

CHAPTER 826-a
OF THE LAWS OF WESTCHESTER COUNTY

A LOCAL LAW to repeal Chapter 826 of the Laws of Westchester County, the Westchester County Solid Waste and Recyclables Collection Licensing Law, and to amend the Laws of Westchester County to add a new Chapter 826-a so as to implement the Solid Waste Management Act and address the influence and the threat of the influence of organized crime in the Solid Waste and recycling industries operating in Westchester County.

BE IT ENACTED by the County Board of Legislators of the County of Westchester as follows:

Section 1. Chapter 826 of the Laws of Westchester County, enacted by Local Law 15-1992, is hereby repealed in its entirety, effective March 31, 2002

Section 2. The Laws of Westchester County are hereby amended to add a new Chapter 826-a to read as follows:

ARTICLE I.
SHORT TITLE & STATEMENT OF PURPOSE

Section 826-a.100. Short Title.
Section 826-a.101. Purpose.

ARTICLE II.
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Section 826-a.200. Definitions.
Section 826-a.201. Westchester County Solid Waste Commission.
Section 826-a.202. Powers and Duties of the Westchester County Solid Waste Commission.
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- Section 826-a.303. Application Requirements - Class A, Class B, Class C-2, Class D and Class L Licenses.
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- Section 826-a.305. Application Requirements - Solid Waste Broker Registration.
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STANDARDS FOR DENIAL, SUSPENSION, REVOCATION, NON-RENEWAL,
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- Section 826-a.402. Conduct of Licensees and Registrants: Record Keeping; Service Contracts; Labeling of Containers; Labeling of Vehicles; Complaints.
- Section 826-a.403. Assignment of service contracts; Subcontracting of services.
- Section 826-a.404. Mergers, Acquisitions & Sales of Licensed or Registered Entities.
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- Section 826-a.501. Class A Licensee.
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- Section 826-a.503. Class C Licensee.
- Section 826-a.504. Class D and Class L Licensees.
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- Section 826-a.506. Transfer Station/Ultimate Disposal Site Operators.
- Section 826-a.507. Solid Waste Broker.

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- Section 826-a.800. Effective Date.
- Section 826-a.801. Implementation – Class C Licensees.
- Section 826-a.802. Implementation - Class A, Class B and Class C-2 Licenses.
- Section 826-a.803. Implementation - Class C-1, Class D and Class E Licenses.
- Section 826-a.804. Implementation - Solid Waste Brokers.
- Section 826-a.805. Implementation - Service Contracts.
- Section 826-a.806. Implementation - Municipal Enforcement.
- Section 826-a.807. Reporting to Board of Legislators.

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- Section 826-a.900. Term of License.
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**ARTICLE XI.
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ARTICLE I
SHORT TITLE & STATEMENT OF PURPOSE

Section 826-a.100. Short Title.

1. This Chapter shall be known as the “Westchester County Solid Waste and Recyclables Collection Licensing Law.”

Section 826-a.101. Purpose.

The purpose of this Chapter is two-fold.

1. a. The first purpose is to implement existing state Solid Waste management policy, as declared in Title One of Article 27 of the New York State Environmental Conservation Law, pursuant to which the County was designated as the official planning unit, and to develop and implement an integrated, comprehensive and long-term plan to manage all Solid Waste and Recyclables generated and collected within the County’s borders. The requirements outlined in this Chapter are necessary to: (1) enable Westchester County to promote the general health, welfare and safety of the people of Westchester County; (2) ensure that Solid Waste generated within the County is disposed of or recycled in an environmentally safe and sound manner; (3) implement and then evaluate the effectiveness of the County’s State-approved Solid Waste management plan; and (4) to develop any necessary future Solid Waste management options by providing comprehensive and detailed information about non-municipal Solid Waste management and recycling.

- b. The second purpose of this Chapter is to address the influence and the threat of the influence of organized crime in the Solid Waste and recycling industries operating in Westchester County. The Westchester County Board of Legislators has found that organized crime permeates the Solid Waste hauling industry in Westchester County and constitutes a significant problem and matter of public concern within the County. The existence of cartels has produced anti-competitive effects in the industry including, but not limited to, price-fixing; the prevention of new entry into the industry; the existence of unconscionable customer contract terms; and the incidence of corruption. To address this problem and matter of public concern, the Westchester County Board of Legislators has, through this Local Law, sought to, inter alia, expand the license application process; to modify the standard by which licenses for Solid Waste and recycling collection businesses are issued by the County in order to ensure the good character, honesty and integrity of licensees; to institute a registration process for those Solid Waste brokers which may operate in the County; to encourage new entry into the industry; to encourage competition; to regulate and monitor customer contracts for solid waste and recyclables collection; and to expand the penalties for violation of the standards established herein. It is the

intent of the Westchester County Board of Legislators to eliminate the influence of organized crime in the Solid Waste and Recyclables collection industry; and, thereby, eliminate this significant problem and matter of public concern, as referenced above, from Westchester County.

ARTICLE II. GENERAL PROVISIONS

Section 826-a.200. Definitions.

Unless otherwise expressly stated or unless the context or subject matter specifically requires a different meaning, the meanings of the following terms which are used in this Chapter shall be as follows:

1. "Applicant" means any person, as defined herein, who applies for a license or for a registration pursuant to this Chapter or who, after issuance of such a license or registration pursuant to this Chapter, applies for renewal of a license or registration pursuant to this Chapter.
2. "Class A" refers to all haulers except those whose hauling business is limited solely to Class C, Class D, Class E or Class L activities or whose recycling business is limited to Class B activities. Class A Licensees may also conduct Class B, Class C, Class D, Class E and Class L activities.
3. "Class B" refers to Recyclables brokers. Class B Licensees may also conduct Class C, Class D, Class E and Class L activities.
4. "Class C" refers to haulers who exclusively handle construction and demolition debris. With respect to Class C haulers, the following shall apply:
 - a. Class "C-1" shall refer to a business or subsidiary which generates construction and demolition debris, as defined herein, and which, incidental to such business, transports, stores, processes, transfers or disposes of the construction and demolition debris generated by the operations of such business or subsidiary. Those persons who would otherwise qualify as Class "C-1" haulers but who are licensed by the County of Westchester as: (1) electricians pursuant to Article XVII of Chapter 277 of the Laws of Westchester County, and whose business operations are limited exclusively thereto; (2) plumbers pursuant to Article XV of Chapter 277 of the Laws of Westchester

County, whose business operations are limited exclusively thereto; and/or (3) home improvement contractors, including landscapers, pursuant to Article XVI of Chapter 863 of the Laws of Westchester County, whose business operations are limited exclusively to providing home improvements as that term is defined in Section 863.312 of the Laws of Westchester County; and whose licenses are in effect and in good standing pursuant to such authority, shall be exempt from complying with the requirements of this Chapter. Class C-1 Licensees may also conduct Class E activities;

b. Class "C-2" shall refer to all other businesses which otherwise transport, collect, store, transfer, process, or dispose of construction and demolition debris. Class C-2 haulers may also conduct Class C-1, Class D, Class E and Class L activities.

5. "Class D" refers to (i) haulers who collect, store, transport, transfer, process or dispose of garden & yard waste generated, originated or brought within the County where such garden & yard waste was previously generated by a person or entity other than the Applicant/Licensee and/or (ii) haulers who collect, store, transport, transfer, process or dispose of garden & yard waste and which own, lease, or control one or more vehicles having three (3) or more axles which vehicles will be used in the collection, storage, transfer, transportation, processing or disposal of garden & yard waste generated, originated or brought within the County. Class D haulers may also conduct Class L activities.

6-A. "Class E" refers to haulers who exclusively conduct a scrap peddler business.

6-B Class L refers to haulers who exclusively handle seasonal organic waste, including leaves, solely on behalf of the County and/or its local municipalities during the leaf season, which includes the months of October, November, December and January.

7. "Commission" means the Westchester County Solid Waste Commission ("Commission"), or its duly authorized designee.

8. "Construction and Demolition Debris" means uncontaminated Solid Waste resulting from the construction, remodeling, repair and demolition of structures and roads, and uncontaminated Solid Waste consisting of vegetation resulting

from land clearing and grubbing, utility line maintenance and seasonal and storm-related cleanup. Such waste includes, but is not limited to, bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components containing no hazardous liquids, metals, and trees or tree limbs that are incidental to any of the above.

9. "County" means the County of Westchester.

10. "Hauler" means any person excluding Municipalities, the County and any County district including, but not limited to, Refuse Disposal District No. 1 and all County sewer and water districts, who, for a fee or other consideration, collects, stores, processes, transfers, transports or disposes of Solid Waste, Recyclables or construction and demolition debris that is generated or originated within the County or brought within the boundaries of the County for disposal, storage, transfer or processing.

11. "Licensee" means any person holding a license issued pursuant to this Chapter.

12. "Municipality" shall mean the cities, towns, villages, school districts and fire districts located within the County of Westchester.

13. "Person" shall mean any individual, firm, company, association, society, corporation, partnership, co-partnership, joint-stock company, trust, estate, governmental entity or any other legal entity or legal representatives, agents or assigns thereof. The masculine gender shall include the feminine, and the singular shall include the plural, where indicated by context.

14. "Predecessor Solid Waste Business" shall mean any business or entity engaged in the removal, collection or disposal of Solid Waste in which one or more Principals of the business or entity is also a Principal(s) of the Applicant, or any business or entity which engaged in activities which are now required to be licensed or registered pursuant to this Chapter and which was purchased or otherwise acquired by the Applicant, in the five (5) year period preceding the application.

15. "Principal" means the following: (a.) of a sole proprietorship, the proprietor; (b.) of a corporation, including a limited liability company, every officer and director and every stockholder holding ten percent (10%) or more of the outstanding shares of the corporation; (c.) of a partnership, including a limited liability partnership or a general or special partnership, all the partners; (d.) if another type of business entity, the chief operating officer or chief executive officer, irrespective of organizational title, and all persons or entities having an ownership interest of ten percent (10%) or more; and (e.) with respect to all business entities, all other persons participating directly and indirectly in the control of such business entity. Where a partner or stockholder holding ten percent (10%) or more of the outstanding shares of a corporation is itself a partnership, or a corporation, a "Principal" shall also include the partners of such partnership or the officers, directors and stockholders holding ten percent (10%) or more of the outstanding shares of such corporation, as is appropriate.

For the purposes of this chapter: (a.) an individual shall be considered to hold stock in a corporation where such stock is owned directly or indirectly by or for (i) such individual; (ii) the spouse of such individual (other than a spouse who is legally separated from such individual pursuant to a judicial decree or an agreement cognizable under the laws of the state in which such individual is domiciled); (iii) the children, grandchildren and parents of such individual; and (iv) a corporation in which any of such individual, the spouse, children, grandchildren or parents of such individual in the aggregate own fifty percent (50%) or more in value of the stock of such corporation; (b.) a partnership shall be considered to hold stock in a corporation where such stock is owned, directly or indirectly, by or for a partner in such partnership; and (c.) a corporation shall be considered to hold stock in a corporation that is an Applicant for a license or Licensee as defined in this Section where such corporation holds fifty percent (50%) or more in value of the stock of a third corporation that holds stock in the Applicant or Licensee corporation.

16. "Recyclables" means those materials defined as "Recyclables" under Section 825.30(8) of the Westchester County Source Separation Law.

17. "Recyclables brokers" means any person, excluding Municipalities, the County and any County district including, but not limited to, Refuse Disposal District No. 1 and all County sewer and water districts, who, for a fee or other consideration, collects, separates, processes, markets, stores, transports or otherwise handles Recyclables exclusively, if those Recyclables were generated or originated within the County or brought within the boundaries of the County for disposal, storage, transfer or processing, excluding those persons who are required to accept beverage containers under § 27-1007 of the New York State Environmental Conservation Law, persons who redeem containers under said law and those persons required to accept used motor oil or vehicular batteries free of charge for recycling under applicable state law, provided that this exclusion shall only apply to the aforementioned activities which are governed by state law. A Recyclables broker may collect, separate, process, store, transport or otherwise handle Solid Waste contaminants that are collected with Recyclables, provided that the Recyclables broker has taken reasonable precautions to prevent the introduction of such contaminants into the environment.

18. "Registrant" shall mean any person who obtains registration as a Solid Waste Broker pursuant to this Chapter.

19. "Scrap Peddler" shall mean any person who collects scrap materials for sale to a Recyclables broker using no more than one vehicle for collection and transportation of such materials.

20. "Separate collection" means that any person who collects, transports or stores Solid Waste or Recyclables shall keep source separated Recyclables separate from Solid Waste during collection, transportation and storage, except for Recyclables that are mixed with Solid Waste in construction and demolition debris and identifiable bagged Recyclables mixed with bagged Solid Waste, provided that Recyclables are later separated for recycling.

21. "Service Contract" means any contract entered into by a Licensee or a Registrant, or any person licensed pursuant to the former Chapter 826, and a third party (herein "customer") to conduct any activity for which a license or registration must be issued pursuant to this Chapter.

22. "Solid Waste" means all putrescible and non-putrescible materials or substances, except as described in Paragraph 4 of 6 NYCRR Part 360-1.2(a), and/or regulated under 6 NYCRR Part 364, 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, commercial waste, rubbish, ashes, incinerator residue and construction and demolition debris. "Solid Waste" shall not be understood to include Recyclables as defined in this chapter.

23. "Solid Waste Association" means a person or entity having as a primary purpose the promotion, advancement or self-regulation of businesses that remove, collect or dispose of Solid Waste, including but not limited to a corporation, unincorporated association, partnership, trust or limited liability company, whether or not such entity is organized for profit, not-for-profit, business or non-business purposes.

24. "Solid Waste Broker" means a person or entity who, for a fee, brokers agreements between commercial establishments and providers of Solid Waste removal, collection or disposal services or conducts evaluations or analysis of the waste generated by such commercial establishments in order to recommend cost efficient means of waste disposal or other changes in related business practices, and for whom registration is required.

25. "Source separation" means the segregation of Recyclables from Solid Waste at the point of generation for separate collection, sale or other disposition.

26. "Subsidiary" means a corporation of which over fifty (50.0%) percent of the ownership interest or the number of shares of stock, entitling the holders thereof to vote for the election of directors and trustees, is owned by the Applicant.

27. "Transfer Stations" means those facilities located in Westchester County where Solid Waste, garden and yard waste, Recyclables and Construction and Demolition Debris are received and transported off-site to a destination for final disposal, regardless of whether the materials are processed and regardless of the duration and frequency of operation of such facility.

Section 826-a.201. Westchester County Solid Waste Commission.

1. There shall be a Westchester County Solid Waste Commission which shall implement and administer the Solid Waste and Recyclables Collection Licensing Law. This Commission shall consist of seven (7) members: the Deputy County Executive; the Commissioner of Finance; the Commissioner of Environmental Facilities; the Commissioner of Public Safety; the Director of Consumer Protection; an individual qualified by experience to serve as a representative of the officials of the local Municipalities within Westchester County; and an individual, who shall be appointed as Chair of the Commission, with notable relevant professional experience.

2. Pursuant to § 110.21 of the Westchester County Charter, the County Executive shall appoint, subject to confirmation by the Board of Legislators, those two (2) Commission members, referenced above, who are not ex officio members of the Commission by virtue of their appointment to other Westchester County administrative positions. Those two (2) Commission members shall serve at the pleasure of the County Executive. The County Executive shall make such initial appointments within forty-five (45) days of the Effective Date of this Local Law. No member of the Commission shall be compensated for the services to be provided pursuant hereto, but may be reimbursed for any reasonable expenses that may be personally incurred in the conduct of the official duties of such members, to the extent that funds are appropriated for such purpose.

3. A majority of the Commission shall constitute a quorum for the transaction of business.

Section 826-a.202. Powers and Duties of the Westchester County Solid Waste Commission.

1. The general powers and duties of the Commission shall be to implement and enforce the provisions of this Chapter, which shall include but not be limited to, licensing, registration, regulation of businesses that conduct activities which require a license or registration pursuant to this Chapter.

