

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. __ OF 2019**

**A LOCAL LAW AMENDING CHAPTER 46 OF THE TOWN CODE
ENTITLED “SANITATION”**

BE IT ENACTED by the Town Board of the Town of North Hempstead as follows:

Section 1. Legislative Intent

The Board finds that facilities for the acceptance of yard waste are operating within the Town in violation of the Town’s zoning regulations. The existence of these facilities is important to the continued processing of yard waste in the Town, and the Town Board has adopted zoning regulations to create a process for permitting these facilities. However, the Board finds it imperative that the operators of these facilities be required to obtain a solid waste collection and disposal license and abide by certain operational regulations. Therefore, the Board finds it is in the best interest of the residents of the Town of North Hempstead to make amendments to Chapter 46 of the Town Code entitled “Sanitation” in order to create a new license for operators of yard waste acceptance and processing facilities.

Section 2.

Section 46-2 of the Town Code is hereby amended as follows:

§ 46-2 Definitions

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

ACCEPTABLE WASTE

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

AUTHORITY

The Town of North Hempstead Solid Waste Management Authority.

AUTHORITY AGREEMENT

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

BOTTLES

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

BULKY ITEMS

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

BULKY SCRAP METALS

White goods (stoves, refrigerators, washing machines, dishwashers and hot water heaters), outdoor metal furniture, recognizable, uncontaminated metal vehicle parts, metal pipes, bed frames, metal sheds and other large metal objects, generated within the Town and which have been discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, having served their intended use.

CANS

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

COLLECT

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

COLLECTOR

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

[Amended 4-6-2010 by L.L. No. 2-2010]

COMMERCIAL

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

COMMERCIAL WASTE

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

COMMINGLED

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

COMMISSIONER

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

CONSTRUCTION AND DEMOLITION DEBRIS

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

CARRIER

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

CONTROLLED SUBSTANCE

Any substance or substances listed in New York State Public Health Law § 3306, as amended, and Section 812 of Title 21 of the United States Code, codified as 21 U.S.C. § 812, as amended, the Controlled Substances Act.

CORRUGATED PAPER

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

CURBSIDE

The location within five feet from the public street or other designated area at which Acceptable Waste or Recyclables may be set out for collection by a Collector.
[Amended 4-6-2010 by L.L. No. 2-2010]

CURBSIDE RECYCLING PROGRAM

The program established pursuant to § 46-11 of this chapter.

DUMPSTER CONTAINER

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

ECONOMIC MARKETS

Instances in which the full avoided costs of proper collection, transportation and disposal of Source-Separated materials are equal to or greater than the cost of collection, transportation and sale of the materials less the amount received from the sale of the material.

GLASS

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

HAZARDOUS WASTE

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

- A. Cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating, reversible illness.
- B. Pose a substantial present or potential hazard to human health or the environment when it is improperly treated, stored, transported, disposed of or otherwise managed.

HOUSEHOLD HAZARDOUS WASTE

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

HOUSEHOLD WASTE

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

LANDFILL

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

LICENSEE

Any Collector licensed pursuant to the provisions of this chapter.

MULTIRESIDENTIAL COMPLEX

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

of rooms in a boardinghouse, but shall not include rooms within a single-family residence, motel or hotel.

MUNICIPALITY

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

NEWSPAPER

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

PAPER

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

PERSON

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

PHARMACEUTICAL DRUGS

Any over-the-counter medication or any preparation, compound, mixture or substance that requires a prescription or any Controlled Substance that is obtained with a prescription that permits a person to lawfully obtain a Controlled Substance from any person authorized to dispense Controlled Substances.

PLASTIC CONTAINERS

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

POLLUTANTS

Includes but are not limited to aerosol cans; air-conditioning refrigerants; ammonia and solid bowl cleaner; antifreeze; asbestos; bug and rodent killers, including pesticides which have been banned or restricted for use such as 2, 4-D; bleach and disinfectants; chemistry kits; drain cleaners and degreasers; fertilizers with herbicides; household batteries; mercury products; nonlatex paints; paint thinner and brush cleaner; permitted aerosol containers; Pharmaceutical Drugs; photography chemicals; polishes and wood preservatives; swimming pool chemicals; spot removers and other solvents; unused oven cleaners; unused flammable liquids (fire starter); and weed killers.

