

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1989**

No. 19

Introduced by Council Members Leffler, the Vice-Chairman (Council Member Vallone), Messinger, Molinari, Greitzer and Maloney (by request of the Comptroller); also Council Members Friedlander, Gerges, McCaffrey, Katzman, Alter, Eisland, Harrison, Horwitz, Michels, O'Donovan, Spigner, Dryfoos, Lisa, DeMarco, Robles, DiBrienza, Albanese, Crispino, Povman and Pinkett. (Passed under a message of necessity from the Mayor.)

A LOCAL LAW

To amend the administrative code of the city of New York, to provide for the mandatory recycling of recyclable solid waste materials.

Be it enacted by the Council as follows:

Section one. Declaration of legislative intent and findings. The council finds that a significant amount of recyclable material that could be removed from the solid waste stream is needlessly discarded each year. The recovery and reuse of such recyclable material will: (1) minimize environmentally unsound solid waste disposal methods; (2) reduce the consumption of and the demand for scarce landfill capacity; (3) diminish the size and cost of the proposed resource recovery program, thereby reducing the economic and environmental burdens of this program which include the management of potentially toxic residue; (4) reduce the quantity of heavy metal, such as lead and cadmium, in the waste stream; and (5) aid in the conservation of vital natural resources and energy. The enactment by the State legislature of the Solid Waste Management Act of 1988 has created the need for the city to demonstrate its long-term commitment to effective waste management and requires the city to enact appropriate legislation. The council declares that the measures taken by the city must establish the most environmentally sound and economically desirable waste reduction, recycling and reuse programs possible and should be consistent with or surpass the reduction, recycling and reuse goals established by New York State.

Accordingly, the council finds that to achieve these goals, it would be appropriate to establish a mandatory citywide waste recovery and recycling program, to create a recycling program that provides opportunities for everyone in the city to recycle, to ensure a varied and comprehensive citywide recycling program that may include source separation, drop-off centers, buy-back centers, post-collection separation facilities and other recycling centers, to promote and increase the demand for recycled goods by all consumers including the city and its contractors, to encourage and support the use of the resources and skills of local existing and newly established recycling businesses, and local community organizations and members in effectuating a recycling program, and to create a program that provides employment opportunities for unskilled workers and handicapped persons.

§2. Title sixteen of the administrative code of the city of New York is amended by adding a new chapter three to follow chapter two to read as follows:

**CHAPTER 3
SOLID WASTE RECYCLING**

SUBCHAPTER 1
SHORT TITLE, POLICY AND DEFINITIONS

§16-301 Short title. This chapter shall be known and may be cited as the "New York City Recycling Law."

§16-302 Declaration of policy. It is hereby declared to be the public policy of the city to reduce environmental pollution and dangers to health, to decrease the demand for scarce landfill space, to minimize the size and cost of the proposed resource recovery program, and to encourage the conservation of valuable natural resources and energy. It is the policy of the city to promote the recovery of materials from the New York city solid waste stream for the purpose of recycling such materials and returning them to the economy. This chapter shall be liberally construed in order to effectuate the purposes set forth in this section.

§16-303 Definitions. When used in this chapter:

a. **"Buy-back center"** means a recycling center that purchases and may otherwise accept recyclable materials from the public for the purpose of recycling such materials.

b. **"Department-collected solid waste"** means all solid waste that the department and its contractors collect and all solid waste that the department receives for free disposal.

c. **"Department-disposed of solid waste"** means all solid waste, including department-collected solid waste, disposed of at a department landfill, incinerator, resource recovery facility or other waste disposal facility owned, operated or used by the department.

d. **"Drop-off center"** means a recycling center that accepts and may otherwise purchase recyclable materials from the public for the purpose of recycling such materials.

e. **"Household"** means a single dwelling or a residential unit within a multiple dwelling, hotel, motel, campsite, ranger station, public or private recreation area, or other residence.

f. **"Post-collection separation"** means the dividing of solid waste into some or all of its component parts after the point of collection.

g. **"Post-consumer material"** means only those products generated by a business or a consumer which have served their intended end uses, and which have been separated or diverted from solid waste for the purposes of collection, recycling and disposition.

h. **"Private carter"** means any person required to be licensed or permitted pursuant to subchapter eighteen of chapter two of title twenty of this code.

i. **"Recyclable materials"** means solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste.

j. **"Recycled" or "recycling"** means any process by which recyclable materials are separated, collected, processed, marketed and returned to the economy in the form of raw materials or products.

k. **"Recycling center"** means any facility operated to facilitate the separation, collection, processing or marketing of recyclable materials for reuse or sale.

l. **"Recycling district"** means any borough or smaller geographic area the commissioner deems appropriate for the purpose of implementing this chapter.

m. **"Secondary material"** means any material recovered from or otherwise destined for the waste stream, including but not limited to, post-consumer material, industrial scrap material and overstock or obsolete inventories from distributors, wholesalers and other companies, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

n. **"Solid waste"** means all putrescible and non-putrescible materials or substances, except as described in paragraph three of this subdivision, that are discarded or rejected 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, industrial and commercial waste, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal.

