. [Amended 5-10-2005]
B. Any owner or tenant of a property, other than residential property as defined in § 94-1 of this chapter, who violates any provisions of this chapter shall be subject to civil penalties as follows:
(1) A written warning on the first violation.
(2) A civil penalty of no less than $100 for the second violation within a twelve-month period.
(3) A civil penalty of no less than $200 for the third violation within a twelve-month period.
(4) A civil penalty of no less than $500 for the fourth violation within a twelve-month period.

§ 94-13. Residential recycling program establishment and requirements. [Added 12-18-1990] A. In conformance with C.G.S. § 22a-241b and regulations to be promulgated by the Director of Public Works, each person who generates solid waste from a residential property shall separate recyclable materials from solid waste. [Amended 5-10-2005]
B. Recyclable materials from residential properties with fewer than four dwelling units shall become the property of the Town of West Hartford when placed at the curb for collection. It shall be a violation of this chapter for any person not authorized by the Town of West Hartford to collect or pick up or cause to be collected or picked up any recyclable material placed at the curb from residential properties with fewer than four dwelling units.
C. Any resident may donate or sell recyclable materials to any person, partnership, club, association or corporation, whether operating for profit or nonprofit, but such recyclable materials shall not be collected at the curb.
D. Any person who violates any provisions of this section of this chapter or regulations promulgated shall be subject to refusal of refuse collection and civil penalties as follows: (1) A written warning on the first violation.
(2) A civil penalty of no less than $50 for the second violation within a twelve-month period.
(3) A civil penalty of no less than $100 for the third violation within a twelve-month period.

(4) A civil penalty of no less than $200 for the fourth and subsequent violations within a twelve-month period.

§ 94-14. Collector requirements. [Added 12-18-1990] A. In accordance with C.G.S. § 22a-220c, collectors shall assist the Town of West Hartford in identifying persons responsible for creating loads containing significant quantities of recyclable materials mixed with solid waste. [Amended 6-28-1994]

B. Upon the Town's request, collectors shall issue warning notices to individuals believed to be in violation of the separation requirements pursuant to C.G.S. § 22a-220c and promptly notify the Director of Public Works or a designee of the alleged violation. [Amended 6-28-1994; 5-10-2005]

C. Any collector who knowingly mixes other solid waste with items designated for recycling or violates provision of this chapter shall be subject to civil penalties pursuant to C.G.S. § 22a-220a. [Amended 5-10-2005]

TAB C

State of Connecticut

RICHARD BLUMENTHAL
ATTORNEY GENERAL

Hartford

August 25, 2006

Honorable Leonard C. Boyle
Commissioner
Department of Public Safety
1111 Country Club Road
Middletown, CT 06457

Dear Commissioner Boyle:

I wish to commend you on your fine work chairing the Governor's Solid Waste Authority Working Group. I certainly appreciate that the Working Group is giving serious consideration to recommending a meaningful and comprehensive regulatory scheme that will include licensing and background checks.

I also wish to thank you for allowing me to present comments on my proposed legislation consistent with the concepts and goals of the regulatory plan you are contemplating. To this end, I urge your Working Group recommend to Governor Rell that she support this much needed legislation. In addition, I encourage the Working Group to consider and include in its recommendation the following key remedial measures that you are presently reviewing and have already been enacted in our neighboring states:

1. Consumer Bill of Rights. Among other things, this measure would generally cap unreasonably long contractual periods (i.e., contract term may not exceed two years in duration), end abusive automatic renewal terms, eliminate deficient notice requirements, prohibit the imposition of liquidated damages should a customer terminate a service contract, and prevent a customer from having to inform a hauler of a competitive offer or offer a hauler an opportunity to match a competitive offer. (See "Customer Bill of Rights" adopted pursuant to Section 826-a.402(3)(c) of the Laws of Westchester County).

2. "Non-employee" Managers and Supervisors: Disclosure and Fingerprinting. Requires the disclosure of pertinent information and allows for fingerprinting of a person that is affiliated with a licensee applicant but who is technically not an "employee," if such person has a direct managerial or supervisory responsibility for operations. (See Section 826-a.303.2 of the Laws of Westchester County).

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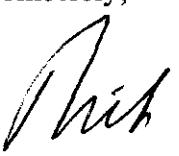
3. Proof of Insurance. As a condition of obtaining a license, an applicant must submit proof that it has secured: Worker's Compensation and Disability Coverage, Commercial General Liability Insurance of not less than $1,000,000, Business Automobile Liability Insurance of no less than $100,000/$300,000/$25,000, and Employer's Liability Insurance up to $1,000,000 per accident. The policies must name the regulatory agency as a Certificate Holder. (See Title 17, Section 2-02(f) of the Rules of the City of New York).

4. Continuing Duty to Report. Requires an applicant or licensee to report on a continuing basis (within five business days), a newly filed criminal charge or civil/administrative judgment. (See Section 826-a.501(5) of the Laws of Westchester County).

By calling for strong, yet proportionate and reasonable regulatory legislation, I believe the Solid Waste Authority Working Group will better the lives of all Connecticut citizens, both consumers and industry members alike. Of course, please do not hesitate to contact me or my staff should you desire any assistance.

Sincerely,



RICHARD BLUMENTHAL

RB/pas

TAB D

1767

THE CITY OF NEW YORK
BUSINESS INTEGRITY COMMISSION
100 CHURCH STREET, 20TH FLOOR
NEW YORK, NEW YORK 10007

DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE APPLICATION OF U.S.A. RECYCLING INC. FOR RENEWAL OF ITS LICENSE TO OPERATE AS A TRADE WASTE BUSINESS

U.S.A. Recycling Inc. ("USA" or "Applicant") has applied to the New York City Business Integrity Commission (formerly known as the Trade Waste Commission)("Commission") for renewal of its license to operate a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code ("Admin. Code"), §§16-505(a), 16-508. Local Law 42, which created the Commission to license and regulate the commercial carting industry in New York City, was enacted to address pervasive organized crime and other corruption in the industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

Local Law 42 authorizes the Commission to refuse to issue a license to any applicant, who it determines, in the exercise of its discretion, lacks good character, honesty, and integrity. See Admin. Code §16-509(a). The statute identifies a number of factors that, among others, the Commission may consider in making its determination. See id. §16-509(a)(i)-(x). These illustrative factors include the failure to provide truthful information to the Commission, certain civil or administrative findings of liability, and certain associations with organized crime figures. Based upon the record of USA, the Commission denies its license renewal application on the ground that this applicant lacks good character, honesty, and integrity for the following independent reasons:

(1) The Applicant's President and Sole Owner is the Subject of a Pending Federal Indictment Charging Him with the Crimes of Conspiracy, Mail Fraud and Embezzlement.

(2) The Applicant Provided False and Misleading Information in Connection with its License Renewal Application.

(3) The Applicant Failed to Notify the Commission of the Arrest of the Applicant's Sole Principal.

I. BACKGROUND

A. The New York City Carting Industry[1]

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their refuse. Historically, those services have been provided by several hundred companies. Beginning in the late 1950's, and until only recently, the commercial carting industry in the City was operated as an organized crime-controlled cartel engaging in a pervasive pattern of racketeering and anticompetitive practices. The United States Court of Appeals for the Second Circuit has described that cartel as "a 'black hole' in New York City's economic life":

> Like those dense stars found in the firmament, the cartel can not be seen and its existence can only be shown by its effect on the conduct of those falling within its ambit. Because of its strong gravitational field, no light escapes very far from a "black hole" before it is dragged back . . . [T]he record before us reveals that from the cartel's domination of the carting industry, no carter escapes.

Sanitation & Recycling Industry, Inc. v. City of New York, 107 F.3d 985, 989 (2d Cir. 1997) ("SRI") (citation omitted).

Extensive evidence presented at lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anticompetitive conspiracy carried out through customer-allocation agreements among carters, who sold to one another the exclusive right to service customers, and enforced by organized crime-connected racketeers, who mediated disputes among carters. See generally Peter Reuter, Racketeering in Legitimate Industries: A Study in the Economics of Intimidation (RAND Corp. 1987). After hearing the evidence, the City Council found:

(1) "that the carting industry has been corruptly influenced by organized crime for more than four decades";

[1] The Applicant objects to the staff's inclusion of this background history in its denial recommendation as irrelevant. See Letter from Murray Richman, Esq. ("Response") at 1. The Commission disagrees. New York City's waste hauling industry was systematically corrupted by organized crime for decades. In response, Local Law 42 mandated that all applicants meet a fitness standard of good character, honesty and integrity. See Admin. Code §16-509. As numerous courts have recognized, the history of entrenched corruption that led to the passage of Local Law 42 and the creation of the Trade Waste Commission sheds light on how this agency should exercise its regulatory authority. See Matter of DeCostole Carting, Inc. v. Business Integrity Commission, 2 A.D.3d 225 (1st Dept. 2003); Matter of John J. Sindone v. City of New York, 2 A.D.3d 125 (1st Dept. 2003); Matter of Hollywood Carting Corp. v. City of New York, 288 A.D.2d 71 (1st Dept. 2001).

(2) "that organized crime's corrupting influence over the industry has fostered and sustained a cartel in which carters do not compete for customers";

(3) that to ensure carting companies' continuing unlawful advantages, "customers are compelled to enter into long-term contracts with onerous terms, including 'evergreen' clauses";

(4) "that the anti-competitive effects of this cartel have resulted, with few exceptions, in the maximum [legal] rates . . . effectively being the only rate available to businesses";

(5) "that businesses often pay substantially higher amounts than allowed under the maximum rate because carters improperly charge or overcharge for more waste than they actually remove";

(6) "that organized crime's corrupting influence has resulted in numerous crimes and wrongful acts, including physical violence, threats of violence, and property damage to both customers and competing carting firms";

(7) "that recent indictments have disclosed the pervasive nature of the problem, the structure of the cartel, and the corruption it furthers through the activities of individual carters and trade associations";

(8) "that unscrupulous businesses in the industry have taken advantage of the absence of an effective regulatory scheme to engage in fraudulent conduct"; and

(9) "that a situation in which New York City businesses, both large and small, must pay a 'mob tax' in order to provide for removal of trade waste is harmful to the growth and prosperity of the local economy."

Local Law 42, § 1.

The criminal cartel operated through the industry's four leading New York City trade associations, the Association of Trade Waste Removers of Greater New York ("GNYTW"), the Greater New York Waste Paper Association ("WPA"), the Kings County Trade Waste Association ("KCTW"), and the Queens County Trade Waste Association ("QCTW"), all of which were controlled by organized crime figures for many years. See, e.g., Local Law 42, §1; United States v. International Brotherhood of Teamsters (Adelstein), 998 F.2d 120 (2d Cir. 1993). As the Second Circuit found, regardless of whatever limited legitimate purposes these trade associations might have served, they "operate[d] in illegal ways" by "enforc[ing] the cartel's anticompetitive dominance of the waste collection industry." SRI, 107 F.3d at 999.

In June 1995, all four trade associations, together with seventeen individuals and twenty-three carting companies, were indicted on enterprise corruption, criminal antitrust, and related charges as a result of a five-year investigation into the industry by the Manhattan District Attorney's Office and the New York Police Department. See People v. Ass'n of Trade Waste Removers of Greater New York Inc. et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.). The defendants included capos and soldiers in the Genovese and Gambino organized crime families who acted as "business agents" for the four trade associations, as well as carters closely associated with organized crime and the companies they operated. In essence, the carting industry's modus operandi, the cartel, was indicted as a criminal enterprise.

