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Title: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the establishment of commercial waste zones, and to repeal sections 16-523 and 16-524 of such code, relating to a pilot of special trade waste removal districts

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Indexes: Agency Rule-making Required, Council Appointment Required, Other Appointment Required, Oversight, Report Required

Attachments: 1. Summary of Int. No. 1574, 2. Int. No. 1574, 3. May 29, 2019 - Stated Meeting Agenda with Links to Files, 4. Hearing Transcript - Stated Meeting 5-29-19, 5. Committee Report 6/27/19, 6. Hearing Testimony 6/27/19, 7. Hearing Transcript 6/27/19, 8. Minutes of the Stated Meeting - May 29, 2019, 9. Minutes of the Recessed Meeting of May 29, 2019 Held on June 13, 2019

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Int. No. 1574

By Council Members Reynoso, the Speaker (Council Member Johnson), Lander, Chin, Brannan, Ayala, Levin, Rosenthal, Lancman, Constantinides, Powers, Kallos, Levine, Richards, Salamanca, Menchaca, Van Bramer, Rivera, Espinal, Dromm, Cohen, Rodriguez and Holden

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the establishment of commercial waste zones, and to repeal sections 16-523 and 16-524 of such code, relating to a pilot of special trade waste removal districts

Be it enacted by the Council as follows:

Section 1. Section 753 of the New York city charter is amended by adding a new subdivision e to read

as follows:

e. Except as otherwise authorized by section 16-1018 of the administrative code, the commissioner shall have the powers and duties set forth in this subdivision.

1. The commissioner, in the performance of his or her powers and duties pursuant to paragraph 2 of this subdivision and title 16-B of the administrative code of the city of New York, shall be authorized to receive complaints, conduct investigations, hold public and private hearings, administer oaths, take testimony, serve subpoenas, receive evidence, issue orders, and mediate disputes.

2. The commissioner shall have the power and duty to regulate the conduct of businesses authorized to collect commercial waste in commercial waste zones pursuant to title 16-B of the administrative code and any other applicable law, including but not limited to, the power and duty to establish and enforce:

(a) environmental, safety and health standards;

(b) standards for service;

(c) requirements regarding contracts for commercial waste removal;

(d) requirements regarding billing form and procedures;

(e) requirements regarding the maintenance and inspection of records;

(f) requirements regarding the maintenance of appropriate insurance; and

(g) requirements established in furtherance of the goals of reducing waste and promoting sustainability, safety and efficiency in the collection system for commercial waste.

3. The commissioner shall establish programs for the education of the public and commercial establishments regarding the commercial waste zone system established pursuant to title 16-B of the administrative code of the city of New York.

§ 2. Subdivision a of section 2101 of the New York city charter, as amended by local law number 21 for the year 2002, is amended to read as follows:

a. The business integrity commission shall be responsible for the regulation of the trade waste industry,

the shipboard gambling industry, the fulton fish market distribution area and other seafood distribution areas and the public wholesale markets. In regulating such industries, areas and markets, the commission shall have the powers and duties conferred by this chapter and such other powers and duties as are conferred by law, except as provided by title 16-B of the administrative code of the city of New York and the local law that added such title.

§ 3. Subdivision a of section 16-116 of the administrative code of the city of New York, as amended by local law number 42 for the year 1996, is amended to read as follows:

§ 16-116 Removal of commercial waste; posting of sign, registration number. a. 1. Every owner, lessee or person in control of a commercial establishment shall provide for the removal of waste by a business licensed by the New York city [trade waste] business integrity commission as required by subdivision a of section 16-505 of this code or register and obtain a registration number from the New York city [trade waste] business integrity commission as required by subdivision b of section 16-505 of this code to remove its own waste except as provided in subdivision c of this section, however nothing contained herein shall preclude the commissioner from providing for the removal of waste from any commercial establishment pursuant to the authority vested in the commissioner by section seven hundred fifty-three of the charter[; provided, further, that every].

2. No later than the applicable final implementation date set forth in the rules of the department pursuant to subdivision d of section 16-1002, each owner, lessee or person in control of a commercial establishment [that is located in a special trade waste removal district designated by the New York city trade waste commission pursuant to section 16-523 of this code, except for an owner, lessee or person in control of a commercial establishment who has registered with the New York city trade waste commission as required by subdivision b of section 16-505 of this code and except as otherwise provided by subdivision g of section 16-523 of this code,] shall provide for the removal of commercial waste, as such term is defined by section 16-1000, only by a [licensee with whom such commission has entered into an agreement pursuant to subdivision b of such section]

designated carter, as such term is defined by such section, in accordance with the provisions of title 16-B and any rules promulgated pursuant thereto, except as otherwise provided by such title.

§ 4. Subdivision b of section 16-306 of the administrative code of the city of New York, as amended by local law number 32 for the year 2010, is amended to read as follows:

b. 1. The rules promulgated pursuant to subdivision a of this section shall require that generators of waste collected by businesses required to be licensed pursuant to section 16-505 of this code source separate the designated materials in such manner and to such extent as the commissioner determines to be necessary to minimize contamination and maximize the marketability of such materials. However, in promulgating such rules the commissioner shall not require source separation of a material unless the commissioner has determined that an economic market exists for such material. For the purpose of this section, the term "economic market" refers to 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 said materials less the amount received from the sale of said materials. [The New York city business integrity commission shall adopt and implement rules requiring businesses licensed to remove, collect or dispose of trade waste to]

2. Any designated carter authorized to collect commercial waste in a commercial waste zone pursuant to section 16-1002 shall provide for the collection of, and ensure the continued separation of, designated materials that have been source separated, provide for the separation of all other designated materials, and provide for recycling of all the designated materials in accordance with the rules of the department and the terms of any agreement entered into pursuant to section 16-1002. [Rules promulgated by the business integrity commission pursuant to this subdivision shall be enforced in the manner provided in section 16-517 of this code and violations of such rules shall be subject to the penalties provided in subdivision a of section 16-515 of this code for violation of the provisions of chapter one of title 16-A of this code. In addition, the]

3. The commissioner and the chair of the business integrity commission shall have the authority to issue

notices of violation for any violation of such [rule] rules and such notices of violation shall be returnable in a civil action brought in the name of the commissioner or the chair of the business integrity commission before the environmental control board which shall impose a penalty not to exceed ten thousand dollars for each such violation.

§ 5. Section 16-306 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. Notwithstanding any other provision of law, nothing in this section shall be construed to: 1) supersede, amend or eliminate any obligation of an awardee or designated carter, as such terms are defined in section 16-1000, to meet the requirements set forth in any agreement entered into pursuant to section 16-1002, or 2) otherwise amend or supersede any term of such agreement.

§ 6. Subdivisions d through g of section 16-306.1 of the administrative code of the city of New York are relettered e through h, and paragraph 3 of subdivision c of such section, as added by local law number 146 for the year 2013, is amended to read as follows:

[3] d. Any private carter that collects source separated organic waste [from a covered establishment] shall either:

i. deliver collected organic waste to a transfer station that has represented that it will deliver such organic waste to a facility for purposes of composting, aerobic or anaerobic digestion, or any other method of processing organic waste that the department approves by rule; or

ii. deliver such organic waste directly to a facility for purposes of composting, aerobic or anaerobic digestion, or any other method of processing organic waste that the department approves by rule.

§ 7. Subdivision e of section 16-306.1 of the administrative code of the city of New York, as added by local law number 146 for the year 2013, and as relettered subdivision f by section 6 of this local law, is amended to read as follows:

e. The provisions of this section relating to private carters shall be enforced by the business integrity

commission and the department. The provisions of this section relating to covered establishments shall be enforced by the department, the department of health and mental hygiene, and the department of consumer affairs.