1. A material is discarded if it is abandoned by being:
 - i. disposed of;
 - ii. burned or incinerated, including being burned as a fuel for the purpose of recovering useable energy; or
 - iii. accumulated, stored, or physically, chemically or biologically treated (other than burned or incinerated) instead of or before being disposed of.
2. A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.
3. The following are not solid waste for the purpose of this chapter:
 - i. domestic sewage;
 - ii. any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment, except any material that is introduced into such system in order to avoid the provisions of this chapter or the state regulations promulgated to regulate solid waste management facilities pursuant to 6 NYCRR Part 360;
 - iii. industrial wastewater discharges that are actual point source discharges subject to permits under article seventeen of the environmental conservation law; industrial wastewaters while they are being collected, stored, or treated before discharge and sludges that are generated by industrial wastewater treatment are solid wastes;
 - iv. irrigation return flows;
 - v. radioactive materials that are source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. §2011 et seq.
 - vi. materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process;
 - vii. hazardous waste as defined in section 27-0901 of the environmental conservation law; and
 - viii. infectious waste as provided under the environmental conservation law or the public health law or rules or regulations promulgated pursuant to such laws, and all categories of waste described in paragraphs two through five of subdivision b of section 16-120.1 of this title.
- o. "Source separation" means the dividing of solid waste into some or all of its component parts at the point of generation.
- p. "Yard waste" means leaves, grass clippings, garden debris, vegetative residue that is recognizable as part of a plant or vegetable, small or chipped branches, and similar material.

SUBCHAPTER 2

CITYWIDE RECYCLING PROGRAM

§16-304 Department-disposed of solid waste. The commissioner shall within nine months of the effective date of this chapter establish and implement programs to ensure that the amount of department-disposed of solid waste is reduced or recycled by at least:

- a. one thousand four hundred thirty tons per day by the end of the first year following the enactment date of this chapter and during the year thereafter;
- b. two thousand eight hundred seventy tons per day by the end of the second year following the enactment date of this chapter and during the year thereafter;
- c. four thousand three hundred tons per day by the end of the third year following the enactment date of this chapter and during the year thereafter;
- d. five thousand seven hundred forty tons per day by the end of the fourth year following the enactment date of this chapter and during the year thereafter; and
- e. seven thousand one hundred eighty tons per day by the end of the fifth year following the enactment date of this chapter and during the year thereafter.

These programs may be designed to increase private sector or residential recycling, to increase

the return and recycling of containers under the New York State returnable container law, to implement waste reduction or reuse measures, or to export waste for the purpose of recycling. The waste reduction and recycling requirements of this section shall include all the solid waste that is recycled pursuant to the recycling requirements of section 16-305 of this chapter, but shall not include the reduction or recycling of ash or residue from resource recovery facilities, or the reduction or recycling of sludges from air or water treatment facilities. For the purpose of this section, "day" shall mean each working day in a three hundred sixty-five day calendar year. Should the level of recycling exceed the minimum quantities required in this section, the council may review the original mandate and increase the minimum requirements.

§16-305 Department-collected solid waste. *a. The commissioner shall, within nine months of the effective date of this chapter, adopt and implement regulations designating at least six recyclable materials, including yard waste to the extent required in section 16-308 of this chapter, contained in department-collected solid waste and requiring households to source separate the designated materials to ensure that the department and its contractors recycle at least:*

1. seven hundred tons per day by the end of the first year following the enactment date of this chapter and during the year thereafter;

2. one thousand four hundred tons per day by the end of the second year following the enactment date of this chapter and during the year thereafter;

3. two thousand one hundred tons per day by the end of the third year following the enactment date of this chapter and during the year thereafter;

4. three thousand four hundred tons per day by the end of the fourth year following the enactment date of this chapter and during the year thereafter; and

5. four thousand two hundred fifty tons per day by the end of the fifth year following the enactment date of this chapter and during the year thereafter.

At the start of the second, third, fourth and fifth years following the enactment date of this chapter, the tonnage requirements of this section shall be increased by the average annual percentage increase in solid waste that the department and its contractors collected from households and institutions and solid waste that the department received for free disposal in the two previous consecutive fiscal years. The solid waste that the department and its contractors are required to recycle pursuant to this subdivision shall include department-collected solid waste recycled pursuant to this subdivision, city agency waste recycled pursuant to section 16-307, yard waste collected by the department and composted pursuant to section 16-308, Christmas trees collected by the department and composted or recycled pursuant to section 16-309, and batteries and tires collected pursuant to section 16-310 that are recycled, but shall not include containers returned pursuant to the New York State returnable container law, commercial solid waste removed and recycled by private carters, reduction or recycling of ash or residue from resource recovery facilities, or reduction or recycling of sludges from air or water treatment facilities. For the purpose of this subdivision, "day" shall mean each working day in a three hundred sixty-five day calendar year. Should the level of recycling exceed the minimum quantities required in this subdivision, the council may review the original mandate and increase the minimum requirements.