More carting industry indictments followed. In June 1996, both the Manhattan District Attorney and the United States Attorney for the Southern District of New York obtained major indictments of New York metropolitan area carters. The state indictments, against thirteen individuals and eight companies, were (like their 1995 counterpart) based upon undercover operations, including electronic surveillance intercepts, which revealed a trade waste removal industry still rife with corruption and organized crime influence. The federal indictment, against seven individuals and fourteen companies associated with the Genovese and Gambino organized crime families (including the brother and nephew of Genovese boss Vincent "Chin" Gigante), included charges of racketeering, extortion, arson, and bribery. See United States v. Mario Gigante et al., No. 96 Cr. 466 (S.D.N.Y.). In November 1996, the Manhattan District Attorney announced a third round of indictments in his continuing investigation of the industry, bringing the total number of defendants in the state prosecution to thirty-four individuals, thirty-four companies, and four trade waste associations.

The accuracy of the sweeping charges in the indictments has been repeatedly confirmed by a series of guilty pleas and jury verdicts. On October 23, 1996, defendant John Vitale pleaded guilty to a state antitrust violation for his participation in the anticompetitive criminal cartel. In his allocution, Vitale, a principal of the carting company Vibro, Inc., acknowledged that he turned to the trade associations, and specifically to Genovese capo Alphonse Malangone and Gambino soldier Joseph Francolino, to obtain their assistance in preventing another carter from bidding on waste removal services for a "Vibro-owned" building in Manhattan.

On January 27, 1997, Angelo Ponte, a lead defendant in the state prosecution and the owner of one of the City's largest carting companies, pleaded guilty to attempted enterprise corruption and agreed to a prison sentence of two to six years and to pay $7.5 million in fines, restitution, and civil forfeitures. In his allocution, Ponte acknowledged the existence of a "property rights" system in the New York City carting industry, enforced by a cartel comprised of carters and their trade associations through customer allocation schemes, price fixing, bid rigging, and economic retaliation, for the purpose of restraining competition and driving up carting prices and carting company profits. His son, Vincent J. Ponte, pleaded guilty to paying a $10,000 bribe to obtain a carting contract to service an office building. Both defendants agreed to be permanently barred from the City's carting industry.

On January 28, 1997, Vincent Vigliotti became the fourth individual defendant to plead guilty to carting industry corruption charges. In addition, two carting companies

and a transfer station run by Vigliotti's family under his auspices pleaded guilty to criminal antitrust violations. In his allocution, Vigliotti confirmed Ponte's admissions as to the scope of the criminal antitrust conspiracy in the City's carting industry, illustrated by trade association-enforced compensation payments for lost customers and concerted efforts to deter competitors from entering the market through threats and economic retaliation. Vigliotti agreed to serve a prison term of one to three years, to pay $2.1 million in fines, restitution, and civil forfeitures, and to be permanently barred from the City's carting industry.

On February 13, 1997, the KCTW pleaded guilty to criminal restraint of trade and agreed to pay a $1 million fine, and four individuals who were officers of or otherwise closely associated with the KCTW, as well as their affiliated carting companies, pleaded guilty to corruption charges. The Brooklyn carters who were the KCTW's principal representatives -- president Frank Allocca and vice-president Daniel Todisco -- pleaded guilty to attempted enterprise corruption, as did Brooklyn carter Dominick Vulpis; each of their defendant companies pleaded guilty to criminal restraint of trade. Brooklyn carter and KCTW secretary Raymond Polidori also pleaded guilty to criminal restraint of trade, as did two related companies controlled by Polidori. These individual defendants agreed to pay fines ranging from $250,000 to $750,000, to serve sentences ranging from probation to 4½ years in prison, and to be permanently barred from the City's carting industry. The same day, Manhattan carters Henry Tamily and Joseph Virzi pleaded guilty to attempted enterprise corruption and agreed to similar sentences, fines, and prohibitions. All six defendants confirmed the existence of the criminal cartel and admitted to specific instances of their participation in it.

On February 24, 1997, defendants Michael D'Ambrosio, Robros Recycling Corp., and Vaparo, Inc. all pleaded guilty in allocutions before New York Supreme Court Justice Leslie Crocker Snyder. D'Ambrosio pleaded guilty to attempted enterprise corruption, and his companies pleaded to criminal antitrust violations.

On July 21, 1997, Philip Barretti, another lead defendant in the state prosecution and the former owner of the City's largest carting company, pleaded guilty to two counts of attempted enterprise corruption and agreed to a prison sentence of 4½ to 13½ years and to pay $6 million in fines, restitution, and civil forfeitures. Frank Giovinco, former head of the WPA, pleaded guilty to attempted enterprise corruption and agreed to a prison sentence of 3½ to 10½ years. Carters Paul Mongelli and Louis Mongelli also pleaded guilty to attempted enterprise corruption, and agreed to prison sentences of four to twelve and $3^1/_3$ to ten years, respectively. All four defendants agreed to be permanently barred from the City's carting industry. On the same day, Philip Barretti, Jr. and Mark Barretti pleaded guilty to an environmental felony and commercial bribery, respectively, and agreed to be sentenced to five years probation. The Barretti and Mongelli carting companies also pleaded guilty at the same time. A few days later, the WPA pleaded guilty to criminal restraint of trade.

In the federal case, on September 30, 1997, Thomas Milo, a Gambino family associate, and his company, Suburban Carting, among others, pleaded guilty to federal charges of conspiracy to defraud the United States and to make and file false and fraudulent tax returns, and, respectively, to defraud Westchester County in connection with a transfer station contract and to violate the Taft-Hartley Act by making unlawful

payments to a union official. In their allocutions, Suburban and Milo admitted that one objective of the conspiracy was to conceal the distribution of cartel "property rights" profits by engaging in sham transactions.

The pleas of guilty to reduced charges by the state defendants took place in the context of an ongoing prosecution of the entire enterprise corruption conspiracy, in which testimony had begun in March 1997. The remaining defendants were the GNYTW, Gambino soldier Joseph Francolino and one of his carting companies, Genovese capo Alphonse Malangone, and two carting companies controlled by defendant Patrick Pecoraro (whose case, together with the case against the QCTW, had been severed due to the death of their attorney during the trial). On October 21, 1997, the jury returned guilty verdicts on enterprise corruption charges – the most serious charges in the indictment – against all six of the remaining defendants, as well as guilty verdicts on a host of other criminal charges. On November 18, 1997, Francolino was sentenced to a prison term of ten to thirty years and fined $900,000, and the GNYTW was fined $9 million. On January 12, 1998, Malangone was sentenced to a prison term of five to fifteen years and fined $200,000.

On January 21, 1998, Patrick Pecoraro pleaded guilty to attempted enterprise corruption and agreed to serve a prison sentence of one to three years, to pay a $1 million fine, and to be barred permanently from the City's carting industry. On the same day, the QCTW pleaded guilty to a criminal antitrust violation and agreed to forfeit all of its assets. Numerous other guilty pleas followed. On December 21, 1999, all of the guilty verdicts were affirmed on appeal. See People v. GNYTW, 701 N.Y.S.2d 12 (1st Dep't 1999).

In sum, it is far too late in the day for anyone to question the existence of a powerful criminal cartel in the New York City carting industry. Its existence has been proven beyond a reasonable doubt. The proof at trial also established conclusively that the cartel which controlled the carting industry for decades through a rigorously enforced customer-allocation system was itself controlled by organized crime, whose presence in the industry was so pervasive and entrenched – extending to and emanating from all of the industry's trade associations, which counted among their collective membership virtually every carter – that it could not have escaped the notice of any carter. These criminal convictions confirm the judgment of the Mayor and the City Council in enacting Local Law 42, and creating the Commission, to address this pervasive problem.

B. Local Law 42

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs (the "DCA") for the licensing of businesses that remove, collect, or dispose of trade waste. See Admin. Code § 16-503. The carting industry immediately challenged the new law, but the courts have consistently upheld Local Law 42 against repeated facial and as-applied constitutional challenges by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, 940 F. Supp. 656 (S.D.N.Y. 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. Cty.

Dec. 4, 1996); Fava v. City of New York, No. CV-97-0179 (E.D.N.Y. May 12, 1997); Imperial Sanitation Corp. v. City of New York, No. 97 CV 682 (E.D.N.Y. June 23, 1997); PJC Sanitation Services, Inc. v. City of New York, No. 97-CV-364 (E.D.N.Y. July 7, 1997).

Local Law 42 provides that "[i]t shall be unlawful for any person to operate a business for the purpose of the collection of trade waste . . . without having first obtained a license therefor from the [C]ommission." Admin. Code §16-505(a). After providing a license applicant with notice and an opportunity to be heard, the Commission may "refuse to issue a license to an applicant who lacks good character, honesty and integrity." Id. §16-509(a). Although Local Law 42 became effective immediately, carting licenses previously issued by the DCA remained valid pending decision by the Commission on timely filed license applications. See Local Law 42, §14(iii)(a).

As the United States Court of Appeals has definitively ruled, an applicant for a carting license under Local Law 42 has no entitlement to and no property interest in a license, and the Commission is vested with broad discretion to grant or deny a license application. SRI, 107 F.3d at 995; see also Daxor Corp. v. New York Dep't of Health, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997). In determining whether to issue a license to an applicant, the Commission may consider, among other things, the following matters, if applicable:

(i) failure by such applicant to provide truthful information in connection with the application;

(ii) a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license is sought, in which cases the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending;

(iii) conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license;

(iv) a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought;

(v) commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced

and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;

(vi) association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person;

(vii) having been a principal in a predecessor trade waste business as such term is defined in subdivision a of section 16-508 of this chapter where the commission would be authorized to deny a license to such predecessor business pursuant to this subdivision;

(viii) current membership in a trade association where such membership would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the commission has determined, pursuant to such subdivision, that such association does not operate in a manner inconsistent with the purposes of this chapter;

(ix) the holding of a position in a trade association where membership or the holding of such position would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter;

(x) failure to pay any tax, fine, penalty, or fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction.

Admin. Code § 16-509(a)(i)-(x).

II. DISCUSSION

USA was issued a trade waste license on March 24, 2004, with an effective date of March 1, 2004. The license was due to expire on February 28, 2006. See Admin. Code §16-506(a)(licenses are valid for a period of two years). On January 13, 2006, USA filed with the Commission an application for renewal of its trade waste license. See License Renewal Application. The sole principal and owner of USA is Joseph Moray ("Moray"). Id. at 6.

The staff has conducted an investigation of the Applicant and its principal. On January 27, 2006, the staff issued a 12-page recommendation that the application be denied. See Executive Staff's Recommendation to the Business Integrity Commission to

Deny the Application of U.S.A. Recycling Inc. for Renewal of its License to Operate as a Trade Waste Business ("Recommendation"). The Applicant's sole principal was personally served with the recommendation on January 31, 2006 and was granted ten business days to respond (February 14, 2006). See 17 RCNY §2-08(a). On February 13, 2006, the Applicant's attorney requested additional time and was granted an extension until February 21, 2006. The Applicant failed to submit a response (or another request for additional time) by that deadline. Nevertheless, on February 23, 2006, the Commission received a 2-page letter from the Applicant's attorney.[2] See Letter from Murray Richman, Esq. ("Response").

