

Westchester County

George Latimer
County Executive

January 11, 2024

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

I respectfully request that your Honorable Board adopt the attached Local Law amending Chapter 825 of the Laws of Westchester County entitled the "Westchester County Source Separation Law" to improve recycling, reduction and waste programs in the County of Westchester. This proposed Local Law will: (1) require separate containers for waste and recyclables in public places; (2) specify and clarify that separate disposal is required for certain items in accordance with state law; (3) expand the language regarding food composting; (3) amend the list of mandatory curbside recyclables to include cartons; (4) require reporting by municipalities, haulers, and recyclers directly to the County Department of Environmental Facilities; and (5) clarify and revise language in certain sections and definitions to reflect actual County recycling operations.

The ease of recycling directly corresponds to increased compliance with recycling requirements. If a waste receptacle is available without a corresponding container for recyclables, an individual is more likely to dispose of the recyclable as waste. Although the current Source Separation Law requires nonresidential waste generators to separate recyclables for curbside collection, in practice and due to health concerns, separation of waste post disposal is extremely unlikely to occur.

In addition, recycling rules vary based upon location and hauler, meaning that without containers and proper signage, consumers may not be aware of proper recycling methods in stores and other businesses. Therefore, this amendment to the law will require separate containers for waste and recyclables in public places.

When recyclables are improperly disposed as waste at transfer stations or end use management facilities, there is no mechanism to remove the recyclables from the waste stream,

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resulting in disposal where recycling may have been possible. Moreover, the number of fines issued to businesses and haulers for the comingling of recyclables with waste may be reduced where proper containers and signage are required and available to the public, due to consumers properly recycling in the first instance.

According to the County's 2019-2020 Food Waste Study, approximately 22% of residential waste is food waste, which can be managed through composting and/or digestion, rather than as household waste. Although the current Source Separation Law specifically assures residents that garden and yard waste may be composted at home, it is silent on home composting. This amendment specifically states that there is no prohibition against the private composting of food waste or participation in a program for food waste recycling.

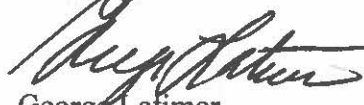
The County Department of Environmental Facilities, Refuse & Recycling (Solid Waste) Division, as the State-designated Solid Waste Management Planning Agency for Refuse Disposal District #1, established a carton recycling program in 2016. Since that time, carton recycling has become the standard for residential collection programs in Westchester County and therefore the law was amended to specify that cartons are considered a mandatory curbside recyclable.

Your Committee recognizes that the County Department of Environmental Facilities, Refuse & Recycling (Solid Waste) Division gathers recycling and waste data from municipalities, haulers, and recyclers in order to prepare and submit reports required by the State and for program planning. The ability of the County Department of Environmental Facilities to gather data directly from municipalities, haulers, and recyclers as will be required under the proposed law, is imperative to comply with State law and to continue to improve recycling, reduction, and waste programs in the County. Certain materials, such as Lithium-Ion Batteries, Freon-containing devices, and mercury-containing items can be dangerous if disposed in household waste. State law already requires proper and safe disposal techniques for these items and the amendment being requested with respect to disposal of special wastes would make the County's law consistent with State law.

The intent of the amendments to Chapter 825 of the Laws of Westchester County is to increase recycling in the County to maintain and improve the health of the environment and benefit the health, safety, and welfare of County residents.

Based upon the foregoing, I believe the proposed legislation is in the best interest of the County and, therefore, recommend your favorable action on it.

Sincerely,



George Latimer
County Executive

GL/mn
Attachments

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends adoption of “A LOCAL LAW amending the Laws of Westchester County by amending Chapter 825, commonly referred to as the “Source Separation Law” to: (1) require separate containers for waste and recyclables in public places; (2) specify and clarify separate disposal is required for certain items in accord with state law; (3) expand the language regarding food composting; (3) amend the list of mandatory curbside recyclables to include cartons; (4) require reporting by municipalities, haulers, and recyclers directly to the Department of Environmental Facilities; and (5) clarify and correct language in certain sections and definitions to reflect actual operations.

Your Committee reports that this amendment was requested by the Department of Environmental Facilities, Refuse & Recycling (Solid Waste) Division, as the State-designated Solid Waste Management Planning Agency of the County, in connection with its continuing agency management of the existing Source Separation Law, to improve recycling within the County.

Your Committee acknowledges that as the State-designated Solid Waste Management Planning Agency, Department of Environmental Facilities, Refuse & Recycling (Solid Waste) Division gathers recycling and waste data from municipalities, haulers, and recyclers in order to prepare and submit reports required by the State and for program planning. The ability of the Department to gather data is imperative to comply with State law and to continue to improve recycling, reduction, and waste programs.

Your Committee is aware that the ease of recycling directly corresponds to increased compliance with recycling requirements. If a waste receptacle is available without a corresponding container for recyclables, an individual is more likely to dispose of the recyclable as waste. Although the current Source Separation Law requires nonresidential waste generators to separate recyclables for curbside collection, in practice and due to health concerns, separation of waste post disposal is extremely unlikely to occur.

Your Committee is also aware that recycling rules vary based upon location and hauler, meaning that without containers and proper signage, consumers may not be aware of proper recycling methods in stores and other businesses.

Your Committee acknowledges that when recyclables are improperly disposed as waste at transfer stations or end use management facilities, there is no mechanism to remove the recyclables from the waste stream, resulting in disposal where recycling may have been possible.

Your Committee recognizes that the number of fines issued to businesses and haulers for the comingling of recyclables with waste may be reduced where proper containers and signage are required and available to the public, due to consumers properly recycling in the first instance.