b. The commissioner shall, within nine months of the effective date of this chapter, adopt and implement regulations establishing procedures requiring the placement of the designated materials at the curbside, in specialized containers, or in any other manner the commissioner determines, to facilitate the collection of such materials in a manner that enables them to be recycled.

c. The commissioner may stagger the source separation and collection of the designated recyclable materials, with the exception of yard waste, provided that the recycling of the materials that are source separated and collected shall be sufficient to achieve the recycling levels required in this section, and that all the designated materials shall be source separated and collected within four and one-half years of the effective date of this chapter.

d. In establishing the schedule by which residential source separation shall commence, the commissioner may stagger the commencement dates for different recycling districts. Any such staggered schedule shall provide that at least one-third of all households shall be subject to source separation within one year of the effective date of this chapter; at least two-thirds of all households shall be subject to source separation within three years of the effective date of this chapter; and all households shall be subject to source separation within four and one-half years of the effective date of this chapter.

e. Within any recycling district, the commissioner may exempt residential generators from the source separation requirement of this section if the department employs alternative recycling methods, including but not limited to the use of buy-back centers, drop-off centers, or post-collection separation devices, provided that participation in any alternative methods is sufficient to achieve for the recycling district a percentage of the recycling requirement in this section at least equal to the percent of the citywide department-collected solid waste that is collected within the district. The commissioner shall not exempt residential generators from the source separation requirement of this section unless he or she determines that for the recycling district source separation cannot otherwise achieve the recycling levels required in this section.

f. Where the department provides solid waste collection services to a building containing nine or more dwelling units, the commissioner shall, within nine months of the effective date of this chapter, adopt and implement regulations requiring the owner, net lessee or person in charge of such building to:

1. provide for the residents a designated area and, where appropriate, containers in which to accumulate the source separated or other designated recyclable materials to be collected by the department;

2. notify all residents of the requirements of this chapter and the regulations promulgated pursuant thereto; and

3. remove non-designated materials from the containers of designated source separated recyclable materials before such containers are placed at the curbside for collection and ensure that the designated materials are placed at the curbside in the manner prescribed by the department.

With respect to solid waste generated by households in the aforesaid buildings, the obligations of an owner or a net lessee under this local law shall be limited to those set forth in this subdivision and subdivisions b and g of this section.

g. Eighteen months from the enactment date of this chapter, the commissioner shall adopt and implement regulations for any building containing nine or more dwelling units in which the amount of designated materials placed out for collection is significantly less than what can reasonably be expected from such building. These regulations shall require residential generators, including tenants, owners, net lessees or persons in charge of such building to use transparent bags or such other means of disposal the commissioner deems appropriate to dispose of solid waste other than the designated recyclable materials. Upon request of the owner, net lessee or person in charge of such building, and if the commissioner determines that such owner, net lessee or person in charge has complied with this subdivision and subdivision f of this section and that the amount of designated materials placed out for collection remains significantly less than what can reasonably be expected from such building, the department shall develop a schedule to conduct random inspections to facilitate compliance with the provisions of this chapter by tenants of such building, provided that lawful inspections may occur at reasonable times without notice to ensure compliance by the tenants, owner, net lessee or person in charge of such building.

§16-306 Private carter-collected waste. *The commissioner shall, within nine months of the effective date of this chapter, adopt and implement regulations designating recyclable materials that constitute in the aggregate at least one-half of all solid waste collected by private carters. Generators of private carter-collected waste shall source separate the designated materials unless they arrange*

for lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters. Where a generator of private carter-collected waste has arranged for lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters, such arrangement shall constitute an affirmative defense to any proceeding brought against the generator pursuant to section 16-324 of this chapter. The commissioner of consumer affairs in consultation with the commissioner shall promulgate regulations requiring private carters to provide for post-collection separation and recycling of the designated materials if generators do not otherwise source separate and recycle the designated materials.

§16-307 City agency waste. The commissioner shall, within six months of the effective date of this chapter, adopt and implement regulations requiring the source separation or post-collection separation, collection, processing, marketing, and sale of designated recyclable materials generated by city mayoral and non-mayoral agencies, including the council and the board of estimate.

§16-308 Yard waste. a. Within eighteen months of the effective date of this chapter, the commissioner shall provide for the source separation, collection and composting of department-collected yard waste, with the exception of yard waste generated by the department of parks and recreation, any other city agency that generates a substantial amount of yard waste, or any person under contract with the department of parks and recreation or any other city agency, generated within designated areas of the city in which a substantial amount of yard waste is generated from October 15 to November 30 of each year, unless the generator otherwise provides for recycling or storage for composting or mulching. The commissioner may construct and operate one or more composting facilities, or utilize the services of other facilities.

b. Within thirty-six months of the effective date of this chapter, the commissioner shall provide for the source separation, collection and composting of department-collected yard waste generated within designated areas of the city in which a substantial amount of yard waste is generated from March 1 to July 31 and September 1 to November 30 of each year, unless the generator otherwise provides for recycling or storage for composting or mulching. The commissioner may construct and operate one or more composting facilities, or utilize the services of other facilities.