§ 8. Section 16-504 of the administrative code of the city of New York, as added by local law number 42 for the year 1996, and subdivision j as added by local law number 55 for the year 2019, is amended to read as follows:

§ 16-504 Powers and duties. The powers and duties of the commission shall include but not be limited to:

a. To issue and establish standards for the issuance, suspension and revocation of licenses and registrations authorizing the operation of businesses engaged in the collection, removal or disposal of waste within the city and trade waste broker businesses, provided that unless otherwise provided herein, the commission may by resolution delegate to the chair the authority to make individual determinations regarding: issuance, suspension and revocation of such licenses and registrations; investigations of background and determinations of fitness in regard to employees of licensees; and the appointment of independent auditors and monitors in accordance with the provisions of this chapter;

b. [To] Except with respect to commercial waste required to be collected by a designated carter pursuant to section 16-1003, to establish maximum and minimum rates for the collection, removal, or disposal of such waste;

c. To investigate any matter within the jurisdiction conferred by this chapter and to have full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigation;

d. To establish standards for service and for the regulation and conduct of businesses licensed or registered pursuant to this chapter, including but not limited to, requirements governing the level of service to

be provided by licensees, contracts for trade waste removal, billing form and procedures, the maintenance and inspection of records, the maintenance of appropriate insurance, and compliance with safety and health measures, provided that with respect to commercial waste required to be collected by a designated carter pursuant to section 16-1003, such authority shall be limited to regulation and conduct of licensees with regard to character, honesty and integrity;

e. To appoint, within the appropriations available therefor, such employees as may be required for the performance of the duties prescribed herein. In addition to such employees appointed by the commission, the commissioners of business services, investigation, consumer affairs, transportation, sanitation, health, finance, environmental protection and police may, at the request of the chair, provide staff and other assistance to the commission in all matters under its jurisdiction;

f. To conduct studies or investigations into the needs of commercial and other enterprises for waste removal and the trade waste industry in the city and other jurisdictions in order to assist the city in formulating policies to provide for orderly and efficient trade waste removal at a fair and reasonable cost to businesses;

g. To establish, in coordination with the department of sanitation, programs for the education of customers, including but not limited to, education of customers in the accurate assessment of the types and volume of waste and the rights of such customers in relationship to contracting, service and customer complaint procedures established pursuant to this chapter;

[h. To establish special trade waste removal districts pursuant to section 16-523 of this chapter; and

i.] h. To establish fees and promulgate rules as the commission may deem necessary and appropriate to effect the purposes and provisions of this chapter[.]; and

[j.] i. To issue and establish standards for the registration of labor unions or labor organizations representing or seeking to represent employees directly involved in the collection, removal, transportation or disposal of trade waste and for suspending or disqualifying officers of such unions or organizations.

§ 9. Section 16-509 of the administrative code of the city of New York is amended by adding a new

subdivision l to read as follows:

l. The commission may refuse to issue a license to an applicant when such applicant has been found to have violated any provision of title 16-B or any rules promulgated pursuant thereto or the terms of any agreement entered into pursuant to section 16-1002 or any provision of 16-306 or any rule promulgated pursuant thereto.

§ 10. Section 16-513 of the administrative code of the city of New York, as added by local law number 42 for the year 1996, and subdivision a as amended by local law number 56 for the year 2015, is amended to read as follows:

§ 16-513 Revocation or suspension of license or registration. a. In addition to the penalties provided in section 16-515 of this chapter, the commission may, after due notice and opportunity to be heard, revoke or suspend a license or registration issued pursuant to the provisions of this chapter when the registrant or licensee and/or its principals, employees and/or agents: (i) have been found to be in violation of this chapter or any rules promulgated pursuant thereto; (ii) have been found by a court or administrative tribunal of competent jurisdiction to have violated: (A) any provision of section 16-119 of this code, or any rule promulgated pursuant thereto, relating to illegal dumping, (B) any provision of section 16-120.1 of this code, or any rule promulgated pursuant thereto, relating to the disposal of regulated medical waste and other medical waste or (C) any provision of section 16-117.1 of this code, or any rule promulgated pursuant thereto, relating to the transportation and disposal of waste containing asbestos; (iii) has repeatedly failed to obey lawful orders of any person authorized by section 16 517 of this chapter to enforce the provisions hereof; (iv) has failed to pay, within the time specified by a court, the department of consumer affairs or an administrative tribunal of competent jurisdiction, any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant thereto; (v) has been found in persistent or substantial violation of any rule promulgated by the commission pursuant to section 16-306 of this code or by the commissioner of consumer affairs pursuant to section 16-306 or former subchapter eighteen of title twenty of this code; (vi) has been found in

persistent or substantial violation of any city, state, or federal law, rule or regulation regarding the handling of trade waste, or any laws prohibiting deceptive, unfair, or unconscionable trade practices; (vii) whenever, in relation to an investigation conducted pursuant to this chapter, the commission determines, after consideration of the factors set forth in subdivision a of section 16-509 of this code, that the licensee or registrant as a trade waste broker lacks good character, honesty and integrity; (viii) whenever there has been any false statement or any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance of such license or registration was based; (ix) whenever the licensee or registrant has failed to notify the commission as required by subdivision b of section 16-507 or subdivision c of section 16-508 of this chapter of any change in the ownership interest of the business or other material change in the information required on the application for such license or registration, or of the arrest or criminal conviction of such licensee or registrant or any of his or her principals, employees and/or agents of which the licensee had knowledge or should have known; (x) whenever the licensee or registrant has been found by the commission or a court or administrative tribunal of competent jurisdiction to be in violation of the provisions of section 24-163.11 of the code, or any rule promulgated pursuant thereto; [or] (xi) whenever the licensee or registrant has been found by the commissioner or a court or administrative tribunal of competent jurisdiction to be in violation of the provisions of section 16-526 of the code, or any rule promulgated pursuant thereto; or (xii) whenever the licensee or registrant has been found by the commission or a court or administrative tribunal of competent jurisdiction to be in violation of any provision of title 16-B or any rule promulgated pursuant thereto or the terms of any agreement entered into pursuant to section 16-1002, or has failed to pay, within the time specified by a court, or an administrative tribunal of competent jurisdiction, any fines or civil penalties imposed pursuant to such title or the rules promulgated pursuant thereto.

b. [The] Notwithstanding any other provision of law, the commission shall, in addition: (1) suspend a license issued pursuant to this chapter for thirty days following determination that the licensee, or any of its principals, employees or agents has violated [subdivision a of section 16-524 of this chapter] any provision of

section 16-1003 or 16-1004; and (2) revoke a license issued pursuant to this chapter upon determination that the licensee, or any of its principals, employees or agents has violated [subdivision a of section 16-524 of this chapter] any provision of section 16-1003 or 16-1004 two times within a period of three years.

§ 11. Subdivisions b and e of section 16-515 of the administrative code of the city of New York, as added by local law number 42 for the year 1996, are amended to read as follows:

b. (i) Any person who violates subdivision a of section 16-505 [or section 16-524] of this chapter shall, upon conviction thereof, be punished for each violation by a criminal fine of not more than ten thousand dollars for each day of such violation or by imprisonment not exceeding six months, or both; and any such person shall be subject to a civil penalty of not more than five thousand dollars for each day of such violation to be recovered in a civil action or returnable to the department of consumer affairs or other administrative tribunal of competent jurisdiction; and

e. (i) In addition to any other penalty prescribed in this section for the violation of subdivisions a or b of section 16-505 [or subdivision a of section 16-524] of this chapter, or when there have been three or more violations within a three year period of the provisions herein, the commission shall, after notice and the opportunity to be heard, be authorized: to order any person in violation of such provisions immediately to discontinue the operation of such activity at the premises from which such activity is operated; to order that any premises from which activity in violation of such provisions is operated shall be sealed, provided that such premises are used primarily for such activity; and to order that any vehicles or other devices or instrumentalities utilized in the violation of such provisions shall be removed, sealed, or otherwise made inoperable. An order pursuant to this paragraph shall be posted at the premises from which activity in violation of such provisions occurs.

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

(iii) Any vehicle or other device or instrumentality removed pursuant to the provisions of this section

shall be stored in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession of such item may be charged with reasonable costs for removal and storage payable prior to the release of such item.