The Commission has carefully considered both the staff's recommendation and the Applicant's failure to submit a timely response. The Applicant's untimely response need not be considered by the Commission, thereby leaving the evidence against the Applicant uncontested. Regardless, despite the tardiness of the response, the Commission has considered the arguments raised by the Applicant and has found them to be unpersuasive. For the reasons stated below, the Commission finds that the Applicant lacks good character, honesty, and integrity and denies its license renewal application.

A. The Applicant's President and Sole Owner is the Subject of a Pending Federal Indictment Charging Him with the Crimes of Conspiracy, Mail Fraud and Embezzlement.

On March 2, 2005, an indictment was filed in the United States District Court in the Southern District of New York charging Moray[3] with the crimes of conspiracy to

[2] In his response, Counsel claimed his trial schedule and the Commission's time constraints prevented him from submitting a thorough response. See Response at 2. The Commission notes that Counsel was provided ample opportunity to submit a response, given that he requested and was readily granted an extra week beyond the statutory time period required by Local Law 42. Furthermore, Counsel never sought a second adjournment and did not offer a legitimate explanation for failing to do so. In any event, the Applicant's suggestion that it could have provided a more thorough response is entirely speculative. Id. The Applicant's response offered either legal defenses or attempts to excuse the conduct cited in the recommendation; there is no indication that the Applicant would have submitted a factual defense to the charges in the pending indictment had more time been requested and obtained.

[3] The indictment charged thirty-two (32) defendants, including Moray. Most of the defendants were members or associates of the Gambino Organized Crime Family. Four of the defendants were specifically charged in the same four crimes as Moray: co-defendants Gregory DePalma, Robert Vaccaro, Robert Vaccaro, Jr. and James Vetrano. See Moray Indictment at 92-97 (Counts 46-49). Gregory DePalma was identified in the indictment as a soldier and acting capo in the Gambino Organized Crime Family. See Moray Indictment at 10. "In January 1999, Gregory DePalma was convicted of Federal racketeering charges in the United States District Court for the Southern District of New York. Following his release from prison in or about February 2003, DePalma retained his position as Acting Capo in the Gambino Organized Crime Family, the position he had held before his earlier racketeering conviction. As Acting Capo, DePalma supervised and profited from the illegal activities of the Soldiers and associates in his crew. Among DePalma's criminal activities were participation in extortions, loansharking, an assault with a deadly weapon, the interstate transportation and receipt of stolen and counterfeit property, labor racketeering, insurance fraud, and the operation of illegal gambling businesses." Id. The indictment identifies a meeting between Moray, DePalma and Vetrano on May 21, 2003 as an overt act in furtherance of the conspiracy. Id. at 93, 95.

embezzle from a union benefit plan, mail fraud, conspiracy to commit mail fraud and embezzlement from a public employee benefit plan in violation of 18 USC §§2, 371, 1341 and 664.[4] See Indictment, United States v. Squitieri, Moray, et. al., 05 CR 228 (SDNY)(AKH)("Moray Indictment").[5] Such crimes are racketeering activities within the scope of 18 USC §1961. Moray and several of his codefendants have been identified by the United States Attorney's Office (SDNY) as a "trusted associates of the Gambino family." See United States Attorney (SDNY) Press Release, dated March 9, 2005 ("Moray Press Release").

In determining whether an applicant possesses the good character, honesty and integrity required to operate a trade waste business, the Commission may consider the criminal proceedings pending against the Applicant (or its principal) for crimes that are directly related to the Applicant's fitness for participation in the industry. See Admin.

Robert Vaccaro was identified in the indictment as a Soldier in the Gambino Organized Crime Family. "In or about August 2003, the Gambino Family Administration placed Vaccaro in DePalma's crew. Thereafter, among other things, Vaccaro delivered messages between the Gambino Family Administration and DePalma. Among Vaccaro's criminal activities were participation in extortions, loansharking, an assault with a deadly weapon, interstate transportation and receipt of stolen property, labor racketeering, and the operation of illegal gambling businesses." Id. at 11.

Robert Vaccaro, Jr. was identified in the indictment as an associate in the Gambino Organized Crime Family and the son of Gambino Soldier Robert Vaccaro. Among Vaccaro Jr.'s criminal activities were labor racketeering and interstate transportation and receipt of stolen property. Id. at 12-13.

[4] According to 18 U.S.C. §2, "(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission is punishable as a principal. (b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal."

According to 18 U.S.C. §1341, "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than five years, or both."

According to 18 U.S.C. §371, "If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both." See 18 U.S.C. §371.

According to 18 U.S.C. §664, "Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use or to the use of another, any of the moneys, funds, securities, premiums, credits, property, or other assets of any employee welfare benefit plan or employee pension benefit plan, or of any fund connected therewith, shall be fined under this title, or imprisoned not more than five years, or both."

[5] Moray was arrested and the indictment against him was unsealed on March 8, 2005. See SDNY Docket Report, United States v. Squitieri, Moray, et. al., 05 CR 228 (SDNY)(AKH)("Docket Report").

Code §16-509(a)(ii).[6] Furthermore, the application may be denied for "association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person." See Admin. Code 16-509(a)(vi). The pending criminal charges for conspiracy, mail fraud and embezzlement bear directly on the Applicant's fitness to participate and operate in the carting industry, especially given the public identification of the Applicant's principal and several of his codefendants as members and associates of organized crime.

The Commission is not required to consider the Applicant's untimely response, thereby leaving the evidence against it unrebutted. Furthermore, the Commission rejects the Applicant's response for being submitted in improper form; the denial recommendation clearly specifies that any "assertions of fact submitted to the Commission must be made under oath." See Recommendation at 12; Cover Letter to Recommendation dated January 31, 2006.

In any event, the Applicant fails to offer a substantive or factual defense to the pending indictment, merely relying on his plea of not guilty and the "presumption of innocence." See Response at 2. The Commission notes that the presumption of innocence is a legal concept that applies only to criminal trials and not to administrative proceedings before the Commission. Local Law 42 specifically provided that an indictment – a finding of probable cause by a grand jury that a crime had been committed and not a finding of guilt beyond a reasonable doubt - can serve as the basis of a license denial. See Admin. Code §16-509(a)(ii).

Accordingly, the Commission denies USA's license renewal application on this independently sufficient ground.

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[6] The Commission has the discretion to defer consideration of an application until a decision has been reached on a pending indictment. See Admin. Code §16-509(a)(ii). The Applicant asks the Commission to invoke its discretion on the Applicant's behalf due to Moray's plea of not guilty. See Response at 2. A plea of not guilty without more is an insufficient reason to defer consideration of an indictment; doing so would mandate deferral in every case involving a pending indictment and is inconsistent with the statutory provision specifically authorizing the Commission to deny a license application based upon a pending indictment. See Admin. Code §16-509(a)(ii). Given the long history of corruption in this industry, the Commission is not required to wait extended periods of time, often years, for a resolution of an indictment. Given the serious nature of the criminal charges in this case (see *supra* at 9-11), the Applicant's false submission to the Commission (see *infra* at 12-13), and the Applicant's failure to offer a timely or substantive response to the staff's recommendation, the Commission declines to exercise such discretion in this case.

B. The Applicant Provided False and Misleading Information in Connection with its License Renewal Application.

On January 13, 2006, USA filed a Renewal Application for a License as a Trade Waste Business ("License Renewal Application") and its principal, Joseph Moray, signed a sworn certification swearing to the truth of the contents of the application. See License Renewal Application at 9.

Moray failed to disclose the fact that he was arrested for the felony crimes of conspiracy, mail fraud and embezzlement. Failure by a license applicant to provide truthful information in connection with its license application is an adequate independent basis upon which the Commission may rely in denying the application. Admin. Code §16-509(a)(i).

> Question 6 of the License Renewal Application asks: "Have you or any of your principals, employees or affiliates been convicted of any criminal offense in any jurisdiction or been the subject of any criminal charges in any jurisdiction?" Moray answered the question, "No." See License Renewal Application at 2.
>
> Question 10 of the License Renewal Application asks: "Have you or any of your principals, employees, affiliates, or representatives knowingly associated in any manner with any member or associate of organized crime?" Moray answered the question, "No." See License Renewal Application at 4.
>
> Schedule D – Updated Answers of the License Renewal Application asks: "Set forth below all previously unprovided information necessary to update your initial application for a trade waste removal license or registration." Moray answered the question, "Nothing additional to report." See License Renewal Application at 8.

Based upon the record in this matter, these responses were clearly false. According to the Indictment, Moray was charged (before the filing of the renewal application) with the felony federal crimes of conspiracy, mail fraud and embezzlement and was publicly identified as an associate of organized crime (who conspired with co-defendants who were publicly identified as members of organized crime), yet he failed to disclose the charges and his associations with members and associates of organized crime to the Commission and affirmatively lied about the charges and his organized crime associations in his renewal application. See Moray Indictment; Moray Press Release.

The Commission is not required to consider the Applicant's untimely response, thereby leaving the evidence against it unrebutted. Furthermore, the Commission rejects the Applicant's response for being submitted in improper form; the denial recommendation clearly specifies that any "assertions of fact submitted to the

Commission must be made under oath." See Recommendation at 12; Cover Letter to Recommendation dated January 31, 2006.

Even if the Commission were to consider the Applicant's response, the arguments are rejected. Counsel claims that Moray "did not fully understand question #6 of the application" because the first clause of the question asked if the principal was "convicted." See Response at 1. Apparently, Moray either ignored or intentionally disregarded the remainder of the question that asked if the principal was the "subject" of any criminal charges. See License Renewal Application at 2. The Commission finds that the wording of the question is not confusing or misleading and rejects Counsel's suggestion that non-lawyers would have trouble understanding the question. See Response at 1.

Counsel further claims that Moray did not intend to be deceptive, given that his arrest was made public. Id. However, the fact that the prosecutor's office issued a press release in this matter does not necessarily mean that the indictment was brought to the attention of the Commission; the Commission still expects truthful disclosures from those it regulates. Furthermore, Moray's purported claim that he misunderstood question #6 and that the omission was not deceptive is belied by his failure to disclose the arrest under the catchall question asking for any changes in Schedule D and his statement that he had "nothing additional to report." See License Renewal Application at 8. The Applicant's response does not address the misleading nature of Moray's answer provided in Schedule D, thereby leaving the evidence unrebutted.

Regarding Moray's answer to Question #10, Counsel again claims that Moray deserves the protection of the presumption of innocence. This argument is rejected for the same reasons as stated above. See *supra* at 11. Moray failed to provide any substantive facts disputing his identification as an associate of organized crime or disputing his associations with his co-defendants who were identified as members of organized crime.

Accordingly, the Commission finds that the failure of the Applicant to provide truthful information to the Commission constitutes an additional independent basis that the Applicant lacks good character, honesty and integrity and denies its license application. See Admin. Code §16-509(a)(i).