c. Within eighteen months of the effective date of this chapter, the department of parks and recreation or any other city agency that generates a substantial amount of yard waste shall provide for the source separation, collection and composting of yard waste generated by the department of parks and recreation, any other city agency that generates a substantial amount of yard waste, or any person under contract with the department of parks and recreation or any other city agency.

d. Within eighteen months of the effective date of this chapter, no landfill, incinerator or resource recovery facility owned, operated or used by the department shall accept for final disposal from October 15 to November 30 of each year truckloads primarily composed of yard waste, except that composted yard waste may be used as part of the final vegetative cover for a department landfill.

e. Within thirty-six months of the effective date of this chapter, no landfill, incinerator or resource recovery facility owned, operated or used by the department shall accept for final disposal from March 1 to July 31 and September 1 to November 30 of each year truckloads primarily composed of yard waste, except that composted yard waste may be used as part of the final vegetative cover for a department landfill.

f. All city agencies responsible for the maintenance of public lands shall to the maximum extent practicable and feasible give preference to the use of compost materials derived from the city's solid waste in all land maintenance activities.

§16-309 Christmas trees. Within eighteen months of the effective date of this chapter, the commissioner shall designate areas and within these designated areas establish and implement a collection system for Christmas trees during the first three weeks of January of each year and provide for the composting or recycling of the Christmas trees the department collects or receives for disposal.

§16-310 Batteries and tires. If within eighteen months of the effective date of this chapter, no

state or federal legislation has been enacted requiring the collection of or imposing deposits on dry cell batteries or tires, the commissioner shall establish and implement citywide deposit or reclamation programs, that provide separate collection systems or convenient drop-off locations for dry cell batteries and tires to ensure that they are not incinerated or disposed of in an unlined landfill. The commissioner may establish a reasonable battery deposit charge and a reasonable tire deposit charge pursuant to this section.

§16-311 Recycling centers. a. The commissioner shall, within eighteen months of the effective date of this chapter, develop and establish or support the development and establishment of not less than ten recycling centers. Such recycling centers shall be strategically sited and of sufficient size and number to provide for the recycling of all recyclable materials required to be recycled by the department and its contractors pursuant to section 16-305 of this chapter. The commissioner may utilize and include among the required number of recycling centers, recycling centers in existence before the effective date of this chapter, and where necessary the commissioner may provide for the expansion of such existing centers. The commissioner shall evaluate the feasibility of utilizing existing recycling centers in determining the need to establish city owned or operated centers. Notwithstanding the requirement for not less than ten recycling centers, the commissioner may utilize less than ten recycling centers if the recycling centers have the combined capacity to process all the material required to be recycled pursuant to section 16-305 of this chapter.

b. The commissioner shall establish or ensure that there exists at least one buy-back center in each borough. For economic development purposes, these buy-back centers shall be sited so that they are accessible to all residents, including residents of low income neighborhoods. The commissioner may include these buy-back centers among the recycling centers required under this section. The commissioner shall not include material from commercial generators which is processed for recycling at these and all other buy-back centers in the solid waste required to be reduced or recycled pursuant to section 16-305.

c. Recycling centers may be owned, operated, or funded by the city, any agency of the city, any person, or a public-private joint venture.

d. The commissioner may provide financial or other assistance to recycling centers in existence before and after the effective date of this chapter, upon a determination that such assistance will further the purposes of this chapter.

e. To the extent feasible, the commissioner shall ensure that all recycling centers established after the effective date of this chapter shall be sited to encourage the use of existing rail or shipping facilities, upon a determination that such siting will further the purposes of this chapter.

§16-312 Processing recyclable materials. The commissioner shall establish procedures and standards for processing recyclable materials in city owned or operated recycling centers, city owned or operated transfer stations or any city owned or operated facility that renders recyclable materials suitable for reuse or marketing and sale. The commissioner shall review the procedures and standards at least annually and make any changes necessary to conform to the requirements of the marketplace.

§16-313 Marketing recyclable materials. a. The department shall establish procedures, standards and strategies to market the department-collected recyclable materials designated pursuant to section 16-305 of this chapter, including but not limited to maintaining a list of prospective buyers, establishing contact with prospective buyers, entering into contracts with buyers, and reviewing and making any necessary changes in collecting or processing the materials to improve their marketability.

b. Within eighteen months of the effective date of this chapter, the commissioner in conjunction with the office for economic development shall submit to the mayor, the council, the board of estimate, each citizens' board created under section 16-317 of this chapter and the citywide board created under section 16-319 of this chapter a study of existing markets for processing and purchasing

recyclable materials, and the potential and the steps necessary to expand these markets. Such study shall also include a proposal developed in conjunction with the department of finance to use, where feasible, the city's tax and finance authority to stimulate recycling and the demand for recycled materials.