2. The specific powers and duties of the Commission shall be:

a. To issue licenses and registrations for the performance of activities for which a license or registration is required under this Chapter, and to enforce the standards set forth in this Chapter, provided that, unless otherwise specified herein, the Commission may, by resolution, delegate to the Executive Director the authority to make individual determinations with regard to: (i.) the issuance, suspension, modification and revocation of such licenses and registrations; (ii.) background investigations and determinations of fitness with regard to the Principals and employees of Licensees and Registrants; and (iii.) the

appointment of independent auditors and monitors in accordance with the provisions of this Chapter; (iv.) the appointment of employees to perform the duties prescribed in this Chapter; and (v.) such other duties as the Commission deems necessary and efficient to carry out the purposes of this Chapter. Any such delegation to the Executive Director shall be subject to the duty of the Executive Director to make full and complete reports to the Commission on the conduct of all such delegated duties.

The Commission may, in its sole discretion and after preliminary investigation, issue a Permit To Operate to those persons who submitted completed applications for licensure or registration to the Commission after September 30, 2000, but for whom no definitive licensing and/or registration decision has yet been made. The services which a person may be authorized to perform pursuant to such a Permit To Operate shall be limited to those services for which licensure or registration are sought pursuant to the application submitted by such person in accordance with this Chapter. Such a Permit To Operate shall have a nonrenewable one (1) year term, which shall be superseded by any final licensing or registration decision by the Commission. The Permit To Operate shall also terminate immediately upon the withdrawal of the person's application submitted pursuant to this Chapter. Any person issued such a Permit To Operate shall be required to pay to the Commission, in addition to all application and background fees, all annual fees and vehicle fees generally applicable to the class of services, as outlined in this Chapter, which the person will be authorized to provide in Westchester County pursuant to such Permit To Operate. In the event that such a Permit To Operate is terminated prior to its stated expiration date due to the issuance of a denial of the license or registration application; due to failure to comply with the terms of such Permit To Operate; or due to the withdrawal of the permittee's application for licensure or registration, the Permit To Operate shall remain in effect for ninety (90) days after such termination or, for good cause shown, for a term which shall not exceed one hundred eighty (180) days only for purposes of the permittee's performance of its municipal contracts, or until the expiration of the permittee's existing contracts with such municipalities, whichever occurs sooner. In the event that such a Permit To Operate is terminated prior to its stated expiration date due to the issuance of a denial of the license or registration application; due to failure to comply with the terms of such Permit To Operate; or due to withdrawal of the application for licensure or registration, a pro rata refund shall be calculated from the date the permittee discontinues its Westchester County operations in accordance with the provisions of this Chapter.

The Permit To Operate shall take substantially the following form:

**“Westchester County Solid Waste Commission
100 East First Street, 8th Floor
Mount Vernon, New York 10550
(914) 813-6850**

**PERMIT TO OPERATE
PURSUANT TO CHAPTER 826-A OF THE LAWS OF
WESTCHESTER COUNTY**

Pursuant to the authority granted under Section 826-a.202(2)(a) of the Laws of Westchester County, the Westchester County Solid Waste Commission (“Commission”) hereby grants permission to _____, hereinafter the “Permittee,” to operate as a _____, as defined in Chapter 826-a of the Laws of Westchester County (Class/hauler, Solid Waste Broker)

(“Chapter 826-a”), and to operate the named transfer stations: _____

_____ pending the complete and final review of the Permittee’s application for licensure/registration pursuant to Chapter 826-a, and the issuance of a final determination by the Commission as to same. This Permit To Operate shall be for the term commencing on _____ and terminating upon the sooner of _____, or the date on which the Westchester County Solid Waste Commission issues a final determination as to the Permittee’s application for licensure/registration. It is understood and agreed that any withdrawal of the Permittee’s Chapter 826-a application for licensure or registration shall result in immediate termination of this Permit To Operate, effective on the date of such withdrawal.

The Permittee hereby agrees that it, its officers, and its employees shall abide by all provisions of Chapter 826-a of the Laws of Westchester County in connection with its operations under this Permit To Operate, and, in addition, agrees to be bound by the following terms and conditions:

1. PLEASE TAKE NOTICE: This Permit To Operate is NOT a license or registration to operate as a hauler or solid waste broker pursuant to Chapter 826-a of the Laws of Westchester County, but is issued by the Commission to allow the Permittee to operate in Westchester County while its application for licensure or registration thereunder is being reviewed and while background investigations are undertaken by the Commission pursuant thereto. Therefore, this Permit To Operate shall not operate as a grant of any of the rights or privileges as may be provided to Licensees or Registrants under Article VI of Chapter 826-a of the Laws of Westchester County, such rights being granted only after a final determination by the Commission that Permittee has met the standards of good character, honesty and integrity as specified in Chapter 826-a and has been issued a license or registration pursuant thereto.

2. Any failure of the Permittee to comply with the provisions of Chapter 826-a of the Laws of Westchester County during any term of this Permit To Operate, including, but not limited to, the failure to cooperate with the Commission regarding its review of Permittee’s application, shall be grounds for immediate termination of this Permit To Operate, upon written notice to the Permittee by the Commission.

3. The Permittee hereby acknowledges and agrees that it shall assume any and all business and financial risks associated with its commencement of operations pursuant to this Permit To Operate. Permittee hereby acknowledges and agrees that, despite the issuance of this Permit To Operate, no determination has been made by the Commission in any respect as to the Permittee’s good character, honesty and integrity pursuant to Chapter 826-a of the Laws of Westchester County or Permittee’s fitness to operate in Westchester County pursuant to Chapter 826-a. Permittee acknowledges and agrees that its Permit To Operate in Westchester County as a _____, as defined in _____ (Class/hauler, Solid Waste Broker)

Chapter 826-a may be immediately terminated upon the completion of the review of the Permittee’s application for licensure and/or registration, and the issuance of such a determination by the Commission, or pursuant to the conditions set forth in Section 2, above.

4. The following additional conditions have been imposed upon the Permittee and its operations in Westchester County pursuant to this Permit To Operate:

_____.

5. The Permittee hereby acknowledges and agrees that it is under no obligation to execute this Permit To Operate, and that its refusal to execute same shall have no impact on the Commission's review of Permittee's pending application under Chapter 826-a.

6. The Permittee hereby acknowledges and agrees that, as a condition of this Permit To Operate, it shall comply, at its own expense, with all applicable federal, state and local laws, rules, regulations and ordinances which may be applicable to the Permittee in connection with its performance of the activities for which it has been issued this Permit To Operate hereunder, and, in particular those antitrust or other laws relating to the restraint of trade.

7. The Permittee hereby acknowledges and agrees that, in the event that such a Permit To Operate is terminated prior to its stated expiration date due to the issuance of a denial of the license or registration application; due to failure to comply with the terms of such Permit To Operate; or due to the withdrawal of the Permittee's application for licensure or registration, the Permit To Operate shall remain in effect for ninety (90) days after such termination or, for good cause shown, for a term which shall not exceed one hundred eighty (180) days only for purposes of the Permittee's performance of its municipal contracts, or until the expiration of the Permittee's existing contracts with such municipalities, whichever occurs sooner.

Agreed to on this ____ day of _____, 20__.

PERMITTEE:

Name & Title

On this ____ day of _____, 20__, before me personally came _____
to me known, and known to me to be the _____ of _____,
(Title) (Corporation)
the Permittee described herein and who being by me duly sworn did depose and say that the said
_____ resides at _____ and that s/he
is _____ of said Permittee.

Authorized on this ____ day of _____, 20__.

WESTCHESTER COUNTY SOLID WASTE COMMISSION

Executive Director
Westchester County Solid Waste Commission";

b. To establish and/or modify, as the Commission may in its discretion deem necessary, fees for all licenses and registrations, including all application fees, required under this Chapter. The Commission shall maintain a written record of all proceedings relating to the establishment or modification of fees. The Commission shall set such fees to fund the Commission, its staff, salaries, fringe benefits and all of the Commission's other costs and expenses. With regard to fees for background investigations, the costs assessed by independent contractors and government agencies associated with such investigations shall be charged directly to the Applicant, Licensee or Registrant based on the average cost of such investigation for the standard investigation and based on the actual cost of investigation for all supplemental investigations. With regard to standard background investigations, the Applicant's fee shall be based upon the total number of principals in the entity;

c. To create a database for customers to be known as the Customer Availability Service Hotline ("CASH") which shall serve as a registry for those customers who are seeking to obtain solid waste and recyclables collection services. Each such customer shall be listed on the CASH Registry for a period of thirty (30) days after notifying the Commission of the customer's desire to be listed, and shall be required to re-register with the Commission, every thirty (30) days, in order to maintain its listing on the CASH Registry thereafter. The CASH registry shall be internet accessible;

d. To investigate any matter within the jurisdiction conferred by this Chapter and to have full power to compel the attendance of witnesses, the examination of witnesses, to take testimony under oath of such persons as it may deem necessary in relation to such investigation, to require the production of books, accounts, papers and other evidence relevant to such investigation, to issue subpoenas to compel the attendance of such witnesses, and to issue subpoenas to compel the production of books, records and documents;

e. To initiate actions based upon alleged violations of this Chapter;

f. As the Commission may deem necessary to carry out the purposes of this Chapter, and to establish standards for service and for the regulation and conduct of Licensees and Registrants pursuant to this Chapter;

g. To appoint within the appropriations available therefor, such employees as may be required for the performance of the duties prescribed herein;

h. Subject to all necessary legal approvals, to enter into such agreement(s) on behalf of the County as may be necessary to carry out the purposes of this Chapter, including agreement(s) with the New York State Department of Criminal Justice Services, or any successor organization which may subsequently be charged with the duty of performing the services thereof pursuant to state law ("CJS"), for the processing of background checks and

fingerprinting analysis. Pursuant to any agreement between the County and CJS, the Executive Director shall be required to transmit the fingerprint cards directly to CJS, along with the payment of fees as may be required by the CJS for the processing of such fingerprint cards. Pursuant thereto, the Executive Director, or his designee, is hereby designated as the Commission representative who will be responsible to review the reports issued by the CJS pursuant to its analysis of the fingerprint cards submitted by the Commission;

i. To inform the public of its rights under this law;

j. To provide the Department of Environmental Facilities of the County of Westchester with all information and records which may be necessary to assist the Department of Environmental Facilities in its compliance with Article 27 of the New York Environmental Conservation Law;

k. To refer all evidence of or information concerning violations of any law, rule or regulation by any person licensed or registered under this Chapter, or by any person which has applied for a license or registration under this Chapter, that the Commission has or becomes aware of to the appropriate governmental agency charged with enforcing such law, rule or regulation;

l. As the Commission may deem necessary to carry out the purposes of this Chapter, to conduct lawful inspections to ensure compliance with this Chapter. Such inspections may include, but need not be limited to, the inspection of the facilities of a Licensee or Registrant, and audit of records required to be kept pursuant to this Chapter. Such inspections may also include the accompanying of a Licensee on its collection routes, and the accompanying of a Licensee or Registrant to transfer stations, recycling facilities, and landfills, or when transferring waste to other vehicles. A Licensee shall, upon request by the Commission, provide the Commission with a list of its collection routes and schedules;

m. To issue an annual report of the Commission's activities in the previous year to the County Executive and the Board of Legislators on or before February 15th of the following year, beginning on February 15th of the first full calendar year after the Effective Date;

n. To issue emergency suspension orders immediately suspending, without a prior hearing, a license or registration, where the Commission has obtained clear and convincing evidence that a Licensee or Registrant is conducting its licensed or registered activities in such a manner that has a serious and immediate adverse impact on the life, health, safety environment or welfare of residents of, or property located in, Westchester County; and

o. To take such steps, as the Commission deems appropriate, to determine the accuracy and truth of statements made in the application for a license and/or registration.

Section 826-a.203. Executive Director.

1. The County Executive shall appoint an Executive Director who shall have suitable professional experience. The County Executive shall appoint such Executive Director within forty-five (45) days of the Effective Date of this Local Law, subject to confirmation by the Board of Legislators.

2. The Executive Director's duties shall include all duties specifically delegated to the Executive Director by the Commission. The Executive Director shall direct and manage the activities of any and all such employees as may be appointed by the Commission, and shall be entitled to compensation for his services, which compensation shall be fixed by the Board of Legislators.

**ARTICLE III.
LICENSING AND REGISTRATION REQUIREMENTS**

Section 826-a.300. License and Registration - Applicability.

1. The licensing and registration requirements set forth in this Chapter shall apply to all persons who conduct Class A, Class B, Class C, Class D, Class E or Class L activities in Westchester County and to all persons who intend to operate as Solid Waste Brokers within the County, except where such activities are conducted by the County, a County district or by a Municipality.

Section 826-a.301. License and Registration - Requirement.

1. Notwithstanding any provisions to the contrary and subject to the Implementation procedure outlined in Article VIII, it shall be unlawful for any person to conduct Class A, Class B, Class C, Class D, Class E or Class L activities in Westchester County without having first obtained a license therefor from the Commission pursuant to the provisions of this Chapter.

2. Notwithstanding any provisions to the contrary, commencing September 30, 2000, it shall be unlawful for any person to operate as a Solid Waste Broker unless registered therefor by the Commission pursuant to the provisions of this Chapter.

3. Any license or registration shall be in the nature of a privilege subject to the terms and conditions set forth in this Chapter, and shall not be deemed to create a property interest or right with respect to the persons who conduct Class A, Class B, Class C, Class D, Class E or Class L activities, or who operate as Solid Waste Brokers, in Westchester County. Such licenses and/or registrations are not transferable upon sale or transfer of ownership of a licensed or registered business, except with the prior written approval of the Commission, after submission of a completed license application or registration application by the purchaser or transferee, pursuant to the provisions of this Chapter. The granting of a license or registration shall not operate as an authorization for regionally or wholly-owned subsidiaries of such Licensee and/or Registrant to conduct licensed or registered activities. All such subsidiaries shall be required, in all cases, to apply separately for licensing and/or registration pursuant to the provisions of this Chapter.

4. The Commission shall refuse to issue or renew a license or registration in the event that such issuance or renewal conflicts with or is prohibited by any other applicable provision of Federal or State law. Such denial or non-renewal shall not be subject to the notice and hearing procedures of Section 826-a.602 of this Chapter.

5. a. Notwithstanding any provision of this Chapter to the contrary, any Applicant which holds a valid license or registration issued by the Trade Waste Commission of the City of New York to conduct activities similar to those activities for which the Applicant seeks to obtain or renew a license or registration pursuant to this Chapter, shall be initially relieved from the disclosure obligations to the extent that such disclosure has already been made to the New York City Trade Waste Commission pursuant to such licensing or registration determination, but not the general application requirements, outlined in this Article, and the Commission may determine that the Applicant has met the standards of good character, honesty and integrity necessary to be licensed or registered pursuant to this Chapter based upon the issuance of the license or registration in New York City. This provision shall not apply to an Applicant which is a regional or wholly-owned subsidiary of an entity licensed or registered by the Trade Waste Commission of the City of New York, and such subsidiaries shall, in all cases, be subject to all disclosure requirements as set forth in this Article.

b. In the event that a license or registration to haul solid waste and/or recyclables issued by a licensing authority of any federal, state or local jurisdiction is ever suspended or revoked, or if an application for a license or for the renewal of a license to haul solid waste and/or recyclables is ever denied by a licensing authority of any such jurisdiction, the licensee or registrant shall inform the commission of same within 10 days of receiving notice of such action, and the commission may, at its discretion, immediately take any action available to it pursuant to this chapter.

c. Nothing provided in this subsection shall be intended to relieve any Licensee or Registrant from its ongoing obligation to disclose information as required by this Chapter or as may be required by the Commission, in its discretion, subsequent to the issuance of a license or registration. Such Licensee or Registrant shall also be required to provide the Commission with any and all information necessary to enable the County to comply with its reporting requirements pursuant to Article 27 of the Environmental Conservation Law, as specified by the Commission.