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

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

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

§ 12. Section 16-519 of the administrative code of the city of New York, as added by local law number 42 for the year 1996, is amended to read as follows:

§ 16-519 Rate fixing; hearings and production of records. [The] Except with respect to commercial waste required to be collected by a designated carter pursuant to section 16-1003, the commission shall have the power to fix by rule and from time to time refix maximum and minimum rates, fixed according to weight or volume of trade waste, for the removal of waste by a licensee, which rates shall be based upon a fair and

reasonable return to the licensees and shall protect those using the services of such licensees from excessive or unreasonable charges. The commission may compel the attendance at a public hearing held pursuant to a rate-fixing rule-making of licensees and other persons having information in their possession in regard to the subject matter of such hearing and may compel the production of books and records in relation thereto, and may require licensees to file with the commission schedules of rates.

§ 13. Section 16-520 of the administrative code of the city of New York, as added by local law number 42 for the year 1996, is amended to read as follows:

§ 16-520 Conduct by licensees of trade waste collection, removal or disposal. a. Every licensee pursuant to this chapter shall provide to every recipient of its services a sign which the licensee shall obtain from the commission. In addition to the information printed on the sign by the commission, the licensee shall print the day and approximate time of pickup clearly and legibly on the sign. Such sign shall be conspicuously posted as prescribed in section 16-116(b) of this code by the owner, lessee or person in control of the commercial establishment which receives the licensee's services.

b. [Except as otherwise provided in subdivision d of section 16-523, a] A licensee shall not charge, exact or accept rates for the collection, removal or disposal of trade waste any amount greater than any maximum rates or less than any minimum rates that the commission may fix pursuant to section 16-519 of this chapter.

c. All licensees shall maintain audited financial statements, records, ledgers, receipts, bills and such other written records as the commission determines are necessary or useful for carrying out the purposes of this chapter. Such records shall be maintained for a period of time not to exceed five years to be determined by rule by the commission, provided however, that such rule may provide that the commission may, in specific instances at its discretion, require that records be retained for a period of time exceeding five years. Such records shall be made available for inspection and audit by the commission at its request at either the licensee's place of business or at the offices of the commission.

d. A licensee shall be in compliance with all applicable state, federal and local laws, ordinances, rules and regulations pertaining to the collection, removal and disposal of trade waste.

e. (i) A contract for the collection, removal or disposal of trade waste shall not exceed two years in duration. All such contracts shall be approved as to form by the commission.

(ii) An assignee of contracts for the removal, collection or disposal of trade waste shall notify each party to a contract so assigned of such assignment and of the right of such party to terminate such contract within three months of receiving notice of such assignment upon thirty days notice. Such notification shall be by certified mail with the receipt of delivery thereof retained by the assignee and shall be upon a form prescribed by the commission. Where no written contract exists with a customer for the removal, collection or disposal of trade waste, a company that assumes such trade waste removal from another company shall provide such customer with notice that a new company will be providing such trade waste removal and that the customer has the right to terminate such service. Such notice shall be by certified mail with the receipt of delivery thereof retained by the assignee.

f. A licensee shall bill commercial establishments for removal, collection or disposal of trade waste in a form and manner to be prescribed by the commission.

g. A licensee shall not refuse to provide service to a commercial establishment that is located within an area of ten blocks from an establishment served by such licensee unless such licensee has demonstrated to the commission a lack of capacity or other business justification for the licensee's refusal to service such establishment. For the purposes of this subdivision, the term "block" shall mean the area of a street spanning from one intersection to the next.

h. A licensee shall provide to the commission the names of any employees proposed to be hired or hired subsequent to the issuance of a license and such information regarding such employees as is required in regard to employees and prospective employees pursuant to subdivision a of section 16-508 of this chapter.

i. A licensee who provides services for a commercial establishment shall keep the sidewalk, flagging,

curbstone and roadway abutting such establishment free from obstruction, garbage, refuse, litter, debris and other offensive material resulting from the removal by the licensee of trade waste.

j. (i) No licensee or principal thereof shall be a member or hold a position in any trade association: (aa) where such association, or a predecessor thereof as determined by the commission, has violated state or federal antitrust statutes or regulations, or has been convicted of a racketeering activity or similar crime, including but not limited to, the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq.) or an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time; (bb) where a person holding a position in such trade association, or a predecessor thereof as determined by the commission, has violated state or federal antitrust statutes or regulations, or has been convicted of a racketeering activity or similar crime, including but not limited to, the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. §1961 et seq.) or an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time; (cc) where a person holding a position in such trade association, or a predecessor thereof as determined by the commission, is a member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency; or (dd) where the trade association has failed to cooperate fully with the commission in connection with any investigation conducted pursuant to this chapter. The commission may determine, for purposes of this subdivision, that a trade association is a predecessor of another such trade association by finding that transfers of assets have been made between them or that all or substantially all of the persons holding positions in the two associations are the same. A licensee shall be in violation of this paragraph when the licensee knows or should know of a violation, conviction, association with organized crime or failure to cooperate set forth herein.

(ii) Notwithstanding the provisions of paragraph (i) of this subdivision, the commission may permit a licensee to be a member of such a trade association upon a determination by the commission that such

association does not operate in a manner inconsistent with the purposes of this chapter.

k. Notwithstanding any other provision of law, the provisions of subdivisions a, b, e, f, g and i of this section and any rules promulgated pursuant thereto shall not apply with regard to the collection, removal or disposal of commercial waste in commercial waste zones established pursuant to title 16-B.

§ 14. Section 16-522 of the administrative code of the city of New York, as added by local law number 42 for the year 1996, is amended to read as follows:

§ 16-522 Investigation of customer complaints. The commission shall by rule establish a procedure for the investigation and resolution of complaints by commercial establishments regarding overcharging and other problems relating to the collection, removal or disposal of waste. Notwithstanding any other provision of law, the provisions of this section and any rules promulgated pursuant thereto shall not apply with regard to the collection, removal or disposal of commercial waste in commercial waste zones established pursuant to title 16-B.

§ 15. Sections 16-523 and 16-524 of the administrative code of the city of New York and section 12 of local law number 42 for the year 1996 are REPEALED.

§ 16. Subdivision c of section 16-526 of the administrative code of the city of New York, as added by local law number 56 for the year 2015, is amended to read as follows:

c. Enforcement. 1. Any owner or operator of a trade waste hauling vehicle that violates any provision of this section shall be liable for a civil penalty of ten thousand dollars per vehicle that is in violation, returnable to the office of administrative trials and hearings, pursuant to section 1049-a of the charter. Each notice of violation shall contain an order of the chair of the commission directing the respondent to correct the condition constituting the violation and to file with the commission electronically, or in such other manner as the commission shall authorize, a certification that the condition has been corrected within thirty days from the date of the order. In addition to such civil penalty, a separate additional penalty may be imposed of not more than five hundred dollars for each day that the violation is not corrected beyond thirty days from such order.

2. For the purposes of this section, if the office of administrative trials and hearings, pursuant to section 1049-a of the charter, finds that a certification of correction filed pursuant to this subdivision contained material false statements relating to the correction of a violation, such certification of correction shall be null and void, in addition to or as an alternative to any other penalties provided by law. It shall be an affirmative defense that the respondent neither knew nor should have known that such statements were false.

3. The commission shall have the authority to promulgate rules requiring the installation of side guards that are to be fit to the side of any trade waste hauling vehicle, and may establish rules establishing side guard specifications that depart from the default specifications outlined in subdivision a of this section when such departure is deemed necessary by the commission. The commission may further promulgate any rules necessary to enforce the provisions of this section, including but not limited to, establishing procedures for owners and operators of trade waste hauling vehicles to demonstrate compliance with the requirements of this section.

4. Notwithstanding any other provision of law, with respect to any vehicle that may be used to collect, remove or dispose of waste required to be collected by a designated carter pursuant to section 16-1003, the commissioner of sanitation shall have all powers and duties of the commission as set forth in this section.

§ 17. The administrative code of the city of New York is amended by adding a new title 16-B to read as follows:

TITLE 16-B COMMERCIAL WASTE ZONES

CHAPTER 1

COMMERCIAL WASTE ZONES

§ 16-1000. Definitions. The following terms shall have the following meanings:

Awardee. The term “awardee” shall mean an entity with whom the department enters into an agreement for the provision of commercial waste collection services pursuant to section 16-1002.