§16-314 Recycling program revisions. *a. The commissioner shall annually review the recycling program and all rules and regulations promulgated therefor, and shall make the necessary revisions to improve the efficiency of collecting, processing, marketing and selling the materials recycled pursuant to this chapter. These revisions may include designating additional recyclable materials. The commissioner shall not delete designated materials without designating additional materials so that the total quantity, by weight, of all designated recyclable materials collected, processed, marketed and sold does not decrease.*

b. By the end of the fifth year following the enactment date of this chapter, the commissioner shall designate two additional recyclable materials contained in residential or commercial solid waste and provide for the recycling of these materials in accordance with the provisions of this chapter.

§16-315 Notice, education and research programs. *a. In addition to the notice requirements of section one thousand forty-three of chapter forty-five of the charter, within thirty days of the effective date of any regulations promulgated pursuant to this chapter, and as frequently thereafter as the commissioner deems necessary, the department shall notify all community boards and persons occupying residential, commercial and industrial premises affected by the regulations, of the requirements of the regulations, by placing advertisements in newspapers of citywide, borough-wide and community circulation, posting notices in public places where such notices are customarily placed, and, in the commissioner's discretion, employing any other means of notification deemed necessary and appropriate.*

b. Within twelve months of the effective date of this chapter, the department shall develop and implement an educational program, in conjunction with the board of education, private schools, labor organizations, businesses, neighborhood organizations, community boards, and other interested and affected parties, and using flyers, print and electronic advertising, public events, promotional activities, public service announcements, and such other techniques as the commissioner determines to be useful, to assure the greatest possible level of compliance with the provisions of this chapter. The educational program shall encourage waste reduction, the reuse of materials, the purchase of recyclable products, and participation in city and private recycling activities.

c. The department shall perform such research and development activities, in cooperation with other city agencies, and public and private institutions, as the commissioner determines to be helpful in implementing the city's recycling program. Such research shall include, but not be limited to, investigation into the use of cooperative marketing programs, material recovery facilities, recycling as an economic development tool, export promotion, tax credits and exemptions for market promotion.

SUBCHAPTER 3 RECYCLING PLAN

§16-316 Recycling plan. *a. The commissioner shall, within twelve months of the effective date of this chapter, prepare and submit to the mayor, the council and the citywide board created under section 16-319 of this chapter a preliminary citywide recycling plan. The commissioner shall, within eighteen months of the effective date of this chapter, prepare and submit to the mayor, the council and the citywide board a citywide recycling plan and each year thereafter the commissioner shall submit to such parties an updated plan. The preliminary plan, the plan and each updated plan shall include, but need not be limited to:*

- 1. a waste composition analysis that identifies the quantity and composition of the city's solid waste by recycling district;*
- 2. annual recycling and reduction goals equal to or exceeding the mandatory minimum levels of*

sections 16-304 and 16-305, including the quantity and composition of recyclable materials to be collected, processed, marketed and sold by recycling district;

3. a five-year strategy for collecting, processing, marketing and selling the designated recyclable materials, and disposing of residual, non-recyclable solid waste, taking into account persons engaged in the business of recycling or persons otherwise providing recycling services before the effective date of this chapter. Such strategy may be based upon the results of the waste composition analysis performed pursuant to paragraph one of this subdivision or information obtained in the course of past collection of solid waste by the department, and may include recommendations with respect to increasing the number of materials designated for recycling pursuant to sections 16-305, 16-306 or 16-307 of this chapter;

4. comprehensive and up-to-date lists of large-scale generators of recyclable materials within the city and potential purchasers of recyclable waste material both within the city and in other locations;

5. a comprehensive analysis of all appropriate department properties and facilities to determine their feasibility as recycling centers;

6. proposed methods and programs to achieve a reduction in the city's solid waste stream, including but not limited to identifying materials the use of which should be regulated or limited based upon their incompatibility with recycling;

7. recommended revisions and an evaluation of the feasibility and effectiveness of such revisions to the building code of the city of New York, chapter one of title twenty-seven of this code, prepared in conjunction with the department of buildings, requiring newly constructed buildings and buildings undergoing specified alterations to contain storage space, devices or mechanisms that facilitate source separation and storage of the recyclable materials designated pursuant to sections 16-305 and 16-306 and that enable the department efficiently to collect, process, market and sell the designated materials; in preparing such recommendations, the commissioner and the commissioner of buildings shall evaluate the feasibility and effectiveness of requiring separate chutes to facilitate source separation in multi-family dwellings, storage areas that conform to fire and safety code regulations, and specialized storage containers;

8. to the extent feasible, proposals developed in consultation with the metropolitan transportation authority, the port authority of New York and New Jersey, the department of transportation, and the department of ports, international trade and commerce, to separate, collect and recycle recyclable materials, including but not limited to newspaper, that are discarded at transportation facilities, including subway, bus, railroad and ferry stations;

9. proposals developed in consultation with the board of education, the department of correction, health and hospitals corporation and other appropriate entities to separate, collect and recycle materials that are discarded at schools, jails, hospitals and other similar institutions throughout the city;

10. recommended product labeling requirements that would facilitate source separation and recycling of recyclable materials;

11. a proposal for an incentive program, including cash incentives, to encourage recycling participation;

12. an analysis of whether providing a reduced tipping fee for the disposal of residue that results from recycling activity in the private sector will enhance or increase private sector recycling;