RECYCLABLE

Any physical material designated by this chapter, the Commissioner, the Town Board from time to time or by the Authority's bylaws, or by any municipality pursuant to the

implementation of a recycling program adopted by such municipality, to be segregated from acceptable waste without otherwise processing such Acceptable Waste.

"Recyclable" includes Bottles, Cans and Plastic Containers.

RESIDENT

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

SOLID WASTE

All putrescible and nonputrescible materials or substances, including but not limited to materials or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, which are being accumulated, stored or physically, chemically or biologically treated prior to being discarded; have served their intended use; or are a manufacturing or mining by-product, including but not limited to garbage, Recyclables, Bulk Items, refuse and other discarded solid materials, including such materials resulting from industrial, Commercial, mining and agricultural operations and from community activities, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those gaseous forms, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and waste that appears on the list of Hazardous Wastes promulgated by the Commissioner of Environmental Conservation pursuant to § 27-0903 of the Environmental Conservation Law.

SOLID WASTE MANAGEMENT FACILITY

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

SOURCE-SEPARATE

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

TOWN

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

TOWN BOARD

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

UNACCEPTABLE WASTE

That portion of Solid Waste, excluding Hazardous Waste, designated by the Commissioner, in writing, as being unacceptable for treatment at the Solid Waste Management Facility, which designation may include, without limitation, explosives, pathological and biological waste, medical waste, radioactive materials, foundry sand, sewage sludge, cesspool and other human waste, human remains and animal carcasses, motor vehicles, including such major motor vehicle parts as automobile transmissions, differentials, springs, fenders, agricultural and farm machinery and equipment, marine vessels and major parts thereof or any other large machinery or equipment.

VILLAGE

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

YARD WASTE

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

YARD WASTE ACCEPTANCE AND PROCESSING FACILITY

A facility in which the primary activity is the collection and processing of yard wastes for sorting and transfer to permitted composting centers or other types of permitted organic recycling facilities.

Section 3.

Subsection B of Section 46-4 of the Town Code is hereby amended as follows:

- B. Licenses shall be classified as Type I collection/disposal, Type IR collection/disposal, Type II collection/disposal, Type III collection/disposal, ~~and~~ Type IV disposal licenses, **and Type V collection/disposal license** depending upon the status and/or type of business of the applicant. The Commissioner shall determine which type of license is applicable.
- (1) Type I collection/disposal license. Applicants who are in the business of collecting and/or disposing of Acceptable Waste and Recyclables generated by others are required to have a Type I collection/disposal license to engage in such collection or disposal within the Town. Such Persons include but are not limited to private carting companies and companies and businesses that provide dumpster services.
- (2) Type IR collection/disposal license.
- (a) Applicants who are engaged in the business of collecting only Source-Separated Recyclables pursuant to contracts with owners or tenants of property are required to obtain a Type IR collection/disposal license to engage in such collection or disposal within the Town.

- (b) The holder of a Type IR license may collect materials such as corrugated paper, high-grade paper and Construction and Demolition Debris which has been Source-Separated and placed into a separate container for collection and recycling or reuse and which will be recycled or reused. Each container used must be plainly marked as being for Recyclables only and may not be used for nonrecyclables. The holder of a Type IR license may not collect any container with nonrecyclables or mixed loads, even if the predominant material in such container is one or more Recyclables.
- (3) Type II collection/disposal license. Applicants who are engaged in the collection and/or disposal of Acceptable Waste and Recyclables only as an accessory to their business are required to obtain a Type II collection/disposal license to engage in such collection or disposal within the Town. Such Persons include but are not limited to landscaping businesses and home improvement companies.
- (4) Type III disposal license. Commercial establishments, other than those specifically excepted by the Commissioner, which dispose of their own Acceptable Waste and/or Recyclables are required to obtain a Type III disposal license.
- (5) Type IV disposal license. Charitable, fraternal and religious organizations which maintain established meeting places within the incorporated or unincorporated areas of the Town of North Hempstead shall also qualify for a Type IV license and not-for-profit property owners' associations operating principally within the Town of North Hempstead.
- (6) **Type V collection/disposal license. Applicants who are engaged in accepting and processing yard waste (as the term is defined by Section 70-231 of the Town Code) are required to obtain a Type V collection/disposal license. A Type V collection/disposal license is a prerequisite to obtaining a permit from the New York State Department of Environmental Conservation. Any applicant holding a Type V collection/disposal license shall comply with the following regulations:**
- (a) **No Yard Waste Acceptance and Processing Facility shall be operated unless it has obtained a permit pursuant to Section 46(4)(C) of this Chapter and is in compliance with the terms thereof, this section, and any other applicable law, rule, or regulation.**
- (b) **A Yard Waste Acceptance and Processing Facility shall be operated and maintained in a safe and sanitary manner so as to avoid any nuisance or hazard to public health or safety, and in a manner consistent with the approved site and operating plan.**