Broker. The term “broker” or “trade waste broker” shall have the same meaning as defined in subdivision g of section 16-501 of the code.

Commercial waste. The term “commercial waste” shall mean all trade waste, as defined in subdivision f of section 16-501 of the code, except for non-putrescible waste; medical waste; electronic waste; textiles; yard waste collected by landscapers; waste removed by junk haulers or one-time bulk waste services; grease; paper that is collected for the purpose of shredding or destruction; or waste that is collected by a micro-hauler.

Commercial waste zone. The term “commercial waste zone” or “zone” shall mean a geographic area designated by the commissioner pursuant to section 16-1001.

Commissioner. The term “commissioner” shall mean the commissioner of sanitation.

Department. The term “department” shall mean the department of sanitation.

Designated carter. The term “designated carter” or “carter” shall mean a licensee that is authorized to provide commercial waste collection services within a commercial waste zone pursuant to an agreement between an awardee and the department entered into pursuant to section 16-1002. The term “designated carter” may describe the awardee or another licensee that the awardee has designated to fulfill the terms of such agreement as specified therein, and provided further that the term “designated carter” may also include a person operating in accordance with the provisions of title 16-A and the rules promulgated pursuant to such title who is authorized by the business integrity commission to collect certain categories of commercial waste without a license.

Licensee. The term “licensee” shall mean any person licensed to collect trade waste pursuant to title 16-A of the code.

Micro-hauler. The term “micro-hauler” shall mean any person that (1) collects less than 60 tons of source separated organic waste from commercial establishments per year and (2) collects such waste using exclusively: (i) a zero emission vehicle; (ii) a mode of transport other than a motor vehicle, as such term is defined in section 125 of the vehicle and traffic law; or (iii) any other mode of transport set forth in the rules of

the department.

Organic waste. The term “organic waste” shall have the same meaning as defined in subdivision a of section 16-306.1.

Trade waste. The term “trade waste” shall have the same meaning as defined in subdivision f of section 16-501.

Zero emission vehicle. The term “zero emission vehicle” shall mean a motor vehicle certified to California low-emission vehicles (LEV) III standards for a zero emission vehicle.

§ 16-1001 Commercial waste zones; designation. Notwithstanding any other provision of law, no later than 120 days after the effective date of the local law that added this section, the commissioner shall divide the geographic area of New York city into no less than twenty commercial waste zones. The commissioner may amend the boundaries of such zones or establish additional zones as deemed appropriate by the commissioner and consistent with the purposes of this title. In establishing such commercial waste zones, the commissioner may consider:

1. The number and types of commercial establishments within the proposed zone;
2. The amount and types of waste generated by commercial establishments within the proposed zone and the potential for achieving the city’s commercial waste reduction goals;
3. Existing service patterns within the proposed zone and the potential for traffic and noise reduction;
4. The types and estimated amounts of recyclable materials generated by commercial establishments within the proposed zone that are required to be recycled, reused or sold for reuse pursuant to section 16-306 of this code and any rules promulgated pursuant thereto;
5. The estimated amount of organic waste collected within the proposed zone;
6. The rates being charged by persons licensed pursuant to title 16-A to commercial establishments within the proposed zone;
7. The history of complaints concerning commercial waste collection from commercial establishments

within the proposed zone; and

8. Any other information or criteria the commissioner deems relevant.

§ 16-1002 Agreements. a. For each area designated as a commercial waste zone pursuant to section 16-1001, the department shall be authorized to enter into agreements with one awardee, permitting the designated carter(s) to provide for the collection, transport and removal of commercial waste within such zone as set forth in such agreement. The department shall only enter into such an agreement with an awardee that has obtained a license issued by the business integrity commission pursuant to subdivision a of section 16-505 on or before the date of such agreement. A proposer who responds to the request for proposals authorized pursuant to subdivision b of this section that does not hold such a license at the time a proposal is submitted pursuant to this section must submit an application for such a license to the business integrity commission no later than the date such proposal is submitted to the department. The initial term of any such agreement shall be ten years. The department shall have the option, at its sole discretion, to renew any such agreement for no more than two additional five-year terms, provided that prior to the expiration of any agreement entered into pursuant to this section, the commissioner shall provide the awardee with adequate notice of whether it intends to renew such agreement. The department shall not enter into any such agreement with an awardee that results in such awardee providing services in more than fifteen commercial waste zones.

b. No later than one year after the effective date of the local law that added this section, the department shall issue requests for proposals to conduct commercial waste removal in a commercial waste zone and, based upon the review and evaluation of responses thereto, may negotiate and enter into such agreements pursuant to subdivision a of this section, as the department, in its discretion, determines will best provide for the efficient and orderly removal of commercial waste in such district, consistent with the provisions of this title. Whenever necessary to ensure the ongoing efficient and orderly removal of commercial waste, the department may issue additional requests for proposals and, based upon the review and evaluation of responses thereto, may negotiate and enter into agreements in accordance with the provisions of this section. Any requests for proposals issued

pursuant to this subdivision shall solicit information regarding the qualifications of proposers. Where a proposer intends to arrange for designated carters other than the proposer to provide all or some portion of the services requested, such proposal shall provide the requested information with respect to each designated carter being proposed. When evaluating proposals pursuant to the procedures described in this subdivision, the department shall consider the following factors:

1. The rate or rates to be charged to establishments for such services, including the proposer's commitment to providing lower rates for organics and recycling collection than for refuse collection services, the proposer's plan for covering costs of third party waste audits, and any extra service fees or supplemental charges the proposer plans on including in the pricing structure;

2. The nature and frequency of the commercial waste removal services to be provided and the proposer's plan for ensuring adequate capacity to provide such services within the zone, including but not limited to, a description of the proposer's fleet and other relevant infrastructure and a staffing plan to ensure continuity and safety in the delivery of services;

3. The proposer's submission of a customer service plan detailing customer service support tools, customer service standards, a mechanism for receiving and addressing customer complaints, performance metrics or other methods of addressing customer service, and the proposer's plan for addressing the language access needs of customers in the zone;

4. The proposer's submission of a plan describing practices to support waste reduction, reuse and recycling among commercial establishments within the zone, such as partnerships with local organizations, waste reduction or diversion targets, plans for offering organics collection services to a broad range of establishments within the zone, customer outreach and education or other practices to further such goals;

5. The proposer's submission of a waste management plan describing practices for disposal of commercial waste collected within the zone, including but not limited to, a description of the transfer, processing or final disposal locations for all materials collected, and specific practices or investments designed

to promote the goals of sustainability, reliability and equity in the delivery of waste management services. In evaluating waste management plans submitted by proposers pursuant to this paragraph, the commissioner shall consider: (i) the total vehicle miles expected to be traveled as a result of the proposer's services, including but not limited to, consideration of the proximity of such locations to the zone; (ii) the proposer's use of solid waste transfer stations that utilize sustainable modes of transport of waste, such as rail or barge; and (iii) any other factors that the commissioner deems relevant to promoting the goals of sustainability, reliability and equity in the delivery of waste management services;

6. The proposer's plan, if any, to reduce air pollution and greenhouse gas emissions through operational best practices, infrastructure investments, adoption of technologies or other sustainable solutions, including plans to invest in sustainable facilities and infrastructure for organics and recycling processing and plans to invest in low emission vehicles;

7. The proposer's submission of a health and safety plan detailing compliance with applicable federal, state and local laws and specific practices to further the goals of promoting health and safety;

8. The proposer's history of compliance with existing federal, state and local laws, including but not limited to, laws relating to waste collection, removal and disposal, environmental protection, antitrust, consumer protection, health and safety, labor and employment, and anti-discrimination protections;

9. Submission of a plan describing the customer communication efforts the proposer intends to undertake during the transition to the commercial waste zone system and other communication efforts that will support and supplement the public outreach and education efforts of the department conducted pursuant to section 16-1009;

10. The proposer's plan, if any, to subcontract with any other designated carter and whether such subcontracting is consistent with the purposes of this chapter; and

11. Any other information the department deems appropriate.

c. Any agreement entered into pursuant to subdivision b of this section shall include:

1. A requirement that the designated carter(s) may not refuse commercial waste collection service to any commercial establishment within the commercial waste zone required to provide for the removal of such waste pursuant to the provisions of section 16-116, provided that such agreement may include provisions authorizing termination of service, refusal of service for good cause or setting forth other allowable measures to address default or non-payment by a commercial establishment;

2. A description of the maximum rate or rates that the designated carter(s) may charge customers within the zone for waste collection services, including any extra service fees or supplemental charges the proposer plans on including in the pricing structure, provided that extra service fees shall not be allowed for locking or unlocking gates or the rental of containers or dumpsters other than compactors and roll-offs;

3. A process by which awardees may petition the department for changes to the maximum rates described in paragraph one of this subdivision;

4. A requirement that the designated carter(s) provide each customer with a written service agreement specifying rates, standards of service and such other provisions as may be set forth in the agreement entered into between the awardee and the department pursuant to this section or as otherwise specified in the rules of the department.

5. A requirement that the designated carter(s) provide organic waste collection services to all commercial establishments that: i) are located within the commercial waste zone for which the awardee has been awarded an agreement pursuant to this section; ii) are not designated covered establishments pursuant to subdivision b of section 16-306.1; iii) select such designated carter(s) for removal of commercial waste; and iv) request organic waste collection services, provided that such agreement may authorize the awardee to implement such requirement on a graduated schedule or may otherwise set forth circumstances in which such provision of such services shall not be required, consistent with the purposes of this chapter;

6. Except as otherwise specified in the rules of the department, a requirement that the designated carter (s) provide a consolidated monthly bill to customers for all services rendered;

7. A requirement that the designated carter(s) offer third-party waste audit services to all customers in accordance with the specifications of the department as set forth in such agreement;

8. Specifications regarding the global positioning system (GPS) devices, capable of collecting and storing geographical data, to be installed on commercial waste vehicles, and requirements regarding periodic reporting of data collected by such devices by the designated carter to the department for purposes consistent with this title;

9. Any additional reporting requirements that the department deems necessary to further the goals of this title, including but not limited to, waste generation estimates or waste characterization studies;

10. A requirement that designated carter(s) comply with the terms of its customer service plan, waste reduction plan, and health and safety plan as described in subdivision b of this section;

11. A requirement that the designated carter(s) ensure that employees receive periodic training relating to health and safety, as set forth in the agreement;

12. A requirement that the designated carter(s) comply with the provisions of this title and all other applicable laws;

13. A requirement that the designated carter(s) prepare for submission and review by the department an emergency action plan detailing procedures to be deployed in emergency situations, including but not limited to, fires, evacuations, spills or weather emergencies, and addressing continuity and restoration of service;

14. Provisions addressing contingency planning to ensure continuity of service in the case of default by the designated carter(s) or default by another awardee;

15. The option for the awardee to subcontract for services in order to meet the requirements of the agreement, provided that any person performing services required by the agreement must fully comply with all terms of such agreement and must be licensed by the business integrity commission or otherwise authorized to collect trade waste in accordance with the provisions of title 16-A and rules promulgated pursuant thereto;

16. A requirement that the awardee engage in public outreach and education efforts to address the

transition to the commercial waste zone system;

17. A requirement that the awardee utilize existing programs or resources developed by the department of small business services or other relevant agency designed to promote employment opportunities for New York city residents, where applicable and appropriate;

18. A requirement that the department review and approve all contracts between the awardee and all designated carters or other subcontractors for purposes of ensuring that the terms of such contracts are in accordance with the provisions of this chapter; and

19. Any other terms, provisions, remedies, including but not limited to, liquidated or other damages, or requirements, as deemed appropriate by the department and awardee and agreed upon by such parties.

d. 1. On or after the implementation start date for a commercial waste zone, no person other than a designated carter authorized to operate within such commercial waste zone pursuant to an agreement entered into pursuant to this section may enter into a new contract or renew an existing contract with a commercial establishment located within such zone to provide for the collection, removal or disposal of commercial waste.

2. By the final implementation date for a commercial waste zone, every owner, lessee or person in control of a commercial establishment located within a commercial waste zone must provide for removal of commercial waste by a designated carter authorized to operate within such zone pursuant to an agreement entered into pursuant to this section.

3. The commissioner shall promulgate rules setting forth an implementation start date and a final implementation date for each commercial waste zone established pursuant to section 16-1001. The commissioner may select different implementation start dates and final implementation dates for different commercial waste zones.

§ 16-1003 Unauthorized collection of commercial waste within commercial waste zones.

a. Except as provided in subdivision c of this section and notwithstanding any other provision of law, it shall be unlawful for any person to operate a business within the boundaries of a commercial waste zone for the

purpose of the collection of commercial waste from the premises of a commercial establishment required to provide for the removal of such waste pursuant to the provisions of section 16-116, or the removal or disposal of commercial waste from such premises, or to engage in, conduct or cause the operation of such a business, or to solicit commercial establishments located within such zone for such purpose, except as authorized pursuant to an agreement with the department entered into pursuant to section 16-1002 and in accordance with the provisions of this title and any rules promulgated pursuant thereto.

b. Notwithstanding any other provision of law, it shall be unlawful for any trade waste broker to broker agreements between a commercial establishment within the boundaries of a commercial waste zone required to provide for the removal of commercial waste pursuant to the provisions of section 16-116 and a provider of commercial waste removal, collection or disposal services.

c. The provisions of this section shall not apply to a person registered by the business integrity commission to remove, collect or dispose of trade waste that is generated in the course of operation of such person's business pursuant to subdivision b of section 16-505, or to a commercial establishment, owner or managing agent of a building, or owner of an establishment exempt from the requirement to obtain a registration pursuant to such subdivision.

§ 16-1004 Interference with commercial waste zone agreements. No person shall make false, falsely disparaging or misleading oral or written statements or other representations to the owners or operators of a commercial establishment that have the capacity, tendency or effect of misleading such owners or operators, for the purpose of interfering with the performance of terms of any agreement between the department and an awardee entered into pursuant to section 16-1002. No person shall interfere or attempt to interfere by threats, intimidation, or coercion, or by destruction or damage of property or equipment, with performance of the terms of an agreement entered into pursuant to section 16-1002.

§ 16-1005 Conduct by awardees and designated carters within commercial waste zones.

a. Each awardee and designated carter shall:

1. Comply with all terms of any applicable agreement entered into pursuant to section 16-1002;
2. Only charge, exact or accept rates for the collection, removal or disposal of such waste as set forth in the agreement entered into pursuant to section 16-1002 and any rules promulgated by the department pursuant to this chapter;
3. Not refuse commercial waste collection service to any commercial establishment required to provide for the removal of such waste pursuant to the provisions of section 16-116 within the commercial waste zone for which the awardee has been awarded an agreement pursuant to section 16-1002, except as otherwise set forth in such agreement;
4. Provide recyclable materials collection services to all commercial establishments that: i) are located within the commercial waste zone for which the awardee has been awarded an agreement pursuant to section 16-1002; ii) are required to provide for the removal of such materials in accordance with the provisions of section 16-306 and any rules promulgated pursuant thereto; and iii) select such designated carter(s) for removal of commercial waste;
5. Provide organic waste collection services to all commercial establishments that: i) are located within the commercial waste zone for which the awardee has been awarded an agreement pursuant to section 16-1002; ii) are designated covered establishments pursuant to subdivision b of section 16-306.1 that have elected collection by a private carter of organic waste pursuant to subdivision c of such section; and iii) select such designated carter(s) for removal of commercial waste;
6. Ensure proper disposal of all commercial waste collected within the commercial waste zone for which the awardee has been awarded an agreement pursuant to section 16-1002, consistent with all applicable laws and rules and report to the department the amount of commercial waste collected, transported or removed, disaggregated by material type, and the destination of each material type, and retain for five years and make available for inspection by the department any records provided by a waste transfer station that document disposal of waste collected within such zone;

7. Comply with all terms of the awardee's health and safety plan as set forth in the agreement entered into pursuant to subdivision c of section 16-1002, and any rules promulgated by the department related to public health and safety; and

8. Report any employees hired as a result of the displaced employee list pursuant to section 16-1006.

§ 16-1006. Displaced employee list. a. The department shall maintain a list containing the names and contact addresses or telephone numbers of persons formerly employed by a business either currently engaged in the collection, removal or disposal of commercial waste, or that was engaged in the collection, removal or disposal of commercial waste prior to the implementation of this chapter, whose employment with such business has ended. The addition or deletion of information on such list shall be made only upon the request of such a former employee. At the time a former employee requests to be added to such list, the department shall provide the employee with information regarding employment programs and initiatives administered by the department of small business services or other city agencies.

b. The department shall provide a copy of such list to an applicant or licensee pursuant to section 16-508 or an awardee pursuant to section 16-1002 upon request. Additionally, the department shall provide a copy of such list to an awardee within six months of entering into an agreement with such awardee pursuant to section 16-1002 and every six months thereafter for a period of five years.

c. The maintenance or provision of such list shall in no way be construed as a recommendation by the city regarding the employment of any person on such list, nor shall the city be responsible for the accuracy of the information set forth therein.

§16-1007 Worker safety training. a. In addition to any other applicable requirements pursuant to local, state or federal laws or rules, no later than 180 days after the date on which an awardee enters into an agreement with the department pursuant to section 16-1002, each designated carter that will be operating pursuant to such agreement shall be responsible for ensuring that all workers, including but not limited to, vehicle operators, laborers, helpers, mechanics, supervisors and managers, employed by such designated carter

as of such date have received worker safety training as required by this section. For workers employed by such designated carter after an awardee enters into an agreement with the department pursuant to section 16-1002, such worker safety training shall be provided within 90 days after the start of employment or prior to the initial assignment of a worker to a job or task, whichever is earlier.

b. A designated carter shall provide for a worker safety training program at no cost to workers to ensure its workers are properly trained for each assigned job or task to be performed and use of related equipment. The worker safety program shall include a review of any hazardous activities of the job that are relevant to the tasks and activities to be performed. For vehicle operators, laborers and helpers who are directly assigned to the collection, removal, transport or disposal of trade waste on or about the public right of way, such training shall consist of no less than 40 hours of which no fewer than 16 hours shall be dedicated to classroom instruction. For all other workers, such training shall consist of no less than 8 hours.

c. 1. Such worker safety training program shall be tailored for individual operations, hazards or potential hazards present, and the type of equipment utilized including detailed equipment specific training for drivers, equipment operators and loaders, as well as maintenance personnel and supervisors. Training shall include a practical demonstration of equipment operation, the knowledge and skills needed by the employee to operate such equipment and the consequences for failure to operate the equipment properly, as appropriately related to the requirements of the worker's job duties.

2. All training shall include at a minimum:

i. Educating workers on workplace safety requirements consistent with all applicable laws, rules and regulations, including but not limited to, requirements administered by the United States occupational safety and health administration, the United States department of transportation, the New York state department of transportation, the United States department of labor, and the New York state department of labor; and

ii. Operational instruction on each specific type of equipment used by the employee.

d. The worker safety training program required by this section shall include a language access plan to

ensure that the needs of workers with limited English proficiency are adequately addressed by the designated carter's worker safety training program. Such language access plan shall include, at a minimum, a description of the language access needs of the designated carter's workforce and specific language assistance tools to be used in the administration of the worker safety training program designed to meaningfully address such needs. Such language access plan shall be updated annually and made available for inspection upon request by the department.

e. A designated carter shall provide re-training of employees in the following circumstances:

1. An annual refresher training class to all workers;

2. Whenever there is a change in the worker's job assignment or a change in equipment used by the worker that presents a new hazard;

3. Whenever an inspection by the department reveals, or whenever the designated carter has reason to believe, that there are material deviations from workplace safety requirements or inadequacies in worker knowledge of workplace safety requirements.

f. A designated carter shall refer workers to, and have readily available, the manufacturer's, installer's or modifier's instructions to ensure that correct operating and maintenance procedures and work practices are understood and followed.

g. Upon each worker's completion of the worker safety program required by this section, the designated carter shall issue to each such worker a safety training card evidencing the completion of such safety training which a worker shall carry with him or her during the performance of his or her duties.

h. A designated carter shall maintain training records, including the name of each worker, date or dates of training, the type of training received by each worker, and the language in which such training was provided. Records shall be maintained for a period of three years and be made available for inspection upon request by the department.

i. A designated carter shall notify the department no later than 72 hours before a training pursuant to this

section shall occur.

j. A designated carter shall certify to the department that it has met the requirements of this section, in the form and manner as the commissioner may prescribe, no later than 180 days after the date on which an awardee enters into an agreement with the department pursuant to section 16-1002 and annually thereafter.

k. No later than 180 days after the effective date of the local law that added this section, the commissioner shall convene a commercial waste zone safety task force to monitor industry conditions in order to make recommendations regarding improving worker safety training and other ways to protect the public from potential dangers posed by commercial waste hauling activities. Such task force shall be composed as follows:

1. The commissioner, who shall serve as the chairperson of such task force, the chair of the business integrity commission, and the speaker of the city council, or the designees of any such members.

2. The task force shall consist of eight additional members, four of which shall be appointed by the mayor and four of which shall be appointed by the speaker of the council. Such task force shall include members who are representative of the commercial waste hauling industry and persons having expertise in workplace safety.

3. The task force shall meet at least quarterly each year for the first two years of its existence and at least annually for three years thereafter.

4. The task force shall from time to time on its own initiative, or upon request of the commissioner, provide the commissioner with recommendations relating to improving the worker safety training required by this section and other ways to protect the public from potential dangers posed by commercial waste hauling activities. Any such recommendations shall be made available to the commissioner, the chair of the business integrity commission and designated carters within one year of the first meeting of the task force and annually for four years thereafter. In making such recommendations, such task force shall consider, but need not limit such consideration to the following:

- i) Personal protection equipment;
- ii) Safely working with and operating vehicle equipment and machines;
- iii) Handling heavy materials and proper lifting techniques;
- iv) Working with hazardous chemicals or other materials;
- v) Emergency action plans, fire prevention and fire protection;
- vi) Hazard communication;
- vii) Drug and alcohol awareness; and
- viii) First aid, including cardiopulmonary resuscitation (CPR) and automated external defibrillator (AED) use.

§ 16-1008 Whistleblower protections. It shall be unlawful for a designated carter or the agent of a designated carter to take or threaten to take a retaliatory personnel action, as defined by section 740 of the labor law, against an employee of such designated carter for reporting to the officer or employee of any city agency information concerning the conduct of such designated carter or such agent, which the employee knows or reasonably believes to involve a violation of the provisions of this title or any rules promulgated pursuant thereto or the terms of any agreement entered into pursuant to section 16-1002.

§ 16-1009. Outreach and education. a. The commissioner, together with the chair of the business integrity commission and any other agency designated by the mayor, shall establish an outreach and education program aimed at educating commercial establishments on the implementation of the commercial waste zone collection system, instructions for securing a designated carter, and the environmental, health and safety benefits to be yielded through such system. This outreach and education program shall include but not be limited to, seminars, webinars, conferences, and a multilingual public education program.

b. The commissioner may seek the assistance of for-profit and not-for-profit corporations in providing education to commercial establishments pursuant to subdivision a of this section.

c. No later than 90 days following the selection of awardees within a commercial waste zone pursuant to

section 16-1002, the commissioner shall distribute a multilingual letter to all commercial establishments within such zone informing them of their obligations to comply with the provisions of this chapter and any rules promulgated pursuant thereto. Failure to receive a letter pursuant to this subdivision shall not eliminate or otherwise affect the obligations of a commercial establishment pursuant to this chapter and any rules promulgated pursuant thereto.

d. The commissioner, together with the chair of the business integrity commission and any other agency designated by the mayor, shall also conduct an outreach and education program aimed at educating businesses within the commercial waste industry about the requirements and procedures for those interested in operating as designated carters pursuant to this title. Such program shall include but not be limited to, targeted outreach to minority and women-owned business enterprises and methods to facilitate the exchange of information between such business enterprises and other businesses within the commercial waste industry.

§ 16-1010. Agency reporting. On or before September 30, 2020, the commissioner shall issue a report to the speaker of the council and the mayor. Such report shall include but not be limited to, information regarding the previous fiscal year, as applicable and readily available, on: (i) the cost and volume of solid waste and recyclables collection and disposal; (ii) business feedback; (iii) the number and types of complaints received regarding commercial waste removal, disaggregated by zone; (iv) outreach and education conducted, including number of trainings and number of business individuals who have participated in such trainings, if applicable, and materials provided; (v) the number of vehicle miles traveled by trucks used to collect, transport or remove commercial waste within commercial waste zones and any change to such number as compared to the previous fiscal year (vi) diversion of commercial waste from landfill and any change to such diversion as compared to the previous fiscal year and (vii) any recommendations for improving the commercial waste zone collection system.

§ 16-1011 Reporting by micro-haulers. On or before February 1, 2022 and each February 1 thereafter, any micro-hauler operating within a commercial waste zone shall submit to the department and the business

integrity commission the following information for the previous calendar year in a form and in a manner prescribed by the department:

(i) the amount of source separated organic waste collected from commercial establishments, disaggregated by quarter year;

(ii) the disposal location(s) of all source separated organic waste collected from commercial establishments, disaggregated by quarter year; and

(iii) a list of commercial establishments from which source separated commercial waste was collected, disaggregated by zone.

§ 16-1012 Fees. The commissioner shall promulgate rules establishing a fee to be collected from any awardee selected pursuant to section 16-1002 for the administration of the commercial waste zone program.

§ 16-1013 Penalties, injunction and equitable remedies. a. Any person who violates any provision of section 16-1003 or 16-1004, or any rules promulgated pursuant such sections or any order issued by the commissioner or chair of the business integrity commission pursuant to such sections shall be liable for a civil penalty of \$10,000 for each violation, or, in the case of a continuing violation, \$10,000 for each day of such violation.

b. Any person who violates any provision of subdivision a of section 16-1005 shall be liable for a civil penalty of \$2,500 for the first violation, and, for subsequent violations that occur within a two year period of any previous violation, \$5,000 for the second violation and \$10,000 for any subsequent violation.

c. 1. Any person who violates any provision of subdivision b of section 16-1005 shall be liable for a civil penalty of \$10,000 per vehicle that is in violation. Each notice of violation shall contain an order of the commissioner or chair of the business integrity commission directing the respondent to correct the condition constituting the violation and to file with the department electronically, or in such other manner as the commissioner shall authorize, a certification that the condition has been corrected within thirty days from the date of the order. In addition to such civil penalty, a separate additional penalty shall be imposed of \$500 for

each day that the violation is not corrected beyond thirty days from such order.

2. For the purposes of this section, if a court of competent jurisdiction or the office of administrative trials and hearings, pursuant to section 1049-a of the charter, finds that a certification of correction filed pursuant to this subdivision contained material false statements relating to the correction of a violation, such certification of correction shall be null and void, in addition to or as an alternative to any other penalties provided by law. It shall be an affirmative defense that the respondent neither knew nor should have known that such statements were false.

d. The civil penalty for each violation of section 16-1007 shall be \$1,000. A violation of section 16-1007 shall be computed on a per employee basis. Notwithstanding any other provision of this section, any penalty imposed for a violation of subdivision i of section 16-1007 shall be mitigated to zero dollars if, on or before the initial return date stated on the notice of violation, a designated carter who fails to provide the certification required pursuant to subdivision i of section 16-1007 submits proof of having cured such violation at the hearing of such notice of violation.

e. Any person who violates any provision of section 16-1011 shall be liable for a civil penalty of \$1,000, except that such penalty shall be mitigated to zero dollars if on or before the initial return date stated on the notice of violation, a micro-hauler who fails to file the report required pursuant to section 16-1011 submits proof of having cured the violation at the hearing of such notice of violation.

f. All civil penalties imposed pursuant to this section may be recovered in a civil action in any court of competent jurisdiction or in a proceeding before the office of administrative trials and hearings, pursuant to section 1049-a of the charter.

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

h. In addition to or as an alternative to any civil penalty pursuant to subdivision a of this section, any person who violates section 16-1003 or 16-1004 or any of the rules promulgated pursuant thereto shall, upon

conviction thereof, be punished for each violation by a criminal fine of not more than \$10,000, or in the case of a continuing violation, not more than \$10,000 for each day of such violation, or by imprisonment not exceeding six months, or both such criminal fine and imprisonment.

i. Any employee that has been the subject of a retaliatory personnel action or the threat of a retaliatory personnel action in violation of section 16-1008 or any rules promulgated pursuant thereto shall be entitled to all relief necessary to make the employee whole. Such relief shall include but not be limited to: (i) an injunction to restrain the retaliatory action or threat of retaliatory action, (ii) reinstatement to the position such employee would have had but for the retaliatory action or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliatory action or threat of retaliatory action, including litigation costs and reasonable attorneys' fees. Such an employee may bring an action in any court of competent jurisdiction for the relief provided in this subdivision.

§ 16-1014 Impoundment and forfeiture. 1. Any vehicle that has been used or is being used in the violation of section 16-1003 shall be impounded by the department or the business integrity commission and shall not be released until either all removal charges and storage fees and the applicable fine have been paid or a bond has been posted in an amount satisfactory to the commissioner or as otherwise provided in paragraph (2) of this subdivision. The commissioner shall have the power to establish regulations concerning the impoundment and release of vehicles and the payment of removal charges and storage fees for such vehicles, including the amounts and rates thereof.

2. In addition to any other penalties provided in this section, the interest of an owner in any vehicle impounded pursuant to paragraph (1) of this subdivision shall be subject to forfeiture upon notice and judicial determination thereof if such owner has been convicted of or found liable for a violation of section 16-1003 in a civil or criminal proceeding or in a proceeding before the office of administrative trials and hearings, pursuant to section 1049-a of the charter two or more times, both of which violations were committed within an eighteen

month period.

3. Except as hereinafter provided, the city agency having custody of a vehicle, after judicial determination of forfeiture, shall no sooner than thirty days after such determination upon a notice of at least five days, sell such forfeited vehicle at public sale. Any person, other than an owner whose interest is forfeited pursuant to this section, who establishes a right of ownership in a vehicle, including a part ownership or security interest, shall be entitled to delivery of the vehicle if such person:

(i) Redeems the ownership interest which was subject to forfeiture by payment to the city of the value thereof;

(ii) Pays the reasonable expenses of the safekeeping of the vehicle between the time of seizure and such redemption; and

(iii) Asserts a claim within thirty days after judicial determination of forfeiture.

Notwithstanding the foregoing provisions, establishment of a claim shall not entitle such person to delivery of the vehicle if the city establishes that the unlawful conduct for which the vehicle was seized was expressly or impliedly permitted by such person.

§ 16-1015 Liability for violations. a. A designated carter shall be liable for violations of any of the provisions of this chapter or any rules promulgated pursuant hereto committed by any of its employees and/or agents.

b. An awardee shall be liable for violations of the provisions of this chapter or any rules promulgated pursuant hereto committed by any designated carter or other subcontractor performing services pursuant to the agreement entered into pursuant to section 16-1002.

§ 16-1016 Enforcement. a. Notices of violation for violations of any provision of this chapter or any rule promulgated hereunder may be issued by the department or the business integrity commission. In addition, such notices of violation may be issued by any other agency of the city as designated by the commissioner.

b. With respect to any notice of violation or order of the commissioner alleging a violation of this

chapter, the operator of a vehicle engaged in collecting, transporting or removing commercial waste in violation of this chapter shall be deemed to be the agent of the business entity employing such operator or on whose behalf such operator is acting and service of such notice of violation or order on such operator shall be deemed to be lawful service upon such business entity.

§ 16-1017 Labor and wage violations. Where the commissioner has reasonable cause to believe that a designated carter has engaged in or is engaging in actions: (i) involving egregious or habitual nonpayment or underpayment of wages, or (ii) that constitute a significant violation of city, state or federal labor or employment law, the commissioner shall inform the New York state attorney general, the New York state department of labor, the United States department of labor or other relevant city, state or federal law enforcement agency of such actions.

§ 16-1018 Administration of commercial waste zones. a. Notwithstanding any inconsistent provision of law, the business integrity commission may, upon approval by a majority of its members, elect to assume, in whole or in part, the powers and duties of the commissioner and the department assigned by the local law that added this section, provided that such commission notifies the mayor, the council and the commissioner in writing of such election either (i) within 30 days of the enactment of the local law that added this section, or (ii) subsequently, no less than six months prior to the date that the assumption of powers and duties pursuant to such election takes effect. In the event of an election that is made pursuant to clause (ii) of the preceding sentence, such commission and the department shall take measures to effect an orderly transfer of such powers and duties. Such commission and the department shall make all necessary arrangements with respect to any relevant property, contracts, personnel, funding, administration, enforcement and pending matters. No judicial or administrative action or proceeding, civil or criminal, pending at the time of such election, or any contract in effect at the time of such election, shall be affected or abated by such assumption; all such actions, proceedings or contracts may be continued, but upon the effective date of the assumption of powers and duties by such commission, the same may be prosecuted, defended or enforced by such commission. Any rules promulgated

by the department pursuant to the local law that added this section shall remain in effect as rules of such commission until such time as they are repealed or amended by such commission.

b. Subsequent to any election made pursuant to subdivision a of this section, such commission may elect for the department to assume, in whole or in part, powers and duties assumed by the commission pursuant to such subdivision, provided that such assumption shall take effect no less than six months after such election. In such event, the transitional provisions applicable to the initial assumption by such commission in subdivision a of this section shall apply in a similar manner to the assumption by the department pursuant to this subdivision.

§ 18. Subdivision c of section 24-163.11 of the administrative code of the city of New York, as amended by local law 38 for the year 2015, is amended to read as follows:

c. Waivers; financial hardship. The chairperson of the business integrity commission may issue a waiver of the requirements of paragraph one of subdivision b of this section if the chairperson finds that the applicant for such waiver has demonstrated that compliance with such requirements would cause undue financial hardship on the applicant. An application for such waiver must be filed with the business integrity commission on or before January 1, 2019, or in the case of an applicant that applies for a license or registration with the business integrity commission pursuant to section 16-505 of the code for the first time after January 1, 2019, an application for such waiver shall be filed no later than the date on which such license or registration application is filed with the commission. An application for renewal of an existing waiver must be filed no later than one hundred eighty days before the expiration of such waiver. Any waiver issued pursuant to this paragraph shall expire no later than two years after issuance. All waivers issued pursuant to this subdivision shall expire no later than January 1, 2025. The provisions of paragraph one of subdivision b of this section shall not apply to an applicant that has submitted an application for a waiver in accordance with the provisions of this subdivision while such application is pending with the commission, nor for ninety days after the date of a denial of such waiver. Notwithstanding any other provision of law, the business integrity commission shall not issue a waiver pursuant to this subdivision to any applicant with respect to a vehicle that will be used to collect, remove or

dispose of waste required to be collected by a designated carter pursuant to section 16-1003.

§ 19. Subdivision d of section 24-163.11 of the administrative code of the city of New York is amended by adding a new paragraph (6) to read as follows:

(6) Notwithstanding any other provision of law, with respect to any vehicle that may be used to collect, remove or dispose of waste required to be collected by a designated carter pursuant to section § 16-1003, the commissioner of sanitation shall have all powers and duties of the commission as set forth in this section.

§ 20. Notwithstanding any other provision of law, upon the final implementation date for a commercial waste zone established by the commissioner of sanitation pursuant to paragraph 3 of subdivision d of section 16-1002 of the administrative code of the city of New York, as added by section 17 of this local law, any contract between a commercial establishment and a person other than a designated carter authorized to operate within such zone pursuant to an agreement entered into pursuant to section 16-1002 of such code, as added by section 17 of this local law, to provide for the collection, removal or disposal of commercial waste, as such term is defined in section 16-1000 of such code, as added by section 17 of this local law, within such commercial waste zone shall be considered terminated. Any contract for the collection, removal or disposal of commercial waste generated by a commercial establishment within a commercial waste zone entered into prior to such final implementation date shall contain prominent notice that such contract is subject to termination upon such date and the procedures for such termination.

§ 21. No action or proceeding, civil or criminal, pending at the time when this local law takes effect, brought by or against the city or any agency or officer, and no administrative proceeding brought by the business integrity commission, shall be affected or abated by the adoption of this local law or by anything herein contained; but all such actions or proceedings may be continued notwithstanding that powers and duties of any agency or officer party thereto may be assigned or transferred to another agency or officer or otherwise affected by this local law.

§ 22. The enactment of this local law shall not affect or impair any act done, offense committed or right

accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such enactment takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such local law had not been enacted.

§ 23. a. This local law takes effect immediately, except as otherwise provided in this section.

b. The relettering of subdivision i of section 16-504 of the administrative code of the city of New York, as set forth in section 8 of this local law, shall take effect at the same time and in the same manner as local law number 55 for the year 2019.

c. Sections 4 through 16 of this local law take effect 18 months after it becomes law, provided however that:

1. Notwithstanding any other provision of law, until the final implementation date for a commercial waste zone established by the commissioner of sanitation pursuant to paragraph 3 of subdivision d of section 16-1002 of the administrative code of the city of New York, as added by section 17 of this local law, the business integrity commission may, within such zone, continue to enforce the provisions of sections 16-306, 16-306.1, 16-504, 16-519, 16-520 and 16-522 of the administrative code of the city of New York and any rules promulgated pursuant thereto, including but not limited to, the rates for the removal, collection or disposal of commercial waste, as they were in effect prior to the effective date of sections 4 through 14 of this local law, with respect to persons who are not designated carters operating within such zone pursuant to an agreement entered into pursuant to section 16-1002 of such code, as added by section 17 of this local law; and

2. Notwithstanding any other provision of law, until the final implementation date for a commercial waste zone established by the commissioner of sanitation pursuant to paragraph 3 of subdivision d of section 16-1002 of the administrative code of the city of New York, as added by section 17 of this local law, no enforcement of the provisions of paragraph two of subdivision a of section 16-116 of such code, as amended by section 3 of this local law, shall take place within such commercial waste zone.

d. Notwithstanding any other provision of law, until the implementation start date for a commercial

waste zone established by the commissioner of sanitation pursuant to paragraph 3 of subdivision d of section 16-1002 of the administrative code of the city of New York, as added by section 17 of this local law, no enforcement of the provisions of paragraph two of subdivision b of section 16-306 of such code, as amended by section 4 of this local law, subdivision l of section 16-509 of such code, as added by section 9 of this local law, paragraph (xii) of subdivision a of section 16-513 of such code, as added by section 10 of this local law, subdivision b of section 16-513 of such code, as amended by section 10 of this local law, or sections 16-1003, 16-1004 or 16-1005 of such code, as added by section 17 of this local law, shall take place within such commercial waste zone, and provided further that a licensee, as such term is used in title 16-A of the administrative code of the city of New York, operating within such zone pursuant to a contract with a commercial establishment entered into prior to such implementation start date may continue to provide commercial waste collection, removal or disposal services pursuant to such contract in accordance with the provisions title 16-A and any rules promulgated thereunder until the final implementation date for such zone established by the commissioner of sanitation pursuant to paragraph 3 of subdivision d of section 16-1002 of the administrative code of the city of New York, as added by section 17 of this local law.

e. The commissioner of sanitation may take such measures as are necessary for the implementation of this local law, including the promulgation of rules.

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