13. an evaluation of the economic development benefits of alternative recycling methods and strategies;

14. a comparison of the economic costs of recycling to the economic costs of other disposal and waste management strategies, including but not limited to resource recovery incineration and export; such comparison shall include but not be limited to expense, capital and external costs;

15. a review of all regulations pertaining to solid waste collection and disposal to determine

their compatibility with the provisions and goals of this chapter;

16. a report on and evaluation of any pending federal and state legislation on recycling, waste reduction or any other solid waste management issues;

17. a detailed report on the recycling activities of the department during the preceding year;

18. specific and detailed objectives for the activities and programs conducted and assisted under this chapter;

19. the commissioner's conclusions as to the effectiveness of such activities and programs in achieving these objectives and the purposes of this chapter;

20. a summary of outstanding recycling problems confronting the department in the order of priority;

21. recommendations with respect to legislation the commissioner deems necessary or desirable to assist in solving these recycling problems;

22. the commissioner's plans for recycling and reduction activities and programs during the next year; and

23. all other information required to be submitted to the council pursuant to any other provision of this chapter.

b. Within four years of the effective date of this chapter, the commissioner shall prepare and submit to the mayor, the council, each citizens' board and the citywide board, a detailed and comprehensive plan to achieve for New York city the New York State goal of forty percent recycling and eight to ten percent waste reduction by 1997.

SUBCHAPTER 4 RECYCLING ADVISORY BOARDS

§16-317 Citizens' solid waste advisory boards; membership. *Within six months of the effective date of this chapter, each borough shall establish a citizens' solid waste advisory board (the "citizens' board"), consisting of no fewer than twenty members who for the first term shall be comprised of the members of the borough's citizens' advisory committee on resource recovery and other persons appointed jointly by the borough president and the council members elected from the council districts included in any part of the borough. For each subsequent term, all members shall be appointed jointly by the borough president and the council members elected from the council districts included in any part of the borough. The membership of each citizens' board shall represent community boards, recycling industries, carting industries, environmental organizations, government agencies, labor organizations, business organizations, property owners, tenant organizations and members of the general public. Members shall serve for a term of two years without compensation and shall designate one member to serve as chairperson and one as vice-chairperson.*

§16-318 Functions of the citizens' board. *a. The department shall submit to each borough president the recycling plans prepared pursuant to section 16-316 of this chapter simultaneous with their submission to the mayor and the council. Each borough president shall distribute copies of the plans to each member of the citizens' board in his or her borough. Within ninety days thereafter, each citizens' board shall review the plans, conduct a public hearing on the plans and make written recommendations to its borough president, the department and the council with respect to the recycling program within its borough. Each citizens' board shall also annually advise its borough president and the department with respect to the development, promotion and operation of the recycling program in its borough and pursuant to this function shall formulate and recommend:*

1. annual recycling and reduction goals equal to or greater than those set forth in sections 16-304 and 16-305 of this chapter and the methods proposed to achieve such goals;

2. means to encourage community participation in the recycling program; and

3. means to promote the recycling program and educate the public with regard to the program.

b. In each borough, the citizens' board shall assume all the responsibilities and functions of the borough's citizens' advisory committee on resource recovery.

§16-319 Citywide recycling advisory board; membership. Within nine months of the effective date of this chapter, a citywide recycling advisory board (the "citywide board") shall be formed, consisting of at least one representative from each citizens' board, five members appointed by the council, and five members appointed by the mayor. The membership of the citywide board shall represent community boards, recycling industries, carting industries, environmental organizations, government agencies, labor organizations, business organizations, property owners, tenant organizations and members of the general public. Members shall serve for a term of one year without compensation and shall designate one member to serve as chairperson and one as vice-chairperson.

§16-320 Functions of the citywide board. The citywide board shall meet at least four times a year to discuss citywide recycling issues, including but not limited to budgetary issues. The citywide board shall annually review the department's recycling program and make recommendations to the mayor and the council concerning improvements to and changes in the program.

§16-321 Disclosure requirements. a. Whenever a person, other than a public servant, appointed to any advisory board created pursuant to this subchapter, engages in any business dealings with the department, or engages in business dealings with any other agency which relate to processing or disposal of solid waste or of waste described in paragraph three of subdivision m of section 16-303 of this chapter or to recycling, or has an interest in a firm which is engaged in such business dealings with the department or with such other agency, such person shall, prior to appointment, disclose the nature of such business dealings to the commissioner and to the body or officer appointing such person, and, after appointment, disclose the nature of such business dealings to the commissioner and to all other members of such board; provided that such person need not disclose the amount of such business dealings.

b. When used in this section:

1. "Advisory committee" means a committee, council, board or similar entity that is constituted to provide advice or recommendations to the city and which has no authority to take a final action on behalf of the city, to take any action that would have the effect of conditioning, limiting or requiring any final action by any other agency, or to take any action that is authorized by law.