- (c) **The Yard Waste Acceptance and Processing Facility shall be operated and maintained in a manner consistent with the site plan submitted to the Authority.**
- (d) **The Yard Waste Acceptance and Processing Facility shall be operated and maintained in a manner consistent with the engineer's report submitted to and approved by the Authority.**
- (e) **Rules and Operations of a Yard Waste Acceptance and Processing Facility License.**
 - [1] **The Licensee shall comply with the provisions of Section 70-188 of the Town Code when operating a Yard Waste Acceptance and Processing Facility.**
 - [2] **The Licensee shall prohibit any yard waste transport vehicle required to be licensed or permitted pursuant to Section 46(4) of this Subsection from depositing yard waste or removing yard waste from the Yard Waste Acceptance and Processing Facility, unless the yard waste transport vehicle is appropriately licensed or permitted.**
 - [3] **Entrance into or exit from the Yard Waste Acceptance and Processing Facility by a yard waste transport vehicle shall be permitted only when an attendant or vehicle guide person is on duty. The loading or unloading of any yard waste transport vehicle shall be continuously supervised by an attendant or vehicle guide person to avoid unauthorized deposit or removal of yard waste and injury to persons in or around such station.**
 - [4] **The Licensee shall regularly schedule and provide equipment maintenance.**
 - [5] **The Licensee shall maintain operational records including, but not limited to the documentation of all incoming and outgoing yard waste materials accepted at the Yard Waste Acceptance and Processing Facility, contaminants removed and the final destination and disposition of all outgoing yard waste and contaminants.**
 - [6] **Within three hours of when operations at the facility have terminated, the tipping area of all Yard Waste Acceptance and Processing Facilities shall be free of yard waste and any contaminants and the tipping floor shall have been thoroughly cleaned, swept, washed and deodorized.**

- [7] Waste shall be received, processed, compacted and stored only in areas specifically designation.
- [8] Storage of any and all equipment used in the operation of the yard waste recycling facility shall be in accordance with Section 70-212 of the Code.
- [9] Noise levels generated by the operation of the Yard Waste Acceptance and Processing Facilities must be controlled in accordance with Section 38-3(B)(7)(a)(1).
- [10] Mufflers are required on all internal combustion-powered equipment used at the Yard Waste Acceptance and Processing Facility and Tier 4 compliant emission controls.
- [11] A sign showing hours of operation, indicating hazardous waste, industrial waste, medical waste, liquid waste, and asbestos waste are prohibited from being accepted at the facility, the type of permits held by the facility, the expiration date of its permits to operate and the Authority's complaint telephone number. The signs shall be located so that they are visible to any vehicles and/or person approaching the facility.
- [12] The Licensee shall prevent litter or waste from accumulating on the streets or other areas abutting the Yard Waste Acceptance and Processing Facility.
- [13] The allowable volume at any Yard Waste Acceptance and Processing Facility shall be calculated by the Authority and shall be based on the storage capacity (estimated in total cubic yardage) of the yard waste acceptance and processing facilities. In no event shall such allowable volume exceed that granted by the New York State Department of Environmental Conservation.
- [14] Effective January 1, 2020, The Yard Waste Acceptance and Processing Facility may only accept yard waste from landscapers licensed by the Town of North Hempstead pursuant to Chapter 38A of the Town Code, unless the yard waste is being delivered by a municipal agency using its own forces.