6. To renew a license or registration issued pursuant to this Chapter, an Applicant must submit the appropriate application to the Commission no later than (120) days prior to the expiration of the license or registration. A Licensee or Registrant must comply fully with all application requirements outlined in Article III., hereof, in order to renew such license or registration. Review of each such application for renewal by the Commission shall be based upon a consideration of the standards for issuance of a license or registration as set forth in Section 826-a.400. An expired license or registration shall be deemed to have been extended, if a complete application to renew the license or registration has been timely submitted and has not been acted upon by the Commission, or if a hearing on a determination not to renew the license or registration is pending, until the Commission either grants renewal or denies renewal at the completion of the hearing process set forth in Article VI. of this Chapter.

Section 826-a.302. General License and Registration Application Requirements.

1. a. An Applicant for a Class A, Class B and Class C, Class D, Class E or Class L License or an Applicant for registration as a Solid Waste Broker shall submit an application in writing on a form prescribed by the Commission, along with the required fees. Such application shall contain a letter of certification sworn, and certified under penalty of criminal prosecution that the information disclosed in conjunction with the application is complete and accurate to the best of the Applicant's knowledge and belief and has been prepared based upon a diligent search of all business and other records in its possession or control. Such application shall require the disclosure of information regarding the financial, contractual or employment relationships, if any, which may exist between such Applicant and any business engaged in the collection, removal or disposal of Solid Waste or a Predecessor Solid Waste Business. Any and all such relationships shall be indicated on the license or registration, if any, subsequently issued to such Applicant. Such application shall also require that the Applicant provide a business telephone number and a business address in the County of Westchester where notices may be delivered and legal process may be served, and where records which may be required pursuant to this Chapter or by the Commission shall be maintained, and the name of a person of suitable age and discretion who shall be designated as agent for the service of legal process. The

Applicant shall also specify its Federal or State tax identification number in each application submitted to the Commission. Each Applicant and Principal, and any other party which is required to comply with the disclosure requirements set forth in this Article, shall also be required to provide to the Commission all such releases as may be necessary for the Commission, or its designee, to verify all information disclosed, at the time of application submission.

b. All Applicants, except Applicants for Class “C-1” Licenses, and each Principal thereof, shall submit to fingerprinting and background investigation by the Commission or the Commission’s designee, at the Applicant’s sole cost and expense, and shall execute a written consent to such fingerprinting and criminal background check. At the Commission’s discretion, key employees, contractors and agents of the Applicant which serve the Applicant in a managerial capacity may also be required to submit to fingerprinting and background investigation at the Applicant’s sole cost and expense.

2. Upon the written request of an Applicant, the Commission shall supply the Applicant with appropriate applications for licensing or registration. The Commission shall also supply copies of this law and the County Source Separation Law to the Applicant. Upon submission by the Applicant, the Commission shall determine whether the application submitted is complete. If the Commission determines that the application is incomplete, it shall notify the Applicant in writing and shall list the insufficiencies of the application. If the Applicant does not submit the additional application materials within thirty (30) days of the date of the Commission’s notice of incomplete application, the Commission may deny the application. The Commission shall issue its final written determination as to each application no later than six (6) months after the date on which the Commission deems the application to be complete. Notwithstanding the above, the application process during the first effective year of this Chapter shall be governed by the Implementation procedures which are outlined in Article VIII. hereof.

3. An applicant shall have a continuing obligation to inform the commission within 10 days of any changes in the ownership composition of the applicant; the addition or deletion of any principal; the revocation and/or modification of any license or registration to haul solid waste and/or recyclables granted by the licensing authority of any federal, state or local jurisdiction, or the denial of an application for a license or renewal by a licensing authority of any such jurisdiction ; the arrest or criminal conviction of the applicant or any principal of the applicant; or any other material change in the information submitted on the application for the license or registration, which occurs subsequent to the making of the application or the issuance of the license or registration.

4. a. Notwithstanding any provision of this Chapter, the Commission may, at its discretion, require that such Applicant provide, within a reasonable time, any

additional information which the Commission may deem necessary, and may, after notice and the opportunity to be heard, refuse to license or register such Applicant for the reasons set forth in Section 826-a.400 of this Chapter.

b. At any time subsequent to the licensing or registration of any Applicant, the Commission may, at its discretion, require the provision, within a reasonable time, by a Licensee or Registrant of any additional information which the Commission may deem necessary.

Section 826-a.303. Application Requirements - Class A, Class B, Class C-2, Class D and Class L Licenses.

1. For the purpose of assisting the Commission in determining the good character, honesty and integrity of Applicants, all Applicants for Class A, Class B, Class C-2, Class D and Class L licenses must submit:

a. A list identifying all vehicles, by Vehicle Identification Number, owned, leased, operated or controlled by the Applicant which will be used in the collection, storage, transfer, transportation, processing or disposal of Solid Waste, garden and yard waste, construction and demolition debris, and/or Recyclables generated, originated or brought within the County. Applicants shall provide a copy of the state registration documentation for each such vehicle. Only those vehicles which are identified in conjunction with the application may be utilized by the Licensee pursuant to that license, unless subsequently approved in writing by the Commission.

b. The names of the Municipalities in Westchester County in which the Applicant presently conducts business, if applicable, and the quantities of Solid Waste, garden and yard waste, construction and demolition debris and/or Recyclables delivered during the previous year to each and every disposal, transfer, collection, storage or processing facility therefor. The Applicant shall list each disposal, transfer, collection, storage or processing facility that it has utilized during the prior year and all such facilities that is utilizing at the time of application or intends to utilize upon becoming licensed.

c. The following information: (i) a list of the names, dates of birth and home addresses of all Principals of the Applicant and of any manager or other person who has policy or financial decision-making authority in the business; (ii) a list of the names and job titles of all employees and prospective employees of the Applicant who are or will be engaged in the operation of the business; (iii.) the notarized Certificate of Business if a sole proprietorship; the partnership papers if a partnership; or the

Certificate of Incorporation if a corporation; and (iv) such other information as the Commission shall determine will properly identify such employees and prospective employees.

d. The following information:

(i.) a listing of the names and addresses of any person having a beneficial interest in the Applicant, and the amount and nature of such interest;

(ii.) a listing of the amounts in which both the Applicant and its Principals, personally, are indebted, including mortgages on real property, and the names and addresses of all persons to whom such debts are owed;

(iii.) a listing of the real property holdings or mortgage or other interest in real property held by such Applicant and by all Principals of such Applicant other than a primary residence and the names and addresses of all co-owners of such interest;

(iv.) a listing of mortgages, loans, and instruments of indebtedness held by such Applicant and by all Principals of such Applicant, the amount of such debt, and the names and addresses of all such debtors;

(v.) the name(s) and address(es) of any business in which such Applicant or any Principal of such Applicant holds an equity or debt interest, excluding any interest in publicly traded stocks and bonds, including any and all bank accounts. Applicant shall provide documentation of all such accounts as follows:

(1.) Passbook Savings Accounts - Applicant and its Principals shall provide a copy of name page and all pages of passbook, and shall highlight and explain all unusual deposits and withdrawals. If funds transferred into that account from another passbook account, provide a copy of name page and all other pages of such passbook going back two (2) years;

(2.) Checking and/or Cash Management Accounts - Applicant and its Principals shall provide copies of monthly statements going back two (2) years, and shall highlight and explain all unusual deposits or withdrawals;

(3.) Stock Accounts - Applicant and its Principals shall provide copies of broker statements going back two (2) years to prove ownership and reflect all purchases and sales;

(vi.) the names and addresses of all persons or entities from whom such Applicant and Principals of such Applicant has received gifts valued at more than one thousand (\$1,000) dollars in any of the past three years, and the name of all persons or entities, excluding any organization recognized by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code, to whom such Applicant has given gifts exceeding one thousand (\$1,000) dollars;

(vii.) a list of all criminal convictions, in any jurisdiction, of the Applicant and each of its Principals;

(viii.) a listing of all pending civil, criminal or administrative actions or proceedings to which such Applicant or any of its Principals is a party, including but not limited to, indictment and arrests;

(ix.) a listing of any determination by a federal, state or County regulatory agency of a violation by such Applicant or any of its employees or Principals of laws or regulations relating to the conduct of the Applicant's business where such violation has resulted in the suspension or revocation of a permit, license or other permission required in connection with the operation of such business or in a civil fine, penalty, settlement or injunctive relief in excess of threshold amounts;

(x.) a listing of any criminal or civil investigation by federal, state, or local prosecutorial agency, investigative agency or regulatory agency in the five year period preceding the application, wherein such Applicant or any of its Principals has (i.) been the subject of such investigation or (ii.) received a subpoena requiring the production of documents or information in connection with such investigation;

(xi.) a certification that the Applicant has paid all federal, state and local income taxes related to the Applicant's business for which the Applicant is responsible for three (3) years preceding the date of the application or documentation that the Applicant is contesting such taxes in a pending judicial or administrative proceeding;

(xii.) the name of any Solid Waste Association in which the Applicant or any Principal thereof is or has been a member or held a position and the time period during which such membership or position was held;

(xiii.) the names and addresses of the Principals of any Predecessor Solid Waste Business of the Applicant;

(xiv.) a listing of accounts held by the Applicant during the five (5) year period preceding the filing of an application for a license or registration pursuant to this Chapter, with banks, credit unions, brokerage firms, and similar entities, and of the amounts held therein in the form of an identification of range of dollar value;

(xv.) a listing of any bankruptcy proceedings in which Applicant or any Predecessor Solid Waste Business of Applicant, as such term is defined herein, was a debtor or any proceedings involving forfeiture, receivership, or independent monitoring in which Applicant or any Predecessor Solid Waste Business of Applicant was a party or participated in during the ten (10) year period preceding the filing of an application for a license or registration pursuant to this Chapter;

(xvi.) any documents or records concerning the acquisition, sale, assignment or loss of routes or customers by the Applicant during the ten (10) year period preceding the filing of the application for a license or registration pursuant to this Chapter;

(xvii.) such additional information concerning good character, honesty and integrity of the Applicant and the Principals and employees of the Applicant that the Commission may deem appropriate and reasonable. An Applicant may submit to the Commission any information or explanation which the Applicant believes demonstrates that any adverse information submitted as part of the application process does not accurately reflect upon the Applicant's good character, honesty and integrity;

(xviii.) a listing of any determination in any administrative, civil or criminal proceeding that the Applicant or Principal of the Applicant has violated any provision of this Chapter, any related order or determination of the Commission, any emergency regulation promulgated pursuant to this Chapter, a material condition of any license issued thereunder or any substantially similar statute, regulation, order or permit condition of the federal, New York State or other state government relating to the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated waste as those terms may be defined under New York State Law, or that the Licensee has subcontracted work within Westchester County, which requires a license or registration under this Chapter, to an unlicensed or unregistered subcontractor;

(xix.) a certification that the Applicant or Predecessor Solid Waste Business, if applicable, has not been denied a license for the same or substantially similar activity based upon one or more of the provisions of this Chapter;

(xx.) a listing of any determination in a civil proceeding that the Applicant or any Principal or employee of the Applicant has committed a negligent or intentionally tortious act in relation to the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated waste, as those terms may be defined under New York State law, or has been convicted in a criminal proceeding of a crime involving the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated medical waste;

(xxi.) a listing of any conviction of the Applicant or any of its employees or Principals for racketeering in connection with the Solid Waste and recycling industry and of any association with a person who has been convicted for the referenced racketeering activity, including but not limited to the offenses listed in Section 1961(1.) of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of Section 460.10 of the Penal Law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;

(xxii.) a listing of any determination in an administrative, civil or criminal proceeding that the Applicant or any of its Principals or employees has violated any environmental law, including, but not limited to, the Federal Water Pollution Control Act (a/k/a the Clean Water Act), 33 U.S.C. Sections 1251 et seq.; the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 8601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.; the Oil Pollution Act 33 U.S.C. Sections 2701 et seq.; Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Sections 136 et seq.; Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.; the New York State Public Health Law; the New York State Environmental Conservation Law; the New York State Navigation Law; the Westchester County Source Separation Law; and the Westchester County Solid Waste and Recycling Collection Licensing Law;

(xxiii.) a listing of any adjudication by a court of competent jurisdiction that the Applicant has committed unfair trade practices or conduct in restraint of competition, including but not limited to

violation of the provisions of the Sherman Anti-Trust Act (15 U.S.C. §1, §2), the Clayton Act (15 U.S.C. § 18), the Robinson Patman Act (15 U.S.C. §12 et seq.), the Federal Trade Commission Act (15 U.S.C. §45 et seq.), Section 340 et seq. of the New York State General Business Law or equivalent violation of the laws of any other jurisdiction; and

(xxiv.) where the Applicant has purchased or otherwise acquired a Predecessor Solid Waste Business, or any part thereof, the Applicant must provide a listing of any persons, previously employed by or affiliated with the entity so acquired, which are to be retained by the Applicant, whether as an employee or independent consultant, or otherwise under any agreement, and shall specify the capacity in which such person shall serve the Applicant. The Commission may require that the Applicant provide any supplemental information which it may, in its discretion, require with regard to such persons.

e. Notwithstanding the foregoing, disclosure of information relating to the Principals and employees of any Applicant shall be limited to information relating to the activities or conduct of such Principal or employee in connection with the Applicant's business, the business of any Predecessor Solid Waste Business or the Solid Waste and recycling industry, except for the information required pursuant to subsections (d.)(vii.), (viii.), (x.), and (xiv.), above.

f. Applicants for Class L licenses must submit the names of the municipalities in Westchester County in which the applicant presently conducts business, if applicable, and the quantities of seasonal organic waste, including leaves, handled during the preceding year exclusively on behalf of the County and/or its local municipalities.

g. Notwithstanding anything contained herein to the contrary, Class L applications, including all required information and materials in connection therewith, must be received by the commission on or before July 15th of the year for which the Class L license is being requested in order to be considered.

2. Notwithstanding any other provision of this Chapter, for purposes of this section: (a.) in the case of an Applicant which is a regional subsidiary of or otherwise owned, managed by or affiliated with a business that has national or international operations, (i.) disclosure under this Section shall also be required of, and fingerprinting may be required of, any person not employed by the Applicant who has a direct managerial or supervisory responsibility for the operations or performance of this Applicant; and (ii.) the chief executive officer, chief operating officer and chief financial officer, or any person exercising comparable responsibility

and functions with regard to any regional subsidiary or of the equivalent in relation to such Applicant over which any person subject to fingerprinting and disclosure under item (i.) of this clause exercises similar responsibilities may be fingerprinted and shall submit the information required pursuant to subparagraphs (1.)(d.)(vii.) and (1.)(d.)(viii.) of this Section, as well as additional information pursuant to this paragraph as the Commission may find necessary; and (b.) the listing specified under subparagraph (1.)(d)(x.) of this Section shall also be provided for any regional subsidiary or similar entity of the national or international business for which fingerprinting and disclosure by Principal thereof is made pursuant to subsection (a.) of this Section.

3. In addition to the standards set forth in Section 826-a.400 of this Chapter, if an Applicant fails to provide the information, the fees and/or the certification required under this Section, the Commission may deny an Applicant a license.

4. The Applicant is required to submit a signed letter of certification that the Applicant has read and is familiar with the requirements of the license and the provisions of all laws enacted by the County to date which pertain to the collection, transportation and disposition of Solid Waste, yard waste, Construction and Demolition Debris and Recyclables including, but not limited to, this Chapter and the Westchester County Source Separation Law.

5. Upon payment of the license fee(s) and compliance with all other applicable requirements and the commission's determination that the applicant has met the standards outlined in Article IV, the commission will issue a license together with two decals for each vehicle covered under the license. The decals issued shall be securely fastened and conspicuously displayed on both the driver side and passenger side doors of each vehicle for which they are issued, according to the directions of the commission. The license shall be securely fastened and conspicuously displayed in the principal office or location where the licensee conducts business. Copies of the license shall be conspicuously displayed at any other office or location where the licensee conducts business in the county.