2. "Agency" means a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, advisory committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to, the council, the offices of each elected official, the board of education, community school boards, community boards, the financial services corporation, the health and hospitals corporation, the public development corporation and the New York city housing authority, but shall not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

3. "Blind trust" means a trust in which a candidate for any advisory board created pursuant to this subchapter or a member of such board, or the spouse or unemancipated child of such candidate or member, has a beneficial interest, the holdings and sources of income of which such candidate or member and such spouse and unemancipated child have no knowledge, and the trustee of which shall have independent authority and discretion.

4. "Business dealings" means any transaction involving the sale, purchase, rental, disposition or exchange of any goods, services or property, and any performance of or litigation with respect to any of the foregoing, but shall not include any transaction involving the residence of any candidate for any advisory board created pursuant to this subchapter or of any member of such board, or any ministerial matter.

5. "City" means the city of New York and includes an agency of the city.

6. "Elected official" means a person holding office as mayor, comptroller, president of the council, borough president or member of the council.

7. "Firm" means a sole proprietorship, joint venture, partnership, corporation or any other form of enterprise, but shall not include a public benefit corporation or local development corporation.

8. "Interest" means an ownership interest in a firm or a position with a firm.

9. "Ministerial matter" means an administrative act that is carried out in a prescribed manner and which does not involve substantial personal discretion.

10. "Ownership interest" means an interest in a firm that is held by a candidate for any advisory board created pursuant to this subchapter, or by a member of such board, or by the spouse or unemancipated child of such candidate or member, which exceeds five percent of the firm or an investment of twenty-five thousand dollars in cash or other form of commitment, whichever is less, or five percent or twenty-five thousand dollars of the firm's indebtedness, whichever is less, and any lesser interest in a firm when such candidate or member, or such spouse or unemancipated child, exercises managerial control or responsibility regarding any such firm, but shall not include interests held in any pension plan, deferred compensation plan or mutual fund, the investments of which are not controlled by such candidate or member, or by such spouse or unemancipated child, or in any blind trust that holds or acquires an ownership interest.

11. "Position" means a position in a firm, such as an officer, director, trustee, employee or any management position, or as an attorney, agent, broker or consultant to the firm, which does not constitute an ownership interest in the firm.

12. "Public servant" means all officials, officers and employees of the city, including members of community boards and members of advisory committees, except unpaid members of advisory committees shall not be public servants.

13. "Spouse" means a husband or wife of a candidate for any advisory board created pursuant to this subchapter or of a member of such board who is not legally separated from such candidate or member.

14. "Unemancipated child" means any son, daughter, step-son or step-daughter who is under the age of eighteen, unmarried and living in the household of a candidate for any advisory board created pursuant to this subchapter or of the member of such board.

SUBCHAPTER 5

CITY PURCHASE OF RECYCLED PRODUCTS

§16-322 City purchase of products made from secondary materials. a. The department of general services, upon consultation with the department, shall review the procurement specifications and practices it currently uses to determine whether such require that products be manufactured from virgin materials or exclude products manufactured from secondary materials and shall make such changes, on or before January first, nineteen hundred ninety-one, as may be necessary to ensure that:

1. where such specifications and practices exclude the use of products manufactured from secondary materials or require that products be manufactured from virgin materials only, such exclusions or requirements be eliminated; provided, however, that specifications need not be revised if the department of general services determines that for a particular end use a product containing secondary materials would not meet necessary performance standards;

2. performance standards, specifications and a product's intended end use are related, and clearly identified when feasible;

3. specifications are not overly stringent for a particular end use or performance standard; and

4. specifications incorporate or require the use of secondary materials to the maximum extent practicable without jeopardizing the performance or intended end use of the product; provided, however, where the department of general services determines that for a particular end use a product containing secondary materials would not meet necessary performance standards, such specifications need not incorporate or require the use of secondary materials.

When used in this subdivision "practicable" means capable of being used without violating the following criteria: performance, availability at a reasonable price, availability within a reasonable

period of time and maintenance of a satisfactory level of competition.

b. In purchasing paper products made with and without significant recycled content, recovered from materials otherwise destined for disposal, the department of general services shall, wherever the price is reasonably competitive and the quality adequate for the purpose intended, purchase the recycled product. For the purpose of this section, "recycled paper" shall mean any paper products that have been manufactured from materials otherwise destined for the waste stream including, but not limited to, old newspapers, magazines, paperboard boxes, tabulating cards, mixed waste, used fibrous material such as rags and overstock or obsolete inventories from distributors, wholesalers, printers and other companies as defined in rules and regulations promulgated by the state commissioner of general services pursuant to section 104-a of the general municipal law, provided that such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process, and "reasonably competitive" shall mean a comparable recycled product with a cost premium of no greater than ten percent.