Section 4.

Subsection G of Section 46-4 of the Town Code is hereby amended as follows:

G. Issuance of licenses and permits.

- (1) Licenses and permits required by this Chapter shall be issued by the Town Clerk following a review and approval of an application and upon payment by the application of a fee in accordance with the fee schedule set forth below:
 - (a) Fee for Type I collection/disposal license. The fee for a Type I collection/disposal license shall be [\$600] **shown in the Town of North Hempstead Fee Schedule**, which will include a permit for one vehicle. For each additional vehicle used by the applicant in the collection, transportation or disposal of Acceptable Waste, the permit fee shall be [\$250] **shown in the Town of North Hempstead Fee Schedule**. The permit fee for each compactor or open box shall be [\$35] **shown in the Town of North Hempstead Fee Schedule**.
 - (b) Fee for Type II collection/disposal license. The fee for a Type II collection/disposal license shall be [\$135] **shown in the Town of North Hempstead Fee Schedule**, which will include a permit for one vehicle used by the applicant in the collection, transportation or disposal of Acceptable Waste. For each additional vehicle used by the applicant in the collection, transportation or disposal of Acceptable Waste, the fee [will be \$50] **shall be shown in the Town of North Hempstead Fee Schedule**.
 - (c) Fee for Type III disposal license. The fee for a Type III disposal license shall be [\$125] **shown in the Town of North Hempstead Fee Schedule**, which will include a permit for one vehicle used by the applicant in the collection, transportation or disposal of Acceptable Waste. For each additional vehicle used by the applicant in the collection, transportation or disposal of Acceptable Waste, the fee [will be \$100] **shall be shown in the Town of North Hempstead Fee Schedule**.
 - (d) Fee for Type IV disposal license. [No license fees shall be required of applicants required to obtain Type IV disposal permits.] **The fee for a Type IV disposal license shall be shown in the Town of North Hempstead Fee Schedule.**
 - (e) Fee for Type IR collection/disposal license. The fee for a Type IR collection/disposal license shall be [\$300] **shown in the Town of North Hempstead Fee Schedule**, which will include a permit for one vehicle. For each additional vehicle used by the applicant in the collection, transportation or disposal of Recyclables, the permit fee shall be [\$100] **shown in the Town of North Hempstead Fee Schedule**. The permit fee for each compactor or open box shall be [\$35] **shown in the Town of North Hempstead Fee Schedule**.
 - (f) **Fee for Type V collection/disposal license. The fee for a Type V**

collection/disposal license shall be shown in the Town of North Hempstead Fee Schedule, which shall include a license for one Yard Waste Acceptance and Processing Facility.

- (2) Upon filing of an affidavit and such other proof as may be required by the Commissioner, a substitute permit or replacement of a lost permit may be issued upon the payment of a fee of \$25.
- (3) Each vehicle license issued pursuant to this chapter shall be issued as of the date of the granting thereof and shall expire on the 31st day of December next succeeding such date, unless sooner suspended or revoked; **provided, however that a Type V collection/disposal licenses shall be issued as of the date of the granting thereof and shall expire on the third succeeding 31st day of December, unless sooner suspended or revoked.** Each license/permit for a Container or open box issued pursuant to this chapter shall expire two years from the 31st day of December in the year in which such license/permit was issued, unless sooner suspended or revoked.
[Amended 4-6-2010 by L.L. No. 2-2010]
- (4) No license shall be issued to any applicant if either its Solid Waste license has been revoked or is under a suspension, or if the applicant is affiliated with or under common ownership or control with a company whose Solid Waste license has been revoked or is under a suspension. The Town Clerk shall be entitled to all relevant information, including sworn statements, to ascertain whether an applicant is affiliated with or under common ownership or control with another company. "Control" shall mean either legal or de facto control. Where more than four years have elapsed from the date of a revocation of a license, the Town Board may by resolution waive the prohibition in this Subsection G(4) if it determines that issuance of a license will be in the public interest.

Section 5.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this article or in its application to the person or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section 6.

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