6. The Applicant may be required to submit to investigations by or on behalf of the Commission with respect to the qualifications of the Applicant and with regard to the verification of information provided by the Applicant in any application submitted pursuant to this Chapter. The Applicant shall cooperate with any such investigation by submitting to any requested interviews and submitting any documents requested by the Commission in a timely manner, and shall, upon demand of the Commission, pay to the Executive Director an amount to be determined by the Commission as sufficient to reimburse the Commission for the costs of any such investigation. The failure to cooperate with the investigations provided for in this Section, or to provide such funds for investigation, may be considered grounds for denial of the license or registration application.

7. Applications to modify any existing license shall follow the same procedures required for an application for a license, except that the Commission shall require only that the Licensee supplement information not supplied in the original license application and to pay fees only for any collection vehicles in addition to those for which fees were paid under the original license.

Section 826-a.304. Application Requirements - Class C-1 and Class E Licenses.

1. For the purpose of assisting the Commission in determining the good character, honesty and integrity of Applicants, any Applicant which intends to operate as a Class C-1 or Class E Licensee must submit the following information:

a. A list identifying all vehicles, by Vehicle Identification Number, owned, leased, or controlled by the Applicant which will be used in the collection, storage, transfer, transportation, processing or disposal of construction and demolition debris or scrap waste generated, originated or brought within the County. Applicant shall provide a copy of the state registration documentation for each such vehicle. Only those vehicles which are identified in conjunction with the application may be utilized by the Licensee pursuant to that license, unless subsequently approved in writing by the Commission.

b. The names of the Municipalities in Westchester County in which the Applicant presently conducts business, if applicable, and the quantities of construction and demolition debris and/or scrap waste delivered during the previous year to each and every disposal, transfer, collection, storage or processing facility. The Applicant shall list each disposal, transfer, collection, storage or processing facility that it has utilized during the prior year and all such facilities that is utilizing at the time of application.

c. All applications shall include (i.) a list of the names, dates of birth and home addresses of all Principals of the Applicant and of any manager or other person who has policy or financial decision-making authority in the business; and (ii.) a list of the names and job titles of all employees and prospective employees of the Applicant who are or will be engaged in the operation of the Solid Waste business; (iii.) such other information as the Commission shall determine will properly identify such employees and prospective employees.

2. In addition to the standards set forth in Article IV. of this Chapter, if an Applicant fails to provide the information and the certification required under this Section, the Commission may deny an Applicant a license.

3. The Applicant is required to submit a signed letter of certification that the Applicant has read and is familiar with the requirements of the license and the provisions of all laws enacted by the County to date which pertain to the collection, transportation and disposition garden and yard waste and scrap waste including, but not limited to, this Chapter and the Westchester County Source Separation Law.
4. Upon payment of the license fee(s) and compliance with all other applicable requirements and the commission's determination that the applicant has met the standards outlined in Article IV, the commission will issue a license together with two decals for each collection vehicle covered under the license. The decals issued shall be securely fastened and conspicuously displayed on both the driver side and passenger side doors of each vehicle for which they are issued, according to the directions of the commission. The license shall be securely fastened and conspicuously displayed in the principal office or location where the licensee conducts business. Copies of the license shall be conspicuously displayed at any other office or location where the licensee conducts business in the county.
5. Applications to modify any existing license shall follow the same procedures required for an application for a license, except that the Commission shall only require a Licensee to supplement information not supplied in the original license application and to pay fees only for any collection vehicles in addition to those for which fees were paid under the original license.

Section 826-a.305. Application Requirements - Solid Waste Broker Registration.

1. The application for registration as a Solid Waste Broker shall be signed by all persons participating directly or indirectly in the control of the Applicant. The application shall be certified under penalty of criminal prosecution.
2. For the purpose of assisting the Commission in determining the good character, honesty and integrity of Applicants, all Applicants for registration as Solid Waste Brokers shall provide the following information:
 - a. The names and addresses of all Principals of the Applicant and a description of the position occupied or ownership interest held by each such Principal;
 - b. If such Applicant is doing business under an assumed name, Applicant shall provide a Certificate of Assumed Name, or its equivalent, certified by the County Clerk if a sole proprietorship or partnership or by the Secretary of State if a corporation;
 - c. The notarized Certificate of Business if a sole proprietorship; the partnership papers if a partnership; or the Certificate of Incorporation if a corporation;

d. A business telephone number and a business address in the County of Westchester where notices may be delivered and legal process may be served, and where the records required by this Chapter are maintained, and the name of a person of suitable age and discretion who shall be designated as agent for the service of legal process;

e. A Federal or State tax identification number;

f. Where any Principal of an Applicant holds, or has held at any time in the ten (10) years preceding the date of application, a license for Solid Waste removal in the County of Westchester, a listing of such license number(s);

g. Where any Principal of an Applicant is, or has been at any time during the ten (10) years preceding the date of application, a Principal of a Solid Waste business required to be licensed in the County of Westchester, a listing of such Solid Waste removal business(es) and the nature of the involvement of such Principal in each such business;

h. A listing of any contractual or other business relationship, at any time during the ten (10) years preceding the date of application, between the Applicant business and a Solid Waste removal business required to be licensed pursuant to this Chapter or the former Chapter 826, as repealed by this Chapter;

i. A listing of any criminal convictions of the Applicant or its Principals;

j. A listing of any pending civil or criminal actions with respect to the Applicant or its Principals in any jurisdiction; and

k. A listing of any suspensions or revocations of licenses, registrations or permits held by the Applicant for the removal or recycling of Solid Waste in any jurisdiction or any judgments or orders finding liability of the Applicant in a civil or administrative action related to the conduct of a business that removes or recycles Solid Waste, a Solid Waste broker business or the operation of a dump, landfill or transfer station.

3. Following receipt of the application materials and all materials required to be disclosed pursuant thereto, the Commission may require that the Applicant provide supplemental information as the Commission may deem necessary.

4. The Applicant is required to submit a signed letter of certification that the Applicant has read and is familiar with the requirements of the registration and the provisions of all laws enacted by the County to date which pertain to the collection, transportation and disposition of Solid Waste and Recyclables including, but not limited to, this Chapter and the Westchester County Source Separation Law.

5. Upon payment of the registration fee(s) and compliance with all other applicable requirements and the Commission's determination that the Applicant has met the standards outlined in Article IV., the Commission will issue a registration. The registration shall be securely fastened and conspicuously displayed in the Principal office or location where the Registrant conducts business. Copies of the registration shall be conspicuously displayed at any other office or location where the Registrant conducts business in the County.

Section 826-a.306. Fees.

1. a. For Applicants for Class A, Class B, and Class C-2 licenses, the application fee shall be: \$ 350 per Applicant, plus \$350 per principal thereof. These fees may be modified by the Commission pursuant to Section 826-a.202(2) of this Chapter, any time after the first anniversary of the Effective Date of this Chapter.

b. The application fees do not include the cost of standard background investigations, the cost of which shall be borne solely by the Applicant as set forth in Section 826-a.202(2)(b.), and shall be submitted by the Applicant along with the basic application fee. Such investigational fees shall be specified in the application document.

c. The investigational fees to be submitted at the time of application, as referenced in subsection (b.), above, is intended to cover the costs of a standard background investigation only. In the event that it shall become necessary, in the Commission's reasonable discretion, to require the production of supplemental or additional information from the Applicant, or to undertake a more comprehensive investigation of the Applicant, the Applicant shall bear all costs of the additional investigation Applicant as set forth in Section 826-a.202(2)(b.).

d. The application and investigation fees for Class C-1, Class D and Class E licensees and for solid waste brokers shall be determined by the commission within 110 days of the effective date, hereof, and for Class L licensees within 45 days of the effective date, hereof.

2. a. The annual fee for Class A, Class B and Class C-2 Licenses issued pursuant to this Chapter shall be as follows: One Thousand (\$1,000) Dollars, plus an additional One Thousand (\$1,000) Dollars for each collection vehicle to be operated by a Class A Licensee in connection with the licensed activities, plus an additional One Thousand (\$1,000) Dollars for each collection vehicle to be operated by a Class C-2 Licensee in connection with the licensed activities, plus an additional Five Hundred (\$500) Dollars for each collection vehicle to be operated by a Class B Licensee in connection with the licensed activities. The annual fee for Class C-1 and Class E licenses issued pursuant to this chapter shall be as follows: \$100.00, plus an additional \$100.00 for each collection vehicle to

be operated by a Class C-1 licensee in connection with the licensed activities, plus an additional \$100.00 for each collection vehicle to be operated by a Class E licensee in connection with the licensed activities. In consideration of the seasonal timeframe, which is limited to the months of October, November, December and January, the annual fee for Class L licenses issued pursuant to this chapter shall be \$400.00, plus an additional \$400.00 for each collection vehicle to be operated in connection with the licensed activities. The aforementioned fees may be modified by the commission pursuant to section 826-a.202 2. of this chapter.

b. In addition to the fees specified above, any licensee which owns, leases, operates or controls a transfer station which processes materials, including without limitation solid waste and/or recyclables shall pay an annual transfer station operators fee which shall be equal to \$20,000.00 per transfer station operated, less any applicable credit issued by the Commission pursuant to subsection c below.

c. (i) In the interest of managing the level of solid waste generated and collected within the county's borders and encouraging recycling and/or re-use of materials, the transfer station fee specified in subsection b. above shall be reduced in proportion to the percentage of materials re-used and/or recycled by a transfer station in relation to the amount of materials processed by that transfer station, as follows:

- \$7,500.00 reduction for 76% to 100% materials re-used and/or recycled.
- \$3,500.00 reduction for 51% to 75% materials re-used and/or recycled.
- \$2,000.00 reduction for 31% to 50% materials re-used and/or recycled.
- \$1,000.00 reduction for 21% to 30% materials re-used and/or recycled.
- \$500.00 reduction for 11% to 20% materials re-used and/or recycled.
- \$0.00 reduction for 0 to 10% materials re-used and/or recycled.

(ii) For purposes of this section 826-a.306 (2)(c) the phrase "the percentage of materials re-used and/or recycled by a transfer station" shall mean the percentage of materials separated for re-use or reintroduction into economic markets for alternate uses, where such markets exist and are identified by the licensee in its reports required under section 826-a.500 hereof.

(iii) Upon timely receipt of a licensee's reports, the commission shall in its sole and reasonable discretion make the determination as to whether and to what extent a reduction of the transfer station fee is warranted. In making this determination the commission may consider among other things, regulations and guidance issued by the New York State Department of Environmental Conservation, the United States Environmental Protection Agency and any other applicable statutory and/or regulatory source. The licensee shall provide any additional information required by the commission to substantiate the percentage

of materials re-used and/or recycled. The commission's determination shall be final.

(iv) Reductions to be made in applicable transfer station fees, pursuant to this section 826-a.306(c), for a given year shall be based upon the percentage of materials re-used and/or recycled by the transfer station in the previous year.

(v) The credits outlined herein shall not be available to transfer stations and final disposal sites owned by the County or any County district including, but not limited to, Refuse Disposal District No. 1, and/or operators thereof

d. In addition to the fees specified above, any Licensee which owns, leases, operates or controls a facility, located in Westchester County, which is deemed to be a final solid waste disposal site shall pay an annual fee which shall be equal to Fifty Thousand (\$50,000) Dollars per facility operated.

e. The fees referenced above may be modified by the Commission pursuant to Section 826-a.202(2) of this Chapter, any time after the first anniversary of the Effective Date of this Chapter.

f. The aforementioned transfer station fees shall not apply to transfer stations owned exclusively by a Municipality.

ARTICLE IV.
STANDARDS FOR APPLICATION DENIAL, SUSPENSION, REVOCATION,
NON-RENEWAL, DENIAL OF MODIFICATION OR OTHER ACTION
AGAINST THE PRIVILEGES OF A LICENSEE OR REGISTRANT

Section 826-a.400. Standards for Refusal to Issue a License or Registration.

1. The Commission may, after notice and the opportunity to be heard, refuse to issue a license or registration to an Applicant who lacks good character, honesty and integrity. Such notice shall specify the reasons for such refusal.

2. In making the determination to refuse to issue a license or registration, the Commission, may consider, but is not limited to:

a. failure by such Applicant or any of its Principals to provide truthful information in connection with the application or the failure of the Applicant or any of its Principals to provide truthful information in connection with any duty outlined in this Chapter;

b. a pending indictment or criminal action against such Applicant for a crime which under this Article would provide a basis for the refusal to issue such license or registration, or a pending civil or administrative action to which such Applicant, or any Principal of such Applicant, is a party and which directly relates to the fitness to conduct the business or perform the work for which the license or registration is sought. Notwithstanding any other provisions of this Chapter to the contrary, in lieu of refusing to issue a license or registration, the Commission may defer consideration of an application until such time as a decision has been reached by the court or administrative tribunal before which such indictment, criminal or civil action is pending;

c. conviction of such Applicant, or any Principal of such Applicant, for a crime which would provide a basis under Section 753 of the Correction Law for the refusal to issue such license or registration;

d. a finding of liability against an Applicant or any Principal of such Applicant in a civil or administrative action that bears a direct relationship to the fitness of the Applicant or any of its Principals to conduct the business for which the license or registration is sought;

e. association with a person known to the Applicant or any of its Principals to have been convicted of racketeering activity, including but not limited to the offenses listed in Section 1961(1.) of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of Section 460.10 of the Penal Law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;

f. association by the Applicant or by any of its Principals with any member or associate of an organized crime group which has a connection to the Solid Waste or recycling industry or to any activity for which a person is required to be licensed or registered pursuant to this Chapter, as previously identified by a federal, state, city or county law enforcement or investigative agency, when the Applicant knew or should have known of the organized crime associations of such person;

g. having been or being a Principal in a Predecessor Solid Waste Business as such term is defined in this Chapter where the Commission has denied or has revoked a license or registration; or would have been authorized to deny or revoke a license or registration to such Predecessor Solid Waste Business pursuant to this subdivision;

h. current membership in or holding a position in a Solid Waste Association where such membership or position would be prohibited pursuant to Section 826-a.402 unless the Commission has determined, pursuant to this subdivision, that such association does not operate in a manner inconsistent with the purposes of this Chapter;

i. failure of the Applicant or any Principal of the Applicant to pay any tax, fine, penalty, or fee related to the business of the Applicant for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction; or

j. failure of the Applicant to respond to the Commission's inquiries within a reasonable period of time.

3. The Commission may refuse to issue a license or registration where the Applicant, or any Principal of the Applicant, has knowingly failed to provide the information and/or documentation required by the Commission pursuant to this Chapter, or who has otherwise failed to demonstrate eligibility for such license or registration under this Chapter.

4. The Commission may refuse to issue a license or registration to an Applicant when such Applicant or any Principal of the Applicant (a.) was previously issued a license, registration or other Solid Waste permit pursuant to this Chapter or the former Chapter 826 and such license, registration or permit was revoked pursuant to the provisions of this Chapter or revoked or not renewed pursuant to the provision of such former Chapter 826 or any rules promulgated thereto; or (b.) was previously denied a license or registration pursuant to this Chapter or the former Chapter 826 within the past eighteen (18) months; or (c.) has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license or registration pursuant to this Chapter.

Section 826-a.401. Standards for Suspension, Revocation, Non-renewal, Modification or Other Action Against The Privileges of a Licensee or Registrant.

1. The Commission may, subject to Section 826-a.602 of this Chapter and consistent with Articles Twenty-Three and Twenty-Three-A of the New York State Correction Law and the provisions of this Article, deny renewal of a license, revoke or suspend a license or take appropriate action against the privileges of a Licensee or a Registrant, including but not limited to, a modification of its terms over the objection of the Licensee or Registrant, when the Licensee or Registrant and/or any of its Principals, employees and/or agents:

a. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have violated any provision of this Chapter, or of the former Chapter 826, any related order or determination of the Commission, a material condition of any license or registration issued thereunder or any substantially similar statute, regulation, order or license or registration condition of any federal, New York state or other local government;

b. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have subcontracted work within Westchester County to an unlicensed

subcontractor, where such work requires a license pursuant to this Chapter;

c. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have committed a negligent or intentionally tortious act in relation to the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated waste, as those terms may be defined under New York State law, or has been convicted in a criminal proceeding of a crime involving the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated medical waste;

d. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have committed any act which in the judgment of the Commission has an adverse impact on a Licensee's or Registrant's ability or fitness to perform any licensed activity;

e. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have committed practices or conduct in restraint of competition, including but not limited to violation of the provisions of the Sherman Anti-Trust Act, the Clayton Act, the Robinson Patman Act, the Federal Trade Commission Act, Section 340 et seq. of the New York State General Business Law or equivalent violation of the laws of any other jurisdiction;

f. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have repeatedly failed to obey lawful orders of any person authorized by this Chapter to enforce the provisions hereof;

g. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have failed to pay, within the time specified by the Commission, a court, or an administrative tribunal of competent jurisdiction, any fines or civil penalties imposed pursuant to this Chapter;

h. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have been in persistent or substantial violation of any local, state or federal law, rule or regulation regarding the handling of solid waste or recyclables, or laws prohibiting deception, unfair, or unconscionable business practices;

i. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to lack good character, honesty and integrity, after consideration of the factors set forth in Section 826-a.400 of this Chapter, in relation to an investigation conducted pursuant to this Chapter;

j. have been found by a court or an administrative tribunal of competent jurisdiction, or by the Commission itself, to have made 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 or in any other document submitted pursuant to any on-going reporting duty under this Chapter;

k. are convicted of a crime which would provide a basis under Section 753 of the Correction Law for the Commission's refusal to issue a license and/or registration;

l. associates with a person known to the licensee or registrant or any of its Principals to have been convicted of racketeering activity, including but not limited to the offenses listed in Section 1961(1.) of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of Section 460.10 of the Penal Law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;

m. Licensee or registrant, or by any of its principals, associates with any member or associate of an organized crime group which has a connection to the solid waste or recycling industry or to any activity for which a person is required to be licensed or registered pursuant to this chapter, as previously identified by a federal, state, city or county law enforcement or investigative agency, when the [applicant] licensee or registrant knew or should have known of the organized crime associations of such person;

n. Licensee or registrant, or any principal thereof, fails to pay any tax, fine, penalty, or fee related to the business of the licensee or registrant for which liability has been admitted by the person or entity liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction; or

o. Licensee or registrant fails to respond to the commission's inquiries within a reasonable period of time.

2. In making the decision as to the effective date of a suspension or revocation, except in the case of an emergency suspension order, or in taking any other action against the privileges of a Licensee or Registrant, the Commission shall provide adequate time for the customers of a Licensee or Registrant to find alternative service providers if its decision would cause such customers' services to be interrupted or terminated.

Section 826-a.402. Conduct of Licensees and Registrants: Record Keeping; Service Contracts; Labeling of Containers; Labeling of Vehicles; Complaints.

1. All Licensees and Registrants shall maintain audited financial statements, records, ledgers, receipts, bills and such other written records as the Commission shall determine are necessary or useful for carrying out the purposes of this Chapter. Such records shall be maintained for a period of time of not less than five (5) years, provided however, that the Commission may, in specific instances and in its sole discretion, require that records be retained for a period of time exceeding five (5) years. In those instances where the Commission shall require that such records shall be maintained for an extended period, the Commission shall notify the Licensee or Registrant of same, in writing. Such records shall be made available for inspection and audit by the Commission upon the Commission's request at either place of business of such Licensee or Registrant or at a location within Westchester County designated by the Commission.

2. All Licensees and Registrants shall be required to maintain compliance with all applicable state, federal, and Local Laws, ordinances, rules and regulations pertaining to the collection, removal and disposal of Solid Waste and Recyclables for the duration of any term of the license or registration issued pursuant to this Chapter.

3. a. All Licensees, and any Registrant if applicable, shall enter into written Service Contracts for the collection, hauling and disposal of Solid Waste and Recyclables with all residential and non-residential customers, including those Municipalities which provide for the collection, hauling and disposal of residential Solid Waste and/or Recyclables. The Licensee shall comply with all provisions of such Service Contracts including, where applicable, the terms relating to the agreed-upon time, place and frequency of the collection of waste.

b. All Registrants shall enter into written Service Contracts with all customers where the Registrant is conducting activities on behalf of such customer for which registration is required pursuant to this Chapter. All such Service Contracts must be easily readable, in plain understandable language, and clearly labeled "Contract for Solid Waste Services" or "Service Contract."

c. All Service Contracts shall contain the following provisions to which all Licensees shall adhere, which cannot be waived by agreement and which shall be memorialized in each such Service Contract under the heading entitled "Customer Bill of Rights," which shall take the following form:

**"CUSTOMER BILL OF RIGHTS
CONTRACT FOR SOLID WASTE SERVICES**

between _____
"Service Provider"
and _____
"Customer"

Pursuant to Section 826-a.402(3)(c) of the Laws of Westchester County, the Customer shall be entitled to the following rights which cannot be waived:"

1. This Service Contract shall not exceed (2) years in duration unless the Customer is a Municipality which, after establishing good cause for such waiver, has received a formal waiver of the contract term limit from the Commission.
2. A Service Contract which provides for automatic renewal shall be terminable by the Customer, without penalty, on thirty (30) days written notice to the Service Provider at any time during any renewal term of the Service Contract.
3. The Customer shall not be required to give the Service Provider more than (30) days notice of its intent to exercise its option to terminate or its option to renew an existing Service Contract prior to the expiration of such existing Service Contract.
4. All Service Contracts shall be terminable by the Customer, without penalty, during the final thirty (30) days of any regular Service Contract term or for the thirty (30) day period following any and all proposals made to a Customer by the Service Provider with whom the Customer currently contracts, where such proposal includes a proposal for a new Service Contract which will commence prior to the end of the regular term of the existing Service Contract.
5. Any notice of Service Contract termination from the Service Provider to the Customer shall be in writing, unless otherwise specifically requested by the Customer.
6. Any notice of Service Contract termination from the Customer to the Service Provider may be made by the Customer or the Customer's Agent either: (i.) in writing by facsimile or regular mail; or (ii.) orally by a telephone call to the Service Provider's office.
7. In the event that the Service Provider's license or registration to provide solid waste services is suspended or revoked by the Westchester County Solid Waste Commission, the Service Provider shall notify the Customer, in writing, within (5) business days of the suspension or revocation.
8. A Customer who is notified, by the Service Provider or otherwise, of the suspension or revocation of its Service Provider's license or registration may, immediately and without penalty, terminate this Service Contract.

9. In the event of Service Contract termination prior to the end of any regular contract term, the Service Provider shall not require the Customer to pay liquidated damages.
10. The Customer shall not be required to inform the Service Provider of competitive offers which it may receive for the removal, collection or disposal of refuse and recyclable materials.
11. The Customer shall not be required to give the Service Provider an opportunity to match the terms of any competitive offer which may be made to a Customer by any potential competitor.
12. The Customer shall not be required to contract exclusively with the Service Provider named herein for the removal of the Customer's refuse and recyclable materials. However, a municipal Customer may request such an exclusivity provision in its Service Contracts pursuant to its procurement policy.
13. The Service Provider herein shall not discontinue service to the Customer unless at least thirty (30) days advance written notice has been given to such Customer.
14. The Service Provider shall give the Customer no less than (i.) thirty (30) days advance written notice of proposed rate increases or (ii.) sixty (60) days notice of subcontracting or contract assignment. Upon receipt of such written notice, a Customer may terminate its Service Contract, without penalty, by giving fourteen (14) days notice to the Service Provider. Such notice may be given by the Customer at any time prior to the commencement of the rate increase or the implementation of the assignment or subcontracting.
15. The Service Provider shall promptly provide the Customer with any and all informational notices which the Westchester County Solid Waste Commission may develop or prescribe.
16. In the event that the Service Provider herein shall fail to comply with any of the requirements provided in Paragraphs 1-15, above, in connection with this Contract for Solid Waste Services, or shall integrate provisions into this Service Contract which impairs the Customer's rights as outlined in Paragraphs 1-15, above, the Customer shall be entitled to, immediately and without penalty, terminate this Service Contract. In the event that the Customer believes that such a failure to comply has occurred, the Customer is urged to consult with the Westchester County Solid Waste Commission in order to clarify the Customer's rights and obligations pursuant thereto.
17. All Customers have the right and are encouraged to contact the Westchester County Solid Waste Commission to register a complaint against a Service Provider in the event that the Service Provider (a.) fails to provide the services as agreed under the Service Contract, (b.) fails to comply with the requirements outlined in this Customer Bill of Rights or (c.) engages in any of the following prohibited practices:
 - (i.) Makes a false or misleading statement to the Customer or a prospective Customer;
 - (ii.) Threatens or attempts to intimidate a Customer or a prospective Customer;
 - (iii.) Imposes or attempts to impose liquidated damages upon a Customer for termination of a Service Contract;

- (iv.) Retaliates against a Customer or prospective Customer that has made a complaint to the Westchester County Solid Waste Commission or has exercised or attempted to exercise a right under Chapter 826-a of the Laws of Westchester County; or
- (v.) Discourages a Customer or prospective Customer, who has a question or inquiry concerning the Customer's or the prospective Customer's rights or obligations concerning solid waste, from contacting the Westchester County Solid Waste Commission."

4. No Licensee or Registrant or Principal thereof shall be a member or hold a position in any Solid Waste Association; (i.) 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; (ii.) where a person holding a position in such Solid Waste 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; (iii.) where a person holding a position in such Solid Waste 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; and (iv.) where the Solid Waste 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 Solid Waste Association is a predecessor of another such Solid Waste Association by finding that transfers of assets have been made between such associations or that all or substantially all of the persons holding positions in the two associations are the same. A Licensee or Registrant shall be in violation of this paragraph when the Licensee or Registrant knows or should have known of a violation, conviction, association with organized crime or failure to cooperate as set forth herein.

5. Labeling of containers.

a. Any container(s) provided by a licensee for the collection, transportation and/or storage of solid waste and/or recyclables within Westchester County, shall be prominently labeled with the licensee's company name and phone number, along with the accurate true measurement of the volume of the container's capacity in Arabic numerals and followed by the indication "cu. yd." when the volume of the container is measured in cubic yards or "gal." when the volume of the container is measured in gallons.

b. For the purposes of this section, a container is defined as any receptacle that is used for the collection, transportation and/or storage of solid waste and/or recyclables and which is not generally disposed of after such use.

6. Labeling of vehicles.

Any vehicle(s) used by a licensee to haul solid waste and/or recyclables into, out of or within Westchester County shall be prominently labeled with the licensee's company name and phone number.

7. Investigation of Complaints.

a. The Commission may conduct an investigation into any complaint alleging that a Licensee or Registrant has violated any provision of this Chapter, or does not meet the standards for licensing or registration as set forth in this Chapter.

b. Where the Commission determines that evidence exists to support a complainant's allegations that a violation of this Chapter has occurred, the Commission may impose penalties designed to redress the injury to the complainant, the customers of such Licensee or Registrant, or any other person who the Commission determines has been injured by such violation(s), and shall in addition impose the penalties as provided in Article VI. of this Chapter. Prior to the imposition of the penalties outlined herein, the Licensee or Registrant shall be entitled to a hearing pursuant to Section 826-a. 602 of this Chapter.

c. Any resolution of a complaint by a complainant prior to a hearing or proceedings on the complaint shall be submitted by the Licensee or Registrant to the Commission for its review and approval. The resolution shall be in writing and signed and notarized by all parties to the proceedings. Where the Commission disapproves such a resolution, the Commission may continue to seek penalties regarding any violation by the Licensee or Registrant underlying the complaint as provided above.

Section 826-a.403. Assignment of Service Contracts; Subcontracting of Services.

1. A Licensee or Registrant who arranges for the provision of services by a subcontractor or an assignee for the removal, collection or disposal of Solid Waste, or for Solid Waste brokering services related thereto, shall give notice of such subcontracting or assignment to all customers of the Licensee or Registrant who will be required to utilize the services of such subcontractor or assignee, or whose services will otherwise be impacted by such subcontracting or assignment, prior to the provision of services by such subcontractor or assignee. Such notification of subcontracting or assignment shall be upon a form prescribed by the Commission, and shall be made by certified mail, with the receipt of delivery thereof maintained by the Licensee or Registrant.

2. No subcontracting or assignment of services by the Licensee or Registrant shall eliminate any obligation on the part of such Licensee or Registrant to maintain compliance with the provisions of this Chapter.

Section 826-a.404. Mergers, Acquisitions & Sales of Licensed or Registered Entities.

1. A Licensee or Registrant shall apply for review of a proposed purchase, sale or merger transaction by the Commission before acquiring, selling or merging with another business no later than ninety (90) days before such acquisition, sale or merger is to take effect. Such review shall, at a minimum, include a determination by the Commission as to whether such transaction may have a substantial impact on the Westchester County operations of the Licensee or Registrant in accordance with the purposes of this Chapter. If such a determination is made, fingerprinting and background investigation of non-licensed or non-registered entities in the transaction and the Principals of such entities will be conducted. After such review, the Commission may issue any order with respect to the transaction consistent with the purposes of this Chapter. The Commission may, in its reasonable discretion, require that either the purchaser or seller post a bond or place money in escrow with the Commission in an amount that the Commission believes, in its discretion, is needed to cover any outstanding or potential fines or penalties owed or that may be owed to the Commission, any complaints that have been heard pursuant to this Article of this Chapter in regard to which a final determination has not been rendered, and any restitution ordered by the Commission which the selling or dissolving Licensee or Registrant has failed to make to a complainant. In the event that the seller fails to post such bond or place money in escrow as set forth in this paragraph, the Commission may seek from the purchaser any and all outstanding fines or penalties for violations of this Chapter, and any outstanding restitution.

2. The fee for investigation and review of any proposed asset sale, assignment of contract, merger, acquisition, or similar transaction, shall be determined by the Commission. After submission to the Commission of an appropriate request for review of such a transaction, the Commission shall notify the parties to the transaction of the total fee amount due and owing, which shall be paid in full within ten (10) days after such notification. The Commission, in its discretion, may waive or reduce fees upon written request based upon one or more of the following :

a. Specified persons or entities have recently undergone complete background investigations by the Commission;

b. The value of the transaction under review is minimal;

c. Specified persons or entities need not undergo background investigations because of their attenuated connection to the transaction;

d. The transaction does not involve the sale, assignment, or other transfer of any account or customer contracts (e.g. trucks or other non-customer assets);

- e. The transaction involves less than 5 customers; or
- f. The transaction involves unique characteristics or other mitigating factors that would warrant a reduction or waiver of fees.

Section 826-a. 405. Prohibited Practices.

1. In addition to any other standard or prohibition set forth in this Article, a Licensee or Registrant, or any Principal or employee thereof shall not :
 - a. Violate or fail to comply with an applicable provision of this Chapter;
 - b. Associate with a person whom such person knows or should know is a member or associate of an organized crime group (a person who has been identified by a federal, state, or local law enforcement agency as a member or associate of an organized crime group shall be presumed to be a member or associate of an organized crime group);
 - c. Refuse to answer any reasonable inquiry from the Commission;
 - d. Make a false or misleading statement to the Commission;
 - e. Make a false or misleading statement to a customer or prospective customer;
 - f. Threaten or attempt to intimidate a customer or prospective customer;
 - g. Impose or attempt to impose liquidated damages upon a customer for termination of a Service Contract;
 - h. Retaliate against a customer or prospective customer that has made a complaint to the Commission or has exercised or attempted to exercise a right under this Chapter;
 - i. Engage in a deceptive trade practice;
 - j. Discourage a customer or prospective customer who has a question or inquiry concerning the customer or prospective customer's rights or obligations concerning solid waste from contacting the Commission;
 - k. Request, participate in, or comply with, a resolution, consideration, hearing, mediation or adjudication by a trade association or any person holding a position in a trade association concerning a dispute between two or more licensees or solid waste removal businesses relating to a customer, route or stop;

- l. Pay any money to a trade association or any person holding a position in a trade association for any activity relating to a sale, purchase, acquisition, or loss of a customer, route, or stop;
- m. Falsify any business record;
- n. Make, file, or submit a false statement or claim to a government agency or employee;
- o. Violate any law concerning payments to labor unions or labor representatives;
- p. Give or offer any money or other benefit to an official or employee of a private business with intent to induce that official or employee to engage in an unethical or illegal business practice;
- q. Give or offer any money or other benefit to any public employee whose duties relate in any way to contracting with or regulating the solid waste or recyclables industry with the exception of funds that must be paid in accordance with a statute, rule, agency order, or court order;
- r. Solicit business from a customer for any person who, or entity that, provides goods or services related to the removal, collection or disposal of solid waste and is not licensed by, or registered with, the Commission;
- s. Agree with another solid waste business to divide or allocate customers or respect an existing division or allocation of customers by geography, territory or otherwise;
- t. Agree upon, with another private hauler, the prices to be submitted on a bid for a solid waste contract;
- u. Fail to timely pay taxes related to a solid waste business;
- v. Operate a transfer station in violation of any federal, state, or local law or regulation;
- w. Fail to properly display the required decals on both the driver side and passenger side doors of each vehicle[s] operated by the Licensee or Registrant;
- x. Attempt to or conspire to engage in any act proscribed by this section;
or
- y. Fail to comply with the Service Contract requirements outlined in Section 826-a.402(3)(c) hereof.

2. Failure of the Licensee or Registrant to comply with any of the provisions of this Chapter shall act as an affirmative defense for any customer in an action to enforce that customer's Service Contract.

3. Where the Licensee or Registrant engages in any action which is identified as a Prohibited Practice under this Section 826-a.405, such conduct may be utilized by a customer as an affirmative defense in an action to enforce that customer's Service Contract.

ARTICLE V. REPORTING REQUIREMENTS

Section 826-a.500. Reporting Requirements for all Licensees and Registrants.

1. A Licensee or Registrant shall inform the Commission of:
 - a. membership in a Solid Waste association in addition to an association identified in the application submitted pursuant to this Chapter;
 - b. the arrest for or conviction of a crime or offense or a finding of civil liability against the Licensee or the Registrant or any Principal thereof;
 - c. any other material change in the information submitted on the application for the license or registration; or
 - d. any changes in the ownership composition of the Licensee or Registrant, the addition or deletion of any Principal at any time subsequent to the issuance of the license or registration.

2. A Licensee or Registrant shall provide the Commission with at least thirty (30) business days prior written notice of the proposed addition of a new Principal to the business of such Licensee or Registrant. Such notice shall be hand-delivered to the Commission or its authorized designee. The Commission may waive or shorten such period upon a showing that there exists a bona fide business requirement therefor. Except where the Commission determines within such period based upon information available to it, that the addition of such new Principal may have a result inimical to the purposes of this Chapter, the Licensee or Registrant may add such new Principal pending the completion of review by the Commission. The Licensee or Registrant shall be afforded an opportunity to demonstrate to the Commission that the addition of such new Principal would not have a result inimical to the purposes of this Chapter. If upon the completion of such review, the Commission determines that such Principal lacks good character, honesty and integrity, the license or registration shall be suspended until such time as that Principal divests his or her interest or discontinues his or her involvement in

the business of such Licensee or Registrant, as the case may be, within the time period prescribed by the Commission.

3. A Licensee or Registrant shall have a continuing duty to immediately disclose and/or update the information provided to the Commission in its application annually, on the anniversary date of the issuance or renewal of the license or registration.

4. All reports, requests, notices and determinations issued pursuant to this Section shall be made in writing and shall be issued separately for each Class or type of activity engaged in by the Licensee or Registrant.

Section 826-a.501. Class A Licensee.

1. On forms to be provided by the Commission after issuance of a license pursuant to this Chapter, the Class A Licensee shall be required to provide written quarterly reports to the Commission.

2. The Licensee shall be required to provide the following information in such quarterly reports:

a. In cubic yards or tons, as specified on the Commission's reporting forms, the total quantity of Solid Waste and Recyclables collected during that quarter ended; the total quantity of materials that were processed, recycled, disposed of or delivered to a recycling facility, including the quantities of each of the specific Recyclables, defined in Section 826-a.200 of this Chapter that were recycled or delivered to a recycling facility during that quarter ended; at the request of the Commission, the quantities of Recyclables that are delivered to each facility that transfers, stores, collects or processes Recyclables; the quantities of such Recyclables that could not be recycled or marketed but were disposed as of Solid Waste during that quarter ended; the total quantity of construction and demolition debris collected and the quantities that were recycled or delivered to a recycling facility or Recyclables broker during that quarter ended.

b. Any subcontracting of any portion of the Licensee's business, identifying the subcontractor by name and address, and describing the nature of the business that was subcontracted during that quarter ended.

3. Quarterly reports for the quarter ending March 31 are due no later than June 30 of that calendar year. Quarterly reports for the quarter ending June 30 are due no later than September 30 of that calendar year. Quarterly reports for the quarter ending September 30 are due no later than December 31 of that calendar year. Quarterly reports for the quarter ending December 31 are due no later than March 31 of the following calendar year.

4. The Commission must be notified within thirty (30) days of any changes in the disposal, transfer, collection, storage or processing facilities used by the Licensee, if different from those listed in the Licensee's license application as the facilities that it was utilizing and/or intended to utilize at the time of application.

5. The Commission must be notified within five (5) business days of the issuance or filing of any criminal indictment or information against the Licensee or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Licensee or any of its Principals.

6. The Licensee must also provide any other information which the Commission shall, from time to time, reasonably require.

Section 826-a.502. Class B Licensee.

1. On forms to be provided by the Commission after issuance of a license pursuant to this Chapter, the Class B Licensee shall be required to provide written quarterly reports to the Commission.

2. The Licensee shall be required to provide the following information in such quarterly reports:

a. In cubic yards or tons, as specified on the Commission's reporting forms, the total quantity of Recyclables collected directly from waste generators or Municipalities within the County of Westchester during the quarter ended; as specified on the Commission's forms, the percentage of that total quantity that was received from scrap peddlers during that quarter ended in cubic yard or tons; the total quantity of construction and demolition debris Recyclables that was collected separately and the quantities of the construction and demolition debris materials that were recycled or delivered to another Recyclables broker or recycling facility during that quarter ended.

b. The type and quantity of each of the specified Recyclables as defined in Section 826-a.200 of this Chapter that was collected during the quarter ended.

c. Any subcontracting of any portion of the Licensee's business, identifying the subcontractor by name and address, and describing the nature of the business that was subcontracted during that quarter ended.

3. Quarterly reports for the quarter ending March 31 are due no later than June 30 of that calendar year. Quarterly reports for the quarter ending June 30 are due no later than September 30 of that calendar year. Quarterly reports for the quarter ending September 30 are due no later than December 31 of that calendar

year. Quarterly reports for the quarter ending December 31 are due no later than March 31 of the following calendar year.

4. The Commission must be notified within thirty (30) days of any changes in the disposal, transfer, collection, storage or processing facilities used by the Licensee, if different from those listed in the Licensee's license application as the facilities that it was utilizing and/or intended to utilize at the time of application.

5. At the request of the Commission, a Recyclables broker that has collected Recyclables must document the quantities of such materials that are delivered to each facility that transfers, stores, collects, or processes Recyclables, and the quantities of such materials that cannot be recycled or marketed but are disposed of as Solid Waste during that quarter ended.

6. The Commission must be notified within five (5) business days of the issuance or filing of any criminal indictment or information against the Licensee or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Licensee or any of its Principals.

7. The Licensee must also provide any other information which the Commission shall, from time to time, require.

Section 826-a.503. Class C Licensee.

1. On forms to be provided by the Commission, after issuance of a license pursuant to this Chapter, all Class C Licensees shall be required to provide written quarterly reports to the Commission.

2. The Licensee shall be required to provide the following information in such quarterly reports:

a. In cubic yards or tons, as specified on the Commission's reporting forms, the total quantity of construction and demolition debris collected during that quarter ended; the total quantities of construction and demolition debris materials that were recycled or delivered to a recycling facility or Recyclables broker and the quantities of specific construction and demolition debris materials that were recycled during that quarter ended.

b. Any subcontracting of any portion of the Licensee's business, identifying the subcontractor by name and address, and describing the nature of the business that was subcontracted during that quarter ended.

3. Quarterly reports for the quarter ending March 31 are due no later than June 30 of that calendar year. Quarterly reports for the quarter ending June 30 are due no later than September 30 of that calendar year. Quarterly reports for the quarter ending September 30 are due no later than December 31 of that calendar year. Quarterly reports for the quarter ending December 31 are due no later than March 31 of the following calendar year.
4. The Commission must be notified within thirty (30) days of any changes in the location of the disposal, transfer, collection, storage or processing facilities it is using, if different from those listed in the Licensee's license application as the facilities that it was utilizing or intended to utilize at the time of application.
5. The Commission must be notified within five (5) business days of the issuance or filing of any criminal indictment or information against the Licensee or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Licensee or any of its Principals.
6. The Licensee must also provide any other information which the Commission shall, from time to time, reasonably require.

Section 826-a.504. Class D and Class L Licensees.

1. Those persons holding a Class D or Class L License shall be required to provide written annual reports to the Commission on forms to be provided by the Commission.
2. All Class D and Class L Licensees shall be required to provide the following information in such annual reports:
 - a. In cubic yards or tons, as specified on the Commission's reporting forms, the total quantity of garden and yard waste or for Class L licensees the total quantity of seasonal organic waste, including leaves collected separately during the preceding year, and locations where the materials were disposed of and for Class L licensees or registrants, the names of the municipalities in Westchester County in which such licensee or registrant presently conducts business.
 - b. An estimate of the type and quantity of each type of yard waste collected during the preceding year.
 - c. Documentation of the total quantity of such waste that either was delivered to a facility for composting, chipping or other recycling or reuse or was sold or marketed for such purposes.

3. Annual reports shall be submitted by March 31 of each year.
4. All Class D and Class L Licensees shall be required to notify the Commission within five (5) business days of the issuance or filing of any criminal indictment or information against the Licensee or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Licensee or any of its Principals.
5. All Class D and Class L Licensees must also provide any other information which the Commission shall, from time to time, reasonably require.

Section 826-a.505. Class E Licensee.

1. All Class E Licensees shall be required to provide the Commission with any information which the Commission may, from time to time, reasonably require.
2. All Class E Licensees shall be required to notify the Commission within five (5) business days of the issuance or filing of any criminal indictment or information against the Licensee or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Licensee or any of its Principals.

Section 826-a.506. Transfer Station/Ultimate Disposal Site Operators.

1. In addition to all other applicable reporting requirements for Licensees as set forth in this Chapter, a Licensee who operates a Transfer Station located within the County of Westchester shall be required to make a written, quarterly report to the Commission for each transfer station operated by the Licensee, which report shall include, at a minimum:
 - a. the prices charged to haulers which utilized the transfer station during the reporting period on a week-to-week basis;
 - b. the costs associated with operation of the transfer station during the reporting period; and
 - c. the costs associated with disposal of the Solid Waste, Recyclables, garden and yard waste and construction and demolition debris during the reporting period.

Section 826-a.507. Solid Waste Broker.

1. All registered Solid Waste Brokers shall be required to provide the Commission with any information which the Commission may, from time to time, reasonably require.
2. All registered Solid Waste Brokers shall be required to notify the Commission within five (5) business days of the issuance or filing of any criminal indictment or information against the Registrant or any Principal thereof. The Commission shall also be notified within five (5) business days of any judgment or determination of any civil court or administrative tribunal of competent jurisdiction against the Registrant or any of its Principals.

**ARTICLE VI.
PENALTIES AND ENFORCEMENT**

Section 826-a.600. License Suspension or Revocation/Denial of Renewal or Modification.

1. a. No Licensee or Registrant shall have its license or registration suspended, modified or revoked by the Commission, nor shall the Commission refuse to renew or modify a license or registration, without the Licensee or Registrant having first been granted the opportunity for a hearing in accordance with the procedures set forth in Section 826-a.602, below; unless the Licensee or Registrant waives its right to notice and hearing in writing.
 - b. Notwithstanding the above, the Commission may, without hearing and at its sole discretion, immediately suspend a license or registration, without a hearing, provided that the Commission serves the Licensee or Registrant with a Notice of Hearing along with a written notice of such suspension, and provides a post-suspension hearing within seventy-two hours of the Commission's issuance of the emergency suspension.

Section 826-a.601. Violation of License or Registration.

1. a. Any person found guilty by a court of competent jurisdiction of conducting Class A, Class B, Class C, Class D, Class E or Class L activities without a duly-issued license, or operating as a Solid Waste broker without a duly-issued registration, or any Licensee or Registrant found guilty by a court of violating any of the terms and conditions of its license or registration, or violation of any provision of this Chapter or any emergency suspension order of the Commission, shall be guilty of an offense punishable by a fine or not less than \$10,000 per offense and/or by imprisonment not exceeding six (6) months. In

lieu of, or in addition to, such criminal penalties, each person found to be in violation of any provision of this Chapter shall be subject to a civil penalty of not less than a formal written warning and not more than \$5,000.00 per violation which may be imposed at the discretion of the Commission, after hearing as provided in Section 826-a.602 of this Article. Each day of a continuing violation shall constitute a separate offense or violation and shall be subject to a separate fine and/or civil penalty.

2. In addition to any other penalties prescribed in this Section, the County Attorney may maintain an action in a court of competent jurisdiction to compel compliance with or restrain by injunction any violations of the provisions of this Chapter.

3. The civil penalties recited in subsection (1.)(a.), above, shall be imposed only by a court of competent jurisdiction or by the Commission after a hearing held in accordance with the requirements of this Article VI. The Commission may impose such civil penalties in addition to any other action that it is entitled to take against the privileges of a Licensee or Registrant pursuant to this Chapter.

4. a. Notwithstanding the above, municipalities in the County of Westchester may enforce the requirement, pursuant to this Chapter, or pursuant to Section 826.51(7) of the former Chapter 826 until the repeal of same as provided for in this Chapter, that all vehicles operated by a person conducting activities which are required to be licensed or registered be identified by two decals issued by the commission and properly displayed on both the driver side and passenger side doors of such vehicle. A municipality which chooses to enforce this requirement shall designate a local enforcement official who shall have all the powers of the Commission and the County Attorney related to enforcement under this Article.

b. A municipality which enforces this requirement and undertakes the entire enforcement of a particular offense, shall be entitled to retain one hundred (100%) percent of the fines collected, which fines shall be:

(i.) For persons conducting Class A, Class B, Class C-2, Class D and/or Class L activities: One Thousand (\$1,000) Dollars per violation; and

(ii.) For persons conducting Class C-1 and Class E activities: Two Hundred (\$200) Dollars per violation.

Section 826-a.602. Right to a Hearing.

1. Upon an initial determination by the Commission that, under the standards set forth in this Article and in Article IV. of this Chapter, the Commission is entitled to suspend a license or registration; to revoke a license or registration; to

deny a license or registration modification request; to deny a license or registration renewal; or to take any other appropriate action against the privileges of a Licensee or Registrant, the Commission shall cause to be held a hearing before a hearing officer selected by the Commission.

2. In all such cases, the Commission shall issue and serve a written Notice of Hearing, by personal service or by certified mail return receipt requested to the Licensee or Registrant at the last known business address of such Licensee or Registrant, except for a Notice of Violation for a vehicle required to be licensed, but which does not display the decals on both the driver side and passenger side doors of such vehicle as required by this Chapter, which may be issued in the form of a standardized traffic ticket by a police officer within Westchester County.

a. The hearing shall be held as soon as possible, but in no case later than sixty (60) days after service of the Notice of Hearing upon the Licensee or Registrant. Notwithstanding the above, a hearing required pursuant to the Commission's determination to suspend or revoke a license or registration shall be held not later than fifteen (15) days after service of the Notice of Hearing. A Licensee or Registrant may acknowledge its acceptance of the Commission's initial determination by signing the Notice of Hearing where indicated and returning same to the Commission in advance of the specified hearing date, together with payment of the proposed penalty, if any. In the case of a suspension, at the discretion of the Commission, the Licensee or Registrant may sign an agreement with the Commission whereby the Licensee or Registrant will commit to remedy the condition which endangers the health, safety or welfare of the public or to otherwise remedy the condition which is the basis of such determination of suspension by a date certain; the reinstatement of the respondent's license being conditioned upon such performance.

b. The Notice of Hearing shall include the following:

- (i.) the time, place, and nature of the hearing;
- (ii.) a statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to particular sections of statutes and rules where possible;
- (iii.) a statement outlining the matters asserted, including alleged facts supporting the initial determination, the license violation, or the license suspension;
- (iv.) a notice that, upon application of the respondent, a more detailed and definite statement of the matters being asserted will be provided. The Commission shall make the determination as to

whether the initial statement of the matters asserted is not sufficiently definite. Such determination by the Commission shall not be subject to judicial review.

(v.) the respondent's right to present evidence;

(vi.) the respondent's right to examine and cross-examine witnesses;

(vii.) the respondent's right to be represented by counsel;

(viii.) a statement that the respondent's failure to appear shall constitute a default by the respondent and that the hearing may proceed in the respondent's absence and a determination made based solely upon evidence submitted by the Commission;

(ix.) that a respondent may waive his right to a hearing and accept the initial determination of the Commission without objection, by signing where indicated on and returning the Notice of Hearing to the Commission together with any fine which was assessed by the Commission in conjunction with such determination Upon the receipt of such a properly completed acknowledgment by the Commission, the Commission shall file same with the hearing officer along with a notice of cancellation of hearing;

(x.) a statement that interpreter services will be made available to non-English speaking or hearing-impaired persons at no cost; and

(xi.) the name and address of the hearing officer for the filings of any notices or papers pursuant to such proceedings.

3. a. The hearing officer may grant an adjournment upon the request of any party to the proceeding, provided that an adjournment shall not be for an indefinite period of time, but shall be set down for a date certain. In the case of a hearing initiated due to an initial determination by the Commission to suspend or revoke a license or registration, only the Licensee or Registrant shall be entitled to request an adjournment, and such hearing shall not be adjourned for more than seven (7) days, unless both parties agree.

b. If an adjournment is to be requested in advance of the hearing date, such request shall be presented to the hearing officer in writing at least three (3) business days in advance of such hearing, and shall specify the reason for such request.

c. In considering an application for adjournment of a hearing, the hearing officer shall consider whether the purpose of the hearing will be affected by the granting of such adjournment.

4. a. To aid in the administration of this law, the Commission or any hearing officer designated by it in a particular proceeding, may issue subpoenas in the Commission's name requiring the attendance of and the giving of testimony by witnesses, and the production of books, papers and other evidence for any hearing or proceeding conducted pursuant to this Section. Service of such subpoena(s), enforcement of obedience thereto, and punishment for disobedience thereof, shall be had as and in the manner provided by the New York State Civil Practice Law and Rules relating to the enforcement of any subpoena issued by a board or committee.

b. It shall be the responsibility of the party requesting the issuance of a subpoena to effect service thereof.

5. The hearing officer may add a party to the proceeding upon due and adequate notice to both the party to be added and the parties named in the proceedings.

6. On the return date of a hearing, the hearing officer shall note the appearances of the persons attending the hearing. All hearings shall be open to the public.

7. Witnesses shall be sworn and testimony shall be taken and recorded by use of either a court reporter or an electronic recording device. Testimony shall be transcribed upon the request of any interested party. The party requesting the transcript shall pay the costs and expenses in connection therewith.

8. The hearing officer shall not be bound by the strict rules of evidence in the conduct of a hearing initiated pursuant to this Chapter, but his or her findings of fact and conclusions of law shall be founded upon a fair preponderance of the evidence presented at the hearing. The hearing officer shall admit and consider any evidence of mitigation offered by the Licensee or Registrant.

9. After the conclusion of a formal hearing, the hearing officer shall prepare and issue a report containing a summary of the evidence, findings of fact, conclusions of law and recommendation(s) to the Commission.

10. The recommendations of the hearing officer may include, but shall not be limited to, a recommendation as to whether the Commission's initial determination should be rescinded, affirmed, or modified and/or whether a suspended or revoked license or registration should be reinstated unconditionally or upon the condition that the threat to the health or safety or welfare of the public

is remedied by the Licensee or Registrant in a specified manner according to a specified timetable.

11. Upon the conclusion of a formal hearing and after consideration of the hearing officer's report and recommendations, and any evidence of mitigation, the Commission shall make a final determination based on a fair preponderance of the evidence, and shall execute an administrative order implementing such decision.

12. If the Commission determines that the hearing record is not sufficient to make a final determination, the Commission may direct a rehearing or require the taking of additional evidence.

13. The Commission shall cause to be served upon the respondent, copies of the hearing officer's report and the Commission's final determination and order. Service shall be made in the manner prescribed for the service of notices of hearing.

14. a. In the case of license or registration violations, the order of the Commission may include but shall not be limited to: the assessment of civil penalties, as provided by this law; the approval of a stipulation of settlement which shall include, but not be limited to, a plan and schedule to remedy the condition which caused the violation, if such measures are necessary and appropriate to correct the violation; and suspended penalties.

b. The failure to pay any such criminal fines or civil penalties as may be assessed pursuant to this law shall constitute separate grounds for suspension, revocation or non-renewal of a license or registration. The only issue to be resolved at a hearing which is conducted pursuant thereto is whether or not the penalty was paid.

15. a. The Commission shall maintain an index, which shall be accessible by computer or otherwise, which lists by name and subject all final written decisions, determinations and orders rendered through such hearing proceedings. Such index shall also include by name and subject all written decisions, determinations and orders rendered pursuant to a statute providing any party an opportunity to be heard other than rule making. Such index and the text of any such written final decision, determination or order shall be available for public inspection and copying. Copying services shall be provided at a reasonable fee to be determined by the Commission. Each decision, determination and order shall be indexed within sixty (60) days after having been rendered.

b. The Commission may, upon good cause and the request of a party to a hearing, delete from any such index, decision, determination or order any information that, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of the Public Officers Law and may also delete at the request of any person all

references to trade secrets that, if disclosed, would cause substantial injury to the competitive position of such person. Information which would reveal confidential material protected by federal or state statute shall also be deleted from such index, decision, determination or order.

16. Where any violation of this Chapter by a Licensee or Registrant has caused the Commission or the County to incur any expenses with respect to enforcement, such expenses may be charged to the Licensee or Registrant. In the discretion of the Commission, such expenses may be separately collected in a civil suit against the Licensee or Registrant, brought by the County Attorney in the name of the County in a court of competent jurisdiction, in the event that the Licensee or Registrant refuses to pay such charges voluntarily.

ARTICLE VII. INDEPENDENT AUDITING AND INDEPENDENT MONITORING

Section 826-a.700. Independent Auditing.

1. The Commission may, in the event that the information disclosed and reported by an Applicant, Licensee or Registrant pursuant to this Chapter produces adverse information which may indicate a violation of the standards set forth in this Chapter and specifically with regard to the standards outlined in Article VI hereof, require, without a hearing and as a condition of the issuance, reinstatement and/or renewal of a license or registration, that the Applicant, Licensee or Registrant enter into a contract with an independent auditor approved or selected by the Commission, all at the sole cost and expense of the Applicant.
2. In conjunction with the operation of such contract, the Applicant, Licensee or Registrant shall cooperate with such auditor in the performance of the responsibilities set forth in such contract and in this Section.
3. The Applicant, Licensee or Registrant shall pay all costs associated with such contract, in addition to any costs associated with the resulting audit. The Commission may require the Applicant, Licensee or Registrant to deposit a sufficient amount of money, as may be determined by the Commission, into an escrow account as security for the payment of such costs. With respect to Applicants which have existing escrow accounts pursuant to the application requirements outlined herein, such funds will be deposited into that account, but shall be utilized only for those expenses specified in this Section.
4. The Commission shall be authorized to prescribe in any contract required herein such reasonable terms and conditions as the Commission deems necessary to effectuate the purposes hereof. Such terms and conditions may include the following:

- a. That the auditor shall investigate the activities of the Applicant, Licensee or Registrant with respect to its compliance with the provisions of this Chapter, other applicable federal, state and Local Law;
 - b. That the auditor may audit the books and records of the Applicant, Licensee or Registrant;
 - c. That the auditor shall have the authority to verify employees and capital equipment of the Applicant, Licensee or Registrant, where applicable;
 - d. That the auditor shall be authorized to accompany trucks operated by the Applicant, Licensee or Registrant, where applicable, in order to verify amounts of Solid Waste collected and the disposal of such waste, at the discretion of the Commission;
 - e. That the auditor shall verify the costs and revenues relating to business arrangements of the Applicant, Licensee or Registrant with truckers, transfer stations, landfills, recyclers, trade waste brokers and manufacturers, where applicable; and
 - f. That the auditor shall have such additional duties and responsibilities as the Commission determines are necessary in the case of a Licensee or Registrant in order to ensure that such Licensee or Registrant performs in a manner consistent with the purposes of this Chapter.
5. An auditor shall report on its activities conducted pursuant to this Section to the Commission.

Section 826-a.701. Independent Monitoring.

1. Notwithstanding any other provision of this Chapter to the contrary, in the case of an Applicant, Licensee or Registrant which is the subject of a pending indictment or criminal action for a crime that would provide a basis for the refusal to issue or renew a license or registration, or which would provide a basis to take action against the privileges of a Licensee or Registrant, including but not limited to the modification of a license or registration as provided under this Chapter, the Commission, in its sole discretion, may (a.) in the case of an Applicant, refrain from making a determination to issue the license or registration indefinitely until final disposition of the criminal case, or may require as a condition of the license or registration to be issued that the Applicant enter into a contract with an independent monitor approved or selected by the Commission, and (b.) in the case of a Licensee or Registrant, may require as a condition of the license or registration that the Licensee or Registrant

enter into a contract with an independent monitor approved or selected by the Commission.

2. The cost of the independent monitoring contract shall be paid by the Applicant, Licensee or Registrant. The Commission may require the Applicant, Licensee or Registrant to deposit a sufficient amount of money, as may be determined by the Commission, into the escrow account as security for the payment of such costs. With respect to Applicants which have existing escrow accounts pursuant to the application requirements outlined herein, such funds will be deposited into that account, but shall be utilized only for those expenses specified in this Section.

3. The Commission shall be authorized to prescribe in any contract required herein such reasonable terms and conditions as the Commission deems necessary to effectuate the purposes hereof. Such terms and conditions may include the following:

a. That the monitor will review and either approve or disapprove certain actions proposed to be taken by the Applicant, Licensee or Registrant, where such actions fall within a category identified in this Section or by rule of the Commission as having a particular bearing on the fitness of an Applicant or Licensee to hold a license under this Chapter. Such actions shall include, without limitation,

(i.) any decision to assign contracts for any activity licensed or registered under this Chapter;

(ii.) any decision to transfer an ownership interest or substantial assets to another person or entity where such interests or assets exceed a threshold established in such rule of the Commission;

(iii.) any significant expenditure by the business as defined in rules of the Commission;

(iv.) the initiation of any litigation against a Service Contract customer or another Solid Waste removal business or Solid Waste broker or its customer;

(v.) the involvement in the business of a Principal who is a defendant in the criminal action for which the Applicant, Licensee or Principal has been indicted in any particular aspect of the business of the Applicant, Licensee or Registrant where the monitor has reasonable cause to

believe that such involvement would be inconsistent with the purposes of this Chapter;

(vi.) membership in a trade association;

(vii.) the hiring or firing of personnel when the monitor has reasonable cause to believe that such actions are inconsistent with the purpose of this Chapter.

b. That the monitor may prohibit persons from entering upon the premises of the Applicant, Licensee or Registrant or from involvement in the business of the Applicant, Licensee or Registrant, when the monitor determines that such prohibition is necessary to effectuate the purposes of this Chapter;

c. That the monitor investigate the activities of the Applicant, Licensee or Registrant with respect to compliance with the provisions of any court order to which the Applicant, Licensee or Registrant is subject; the provisions of this Chapter; compliance with all federal, state and Local Laws applicable to Solid Waste removal and any rules and regulations promulgated thereunder; any transfer or ownership interest in the business of the Applicant, Licensee or Registrant; any litigation entered into by the Applicant, Licensee or Registrant against a Service Contract customer or another Applicant, Licensee or Registrant or its customer; any assignment or purchase of Service Contracts; and any activity of the Applicant, Licensee or Registrant that may violate laws or regulations prohibiting anti-competitive activities or unfair trade practices, and any membership in a trade association;

d. That the monitor may audit the books and records of the Applicant, Licensee or Registrant;

e. That the monitor have authority to verify employees and capital equipment of the Applicant, Licensee or Registrant, where applicable;

f. That the monitor may accompany trucks operated by the Applicant, Licensee or Registrant, where applicable, in order to verify amounts of Solid Waste collected and the disposal of such waste;

g. That the monitor may verify the costs and revenues relating to business arrangements of the Applicant, Licensee or Registrant with truckers, transfer stations, landfills, and Recyclables brokers, where applicable;

h. That the monitor have such additional duties and responsibilities as the Commission determines are necessary in the case of

the Applicant, Licensee or Registrant in order to ensure that such the Applicant, Licensee or Registrant performs in a manner consistent with the purpose of this Chapter.

4. The monitor shall report to the Commission concerning its activities under this Section.

5. The Applicant, Licensee or Registrant shall cooperate with such monitor in the performance of the responsibilities set forth in such contract and this Section.

6. Where an Applicant, Licensee or Registrant is subject to a receivership or court ordered monitor, the Applicant, Licensee or Registrant shall furnish the monitor with the relevant orders of the court regarding such receivership or monitorship.

7. Independent monitors shall possess the skills required by the Commission. The independent monitors may hire consultants who possess those skills to perform the services on behalf of the independent monitor. The types of skills that the Commission may require of the independent monitor shall be reasonably related to the services to be required of the Independent Monitor. Those skills may include but are not limited to the following:

- a. Fraud detection;
- b. Detection of organized crime, anti-trust violations, racketeering or other crimes;
- c. An understanding of business ethics;
- d. The ability to detect noncompliance with the law, including but not limited to, environmental laws, prevailing wage laws, the Westchester County Source Separation Law and the Westchester County Solid Waste and Recycling Collection Licensing Law;
- e. Accounting skills; and
- f. Legal analysis skills.

ARTICLE VIII. IMPLEMENTATION

Section 826-a.800. Effective Date.

1. The Effective Date shall be the date on which this Local Law is signed by the County Executive.

Section 826-a.801. Implementation – Class C Licensees.

1. Any person which holds, or expects to hold, a valid Class C License pursuant to the former Chapter 826 on March 15, 2000 shall apply to the Commission, on a form to be provided by the Commission, on or before January 15, 2000, for a determination as to whether such person's activities constitute Class "C-1" activities or Class "C-2" activities pursuant to this Chapter. The Commission shall issue its written determination as to a person's Class C classification on or before February 15, 2000. The March 15, 2000 deadline for the submission of such person's Class C-2 license application, as set forth in this Article, shall be tolled after February 15, 2000 and until such time as the Commission informs the person, in writing, as to its appropriate Class C licensing classification pursuant to this Chapter, provided that the Licensee submits the application required by this Section to the Commission on or before January 15, 2000.

Section 826-a.802. Implementation - Class A, Class B and Class C-2 Licenses.

1. On or before August 31, 2000, the Commission shall publish notice at least once in one or more newspapers of general circulation which shall be selected by the Clerk of the Board of Legislators, and thereby notify all persons which hold, or expect to hold, valid Class A, Class B or Class C licenses pursuant to the former Chapter 826 on September 30, 2000, excepting those persons who the Commission has determined will conduct activities which require a Class C-1 License pursuant to this Chapter, that they must submit an application for licensing under this Chapter on or before September 30, 2000, and that the failure to submit such application on or before September 30, 2000 shall result in the termination of the person's license issued pursuant to the former Chapter 826, effective November 30, 2000, except that the termination date with regard to that person's performance of its municipal contracts shall be January 31, 2001. Such public notice shall also notify all persons that they shall be subject to fines and/or civil penalties of up to Ten Thousand (\$10,000) Dollars per day for conducting unlicensed activities in accordance with the provisions of this Chapter. The public notice shall notify those persons performing activities, or intending to perform activities, in Westchester County which require a license pursuant to this Chapter that a license is required. The public notice shall also state all application and other fees which shall be due and payable in connection with the submission of such application.

2. By September 30, 2000 all persons who hold valid licenses pursuant to the former Chapter 826 and who intend to conduct Class A, Class B or Class C-2 activities must submit an application to the Commission and provide all of the information required of license Applicants under Article III of this Chapter. The failure to submit such an application on or before September 30, 2000 shall result in the termination of the person's license issued pursuant to the former Chapter 826, effective November 30, 2000, generally, and effective January 31, 2001, only for purposes of the person's performance with respect to its municipal contracts. The Commission shall send notices of this requirement by certified mail, return receipt requested, to all current holders of Class A, Class B and Class C licenses issued pursuant to the former Chapter 826, within one hundred ten (110) days of the Effective Date of this Local Law. With regard to applications submitted to the Commission during the period beginning on the Effective Date of this Chapter and ending on September 30, 2000, the Commission shall issue its final written determination as to each such application no later than March 31, 2002.

a. With respect to persons holding valid Class A or Class B licenses pursuant to the former Chapter 826 or those persons which hold valid Class C licenses pursuant to the former Chapter 826, and require a Class C-2 license pursuant to this Chapter, which are valid on September 30, 2000, the licenses held by such persons shall, unless revoked earlier pursuant to the provisions of the former Chapter 826, remain valid through March 31, 2002, subject to the provisions of subsections (b.) and (c.) below.

b. With respect to those persons referenced in subsection (a.), above, licenses held by those persons which have submitted a license application, including all required application materials, including the application and background check fees, on or before September 30, 2000, shall remain valid beyond September 30, 2000 and until (i.) ninety (90) days after such application has been denied by the Commission, or for good cause shown for a term which shall not exceed one hundred eighty (180) days after such application has been denied only for purposes of the Licensee's performance with respect to its municipal contracts, or until the expiration of the Licensee's existing contracts with such municipalities, whichever occurs sooner, or (ii.) until a new license has been issued pursuant to the provisions of this Chapter, whichever occurs sooner. Notwithstanding the above, no license issued pursuant to the former Chapter 826 shall be extended beyond March 31, 2002.

c. With respect to those persons referenced in subsection (a.), above, licenses, held by persons which have not submitted the required application materials, including all fees, on or before September 30, 2000 shall expire on November 30, 2000, except that the termination date with regard to that person's performance of its municipal contracts shall be January 31, 2001.

d. Any person whose license issued pursuant to the former Chapter 826 is terminated prior to its regularly scheduled termination date by operation of this Section shall be responsible only for that pro rata share of the license fee attributable to such license through the date of termination. The Commission shall issue refunds of any such fees within sixty (60) days of the termination date. Any person whose license issued pursuant to the former Chapter 826 is extended beyond its regularly scheduled termination by operation of this Section shall be required to pay a pro rata share of the license fee attributable to such license on a month-to-month basis, payable to the Commission on the first day of each month during the period of such extension. The Commission may terminate the license, by written notice, for failure to pay such fees on a timely basis.

e. New licenses issued after the Effective Date and pursuant to this Chapter shall be valid as of the date of issue.

f. For so long as licenses issued under the former Chapter 826 remain valid, the standards for enforcement of such licenses shall be those standards set forth in the former Chapter 826.

g. The Commission may issue licenses to haulers pursuant to Chapter 826 of the Laws of Westchester County through December 31, 2000 so long as the hauler has also submitted an application pursuant to Chapter 826-a and provided, however, that licenses may not be issued to a hauler, pursuant to this subsection, where (i.) the hauler's application pursuant to Chapter 826-a has been reviewed and rejected by the Commission or (ii.) that hauler's privilege to operate in Westchester County has been terminated pursuant to the provisions of subsection (c.), above.

Section 826-a.803. Implementation Class C-1, Class D and Class E Licenses.

1. On or before August 31, 2000, the Commission shall publish notice at least once in one or more newspapers of general circulation which shall be selected by the Clerk of the Board of Legislators, and thereby notify all persons which hold, or expect to hold Class C, Class D or Class E licenses pursuant to the former Chapter 826 on September 30, 2000, excepting those persons who the Commission has determined conduct activities which require a Class C-2 License issued pursuant to this Chapter, that they must submit an application for licensing under this Chapter on or before September 30, 2000, and that the failure to submit such application on or before September 30, 2000 shall result in the termination of the person's license pursuant to the former Chapter 826, effective November 30, 2000, except that the termination date with regard to that person's performance of its municipal contracts shall be January 31, 2001. Such public notice shall also advise all persons that they shall be subject to fines and/or civil penalties of up to Ten Thousand (\$10,000) Dollars per day for conducting unlicensed activities. The public notice shall notify those persons performing

activities, or intending to perform activities, in Westchester County which require a Class C-1, Class D or Class E license pursuant to this Chapter that a license is required. The public notice shall also state all application and other fees which shall be due and payable in connection with the submission of such application.

2. By September 30, 2000 all persons who hold valid licenses pursuant to the former Chapter 826 and who intend to conduct Class C-1, Class D or Class E activities pursuant to this Chapter must submit an application and provide all of the information required of license Applicants under Article III. of this Chapter. The failure to submit such an application on or before September 30, 2000 shall result in the termination of the person's license issued pursuant to the former Chapter 826 on November 30, 2000, except that the termination date with regard to that person's performance of its municipal contracts shall be January 31, 2001. The Commission shall send notices of this requirement by certified mail, return receipt requested, to all current holders of Class C, Class D and Class E licenses issued under the former Chapter 826, within one hundred ten (110) days of the Effective Date of this Local Law. With regard to applications submitted to the Commission during the period beginning on the Effective Date of this Chapter and ending on September 30, 2000, the Commission shall issue its final determination as to each such application no later than March 31, 2002.

a. With respect to persons holding valid Class D or Class E licenses pursuant to the former Chapter 826, and those persons which hold Class C licenses pursuant to the former Chapter 826 and require a Class C-1 license pursuant to this Chapter, which are valid on September 30, 2000, the licenses held by such persons shall, unless revoked earlier pursuant to the provisions of the former Chapter 826, shall remain valid through March 31, 2002, subject to the provisions of subsections (b.) and (c.) below.

b. With respect to those persons referenced in subsection (a.), above, licenses, held by those persons which have submitted a application, including all required application materials and application and background check fees, on or before September 30, 2000, shall remain valid beyond September 30, 2000, and until (i.) ninety (90) days after such application has been denied by the Commission or for good cause shown for a term which shall not exceed one hundred eighty (180) days, only for purposes of the Licensee's performance with respect to its municipal contracts, or until the expiration of the Licensee's existing contracts with such municipalities, whichever occurs sooner, or (ii.) until a new license has been issued pursuant to the provisions of this Chapter, whichever is sooner. Notwithstanding the above, no license issued pursuant to the former Chapter 826 shall be extended beyond March 31, 2002.

c. With respect to those persons referenced in subsection (a.), above, licenses, held by persons which have not submitted the required application materials on or before September 30, 2000 shall expire on November 30, 2000,

except that the termination date with regard to that person's performance of its municipal contracts shall be January 31, 2001.

d. Any person whose license issued pursuant to the former Chapter 826 is terminated prior to its regularly scheduled termination date by operation of this Section shall be responsible only for that pro rata share of the license fee attributable to such license through the date of termination. The Commission shall issue refunds of any such fees within sixty (60) days of the termination date. Any person whose license issued pursuant to the former Chapter 826 is extended beyond its regularly scheduled termination date by operation of this Section shall be required to pay a pro rata share of the license fee attributable to such license on a month-to-month basis, payable to the Commission on the first day of each month during the period of such extension. The Commission may terminate the license, by written notice, for failure to pay such fees on a timely basis.

e. New licenses issued after the Effective Date and pursuant to this Chapter shall be valid as of the date of issue.

f. For so long as licenses issued under the former Chapter 826 remain valid under this Section, the standards for enforcement of such licenses shall be those standards set forth in the former Chapter 826.

g. . The Commission may issue licenses to haulers pursuant to Chapter 826 of the Laws of Westchester County through December 31, 2000 so long as the hauler has also submitted an application pursuant to Chapter 826-a and provided, however, that licenses may not be issued to a hauler, pursuant to this subsection, where (i.) the hauler's application pursuant to Chapter 826-a has been reviewed and rejected by the Commission or (ii.) that hauler's privilege to operate in Westchester County has been terminated pursuant to the provisions of subsection (c.), above.

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Section 826-a. 804. Implementation - Solid Waste Brokers.

1. On or before August 31, 2000, the Commission shall publish notice at least once in one or more newspapers of general circulation which shall be selected by the Clerk of the Board of Legislators, and thereby notify all persons who conduct, or intend to conduct, activities which shall require registration under this Chapter that they must submit an application for registration on or before September 30, 2000, or be subject to fines and/or civil penalties of up to Ten Thousand (\$10,000) Dollars per day for conducting unregistered activities thereafter. The public notice shall notify those persons performing activities or intending to perform activities in Westchester County which require a registration pursuant to this Chapter that a registration is required, and that all such persons must apply for a such registration on or before September 30, 2000 in accordance with the provisions of this Chapter. The public notice shall also state all

application and other fees which shall be due and payable in connection with the submission of such application.

2. a. By September 30, 2000, all persons who operate, or intend to operate, as Solid Waste Brokers in the County must submit an application for registration to the Commission and provide all of the information required of registration Applicants under Article III. of this Chapter, in order to be considered for issuance of a registration. With regard to applications submitted to the Commission during the period beginning on the Effective Date of this Chapter and ending on September 30, 2000, the Commission shall issue its final determination as to each such application no later than March 31, 2002.

b. With respect to those persons who have submitted a timely application for registration, and have paid the required fee, as determined by the Commission, the Commission shall issue such person a temporary registration, which temporary registration shall be valid beginning on the date of issuance and until either (i.) ninety (90) days after such application has been denied or (ii.) until a registration has been issued pursuant to the provisions of this Chapter, whichever occurs sooner. Notwithstanding the above, all temporary registrations issued pursuant to this subsection shall terminate on or before March 31, 2002.

c. With respect to Solid Waste Brokers, registrations issued pursuant to this Chapter shall be valid as of the date of issue.

Section 826-a.805. Implementation - Service Contracts.

1. Within one hundred ten (110) days after the Effective Date of enactment of this Chapter, the Commission shall publish notice at least once in one or more newspapers of general circulation which shall be selected by the Clerk of the Board of Legislators, and thereby notify all persons who conduct or intend to conduct activities which shall require a license or registration under this Chapter that any and all Service Contracts which are entered into prior to March 15, 2000 must be amended on or before March 15, 2000 so that each such Service Contract complies with the requirements set forth in Section 826-a.402. The public notice shall also state that all Service Contracts entered into before March 15, 2000 shall be terminable at will upon written notice by the customer.

2. Notwithstanding any other provision of this Local Law:

a. As of the Effective Date, a Service Contract to provide Solid Waste collection, removal or disposal entered into prior to March 15, 2000 shall (i.) be terminable at will by the customer, upon written notice by such customer and (ii.) terminate on the date provided therein or two (2) years from the date of execution, whichever is earlier, subject to the provisions of this Chapter.

b. Upon the integration of the Customer Bill of Rights into those Service Contracts which were entered into prior to March 15, 2000, (i.) the absolute right of the customer to terminate those Service Contracts at will, as outlined in subsection (a)(i) above, shall survive for the duration of the term of such pre-March 15, 2000 Service Contracts; and (ii.) the provision of the Customer Bill of Rights which provides that "All Service Contracts shall be terminable by the Customer, without penalty, during the final thirty (30) days of any regular Service Contract term" shall be superceded by the absolute termination right referenced herein for those Service Contracts entered into prior to March 15, 2000, and shall continue until such time as a new Service Contract is executed by such customer. All haulers shall be required to notify all customers of Service Contracts entered into before March 15, 2000, of their continuing right to terminate their Service Contracts, at will, until a new Service Contract is executed. The integration of the Customer Bill of Rights into any Service Contract which was entered into prior to March 15, 2000, and any written acknowledgement thereof by the customer, shall not by itself constitute the execution of a new Service Contract for purposes of this subsection (ii.).

Section 826-a.806. Implementation - Municipal Enforcement.

1. Within one hundred ten (110) days after the Effective Date of enactment of this Chapter, the Commission shall issue notice to each municipality in Westchester County, and request that each such municipality enforce the provisions of this Chapter and the former Chapter 826 relating to the display of County-issued decals on vehicles which conduct activities which are required to be licensed or registered pursuant to this Chapter. Such notice shall include a copy of this Chapter, as enacted, and a copy of the former Chapter 826, and shall invite such municipal officials to undertake such enforcement without further notice or delay.

Section 826-a.807. Reporting to Board of Legislators.

Beginning in April of 2001 and concluding in April of 2002, the Executive Director of the Westchester County Solid Waste Commission shall transmit a written status report to the Clerk of the Westchester County Board of Legislators on or about the 15th day of each month, which report shall outline the general status of the Commission's investigation of haulers who submitted applications to the Westchester County Solid Waste Commission on or before September 30, 2000, pursuant to the provisions of this Article, and the general statistics regarding approval and/or disapproval of such applications.

**ARTICLE IX.
TERM OF LICENSE OR REGISTRATION**

Section 826-a.900. Term of License.

1. The term of any license issued pursuant to this Chapter shall be two (2) years from the date of issuance, noting that during such two year license term Class L licenses shall be in effect only during the months of October, November, December and January .

Section 826-a.901. Term of Registration.

1. The term of any registration issued pursuant to this Chapter shall be two (2) years from the date of issuance.

**ARTICLE X.
CONFIDENTIALITY**

Section 826-a.1000. Confidentiality of Information.

1. Public access to government records is mandated by the New York State Freedom of Information Law (FOIL), Public Officers Law, Article 6, Section 84-90. It is recognized that information contained in license applications and the quarterly or annual reports required hereunder may include technical, financial, or other information which a license Applicant, Licensee or Registrant believes is not required to be disclosed under FOIL.

2. Applicants, Licensees or Registrants who believe that any information contained in license or registration applications, quarterly or annual reports, or any other information required to be provided by the Commission is not required to be disclosed under FOIL shall underline all such information in red ink and shall provide a separate written explanation of the grounds for their belief, which clearly identifies each underlined section of the application or report to which such explanation applies. Neither the Commission nor Westchester County shall have any liability for disclosure of information that is not properly identified in the manner required by this subsection.

3. In the event that a third party requests information that has been properly identified as outlined in subsection (2), above, the Applicant, Licensee or Registrant shall be advised of such request.

4. The County shall review any written explanation of grounds for nondisclosure submitted by the Applicant, Licensee or Registrant pursuant to

subsection (2) above, prior to making its determination concerning whether disclosure is proper under FOIL.

5. If the County determines that disclosure is required under FOIL, it shall notify the Applicant, Licensee or Registrant of its decision, prior to making such disclosure.

6. Nothing herein shall be construed as imposing any liability upon the Commission or upon Westchester County where disclosure has been made in good faith pursuant to a reasonable interpretation of applicable law, or where disclosure was mandated by the order or judgment of a court of competent jurisdiction or the order of any government agency or authority having lawful jurisdiction.

7. Consistent with all provisions of applicable law, the Commission shall make every effort to preserve the confidentiality of information or evidence relating to on-going criminal investigations, including but not limited to, immediately turning over information concerning actual or suspected criminal activity to the appropriate governmental law enforcement agency.

ARTICLE XI. SEVERABILITY

Section 826-a.1100. Severability.

1. If any provision of this Chapter or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without regard to the invalid provision or application and to this end provisions of this law are declared to be severable.

Section 3. This Local Law shall take effect immediately.