c. After January 1, 1991, with contracts for the purchase of products, other than paper products, for use by city agencies and departments, which are subject to public letting under sealed bids pursuant to section three hundred forty-three of the charter, when the lowest responsible bidder is not supplying products that are manufactured from a minimum amount of secondary material, and another bidder who will supply such products has submitted a bid within five percent of the lowest responsible bid for a contract to supply products that are adequate for the purposes intended, the department of general services shall refer such bids to the board of estimate which, pursuant to such rules as it may adopt, and in accordance with subdivision b of section three hundred forty-three of the charter, may determine that it is in the public interest that the contract shall be awarded to other than the lowest responsible bidder. For the purpose of this subdivision, by January 1, 1991, the department of general services shall promulgate regulations establishing standards for the "minimum amount of secondary material" from which a product shall be manufactured. If, however, a bid is submitted for a product that is manufactured from secondary material but the department of general services has not established a standard for the minimum amount of secondary material in such product by January 1, 1991, the bid shall be submitted to the board of estimate in accordance with the requirements of this subdivision regardless of the amount of secondary material from which such product is manufactured. Notwithstanding the above, the department of general services may amend an existing standard or promulgate a new standard for the minimum amount of secondary material from which a product shall be manufactured.

d. When purchasing paper products and other products pursuant to this section, the department of general services shall utilize the United States environmental protection agency minimum content standards for recycled materials content promulgated pursuant to 42 U.S.C. §6901 et seq.

e. Should the state authorize the city's use of a price preference for the purchase of any products manufactured from secondary materials, the commissioner shall propose appropriate legislation to mandate the use of this price preference.

f. Whenever the department of general services purchases or causes the purchase of printing on recycled paper, the printed material shall include a printed statement or symbol indicating that the document is printed on recycled paper.

g. The department of general services shall prepare and submit to the mayor, the council, the board of estimate, each citizens' board created under section 16-317 of this chapter and the citywide board created under section 16-319 of this chapter, an annual report on its activities to increase the city's purchase of products manufactured from secondary materials.

h. The department of general services, in consultation with the department, shall promulgate regulations necessary to effectuate the purposes of this section.

**SUBCHAPTER 6
REGULATIONS SUBMITTED TO COUNCIL
AND ENFORCEMENT**

§16-323 Regulations submitted to council. *In addition to the requirements of section one thousand forty-three of chapter forty-five of the charter, no regulations promulgated by the commissioner pursuant to this chapter shall be effective until such regulations are submitted to the council and within thirty days of receipt thereof the council has not voted to disapprove such regulations. If the council votes to disapprove the regulations, it shall forward its reasons for such disapproval to the commissioner and the commissioner shall either amend the regulations or withdraw them from consideration. The amended regulations shall not be effective until the commissioner submits them to the council and within thirty days of receipt thereof the council has not voted to disapprove such amended regulations.*

§16-324 Enforcement. *a. Any person who violates this chapter or any rule or regulation promulgated pursuant thereto shall be liable for a civil penalty recoverable in a civil action brought in the name of the commissioner or in a proceeding returnable before the environmental control board in an amount of twenty-five dollars for the first violation, fifty dollars for the second violation and one hundred dollars for the third and each subsequent violation, provided that the court before which such civil action is brought or such board may waive the penalty for the first violation upon a showing of good cause. A person committing a fourth and any subsequent violation within a period of six months shall be classified as a persistent violator and shall be liable for a civil penalty of five hundred dollars for each violation. For a persistent violation only, except where such violation occurs at a building of less than nine dwelling units, each container or bag containing solid waste that has not been source separated or placed out for collection in accordance with the regulations promulgated by the commissioner pursuant to this chapter shall constitute a separate violation, provided that no more than twenty separate violations are issued on a per bag or per container basis during any twenty-four hour period. Before issuing any further notice of violations to a persistent violator after the fourth violation within a period of six months, the commissioner shall give such violator a reasonable opportunity to correct the condition constituting the violation.*

b. Any notice of violation or notice of hearing for a violation issued to the owner or agent of a premises at which a violation of this chapter or any regulation promulgated pursuant thereto is alleged to have occurred shall be served by delivering a copy of the notice to the owner or agent at both the address maintained in the records of the department of buildings and the department of finance. The notice of violation or notice of hearing may be served by regular mail.

§3. Section 20-337.1 of such code is amended to read as follows:

§20-337.1 Revocation, suspension [or], renewal or issuance of license. *The commissioner may, in addition to any other powers with respect to licensing pursuant to section 20-104, suspend or revoke a license, or deny a renewal of a license, for any violation of chapter two or chapter three of title sixteen of this code as determined by the environmental control board or a court of appropriate jurisdiction. The commissioner of sanitation shall inform the commissioner of such violations. The commissioner shall not issue or renew a license unless the applicant supplies adequate assurances that the recyclable materials designated pursuant to chapter three of title sixteen of this code will be collected in accordance with such chapter and regulations promulgated pursuant thereto.*

§4. This law shall take effect ninety days after its enactment into law, provided the commissioner may take all actions prior to such date that may be necessary to ensure compliance with the terms of this local law on such date. Such actions may include the promulgation of rules and regulations.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 28, 1989, and approved by the Mayor on April 14, 1989.

CARLOS CUEVAS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed local law (Local Law 19 of 1989, Council Int. No. 952-B) contains the correct text and:

Received the following vote at the meeting of the New York City Council on March 28, 1989:
29 for, 1 against

Was approved by the Mayor on April 14, 1989.

Was returned to the City Clerk on April 14, 1989.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel