

BY-LAWS  
of  
TOWN OF NORTH HEMPSTEAD  
SOLID WASTE MANAGEMENT AUTHORITY

ARTICLE I  
OFFICES

Section 1. Principal Office

The Principal Office of the Authority shall be in the Town of North Hempstead, County of Nassau, and State of New York.

Section 2. Additional Offices

The Authority may also have offices and places of business at such other places within the State of New York, as the Board may from time to time determine or the business of the Authority may require.

ARTICLE II  
THE BOARD

Section 1. General Affairs

The business and affairs of the Authority shall be managed by its Board.

Section 2. Establishment; Number; Tenure

The Board shall be composed of seven (7) Members who shall be, ex officio, the seven (7) Members of the Town Board of the Town of North Hempstead. Each Member's term shall be coterminous with such Member's term of office on the Town Board, as such term of office may be shortened in the event of such Member's resignation, disability or death. As used in these By-Laws, the term "entire Board" means the total number of Members which the Board would have if there were no vacancies.

Section 3. Roles and Responsibilities of Board Members.

A. Board Members shall execute and direct oversight of the Authority's Executive Director and other senior management in the effective and ethical management of the Authority as may be provided in these By-Laws, and as prescribed by applicable laws.

B. Individuals appointed to the Board shall participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors of the Authority within one (1) year of appointment to a the Board, and shall participate in continuing training as may be required.

ARTICLE III  
MEETINGS OF THE BOARD

Section 1. Place

The Board may hold meetings, both regular and special, at any place within the State of New York.

Section 2. Regular Meetings

Regular meetings of the Board may be held without notice to Members according to a schedule adopted by resolution of the Board from time to time at such time and at such place as may be determined by the Board in such resolution.

Section 3. Special Meetings

Special meetings of the Board may be called by the Chairman or by the Vice-Chairman by notice given to each Member at least seventy-two (72) hours in advance of such meeting as provided in Article VI of these By-Laws. Special meetings shall be called by the Chairman, Vice Chairman or Secretary in like manner and on like notice upon the written request of two (2) Members. Notwithstanding the foregoing, in the event of an emergency, the Chairman may call a special meeting without advance notice and by means other than the delivery of a writing to the Members.

Section 4. Open Meetings

All meetings of the Board shall be conducted in compliance with the provisions of the Open Meetings law, being Chapter 511 of 1976, as amended, and with all rules and regulations promulgated thereunder, including the notice provisions thereof.

Section 5. Quorum

At all meetings of the Board, a majority of the entire Board shall be necessary to constitute a quorum for the transaction of business. Except as may be otherwise provided by law, the vote of a majority of the entire Board shall be the act of the Board. If a quorum shall not be present at any meeting of the Board, a majority of the Members present thereat may adjourn the meeting from time to time until a quorum shall be present. Two (2) days notice of any such adjournment shall be given, whether personally or by mail or by e-mail, to each Member who was not present and, unless announced at the meeting, to the other Members.

Section 6. Compensation

Members shall receive no compensation for their services, whether as Members or officers of the Authority but shall be reimbursed for all of their actual and necessary expenses

incurred in connection with the carrying out of the purposes of the Authority.

#### Section 7. Written Consent

Any action required or permitted to be taken by the Board may be taken without a meeting if all Members consent in writing to the adoption of a resolution authorizing action. Every such resolution and the written consent thereto shall be filed with the minutes of the proceedings of the Board.

#### Section 8. Participation at Meetings by Means of Communications Equipment

Any one or more Members of the Board may participate in any meeting of the Board by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall be deemed to constitute presence in person at such meeting.

#### Section 9. Presumption of Assent

A Member of the Board who is present at a meeting of the Board at which action on any matter is taken shall be presumed to have assented to the action taken unless his abstention or dissent is stated at the meeting, which dissent or abstention shall be duly entered in the minutes of the meeting.

#### Section 10. Advisory Committees

A. The Chairman may establish one or more Advisory Committees of the Board, each Committee to consist of one or more of the Members, each of which Committees shall act in an advisory capacity with respect to the matters designated for it by the Chairman. Such Advisory Committees shall have such names as shall be given them by the Chairman. At meetings of any such Advisory Committee, a majority of the members of such Committee shall constitute a quorum for the transaction of business and the act of a majority of members present at any meeting at which there is a quorum shall be the act of the Advisory Committee. Except in an emergency, the Chairman and the Executive Director shall be given advance written notice of the time and place of any meeting of any Advisory Committee of the Board.

B. The Authority shall establish an audit committee comprised of independent members. The committee shall recommend to the Board the hiring of a certified independent accounting firm for the Authority, establish compensation to be paid to the accounting firm and provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purposes.

C. The Authority shall establish a governance committee comprised of independent members. The committee shall keep the Board informed of current best governance practices, review corporate governance trends, update the Authority's corporate governance principles, advise the Board of the skills and experiences required of potential Board Members, examine

ethical and conflict of interest issues, perform Board self-evaluations and to recommend By-laws which include rules and procedures for conduct of Board business.

#### Section 11. Agenda

A. The Counsel of the Authority shall be responsible for preparation of the calendar for each Board meeting. The calendar shall include all items properly submitted to the Counsel in accordance with these rules.

B. All requests for resolutions shall be submitted to the Counsel in writing by 10 a.m. on Monday of the week preceding the week of the regularly scheduled Board meeting. The Counsel shall prepare these requests in proper form for consideration by the Board.

C. No resolution shall be placed on the agenda of the Board meeting unless it shall be accompanied by a resolution request that has been approved and initialed by at least one (1) Board Member. Thereafter, a copy of the prepared resolution shall be submitted to each Member of the Board to review.

D. Failure to comply with the procedure set forth in this section shall render such resolution ineligible for placement on the calendar.

E. The Counsel shall distribute a copy of the calendar for each Board meeting to the Board Members no later than the Thursday preceding each regular meeting.

F. Any special or emergency matter may be added to the calendar at the commencement of any meeting, upon the affirmative vote of a majority of all Members of the Board then present, by placing the added matter at the bottom of the calendar.

### ARTICLE IV NOTICES

#### Section 1. Form; Delivery

Notices to Members shall be in writing and may be delivered personally or by mail or by e-mail. Notice to a Member shall be deemed to have been given if by mail, when deposited in the United States mail with first class postage thereon prepaid.

#### Section 2. Waiver

Whenever a notice is required to be given by any statute of these By-Laws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whenever given, shall be deemed equivalent to such notice. In addition, any Member attending a meeting of the Board without protesting such lack of notice prior to the meeting or at its commencement, shall be conclusively deemed to have waived notice of such meeting.

## ARTICLE V OFFICERS

### Section 1. Officers

The officers of the Authority shall be a Chairman, a Vice-Chairman, a Treasurer and a Secretary, and such additional officers, including but not limited to an Attorney, an Engineer, an Executive Director, as the Board may deem necessary. No officer, except the Chairman, Vice-Chairman and the Treasurer, need be a Member of the Board. No Board Member, including the Chairman, shall serve as the Authority's Executive Director, Secretary or hold any equivalent position.

### Section 2. Authority and Duties

All officers, as between themselves and the Authority, shall have such authority and perform such duties in the management of the Authority as may be provided in these By-Laws, and as prescribed by applicable laws, or, to the extent not so provided, as may be provided by the Board or, as to all other officers, by the Chairman.

### Section 3. Term of Office

The Chairman shall be the Town Supervisor of the Town of North Hempstead, acting ex officio. His term of office shall be coterminous with his term of office as Town Supervisor. The Vice-Chairman, Treasurer and Secretary shall be selected by the Board and shall serve in such capacities at the pleasure of the Board. The Attorney, Engineer and Executive Director shall be appointed by the Board on the recommendation of the Chairman, and each shall serve at the pleasure of the Board.

### Section 4. Compensation

The compensation of all officers of the Authority, other than the Chairman, the Vice-Chairman and the Treasurer, who shall receive no compensation, shall be fixed by the Board.

### Section 5. Vacancies

If an office other than Chairman becomes vacant for any reason, the Board, in the case of the Vice-Chairman, Treasurer, Secretary, Attorney, Engineer, Executive Director, and such additional officers as the Board may deem necessary, shall fill said vacancy. Any officer so appointed or elected shall serve only until the expiration of the term of his predecessor unless re-elected in the manner provided for his appointment.

### Section 6. The Chairman

The Chairman shall be the chief executive officer of the Authority and shall be responsible for the discharge of the executive and administrative functions and powers of the Authority, but he shall be empowered to delegate any one or more of such functions or powers, to the Executive Director. When present, the Chairman shall preside at all meetings of the Board.

Section 7. The Vice-Chairman

The Vice-Chairman shall, in the absence or disability of the Chairman, perform the duties and exercise the powers of the Chairman, and shall generally assist the Chairman and perform such other duties as the Board or the Chairman shall prescribe.

Section 8. The Treasurer

The Treasurer shall have the care and custody of the corporate funds and other valuable effects, including securities, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Authority and shall deposit all moneys and other valuable effects in the name and to the credit of the Authority in such depositories as may be designated by the Board. The Treasurer shall disburse the funds of the Authority as may be ordered by the Board, taking proper vouchers for disbursements, and shall render to the Board, at the regular meeting of the Board, or whenever the Board may require it, an accounting of all his transactions as Treasurer and of the financial condition of the Authority.

Section 9. The Secretary

The Secretary shall record, or cause to be recorded, all votes at meetings of the Board, and shall keep or cause to be kept minutes of all corporate proceedings. He shall give, or cause to be given, notice of all special meetings of the Board, and shall perform such other duties as may be prescribed by the Board or Chairman. He shall keep in safe custody the seal of the Authority and, when authorized by the Board, affix the same to any instrument requiring it and, when so affixed, it shall be attested by his signature or by the signature of the Treasurer. He shall keep in safe custody such books and records as the Board may direct and shall perform all other duties incident to the office of the Secretary.

Section 10. Executive Director

The Executive Director shall be responsible for the administration and the day-to-day operations of the Authority and shall have such of the executive and administration functions and powers of the Chairman as shall be delegated to him by the Chairman.

Section 11. Bonds

The Treasurer, and if the Board shall so require, any other officer, agent or employee of the Authority designated by the Board, shall execute a bond for such term, in such sum and with such surety or sureties as shall be satisfactory to the Board, for the restoration to the Authority, in case of his death, resignation, retirement or removal from office, of all books, papers, vouchers,

money and other property of whatever kind in his possession or under his control belonging to the Authority. The premium for any such bond shall be paid by the Authority.

## ARTICLE VI CONTRACTS, LOANS, CHECKS AND DEPOSITS

### Section 1. Contracts

The Board may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Authority, and such authority may be general or confined to specific instances.

### Section 2. Loans; extension of credit

A. No loans shall be contracted on behalf of the Authority and no evidences of indebtedness shall be issued in its name unless authorized by resolution of the Board. Such authority may be general or confined to specific instances.

B. The Authority shall not directly or indirectly, including through any subsidiary, extend or maintain, credit, arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any officer, Board Member, employee or equivalent thereof of the Authority.

### Section 3. Checks, Drafts, etc.

All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Authority shall be signed by such officer or officers, agent or agents of the Authority and in such manner as shall from time to time be determined by resolution of the Board.

### Section 4. Deposits

All funds of the Authority not otherwise employed shall be deposited from time to time to the credit of the Authority in such banks, trust companies or other depositories as the Board may select.

## ARTICLE VII FISCAL YEAR

The fiscal year of the Authority shall begin on the first day of January and end on the thirty-first day of December in each year.

## ARTICLE VIII CORPORATE SEAL

The Board shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Authority and the words "Corporate Seal."

## ARTICLE IX INDEMNIFICATION

The Authority shall save harmless and indemnify any person (or his estate) who shall have served as a Member, officer or employee of the Authority or of a subsidiary of the Authority against financial loss or litigation expense incurred in connection with any claim, demand, suit, action or proceeding, whether civil or criminal, or the defense thereof, and arising out of (a) any transaction of the Authority or of a subsidiary of the Authority, or (b) any act or failure to act by any such Member, officer or employee while engaged in the discharge of his duties on behalf of the Authority or its subsidiaries, or the discharge of his duties as a fiduciary of a benefit plan for Authority employees or employees of a subsidiary of the Authority. In the event any such claim, demand, suit, action or proceeding shall occur, such Member, officer or employee shall be saved harmless and indemnified as herein provided unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he reasonably believed to be in the best interests of the Authority or of its subsidiaries, and, in criminal actions or proceedings, in addition, not to have had reasonable cause to believe that his conduct was lawful. The provisions of this Article shall inure only to the Members, officers and employees of the Authority or of its subsidiaries, and to their estates, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance. Except in criminal proceeding, the foregoing shall be conditional on (a) the prompt delivery to the Authority of a copy of the summons, complaint, process, notice, demand or pleading commencing any such claim, demand, suit, action or proceeding, (b) a contemporaneous offer to name counsel to the Authority as counsel to the said Member, officer or employee, in the event the offer is accepted, in the making of such defense. The provisions of Section 18 of the Public Officers Law relating to defense and indemnification are also applicable and available to such Members, officers and employees and in the event of any conflict between the provisions of these By-Laws and those of such Section 18 of the Public Officers Law, the provisions which afford the greater protection to such Members, officers and employees shall control.

## ARTICLE X PUBLIC ACCESS TO RECORDS

Section 1      Program established; designation of records management officer.

There shall be a records management program established under the aegis of the Authority and headed by a records management officer. The Secretary is designated as the records management officer and will be responsible for administering the current and archival public records in storage areas for the Authority in accordance with local, state and federal laws and guidelines.

The records management officer may appoint a designee to carry out specific duties listed in Section 3 below.

## Section 2 Definitions.

As used in this article, the following terms shall have the meanings indicated:

### ARCHIVES

Those official records which have been determined by the records management officer and the Records Advisory Committee to have sufficient historical or other value to warrant the continued preservation by the Authority.

### RECORDS

Official files, minutes and documents, books, papers, photographs, sound recordings, microforms or any other materials, regardless of physical form or characteristics, made or received pursuant to law or in conjunction with the transaction of official Authority business.

### RECORDS CENTER

A central storage area maintained by the records management officer for the storage, servicing, security and processing of records which must be preserved for varying periods of time.

### RECORDS DISPOSITION

The removal by the North Hempstead Solid Waste Management Authority, in accordance with approved records control schedules, of the records no longer necessary for the conduct of business by such agency, through removal methods which may include the disposition of temporary records by destruction or donation or the transfer of records to a central storage facility for records with scheduled retention periods or the permanent storage of records determined to have historical or other sufficient value warranting continued preservation or the transfer of records from one town agency to another town agency.

### RECORDS MANAGEMENT

The planning, controlling, directing, organizing, training, promotion and other managerial activities involved in records creation, records maintenance and use and records disposition, including records preservation, records disposal at the records center or other storage facilities.

### SERVICING

Making information in records available to any agency for official use or to the public.

## Section 3 Powers and duties of records management officer.

The records management officer shall have all the necessary powers to carry out the efficient administration, determination of value, use, preservation, storage and disposition of the public records kept, filed or received by the officers of the Authority.

A. The records management officer shall continually survey and examine public records to recommend their classification so as to determine the most suitable method to be used for maintaining, storing and servicing them under the following guidelines:

- (1) Disposition. Records deemed obsolete and unnecessary according to the New York State Retention and Disposition Schedule are subject to disposition.
- (2) Archival retention. Information containing administrative, legal, fiscal, research, historical or educational value which warrants their permanent retention.
- (3) Active retention. Records not yet subject to disposition according to state law.

B. The records management officer shall establish guidelines for proper records management of the Authority in accordance with local, state and federal laws and guidelines.

C. The records management officer shall report annually to the Board on the powers and duties herein mentioned, including, but not limited to, the development and progress of programs to date and planned activities for subsequent years.

D. The records management officer shall operate a central records management storage facility for storage, processing and servicing all Authority records.

E. Additional requirements of the records management officer include, but are not limited to:

- (1) The development of a comprehensive records management program.
- (2) The conduct of an initial survey and analysis of all records, to be followed up annually with a report of records stored.
- (3) The encouragement and coordination of the continuous legal destruction of obsolete records through the adoption and use of the State Archives Records Retention and Disposition Schedule.
- (4) The development of suitable retention periods for records not covered by the State Records Retention and Disposition Schedules. (Subsequently, the records management officer must secure approval of such retention periods from the New York State Commissioner of Education and gain adoption by the Board of any proposed change before the retention period takes effect.)
- (5) The assistance to the Authority for the establishment of a records management system to support the overall Authority records management program and the encouragement of the continued efficient management of records within the Authority.

(6) The setting up and overseeing of a center for the storage area.

(7) The maintenance of archival materials which are not official Authority records but which have historical value to the community or close relationship to the existing archival collection. This shall be subject to archive space, staff and cost limitation and to the potential endangerment of such materials if they are not collected by the archives.

(8) The coordinating and carrying out or participating in the planning for development of advanced records management systems and equipment.

(9) The preparation of special and annual reports for the Authority Board on records management program progress, cost savings and cost avoidance problems and additional issues.

#### Section 4      Records Advisory Board.

There shall be a Records Advisory Board designated to work closely with and provide advice to the records management officer. The Records Advisory Board shall consist of nine members, appointed by the Chairman. The Records Advisory Board shall meet periodically and have the following duties:

A.      To provide advice to the records management officer on the development of the records management program.

B.      To review the performance of the program on an ongoing basis and propose changes and improvements.

C.      To review any changes in retention periods proposed by the records management officer for records not covered by the State Archives schedules.

D.      To provide advice on the appraisal of records for archival value and to be the final sign-off entity as to what is or is not archival.

#### Section 5      Custody and control of records.

A.      Active records. The Authority has full custody (legal and physical) over records still in active use.

B.      Inactive records. The Authority is the legal custodian of its records and shall retain the power to retrieve and use records deposited in inactive storage in the records center. The records management officer will have physical custody of inactive records and will determine the method and design of storage.

C. Archival records. Records transferred to or acquired by the archives shall be under the full custody (legal and physical) of the archives, as directed by the records management officer.

(1) Records shall be transferred to the archives upon the recommendation of the records management officer, with the approval of the Records Advisory Board.

(2) Records may be removed (temporarily or permanently) from the archives at the request of the records management officer, subject to the approval of the Records Advisory Board.

#### Section 6 Disposition of records.

No records shall be destroyed or otherwise disposed of by the Authority until it has met the time limit on the State Records Retention and Disposition Schedule, or unless approved by the records management officer. Following required consents and prior to actual destruction, the records management officer will allow the Secretary to review and remove any single document or sampling of documents that are of historic value to the community.

#### Section 7 Replevin.

Counsel to the Authority may take steps to recover legal government records which have been alienated from proper custody and may, when necessary, institute actions of replevin.

#### Section 8 Public access to records.

To comply with Article 6 of the Public Officers Law, the following format will be followed:

A. All requests for information shall be in writing, shall reasonably describe the record requested and shall be made during regular business hours of the North Hempstead Solid Waste Management Authority offices.

B. Within five business days of the receipt of the written request, one of the following shall occur:

(1) The record will be made available to the person requesting it.

(2) The request will be denied in writing.

(3) A written acknowledgment of the receipt of the request and a statement of the approximate date when such request shall be granted or denied will be forwarded.

C. Any person denied access to a record may appeal within 30 days, in writing, such denial to the Counsel to the Authority.

D. Counsel to the Authority is hereby designated as the appeal agency for determination of denials and will proceed as follows:

(1) Counsel to the Authority shall, within 10 business days of the receipt of an appeal, fully explain, in writing, to the person requesting the record the reason for further denial, or Counsel to the Authority shall provide access to the record sought.

(2) Counsel to the Authority shall forward to the Committee on Open Government a copy of such appeal when received by the agency and shall also forward to said Committee the ensuing determination thereon.

E. A set fee will be charged per photocopy of record. Such charges will be established by resolution of the Board.

F. Records Access Officer.

(1) A Deputy Counsel to the Authority to be named by the Chairman is designated as the Chief Records Access Officer. All document requests under Article 6 of the Public Officers Law shall be submitted in the first instance to the Chief Records Access Officer on a form approved by the Chief Records Access Officer. The Chief Records Access Officer shall not confer with, or seek advice from, the appeals officer in relation to a request made under Article 6 of the Public Officers Law.

(2) The Chief Records Access Officer shall be responsible for responding to all such requests involving the retrieval of active records, as defined in Section 5 above.

(3) Whenever the Chief Records Access Officer determines that the document request in question involves retrieval of inactive or archival records, as defined in Section 5 above, the Chief Records Access Officer shall refer the request to the Secretary as the Records Access Officer for inactive and archival records.

#### ARTICLE XI AMENDMENTS

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the Board at any regular or special meeting as to which a description of the proposed alterations, amendments or repeals has been sent in writing to the Members, together with the notice of meeting if it is a special meeting or if at a regular meeting at least seventy-two (72) hours in advance of such regular meeting.