C. The Applicant Failed to Notify the Commission of the Arrest of the Applicant's Sole Principal.

An applicant for a license to remove waste has the affirmative duty to notify the Commission, within ten (10) calendar days, of the arrest or criminal conviction of any principal[7] of the business subsequent to the submission of the application. See 16 RCNY §2-05(a)(1), Admin. Code §16-508(c). USA failed to notify the Commission regarding

[7] The "principal" of a corporation includes "every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation." See Admin. Code §16-501(d).

Moray's arrest. The Applicant has failed to submit a timely response, thereby leaving the evidence against it unrebutted. Moreover, even the response ultimately submitted by the Applicant failed to offer a defense to this independent ground, further leaving the evidence against it unrebutted. The Applicant's failure to comply with §2-05(a)(1) constitutes an adequate and independent ground for denial of its license renewal application.

III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license to any applicant that it determines lacks good character, honesty, and integrity. The evidence recounted above demonstrates convincingly that USA falls far short of that standard.

It is of grave concern to the Commission that the Applicant was indicted for extremely serious crimes involving organized crime corruption and that the Applicant compounded this problem by failing to notify the Commission of his arrest and indictment and by filing a false application with the Commission. Despite being notified of the staff's recommendation, the Applicant chose not to submit a timely, proper or substantive response, thereby leaving the evidence against it unrebutted. Moreover, the arguments ultimately submitted in response were unpersuasive. For the independently sufficient reasons discussed above, the Commission denies USA's license renewal application.

This license denial is effective immediately. U.S.A. Recycling Inc. may not operate as a trade waste business in the City of New York.

Dated: March 14, 2006

THE BUSINESS INTEGRITY COMMISSION

Thomas McCormack
Chair

John Doherty, Commissioner
Department of Sanitation

Jonathan Mintz, Acting Commissioner
Department of Consumer Affairs

Rose Gill Hearn, Commissioner
Department of Investigation

Robert Walsh, Commissioner
Department of Business Services

Raymond Kelly, Commissioner
New York City Police Department

THE CITY OF NEW YORK
BUSINESS INTEGRITY COMMISSION
100 CHURCH STREET, 20TH FLOOR
NEW YORK, NEW YORK 10007

DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE APPLICATION OF PERSICO CONTRACTING & TRUCKING INC. FOR RENEWAL OF ITS REGISTRATION TO OPERATE AS A TRADE WASTE BUSINESS

Persico Contracting & Trucking Inc. ("PCT" or the "Applicant") has applied to the New York City Business Integrity Commission ("Commission"), formerly known as the New York City Trade Waste Commission, for renewal of its registration to operate a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code ("Admin. Code"), § 16-505(a). Local Law 42, which created the Commission to regulate the trade waste removal industry in New York City, was enacted to address pervasive organized crime and other corruption in the commercial carting industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

On May 26, 2005, PCT applied to the Commission for renewal of its registration enabling it to operate a trade waste business "solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation" – a type of waste commonly known as construction and demolition debris, or "c & d." Admin. Code § 16-505(a). Local Law 42 authorizes the Commission to review and determine such applications. See id.

In determining whether to grant a renewal of a registration to operate a construction and demolition debris removal business, the Commission considers the same types of factors that are pertinent to the Commission's determination whether to issue a license to a business seeking to remove other types of waste. See, e.g., Admin Code § 16-504(a) (empowering Commission to issue and establish standards for issuance, suspension, and revocation of licenses and registrations); compare Title 17, Rules of the City of New York ("RCNY") §§ 1-06 & 2-02 (specifying information required to be submitted by license applicant) with id. §§ 1-06 & 2-03(b) (specifying information required to be submitted by registration applicant); see also Admin. Code §16-513(a)(i) (authorizing suspension or revocation of license or registration for violation of Local Law 42 or any rule promulgated pursuant thereto). Central to the Commission's investigation and determination of an exemption application is whether the applicant has business integrity. See 17 RCNY § 1-09 (prohibiting numerous types of conduct reflecting lack of business integrity, including violations of law, knowing association with organized crime figures, false or misleading statements to the Commission, and deceptive trade practices);

Admin. Code § 16-509(a) (authorizing Commission to refuse to issue licenses to applicants lacking "good character, honesty and integrity").

Based upon the record as to the Applicant, the Commission, for the following independently sufficient reasons, denies PCT's renewal application and refuses to issue PCT a registration:

- The Applicant's Vice President Engaged in Racketeering Activity by Conspiring to Extort Union Officials on Behalf of the Applicant Company.
- The Applicant Provided False and Misleading Information in Connection with its License Renewal Application.
- The Applicant's President Knowingly Obstructed the Commission's Investigation by Refusing to Appear for a Deposition and Provide Sworn Testimony.
- The Applicant is the Subject of Pending Administrative Charges Relating to Unlicensed Trade Waste Activity in Westchester County.
- The Applicant Failed to Pay Government Obligations for Which Judgments Have Been Entered.

I. REGULATORY BACKGROUND

A. The New York City Carting Industry

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their refuse. Historically, those services have been provided by several hundred companies. For the past four decades, and until only a few years ago, the private carting industry in the City was operated as an organized crime-controlled cartel engaging in a pervasive pattern of racketeering and anticompetitive practices. The United States Court of Appeals for the Second Circuit has described that cartel as "a 'black hole' in New York City's economic life." Sanitation & Recycling Industry, Inc. v. City of New York, 107 F.3d 985, 989 (2d Cir. 1997) ("SRI").

Extensive testimonial and documentary evidence adduced during lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anti-competitive conspiracy carried out through customer-allocation agreements among carters, who sold to one another the exclusive right to service customers, and enforced by organized crime-connected racketeers, who mediated disputes among carters. See generally Peter Reuter, Racketeering in Legitimate Industries: A Study in the Economics of Intimidation (RAND Corp. 1987). After hearing the evidence, the City Council made numerous factual findings concerning organized crime's longstanding and corrupting influence over the City's carting industry and its effects, including the anticompetitive cartel, exorbitant

carting rates, and rampant customer overcharging. More generally, the Council found "that unscrupulous businesses in the industry have taken advantage of the absence of an effective regulatory scheme to engage in fraudulent conduct." Local Law 42, § 1.

The City Council's findings of extensive corruption in the commercial carting industry have been validated by the successful prosecution of many of the leading figures and companies in the industry. In 1995 and 1996, the Manhattan District Attorney obtained racketeering indictments against more than sixty individuals and firms connected to the City's waste removal industry, including powerful mob figures such as Genovese organized crime family capo Alphonse Malangone and Gambino soldier Joseph Francolino. Simply put, the industry's entire modus operandi, the cartel, was indicted as a criminal enterprise. Since then, all of the defendants have either pleaded guilty or been found guilty of felonies; many have been sentenced to lengthy prison terms, and many millions of dollars in fines and forfeitures have been imposed.

The Commission's regulatory and law-enforcement investigations have confirmed that organized crime has long infiltrated the construction and demolition debris removal sector of the carting industry as well as the garbage hauling sector that was the focus of the Manhattan District Attorney's prosecution. In light of the close nexus between the c & d sector of the carting industry and the construction industry, mob influence in the former should come as no surprise. The construction industry in New York City has been corrupted by organized crime for decades. See, e.g., James B. Jacobs, Gotham Unbound: How New York City Was Liberated from the Grip of Organized Crime 96-115 (1999) (detailing La Cosa Nostra's influence and criminal activity in the concrete, masonry, drywall, carpentry, painting, trucking, and other sectors of the City's construction industry).

Moreover, the c & d sector of the carting industry has been a subject of significant federal prosecutions over the past decade. In 1990, Anthony Vulpis, an associate of both the Gambino and the Genovese organized crime families, Angelo Paccione, and six waste hauling companies owned or controlled by them were convicted of multiple counts of racketeering and mail fraud in connection with their operation of a massive illegal landfill on Staten Island. See United States v. Paccione, 949 F.2d 1183, 1186-88 (2d Cir. 1991), cert. denied, 505 U.S. 1220 (1992). Many c & d haulers dumped their loads at this illegal landfill, which accumulated 550,000 cubic yards of refuse over a mere four-month period in 1988; during that period, "the City experienced a sharp decline in the tonnage of construction waste deposited" at its Fresh Kills landfill, as well as "a concomitant decline in revenue" from the fees that would have been charged for dumping at a legal landfill. 949 F.2d at 1188. The trial judge described this scheme as "one of the largest and most serious frauds involving environmental crimes ever prosecuted in the United States." United States v. Paccione, 751 F. Supp. 368, 371 (S.D.N.Y. 1990).

Another illegal waste disposal scheme also prominently featured haulers of construction and demolition debris. This scheme involved certain "cover" programs instituted by the City of New York at Fresh Kills, under which the City obtained materials needed to cover the garbage and other waste dumped at the landfill. Under the "free cover" program, transfer stations and carting companies could dispose of "clean fill" (i.e., soil uncontaminated by debris) at Fresh Kills free of charge. Under the "paid

cover" program, the City contracted with and paid carting companies to bring clean fill to Fresh Kills. Numerous transfer stations and carters, however, abetted by corrupt City sanitation workers, dumped non-qualifying materials (including c & d) at Fresh Kills under the guise of clean fill. This was done by "cocktailing" the refuse: Refuse was placed beneath, and hidden by, a layer of dirt on top of a truckload. When the trucks arrived at Fresh Kills, they appeared to contain nothing but clean fill, which could be dumped free of charge.

In 1994, twenty-eight individuals, including numerous owners of transfer stations and carting and trucking companies, were indicted in connection with this scheme, which deprived the City of approximately $10 million in disposal fees. The indictments charged that from January 1988 through April 1992, the defendants participated in a racketeering conspiracy and engaged in bribery and mail fraud in connection with the operation of the City's "cover" programs. The various hauling companies, from Brooklyn, Queens, and Staten Island, were charged with paying hundreds of thousands of dollars in bribes to Department of Sanitation employees to allow them to dump non-qualifying materials at Fresh Kills without paying the City's tipping fees. See United States v. Cafra, et al., No. 94 Cr. 380 (S.D.N.Y.); United States v. Barbieri, et al., No. 94 Cr. 518 (S.D.N.Y.); see also United States v. Caccio, et al., Nos. 94 Cr. 357,358, 359, 367 (four felony informations). Twenty-seven defendants pleaded guilty in 1994 and 1995, and the remaining defendant was found guilty in 1996 after trial.

In sum, the need to root organized crime and other forms of corruption out of the City's waste removal industry applies with equal force to the garbage hauling and the c & d sectors of the industry. Local Law 42 recognizes this fact in requiring c & d haulers to obtain registrations from the Commission in order to operate in the City.

B. Local Law 42

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs ("DCA") for the licensing and registration of businesses that remove, collect, or dispose of trade waste. See Admin. Code § 16-503. "Trade waste" is broadly defined and specifically includes "construction and demolition debris." Id. § 16-501(f)(1). The carting industry quickly challenged the new law, but the courts have consistently upheld Local Law 42 against repeated constitutional challenges (both facial and as applied) by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, No. 96 Civ. 6581 (S.D.N.Y. Oct. 16, 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. Cty. Dec. 4, 1996); Fava v. City of New York, No. CV-97-0179 (E.D.N.Y. May 12, 1997); Imperial Sanitation Corp. v. City of New York, No. 97 CV 682 (E.D.N.Y. June 23, 1997); PJC Sanitation Services, Inc. v. City of New York, No. 97-CV-364 (E.D.N.Y. July 7, 1997). The United States Court of Appeals has definitively ruled that an applicant for a trade waste removal license under Local Law 42 has no entitlement to and no property interest in a license, and the Commission is vested with broad discretion to grant or deny a license application. SRI, 107 F.3d at 995; see also Daxor Corp. v. New York Dep't of Health, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997).

II. DISCUSSION

PCT is a construction company based in Mt. Vernon, New York. When PCT's exemption application was filed on November 4, 2002, the company was jointly owned by two brothers, Richard Persico ("Richard P."), President and 50% owner, and Robert Persico ("Robert P."), Vice President, Secretary and Treasurer and 50% owner. See Exemption Application of PCT ("Application") at 8.

PCT was issued an exemption from licensing and a trade waste registration with an effective date of July 1, 2003. The registration was valid through June 30, 2005.[1] See Admin. Code §16-506(a)(registrations are valid for a period of two years). On May 26, 2005, PCT filed with the Commission an application for renewal of its trade waste registration. See Renewal Application For License Or Registration As A Trade Waste Business ("Renewal Application").

On March 2, 2005, an indictment was filed in the United States District Court for the Southern District of New York charging Robert P.[2] with the crimes of racketeering, racketeering conspiracy, Hobbs Act Extortion and Transportation/Receipt of Stolen Property, in violation of 18 USC §§371, 2313, 1951, 1962(c)-(d), 2314 and 2315. See Indictment, United States v. Squitieri, Persico, et. al., 05 CR 228 (SDNY)(AKH)("First Persico Indictment"). Such crimes are racketeering activities within the scope of 18 USC §1961. The indictment charged that Robert P. conspired with Gambino capo Gregory DePalma to extort another construction company and transport stolen luxury goods. The indictment specifically identified Robert P. and several of his codefendants as "associates of the Gambino family." See First Persico Indictment at 2.

On March 9, 2005, a second indictment was filed in the United States District Court in the Southern District of New York charging Robert P. with the crimes of conspiracy, mail fraud and unlawful receipt of labor payments, in violation of 18 USC §§371, 1341 and 29 USC §186. See Indictment, United States v. Persico, 05 CR 255 (SDNY)(MBM)("Second Persico Indictment"). Such crimes are racketeering activities within the scope of 18 USC §1961. The indictment charged Robert P. with bribing union officials during the years 2000-2001 while "acting on behalf of Persico Contracting and Trucking, Inc." Id. at 3.

According to the Renewal Application, Richard Persico was purportedly the sole owner; the application stated that Robert Persico was no longer a principal of the company "as of March 1, 2005." Id. at 6, 8. The Renewal Application contained documents describing Robert P.'s alleged divestment of his ownership interest in the company, effective March 1, 2005. See Letter to Zurich American Insurance Company, dated March 23, 2005; Resignation Letter of Robert P., dated "as of March 1, 2005";

[1] In order to accommodate the scheduling of depositions pursuant to an investigation of PCT's application to renew its permit, the Commission granted two thirty-day extensions of PCT's registration, extending the permit to August 31, 2005. Once PCT stopped cooperating with the Commission (*see infra* at 8-10), no further extensions were granted and its permit expired.

[2] The indictment charged thirty-two (32) defendants, including Robert P. Many of the defendants were members or associates of the Gambino crime family, including co-defendants Arnold Squitieri (acting boss), Gregory DePalma (acting capo) and Anthony Megale (acting underboss). See First Persico Indictment.

Escrow Agreement dated "as of March 1, 2005"; Corporate Minutes dated March 29, 2005. The evidence before the Commission suggests that documents were backdated in order to avoid filing a renewal application that acknowledged that PCT was owned and operated by a principal under indictment for significant organized crime activity. *See infra* at 7-8.

On April 21, 2006, Robert P. pleaded guilty to charges on both indictments: (a) regarding the First Persico Indictment, Robert P. admitted that he was involved in a plot to send stolen cars from Westchester County to Ohio[3] and (b) regarding the Second Persico Indictment, Robert P. admitted that he sent correspondence through the mail as part of a scheme on behalf of PCT to bribe union officials.[4] See Docket Report on Second Persico Indictment; "Persico Denies Link to Gambino Family; Pleads Guilty to Mail Fraud," *The Journal News*, April 22, 2006. Sentencing is scheduled for July 26, 2006. See Docket Report.

The staff has conducted an investigation of the Applicant and its principals (the extent of which was hampered by the failure of the Applicant's President to cooperate with the Commission). On May 2, 2006, the staff issued a 12-page recommendation that the application be denied. See Recommendation of the Staff that the Business Integrity Commission deny the Application of Persico Contracting & Trucking Inc. for Renewal of its Registration to Operate as a Trade Waste Business ("Recommendation"). The Recommendation was personally served on the Applicant's Controller at the Applicant's place of business on May 4, 2006, and the Applicant was granted ten business days to respond (May 18, 2006). In addition, a copy of the Recommendation was also sent to the Applicant's counsel, Donald Carbone, via facsimile, on May 4, 2006. See 17 RCNY §2-08(a). The Applicant failed to submit a response, thereby leaving the evidence against it uncontested.

The Commission has carefully considered both the staff's recommendation and the Applicant's failure to submit a response. For the reasons stated below, the Commission finds that the Applicant lacks good character, honesty, and integrity and denies its renewal application.

A. The Applicant's Vice President Engaged in Racketeering Activity by Conspiring to Extort Union Officials on Behalf of the Applicant Company.

In determining whether an applicant possesses the good character, honesty and integrity required to operate a trade waste business, the Commission may consider the "commission of a racketeering activity" by the Applicant or its principals. See Admin. Code §16-509(a)(v).

[3] See First Persico Indictment at 86 (Conspiracy to Transport and Receive Stolen Automobiles, 18 USC 371, 2313).

[4] See Second Persico Indictment at 4-5 (Mail Fraud, 18 USC §1341, 1346, 2).

Robert P. pleaded guilty to the federal crime of mail fraud in connection with a scheme to bribe union officials on behalf of the Applicant during the years 2000-2001.[5] Mail fraud is a racketeering activity within the scope of 18 USC §1961. Not only did the Vice President and 50% owner of the company commit the crime, but he did so specifically to benefit the Applicant business.

The Applicant has failed to submit a response, thereby leaving the evidence against it unrebutted. Based on this independently sufficient ground, the Commission denies PCT's renewal application.

B. The Applicant Provided False and Misleading Information in Connection with its License Renewal Application.

On May 26, 2005, PCT filed a Renewal Application for a Registration as a Trade Waste Business and its President, Richard P., signed a sworn certification swearing to the truth of the contents of the application. See Renewal Application at 9.

The Renewal Application stated that Robert P. terminated his ownership and officer status in the company on March 1, 2005. Id. at 6, 8. Not coincidentally, the date of Robert P.'s purported resignation occurred the day before the indictment charging him with conspiring with a capo in the Gambino organized crime family was unsealed. See First Persico Indictment. Notably, none of the supporting documentation attached to the application was dated March 1, 2005; all of the documents were either misleadingly dated "as of March 1, 2005" or dated in late-March, several weeks *after* the First Indictment was unsealed. In addition, the purported divestment date is not specified in any of the documents; it is always referred to "*as of* March 1, 2005" (italics added). For example, Robert P. mailed a letter to Zurich American Insurance Company in order to terminate his indemnity obligations. See Zurich March 23, 2005 letter. However, the letter was not dated until March 23, 2005, and the divestment date was listed "*as of* March 1, 2005" (italics added), without stating when the divestment actually occurred. Similarly, Robert P.'s resignation letter did not contain the date it was actually written, but stated "*as of* March 1, 2005" (italics added), the attached escrow agreement detailing the purported transfer for Robert P.'s stock was merely dated "as of" March 1, 2005, and the corporate minutes from a meeting not held until March 29, 2005, mentioned that Robert P.'s resignation was accepted "effective March 1" without stating when the resignation actually occurred. See Resignation Letter; Escrow Agreement and Corporate Minutes.

The terms of the escrow agreement (including the modifications contained in the corporate minutes) do not support the statements in PCT's renewal application that Robert P. was no longer a principal in the company.[6] According to the escrow agreement, attorneys were merely holding the stock in escrow; the shares would not be sold until the parties agreed to a purchase price. See Escrow Agreement at 1. According to the corporate minutes, the sale would not take place until the accountants of PCT

[5] Robert P.'s subsequent resignation from PCT does not affect the sufficiency of this independent ground for denial of this application.

[6] The Applicant's failure to amend its application within ten business days regarding this alleged material change is further evidence that Robert P. did not actually resign on March 1, 2005. See 17 RCNY §2-05(b)(iii).

conducted a valuation of Robert P.'s interest in the company. PCT never provided any documents to the Commission indicating that the valuation had taken place and the sale consummated. It is clear that at the time of the March 29, 2005 meeting, the valuation had not taken place and a purchase price had not been agreed upon. Based on the documents submitted by PCT, Robert P. was still a principal of the company and should have been disclosed in its renewal application.[7]

The burden is on the Applicant to provide truthful and non-misleading information to the Commission. The documents offered in support of PCT's renewal application not only fail to corroborate its claim that Robert P. was no longer a principal of the company as of March 1, 2005, but also affirmatively obfuscate (if not outright contradict) its assertions. As a result, the timing of Robert P.'s divestment is unclear, and the application raises more questions than it answers. Based on the confusing submission, the staff cannot place any confidence in PCT's application and finds it unreliable.

The Applicant has failed to submit a response, thereby leaving the evidence against it unrebutted. The failure of the Applicant to provide truthful and non-misleading information to the Commission is evidence that the Applicant lacks good character, honesty and integrity. The Commission hereby denies PCT's renewal application on this independently sufficient ground. See Admin. Code §16-509(a)(i).

C. The Applicant's President Knowingly Obstructed the Commission's Investigation by Refusing to Appear for a Deposition and Provide Sworn Testimony.

"The commission may refuse to issue a license or registration to an applicant for such license or an applicant for registration who has knowingly failed to provide the information and/or documentation required by the commission pursuant to this chapter or any rules promulgated pursuant hereto." See Admin. Code §16-509(b). The Commission has the power "[t]o investigate any matter within the jurisdiction conferred by [Local Law 42] and [has] full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigation." Admin. Code § 16-504(c).

The filing of PCT's renewal application raised significant integrity issues that the Commission wanted to investigate, including the circumstances and timing of Robert P.'s purported resignation and the allegation in the Second Indictment that Robert P. bribed union officials on behalf of the Applicant company several years earlier. In order to investigate PCT's renewal application, the Commission attempted on several occasions, albeit unsuccessfully, to take sworn testimony from Richard P. On June 28, 2005, a Commission staff attorney mailed a letter to Richard P. notifying him to appear for a

[7] The corporate minutes also reveal that there was an agreement between Robert P. and Richard P. that any sale of stock would be void if the Applicant was found to be a non-responsible bidder for public jobs. See Corporate Minutes. Regardless of whether the Persico brothers would consider a denial by the Commission to be the equivalent of a non-responsibility finding, this agreement suggests that the purported sale of stock was not a legitimate transaction, but merely an attempt to appease government regulators.

deposition on July 12, 2005. The letter warned that failing to appear could negatively impact PCT's registration status before the Commission. See BIC June 28, 2005 letter. On June 28, 2005, Richard P. left a voice mail message for the BIC staff attorney. On June 29, 2005, the staff attorney spoke to Richard P., who confirmed his appearance for the July 12 deposition. A few days later, the Commission was contacted by Aaron Boyajian, Esq. ("Boyajian"), who stated that he was calling on behalf of Donald Carbone, Esq. ("Carbone"), that Carbone was the new lawyer for PCT and that he was requesting that the deposition be rescheduled. The staff attorney agreed to afford Carbone the standard courtesy of an adjournment to newly-retained counsel and Boyajian promised to call back promptly with a new date. Neither Boyajian nor Carbone contacted the Commission to reschedule the deposition. On July 28, 2005, a letter was sent to Richard P. and his new attorneys notifying them that the deposition had been rescheduled for August 9, 2005, and warning them that failing to appear would have negative implications for PCT's registration status before the Commission. See BIC July 28, 2005 letter. Later that same day, Boyajian contacted the Commission and requested that the deposition again be postponed. Boyajian and the Commission staff attorney agreed to postpone the deposition to the following day, August 10, 2005. The staff attorney agreed to that request. See Boyajian July 28, 2005 letter.

On August 9, 2005, the afternoon before the scheduled deposition, the Commission received a fax communication from Carbone stating that PCT "had decided to withdraw its pending [renewal] application" and that Carbone believed that PCT's decision rendered the deposition "moot." See Carbone August 9, 2005 letter. Neither Richard P., Carbone nor Boyajian appeared at the Commission on August 10, 2005 for the scheduled deposition.

On February 17, 2006, a letter was sent by fax and by U.S. Mail to Carbone and Richard P. informing them that their withdrawal offer had been rejected, that Carbone's belief that the deposition had been rendered moot was mistaken and that the deposition had been rescheduled for March 1, 2006. Richard P. was notified that the Commission would consider his refusal to provide information in its decision on his renewal application. See BIC February 17, 2006 letter. Neither Carbone nor Richard P. appeared at the Commission on March 1, 2006 for the scheduled deposition. See March 1, 2006 Transcript.

The following day, March 2, 2006, the Commission received a letter via U.S. Mail from Carbone (dated February 27, 2006) stating, among other things, that Richard P. would not be appearing for *any* deposition since PCT's application was withdrawn and the Commission "no longer had jurisdiction over this matter." See Carbone February 26, 2006 letter.[8] Carbone's statements are incorrect. First, the Commission does not allow applicants to unilaterally decide to withdraw an application after it has been filed;

[8] Carbone accused the Commission of wasting resources attempting to investigate PCT since its registration already expired and the company ceased hauling waste. See Carbone February 27, 2006 letter. However, the expiration of PCT's registration does not change the fact that PCT had a pending renewal application that was being investigated. Furthermore, the Commission is not required to accept Carbone's representation that PCT had ceased hauling waste. In contrast, the recent administrative charges of unlicensed activity in Westchester County belie counsel's statements. *See infra* at 10-11.

withdrawals can only occur with the Commission's consent and approval.[9] To hold otherwise would allow those companies on the verge of denial or wishing to avoid an investigation to frustrate the Commission's statutory powers and duties to investigate and regulate all businesses that remove, collect or dispose of trade waste. See Admin. Code §§16-503; 16-504(c). Furthermore, the Commission has jurisdiction over the *entire* trade waste industry, regardless of whether a specific company has filed an application. Id.

Despite repeated requests, the Applicant failed to provide the required information and obstructed the Commission's investigation. "[T]he commission may refuse to issue a license or registration to an applicant for such license or an applicant for registration who has knowingly failed to provide the information and/or documentation required by the commission pursuant to this chapter or any rules promulgated pursuant hereto." Admin. Code §16-509(b). By failing to respond to the Commission's repeated requests, the Applicant has "knowingly failed to provide the information" required by the Commission and has demonstrated that it lacks good character, honesty and integrity.

The Applicant has failed to submit a response, thereby leaving the evidence against it unrebutted. Based on this independently sufficient ground, the Commission denies the Applicant's renewal application.

D. The Applicant is the Subject of Pending Administrative Charges Relating to Unlicensed Trade Waste Activity in Westchester County.

On January 14, 2004, PCT was issued a trade waste license by the Westchester Solid Waste Commission ("WSWC"), BIC's equivalent in Westchester County, New York. After the indictments were unsealed against Robert P., the WSWC informed PCT that it would be required to retain an independent monitor to supervise PCT's operations until the criminal cases were resolved. On September 16, 2005, Carbone informed the WSWC that it would relinquish its license. To effectuate the surrender, PCT removed the WSWC decals from its trucks and returned them to the WSWC on December 21, 2005. By letter dated December 22, 2005, the WSWC Director acknowledged receipt and warned PCT that it could no longer operate as a trade waste hauler in Westchester County. See WSWC Amended Notice of Hearing, Violation No. 07A/2006.

On February 9, 2006, a WSWC inspector observed a PCT vehicle illegally hauling trade waste without a license. A review of the records of the Karta transfer station revealed that PCT had dumped a total of 68 loads of construction and demolition debris on 12 different dates between January 25 and February 8, 2006. At the February 16, 2006 meeting of the WSWC, administrative charges were issued against PCT for 68 instances of unlicensed hauling. On March 1, 2006, PCT was served with the Notice of Hearing scheduling a hearing for March 7, 2006. The hearing was later rescheduled for March 28, 2006. Id.

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[9] Carbone also accused the Commission of "laches" and asserted that PCT's withdrawal was "*de facto* accepted" due to the five-month delay in rejecting the withdrawal offer. See Carbone February 27, 2006 letter. The doctrine of laches (along with statute of limitations) does not apply to administrative proceedings. In any event, five months is not an unreasonable amount of time and any delay serves to prejudice the Commission, not the Applicant.

On March 8, 2006, the WSWC Director observed a PCT vehicle illegally hauling trade waste without a license. A review of the records of the Waste Management transfer station reviewed that PCT had dumped a total of 20 loads of waste between December 28, 2005, and March 3, 2006. The Notice of Hearing was amended to include 20 additional instances of unlicensed activity. Id. PCT faces a potential total fine of $440,000 for 88 instances of unlicensed activity. As of the date of this decision, the charges are still pending.

In determining whether an applicant possesses the good character, honesty and integrity required to operate a trade waste business, the Commission may consider the administrative charges pending against the Applicant for acts that are directly related to the Applicant's fitness for participation in the industry. See Admin. Code §16-509(a)(ii).[10] The Applicant has failed to submit a response, thereby leaving the evidence against it unrebutted. Based on this independently sufficient ground, the Commission denies PCT's renewal application.

E. The Applicant Failed to Pay Government Obligations for Which Judgments Have Been Entered.

"[T]he failure to pay any tax, fine, penalty or fee related to the applicant's business for which ... judgment has been entered by a court or administrative tribunal of competent jurisdiction" reflects adversely on an applicant's integrity. See NYC Admin. Code §16-509(a)(x). Four judgments totaling $16,000 have been docketed against the Applicant by the New York City Environmental Control Board ("ECB") for administrative fines issued against the Applicant by various city and state agencies.[11] According to a judgment and lien search conducted by the Commission, the Applicant currently owes $16,000 for four unsatisfied judgments:

Violation #	Judgment Amount	Docketing Date
#0124018162	$4,000.00	4/30/04
#0124018171	$4,000.00	4/30/04
#0124018180	$4,000.00	4/30/04
#0124916514	$4,000.00	4/30/04
TOTAL:	$16,000.00	

Again, the Applicant's failure to satisfy numerous debts that have been reduced to judgment demonstrates that the Applicant lacks good character, honesty and integrity. The Applicant has failed to submit a response, thereby leaving the evidence against it unrebutted. Based on this sufficient independent ground, the Commission denies the Applicant's renewal application.

[10] The Commission has the discretion to defer consideration of an application until a decision has been reached on the pending charges. See Admin. Code §16-509(a)(ii). Given the serious nature of other independent grounds for denial, the Commission declines to exercise such discretion in this case.

[11] Two additional administrative summonses are currently pending before ECB and have not been reduced to judgment - Violations #134188790 and #134188991.

III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license to any applicant that it determines lacks good character, honesty, and integrity. "The commission may refuse to issue a license or registration to an applicant ... who has otherwise failed to demonstrate eligibility for such license under this chapter". See Admin. Code §16-509(b). The evidence recounted above demonstrates convincingly that PCT falls far short of that standard.

It is of grave concern to the Commission that the Applicant filed a misleading and contradictory application and obstructed the Commission's investigation into the matter. Based upon the above independently sufficient reasons, the Commission denies PCT's renewal application.

This denial is effective immediately. PCT may not operate as a trade waste business in the City of New York.

Dated: June 20, 2006

THE BUSINESS INTEGRITY COMMISSION

Thomas McCormack
Chair

John Doherty, Commissioner
Department of Sanitation

Rose Gill Hearn, Commissioner by Daniel D. Brownell, designee
Department of Investigation Deputy Commissioner

Jonathan Mintz, Commissioner
Department of Consumer Affairs

Anthony Dell'Olio, Deputy General Counsel (designee)
Department of Small Business Services

Deputy Inspector Brian O'Neill (designee)
New York City Police Department

THE CITY OF NEW YORK
BUSINESS INTEGRITY COMMISSION
100 CHURCH STREET, 20TH FLOOR
NEW YORK, NEW YORK 10007

DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE APPLICATION OF K & S SANITATION, INC. FOR AN EXEMPTION FROM LICENSING REQUIREMENTS AND A REGISTRATION TO OPERATE AS A TRADE WASTE BUSINESS

On August 13, 2004, K & S Sanitation, Inc. (the "Applicant" or "K & S") submitted an Application to the New York City Business Integrity Commission ("the Commission") for an Exemption from Licensing Requirements for the Removal of Construction and Demolition Debris ("Registration"). See Title 16-A of the New York City Administrative Code ("Admin. Code"), §16-505(a). Lucretia Kallmeyer ("Lucretia" or "Mrs. Kallmeyer") and Kevin N. Kallmeyer ("Kevin, Jr.") are the disclosed principals of the Applicant, a construction and demolition debris carting company.

K & S has applied to the Commission for a registration enabling it to operate a trade waste business "solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation" – a type of waste commonly known as construction and demolition debris, or "C & D." See Admin. Code §16-505(a). Local Law 42 authorizes the Trade Waste Commission, subsequently renamed the Business Integrity Commission pursuant to Local Law 21 of 2002, to review and determine such applications for registration. See id. If, upon review and investigation of the application, the Commission grants the applicant a registration, the applicant becomes "exempt" from the licensing requirement applicable to businesses that remove other types of waste. See id.

