

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. __ OF 2021**

**A LOCAL LAW AMENDING CHAPTER 23 OF THE TOWN CODE
ENTITLED “GOVERNMENTAL DEPARTMENTS”**

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

Section 1. Legislative Intent

The Town Board finds that the purposes for which the Town of North Hempstead Solid Waste Management Authority was created have been accomplished, and that there are no functions performed by the Authority that cannot be directly performed by the Town. The Town Board also finds that the continued operation and management of the Town of North Hempstead Solid Waste Management Authority imposes additional financial, management and administrative duties and responsibilities upon the Town that are no longer necessary. As such, the Town Board has resolved to terminate, as of January 1, 2022, the corporate existence of the Authority and transfer all operations, employees, assets, liabilities, properties and facilities of the Authority to the Town as provided in Section 2049-c of the Public Authorities Law. As a result of this transfer, the Town Board finds that amendments to Article IX of Chapter 23 of the Town Code are necessary for the Town’s Department of Solid Waste Management to administer the Town’s solid waste operations, programs, policies, facilities and assets, and to make technical changes to account for the pending termination of the corporate existence of the Authority.

Section 2.

Article IX of Chapter 23 of the Town Code is hereby amended as follows:

§ 23-9 (**Reserved**)

§ 23-9.1 **Definitions.**

- A. Whenever used in this local law, words used in the singular include the plural and vice versa.
- B. As used in this local law, the following terms shall have the meanings indicated:

ACCEPTABLE WASTE

This term shall have the same meaning ascribed to it under Section 46-2 of the Town Code.

(~~AUTHORITY~~

~~The Town of North Hempstead Solid Waste Management Authority.)~~

COMMISSIONER

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

DEPARTMENT

The Town of North Hempstead Department of Solid Waste Management.

(EXECUTIVE DIRECTOR

~~The Executive Director of the Authority who shall be responsible for the administration and the day-to-day operations of the Authority and who also serves simultaneously as the Commissioner of Solid Waste Management.~~

**~~LANDFILL CONCESSION AND SOLID WASTE SERVICE AGREEMENT
BETWEEN THE TOWN OF NORTH HEMPSTEAD SOLID WASTE
MANAGEMENT AUTHORITY AND THE TOWN OF NORTH HEMPSTEAD~~**

~~The agreement dated March 15, 1988, and effective December 31, 1988, authorizing the Town of North Hempstead Solid Waste Management Authority to operate the landfill.)~~

PORT WASHINGTON LANDFILLS

The closed Town of North Hempstead L4 and L5 Landfills located at 802 West Shore Road, Port Washington, New York.

RECYCLABLES

This term shall have the same meaning ascribed to it under Section 46-2 of the Town Code.

SOLID WASTE

This term shall have the same meaning ascribed to it under Section 46-2 of the Town Code.

SOLID WASTE MANAGEMENT FACILITY

This term shall have the same meaning ascribed to it under Section 46-2 of the Town Code.

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.

TRANSFER STATION

The North Hempstead Transfer Station located at 999 West Shore Road, Port Washington, New York.

§ 23-9.2 Department established; Commissioner.

- A.** There shall be in the Town of North Hempstead a Department of Solid Waste Management. **The principal executive officer and administrative head of such Department shall be the Commissioner.** The Commissioner (~~of Solid Waste Management, who~~) shall be appointed by the Town Board **at such salary as may from time to time be fixed by the Town Board** (~~, shall also serve simultaneously as Executive Director of the Town of North Hempstead Solid Waste Management Authority. The Commissioner of Solid Waste Management shall receive no additional compensation for serving as an officer of the Town~~). The Commissioner (~~of Solid Waste Management~~) shall be appointed on the basis of (~~his~~)**the individual's** administrative experience and qualifications for the duties of such office and such additional standards as may be required by the Town Board. **The Commissioner shall be the head of the Department with power and authority to appoint and remove officers and employees under his/her jurisdiction in accordance with Civil Service Law and other applicable laws. The Commissioner may appoint one exempt Deputy Commissioner. The Deputy Commissioner may act generally for the Commissioner in the absence of the Commissioner.**
- B.** **Before entering upon the duties of office, the Commissioner shall execute and file with the Town Clerk an official undertaking, if the same is required by the Town Board, in such sum as is prescribed by the Town Board and in such form as is approved by the Town Attorney.**

§ 23-9.3 Powers **and Duties** of Commissioner **and Department**; ~~departmental organization.~~

- A.** The Commissioner shall have such powers **and duties** as described in this Article and Chapter 46 of the Code (~~and, together with the Town Board, shall be responsible for discharging the Town's obligations under the service agreement and applicable provisions of law~~).
- B.** **The Department shall have the powers and duties described in Chapter 46 of the Town Code as well as the following powers and duties:**
- (1)** **The Department shall have the primary responsibility, power and duty to develop, administer and enforce efficient and environmentally sound solid waste management practices in the Town. Such responsibility, power and duty shall include but not be limited to:**
- (a)** **The power to collect, receive, extract, transport, process, dispose of, sell, store, convey, recycle and deal with, in any lawful manner and way, solid waste and any products or by-products thereof now or hereafter developed or discovered, including any energy generated by the operation of any facility on such terms and in such manner as the Town may deem proper;**

- (b)** **To collect or receive from the United States, the state, the Town, any other municipality or public corporation or person solid waste for the purpose of treatment or disposal thereof, with the authority to sell and dispose of any products or by-products, including energy, of such process of treatment or disposal, as the Town may deem proper;**
- (c)** **Subject to the approval of the Town Board, to contract with other municipalities, state agencies, public corporations or persons, for the purpose of collecting, receiving, treating and disposing of solid waste, including, without limitation, to contract with municipalities, state agencies, public corporations or persons for the delivery of all solid waste generated within a stated area to a specific facility;**
- (d)** **The power and duty to investigate and develop methods, practices and facilities for efficient and environmentally sound solid waste management which will satisfy the requirements of the applicable law and will meet the needs of the Town and its residents now and in the future, including, without limitation, the need to conserve and make efficient use of the Town's landfill;**
- (e)** **The power to recommend to the Town Board the locations of solid waste management facilities in the Town, subject to Town Board approval, to establish and maintain Town solid waste management facilities, including those for resource recovery and source separation;**
- (f)** **The power and duty to operate and manage the Town's Transfer Station and the Town's Port Washington Landfills and other solid waste management facilities owned and operated by the Town and not under the jurisdiction of the Department of Public Works or the Department of Parks and Recreation to obtain and insure disposal of solid waste, and to perform all tasks related to the efficient operation of the Town's solid waste management facilities described above as may be required by determination of the Commissioner;**
- (g)** **The power to prohibit or restrict the types of waste, including but not limited to hazardous waste, bulk items, yard clippings, leaves, tree limbs and branches, brush, automobile and truck tires and construction and demolition debris, which may be managed at a particular solid waste management facility;**
- (h)** **The power to adopt and promulgate, amend and repeal rules and regulations necessary to implement the foregoing powers and duties;**
- (i)** **The power and duty to educate residents, by whatever necessary and appropriate means, concerning resource recovery goals and projects, including source separation, which the Department may develop;**

(j) The Department will have the responsibility for servicing and maintenance of all equipment, facilities and motor vehicles, used by the Department.

(2) The Department shall have the power to enforce and seek penalties for violation of any provision of this article or any Department rule or regulation adopted or promulgated hereunder.

§ 23-9.4 Special costs and expenses.

All costs and expenses incurred by the Department or its officers or employees on behalf of a special improvement district or special Town project shall be charged against such district or project and paid from the funds duly appropriated for the purpose of such district or project.

§ 23-9.5 Powers of Supervisor.

Nothing herein contained shall be construed to delegate or transfer any power of the Town Supervisor contained in §§ 29, 52 and 125 of the Town Law of the State of New York or any other powers which may be lawfully exercised by said Supervisor.

§ 23-9.6 Fees.

The Commissioner may establish, subject to Town Board approval, a schedule of fees to be collected by ~~(him)~~the Commissioner for services rendered in connection with the work of ~~(his)~~the Department and for which ~~(he)~~the Commissioner deems it necessary to charge and to collect a fee therefor. Without limiting the foregoing, the Town Board, on the recommendation of the Commissioner and subject to the provisions of Chapter 46 of the Town Code, may fix and collect rates, rentals, fees and other charges for disposal of Acceptable Waste and Recyclables at the Town's Transfer Station and the use of the facilities of, or services rendered by, or any commodities furnished by, the Department so as to provide revenues sufficient to pay, as the same shall become due, the expenses of operating and maintaining the properties of the Town under the administration of the Department and any and all other activities of the Department.

§ 23-9.7 Severability.

If any section, provision or part thereof in this local law shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, then such adjudication shall not affect the validity of the local law as a whole or any section, provision or part thereof not so adjudged invalid or unconstitutional.

§ 23-9.8 When effective.

This local law shall be effective immediately upon filing with the Secretary of State.

Section 3.

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 4.

This Local Law shall take effect on January 1, 2022.