In determining whether to grant a Registration to operate a construction and demolition debris removal business, the Commission considers the same types of factors that are pertinent to the Commission's determination whether to issue a license to a business seeking to remove other types of waste. See, e.g., Admin Code §16-504(a) (empowering Commission to issue and establish standards for issuance, suspension, and revocation of licenses and registrations); compare Title 17, Rules of the City of New York ("RCNY") §§1-06 & 2-02 (specifying information required to be submitted by license applicant) with id. §§1-06 & 2-03(b) (specifying information required to be submitted by registration applicant); see also Admin. Code §16-513(a)(i) (authorizing

suspension or revocation of license or registration for violation of Local Law 42 or any rule promulgated pursuant thereto). Central to the Commission's investigation and determination of a registration application is whether the applicant has business integrity. See 17 RCNY §1-09 (prohibiting numerous types of conduct reflecting lack of business integrity, including violations of law, knowing association with organized crime figures, false or misleading statements to the Commission, and deceptive trade practices); Admin. Code §16-509(a) (authorizing Commission to refuse to issue licenses to applicants lacking "good character, honesty and integrity").

Based upon the record as to the Applicant, the Commission denies the Applicant's Registration Application on the ground that this Applicant lacks good character, honesty, and integrity for the following reasons:

(i) Kevin G. Kallmeyer is, by operation of law, a principal of Applicant corporation through his familial relationships to Lucretia Kallmeyer and Kevin N. Kallmeyer, the Applicant's disclosed principals and owners of 100% of its shares.

(ii) Kevin G. Kallmeyer is a convicted racketeer and known associate of the Lucchese crime family, whose lack of good character, honesty and integrity is directly attributable to the Applicant.

I. BACKGROUND

A. The New York City Carting Industry

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their refuse. Historically, those services have been provided by several hundred companies. For the past four decades, and until only a few years ago, the private carting industry in the City was operated as an organized crime-controlled cartel engaging in a pervasive pattern of racketeering and anticompetitive practices. The United States Court of Appeals for the Second Circuit has described that cartel as "a 'black hole' in New York City's economic life." Sanitation & Recycling Industry, Inc. v. City of New York, 107 F.3d 985, 989 (2d Cir. 1997) ("SRI").

Extensive testimonial and documentary evidence adduced during lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anti-competitive conspiracy carried out through customer-allocation agreements among carters, who sold to one another the exclusive right to service customers, and enforced by organized crime-connected racketeers, who mediated disputes among carters. See generally Peter Reuter, Racketeering in Legitimate Industries: A Study in the Economics of Intimidation (RAND Corp. 1987). After hearing the evidence, the City Council made numerous factual findings concerning organized crime's longstanding and corrupting influence over the

City's carting industry and its effects, including the anticompetitive cartel, exorbitant carting rates, and rampant customer overcharging. More generally, the Council found "that unscrupulous businesses in the industry have taken advantage of the absence of an effective regulatory scheme to engage in fraudulent conduct." Local Law 42 §1.

The City Council's findings of extensive corruption in the commercial carting industry have been validated by the successful prosecution of many of the leading figures and companies in the industry. In 1995 and 1996, the Manhattan District Attorney obtained racketeering indictments against more than sixty individuals and firms connected to the City's waste removal industry, including powerful mob figures such as Genovese organized crime family capo Alphonse Malangone and Gambino soldier Joseph Francolino. Simply put, the industry's entire modus operandi, the cartel, was indicted as a criminal enterprise. Since then, all of the defendants have either pleaded or been found guilty of felonies; many have been sentenced to lengthy prison terms, and many millions of dollars in fines and forfeitures have been imposed.

The Commission's regulatory and law-enforcement investigations have confirmed that organized crime has long infiltrated the construction and demolition debris removal sector of the carting industry as well as the garbage hauling sector that was the focus of the Manhattan District Attorney's prosecution. In light of the close nexus between the C & D sector of the carting industry and the construction industry, mob influence in the former should come as no surprise. The construction industry in New York City has been corrupted by organized crime for decades. See, e.g., James B. Jacobs, Gotham Unbound: How New York City Was Liberated from the Grip of Organized Crime 96-115 (1999) (detailing La Cosa Nostra's influence and criminal activity in the concrete, masonry, drywall, carpentry, painting, trucking, and other sectors of the City's construction industry).

Moreover, the C & D sector of the carting industry has been a subject of significant federal prosecutions over the past decade. In 1990, Anthony Vulpis, an associate of both the Gambino and the Genovese organized crime families, Angelo Paccione, and six waste hauling companies owned or controlled by them were convicted of multiple counts of racketeering and mail fraud in connection with their operation of a massive illegal landfill on Staten Island. See United States v. Paccione, 949 F.2d 1183, 1186-88 (2d Cir. 1991), cert. denied, 505 U.S. 1220 (1992). Many C & D haulers dumped their loads at this illegal landfill, which accumulated 550,000 cubic yards of refuse over a mere four-month period in 1988. During that period, "the City experienced a sharp decline in the tonnage of construction waste deposited" at its Fresh Kills landfill, as well as "a concomitant decline in revenue" from the fees that would have been charged for dumping at a legal landfill. 949 F.2d at 1188. The trial judge described this scheme as "one of the largest and most serious frauds involving environmental crimes ever prosecuted in the United States." United States v. Paccione, 751 F. Supp. 368, 371 (S.D.N.Y. 1990).

Another illegal waste disposal scheme also prominently featured haulers of construction and demolition debris. This scheme involved certain "cover" programs

instituted by the City of New York at Fresh Kills, under which the City obtained materials needed to cover the garbage and other waste dumped at the landfill. Under the "free cover" program, transfer stations and carting companies could dispose of "clean fill" (i.e., soil uncontaminated by debris) at Fresh Kills free of charge. Under the "paid cover" program, the City contracted with and paid carting companies to bring clean fill to Fresh Kills. Numerous transfer stations and carters, however, abetted by corrupt City sanitation workers, dumped non-qualifying materials (including C & D) at Fresh Kills under the guise of clean fill. This was done by "cocktailing" the refuse: Refuse was placed beneath, and hidden by, a layer of dirt on top of a truckload. When the trucks arrived at Fresh Kills, they appeared to contain nothing but clean fill, which could be dumped free of charge.

In 1994, twenty-eight individuals, including numerous owners of transfer stations and carting and trucking companies, were indicted in connection with this scheme, which deprived the City of approximately $10 million in disposal fees. The indictments charged that from January 1988 through April 1992, the defendants participated in a racketeering conspiracy and engaged in bribery and mail fraud in connection with the operation of the City's "cover" programs. The various hauling companies, from Brooklyn, Queens, and Staten Island, were charged with paying hundreds of thousands of dollars in bribes to Department of Sanitation employees to allow them to dump non-qualifying materials at Fresh Kills without paying the City's tipping fees. See United States v. Cafra, et al., No. 94 Cr. 380 (S.D.N.Y.); United States v. Barbieri, et al., No. 94 Cr. 518 (S.D.N.Y.); see also United States v. Caccio, et al., Nos. 94 Cr. 357, 358, 359, 367 (four felony informations). Twenty-seven defendants pleaded guilty in 1994 and 1995, and the remaining defendant was found guilty in 1996 after trial.

In sum, the need to root organized crime and other forms of corruption out of the City's waste removal industry applies with equal force to the garbage hauling and the C & D sectors of the industry. Local Law 42 recognizes this fact in requiring C & D haulers to obtain registrations from the Commission in order to operate in the City. See Attonito v. Maldonado, 3 A.D.3d 415, 771 N.Y.S.2d 97 (1st Dept. 2004).

B. Local Law 42

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs ("DCA") for the licensing and registration of businesses that remove, collect, or dispose of trade waste. See Admin. Code §16-503. "Trade waste" is broadly defined and specifically includes "construction and demolition debris." Id. §16-501(f)(1). The carting industry quickly challenged the new law, but the courts have consistently upheld Local Law 42 against repeated facial and as-applied constitutional challenges by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, No. 96 Civ. 6581 (S.D.N.Y. Oct. 16, 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. Cty. Dec. 4, 1996); Fava v. City of New York,

No. CV-97-0179 (E.D.N.Y. May 12, 1997); Imperial Sanitation Corp. v. City of New York, No. 97 CV 682 (E.D.N.Y. June 23, 1997); PJC Sanitation Services, Inc. v. City of New York, No. 97-CV-364 (E.D.N.Y. July 7, 1997). The United States Court of Appeals has definitively ruled that an applicant for a trade waste removal license under Local Law 42 has no entitlement to and no property interest in a license, and the Commission is vested with broad discretion to grant or deny a license application. SRI, 107 F.3d at 995; see also Daxor Corp. v. New York Dep't of Health, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997); Attonito, 3 A.D.3d 415.

II. DISCUSSION

On August 13, 2004, K & S filed an Application with the Commission for a registration to cart construction and demolition debris. The declared principals of the Applicant are Lucretia Kallmeyer and Kevin N. Kallmeyer, who are, jointly, the holders of 100% of the outstanding shares of the Applicant corporation. See Application at 9. The staff has conducted a background investigation of the Applicant and its stated principals, in connection with which the staff interviewed Lucretia by telephone. See Memorandum to K & S File, dated January 18, 2006 ("1/18/06 Memo".)

The staff has also conducted a background investigation of Kevin G. Kallmeyer, the husband and father, respectively, of Applicant's principals, a convicted racketeer who has been publicly identified by law enforcement as an associate of the Lucchese crime family. See United States v. Salvatore Avellino, et al, Indictment No. 97 CR 1062 ("Indictment") at 9.

On April 28, 2006, the staff issued a ten-page recommendation that K & S's Application be denied. The Applicant was served with the Commission's recommendation by personal service upon Kevin N. Kallmeyer on April 29, 2006, and had ten business days to submit a response pursuant to Section 2-08(a) of Title 17 of the Rules of the City of New York. The Commission did not receive a factual response to the recommendation from the Applicant, but instead received a request by Lucretia Kallmeyer that the Commission withdraw the K & S Application from consideration. That request was denied.

The Commission has carefully considered the staff's denial recommendation. For the reasons set forth below, the Commission finds that the Applicant lacks good character, honesty, and integrity, and denies its application.

A. Kevin G. Kallmeyer is, by operation of law, a principal of Applicant corporation through his familial relationships to Lucretia Kallmeyer and Kevin N. Kallmeyer, the Applicant's disclosed principals and holders of 100% of its shares.

The Commission may consider the spouse, children, grandchildren, or parents of the disclosed stockholder(s) of a corporate applicant to be stockholder(s) of such

corporate applicant. See Admin. Code §16-501(d)(1)(ii). Such family member(s) may then be considered to be principal(s) of a corporate applicant, if the threshold percentage of ownership of the outstanding shares of the corporation is met. See id.

Specifically, §16-501(d) states, *inter alia,* that a "principal" of a corporation shall mean: ". . . . . every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation;. . . . ."

It states further:

> For the purposes of this chapter (1) an individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such individual; (ii) the spouse or domestic partner of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled); the children, grandchildren and parents of such individual. . . . . See id.

This broad definition of "principal" was adopted by the City Council to be read in conjunction with the legislation's §16-507 (requiring Applicants for registration to provide the Commission with information sufficient to enable the Commission to identify a business) and §16-508 (setting forth a detailed list of information Applicants for license would have to provide to the Commission). See Report of the Legal and Governmental Affairs Division of the City Council; Hearing on Int. No. 676-A Before the Committee on Consumer Affairs, May 10, 1996 at 11-12.

The Commission's authority to designate as shareholders the spouse, children, grandchildren or parents of disclosed shareholders of corporate applicants was created in furtherance of the Commission's powers to establish standards for the issuance of licenses and registrations, to enable the Commission to "pierce the corporate veil," and to then consider the character, and integrity of such family members, when circumstances would warrant such consideration, in making its determination whether to grant or deny such license or registration. See, e.g. Admin. Code §§16-504(a), 509(b).

The Application submitted by K & S Sanitation, Inc. states that Lucretia Kallmeyer, born in 1958, is its CEO and holds 99% of the outstanding shares of the corporation. It states that Kevin N. Kallmeyer, born in 1979, is the corporation's Secretary and holds 1% of the corporate shares.[1] The home address stated for Lucretia on the Application is 519 Miller Place Road, Miller Place, NY. See Application at 9.

The staff interviewed Lucretia Kallmeyer by telephone to obtain additional information regarding K & S and to confirm her relationship to Kevin G. and Kevin N. Kallmeyer. She stated that Kevin G. Kallmeyer is her husband and that he resides with her at the Miller Place Road address. She stated that K & S shares its business address, 178 Morris Avenue, Holtsville, NY, with Kallmeyer & Son Truck Tire Service, Inc.

[1]The Certificate of Incorporation of K & S Sanitation, Inc., on file at the New York State Department of State, indicates that it was filed on 3/23/99, that the corporation has "active" status, and that Lucretia Kallmeyer is its Chief Executive Officer. See www.dos.state.ny.us/Corporation and Business Database.

("Kallmeyer & Son")[2], which is owned by her husband, and that Kevin N. Kallmeyer, their only son, never had an ownership interest in that corporation. See 1/18/06 Memo.

The facts adduced from K & S's Application and the conversations the staff had with Lucretia Kallmeyer are sufficient to establish that Kevin G. Kallmeyer may be considered a stockholder of K & S pursuant to Admin. Code §16-501(d). The outstanding shares of K & S owned by his spouse, Lucretia Kallmeyer, with whom he resides, as well as the shares owned by his son, Kevin N. Kallmeyer, are deemed by operation of law to be jointly owned by Kevin G. Kallmeyer. Further, through such joint ownership in 100% of the corporate Applicant's outstanding shares, Kevin G. Kallmeyer's holdings in K & S exceed the ten percent minimum holding for him to be designated as a principal of the corporation. See Admin. Code §§16-501(d), 504(a).

In addition to the evidence that Kevin G. Kallmeyer is a principal of K & S through his close familial relationships to the Applicant's disclosed principals, there is evidence that he once was President of K & S and is currently an undisclosed principal.

Mrs. Kallmeyer stated that K & S is located within the same building as Kallmeyer & Son, at 178 Morris Avenue, Holtsville, NY. She stated that her husband owns the property and that K & S pays no rent for the office space it occupies. She did not remember if she is listed as a joint owner on the deed to this property. See 1/18/06 Memo.

Mrs. Kallmeyer asserted that her husband has nothing to do with the business of K & S; that the business belongs to her and her son; and that her son does the driving and physical labor. When asked if her husband had ever held himself out to be a principal of K & S, she responded that he had, but that it was years ago.[3] She stated further that her husband transferred K & S to her and their son in 2001 before he began serving his prison sentence for the crime of arson [discussed in Section B, infra]. See id.

That she is not the true controlling principal of K & S was further evidenced by her lack of knowledge of how many trucks are currently registered to the company. When questioned, she hesitantly responded that K & S owns two trucks, which she identified as "one big and one smaller – both roll-offs." When confronted with the information that the New York State Department of Motor Vehicles database shows that

[2] Kallmeyer & Son Truck Tire Service, Inc. was publicly identified by law enforcement as a business under the protection and control of the Lucchese Family. See United States v. Salvatore Avellino, et al, Indictment No. 97 CR 1062 at 7. See discussion infra in Section B.

[3] A Business Background Report on K&S Sanitation, Inc., obtained on 4/20/06, published by Dun & Bradstreet on 7/25/05, states, "Attempts to contact the management of this business have been unsuccessful. Inside sources confirmed operation and location." The report then identifies Kevin Kallmeyer as President and states, "On June 4, 1999 management confirmed the existence of this corporation." The Report also reprints data reported by the NYS Secretary of State, which indicates that Lucretia Kallmeyer is Chairman of the Board. See www.lexisnexis.dnb.com/report.

K & S currently owns six trucks,[4] two of which are 2005 Volvos, she responded that she was not then in the office, but on vacation, and asked if she could call back. See id.

Due to the adoption of the broad definition of "principal" in Local Law 42 of 1996, the Commission can designate Kevin G. Kallmeyer to be a principal of the Applicant by operation of law, through his familial relationships to the Applicant's declared principals, obviating the need to gather additional evidence of his involvement in its business. See, e.g. Admin. Code §§16-501(d); 504(a).

B. Kevin G. Kallmeyer is a convicted racketeer and known associate of the Lucchese crime family, whose lack of good character, honesty and integrity is directly attributable to the Applicant.

The Commission may deny the registration application of a construction and demolition debris carting business whose principals have engaged in the commission of a racketeering activity or have had a knowing association with a member or associate of an organized crime group or a person who has been convicted of a racketeering activity. See Admin. Code S.16-509(a)(v), (vi); SRI, 107 F.3d at 998; supra at 3-4.

Kevin G. Kallmeyer has been publicly identified by law enforcement as a member of the Lucchese organized crime family and is a convicted racketeer. On July 14, 1999, he was indicted, along with various members and associates of the Lucchese organized crime family, by the United States Attorney for the Eastern District of New York. See United States v. Salvatore Avellino, et al, Indictment No. 97 CR 1062. The indictment identified Kevin G. Kallmeyer as an associate of the Lucchese Family and charged him with furthering the racketeering enterprise of the Lucchese Family. See id. at 4-5.

The indictment also charged Kallmeyer, together with Michael Avellino and Michael Malena, with two counts of arson:[5] one of a building located at 1785 Lakeland Avenue, Ronkonkoma, New York, and the business, A Tire Service, Inc., located therein; and the other of automobile service vehicles located at 178-A Morris Avenue, used by Quality Fleet. See id. at 27-28 and 32.

On April 3, 2001, Kevin G. Kallmeyer pled guilty to arson of the business and building located at 1785 Lakeland Avenue, Ronkonkoma, New York (Count 10 of the Indictment). See Criminal Docket for Case No. 97 CR 1062, U.S. District Court, Eastern District of New York (Hauppauge). He was sentenced on September 28, 2001 to 24 months in prison, three years supervised release with a maximum expiration date of August 4, 2006, a $20,000 fine, and $15,000 in restitution.[6] See id. He is currently on probation.

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[4] See NYS Department of Motor Vehicles Registration Reports for Plates 16251JU, 16252JU, 16335JU, 74292PA, 82759JU and 95185JD.

[5] Title 18, United States Code, §§844(i), 2, and 3551 et seq.

[6] Lucretia Kallmeyer stated that Kevin G. Kallmeyer transferred K&S to her and their son in 2001when he began serving his prison sentence. See 1/18/06 Memo to K&S File.

The arson to which Kevin G. Kallmeyer pled guilty was committed on the order of Salvatore Avellino, who has long been identified by law enforcement and widely reported in the press to be a captain in the Lucchese crime family, and the boss of the carting industry on Long Island. Kallmeyer's crime, which was also widely reported in the press, was part of and in furtherance of the racketeering enterprise run by Avelllino on Long Island, which enterprise committed acts of arson, extortion, threats of violence, and murder. See Steve Wick, Murder and the Mob, Newsday, December 23, 2001 (investigative report, which details Avellino's part in the murders of Robert Kubecka and Donald Barstow, two L.I. carters.) See also Robert E. Kessler and Edward W. Lempinen, Feds Indict Garbage Carting Czar, Newsday, July 15, 1999 at A69; Jerry Capeci, Gangster, Kin Charged in Sanit War, Daily News (New York), July 16, 1999, at S7; and Robert E. Kessler, Organized Crime Figure Sentenced to 5 More Years, Newsday (New York), June 30, 2001 at A14.[7]

Kallmeyer was released from prison on August 5, 2003. See Federal Bureau of Prisons Inmate Locator, www.bop.gov. He then returned to his home at 519 Miller Place Road, Miller Place, New York, and to the business of which he was and still is the declared President, Kallmeyer & Son Truck Tire Service, Inc.,[8] the business that was publicly identified by law enforcement as a distributor of truck tires under the protection and control of the Lucchese Family. See United States v. Salvatore Avellino, et al, Indictment No. 97 CR 1062 at 7.

Due to the Applicant's failure to submit a response to the recommendation of the Commission's staff, the findings and conclusions contained in the recommendation have not been rebutted.

The Commission is expressly authorized to deny the registration application of a carting company whose principals are convicted racketeers and known associates of organized crime groups. See Admin. Code $16-509(a)(v), (vi); SRI, 107 F.3d at 998. Kevin G. Kallmeyer, is a principal of Applicant by operation of law. His racketeering conviction and his identification as an associate of the Lucchese crime family is, therefore, attributable to the Applicant and renders the Applicant lacking in good character, honesty and integrity.

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[7]In 1993, Salvatore Avellino was convicted upon a guilty plea of Conspiracy to Commit Murder in the deaths of Robert Kubecka and Donald Barstow. Avellino was serving his 10 ½-year sentence for that crime at the time he was indicted with Kevin G. Kallmeyer. See Robert E. Kessler and Edward W. Lempinen, Feds Indict Garbage Carting Czar, Newsday, July 15, 1999 at A69. As part of a plea bargain entered on March 19, 2001, Avellino admitted that he had continued to run his racketeering enterprise while imprisoned. See Robert E. Kessler, Jailed Mob Boss Admits Extortion; Son also Pleads Guilty in LI Carting Case, Newsday (New York), March 20, 2001 at A7.

[8] The Certificate of Incorporation of Kallmeyer & Sons [sic] Truck Tire Service, Inc. on file at the New York State Department of State, shows that the corporation has "active" status and that Kevin G. Kallmeyer is its Chief Executive Officer. See www.dos.state.ny.us/Corporation and Business Database. Anywho Online Directory lists this corporation's name as Kallmeyer & Son Truck Tire Service, Inc. See www.Anywho.com. Photos taken at 178 Morris Avenue, Holtsville, NY on 1/25/05 show a truck painted with the name, "Kallmeyer & Son".

III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license of registration to any applicant that it determines lacks good character, honesty, and integrity. The evidence recounted above demonstrates convincingly that K & S falls short of that standard. For the reasons discussed above, the Commission hereby denies the registration application of K & S Sanitation, Inc.

This registration denial decision is effective immediately. The Applicant shall not service any customers, or otherwise operate a trade waste removal business in the City of New York.

Dated: June 20, 2006

BUSINESS INTEGRITY COMMISSION

Thomas McCormack
Chair

John Doherty, Commissioner
Department of Sanitation

Rose Gill Hearn, Commissioner by Daniel D. Brownell desig
Department of Investigation
Deputy Commissioner

Jonathan Mintz, Commissioner
Department of Consumer Affairs

Anthony Dell'Olio, Deputy General Counsel
Department of Small Business Services (designee)

Brian O'Neill, Deputy Inspector
Police Department (designee)