Your Committee further acknowledges that certain materials, such as Lithium-Ion Batteries, Freon-containing devices, and mercury-containing items can be dangerous if disposed in household waste. State law already requires proper and safe disposal techniques for these items

and the amendment being requested with respect to disposal of special wastes would make the County's law consistent with State law.

Your Committee is aware that according to the County's 2019-2020 Food Waste Study, approximately 22% of residential waste is food waste, which can be managed through composting and/or digestion, rather than as household waste. Although the current Source Separation Law specifically assures residents that garden and yard waste may be composted at home, it is silent on home composting. This amendment specifically states that there is no prohibition against the private composting of food waste or participation in a program for food waste recycling.

Your Committee acknowledges that the Department of Environmental Facilities, Refuse & Recycling (Solid Waste) Division, in its capacity as the management of the Refuse Disposal District #1 established a carton recycling program in 2016. Since that time, carton recycling has become the standard for residential collection programs in Westchester County.

Your Committee notes that the intent of this amendment is to maintain and improve the health of the environment and to benefit the health, safety, and welfare of County residents.

Your Committee is informed by the Department of Planning that the proposed amendment is not an "Action" as defined in 6 NYCRR Part 617, the implementing regulations of the New York State Environmental Quality Review Act ("SEQRA"). The County's Department of Planning has prepared a memorandum dated January 8, 2024, which is on file with the Clerk of the Board of Legislators. Your Committee concurs with the conclusion of that memorandum.

In light of all of the foregoing, your Committee recommends passage of this Local Law.

Dated: _____, 2024
White Plains, New York

COMMITTEE ON

FISCAL IMPACT STATEMENT

SUBJECT: Updates to Source Separation Law NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense _____

Total Current Year Revenue \$ _____ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount 0.00

Describe: This is for an amendments to the source separaation law, no impact on the operating

Potential Related Operating Budget Revenues: Annual Amount 0

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

Next Four Years: N/A

Prepared by: Melissa-Jean Rotini

Title: Assistant Commissioner


Department: Environmental Facilities

Date: January 8, 2024

Reviewed By: 
Budget Director

Date: 1/11/24

TO: George Latimer, County Executive
Kenneth Jenkins, Deputy County Executive
John Nonna, County Attorney

FROM: David Kvinge, AICP, RLA, CFM 
Assistant Commissioner

DATE: January 8, 2024

SUBJECT: **ACTIVITIES NOT SUBJECT TO STATE ENVIRONMENTAL QUALITY REVIEW**

As required by the New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617 ("SEQR"), the Board of Legislators ("BOL") is the body that must assess the environmental significance of all actions that the BOL has discretion to approve, fund or directly undertake. The Planning Department has historically conducted the necessary environmental review for the BOL to undertake its responsibility under SEQR. Additionally, contracts going before the Board of Acquisition and Contracts ("BAC") must be reviewed for conformance with SEQR.

Pursuant to Section 617.2(b) of SEQR, "Actions" are defined as:

- (1) projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
 - (i) are directly undertaken by an agency; or
 - (ii) involve funding by an agency; or
 - (iii) require one or more new or modified approvals from an agency or agencies;
- (2) agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
- (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
- (4) any combinations of the above.

As has been done in prior years, the Planning Department, in an attempt to streamline the process for SEQR review and related document preparation for the BOL and BAC, has created a list of categories of activities **that do not meet the definition of an "action"** as defined in SEQR. This list (attached) references activities that are routine and which do not change the use, appearance or condition of any natural resource or structure, nor do they involve policies or regulations that may affect the environment. The creation of this list in no way eliminates the BOL's or BAC's responsibilities under SEQR. Rather, it establishes a workflow for items that are routine and do not, under the law, require environmental review.

Accordingly, the Planning Department advises that no environmental review is required and no SEQ documentation is necessary for submission with BOL legislation or with resolutions or contracts requiring BAC approval regarding activities on the attached list.

County departments and agencies may reference this memorandum in the legislation in order to document compliance with SEQ for actions listed herein. This memorandum should be considered in effect until rescinded or replaced, with replacements typically occurring annually in mid-January. As such, this memorandum should be kept on file with the Clerk of the Board of Legislators. Legislation should include a statement similar to the following: "The proposed project does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 8, 2024, which is on file with the Clerk of the Board of Legislators."

This memorandum will be distributed to all Commissioners as part of County operations.

Please contact me if you have any questions.

Att.

cc: Malika Vanderberg, Clerk and Chief Administrative Officer to the Board of Legislators
Joan McDonald, Director of Operations
Andrew Ferris, Chief of Staff
Steve Bass, Director of Intergovernmental Relations
Paula Friedman, Assistant to the County Executive
Stacey Dolgin-Kmetz, Chief Deputy County Attorney
Tami Altschiller, Assistant Chief Deputy County Attorney
Blanca Lopez, Commissioner, Department of Planning

**ACTIVITIES THAT DO NOT MEET THE DEFINITION OF AN “ACTION”
PURSUANT TO SEQR AND ARE, CONSEQUENTLY, NOT SUBJECT TO SEQR**

1. **BUDGETS AND AMENDMENTS**

- Municipal budgets and amendments to them – The budgeting process merely sets aside funds without a commitment to their expenditure. Operating expenditures are typically for government-related activities that would also not meet the definition of an action. Even the establishment of the Capital Budget is not subject to SEQR because many of the capital projects are usually not definitive enough with respect to potential impacts to be reviewable at the time the budget is adopted. However, any subsequent authorization, such as bonding, to undertake a particular capital project is an action that requires SEQR compliance before it may be approved.
- The transfer of funds within the County operating and capital budgets for the purpose of balancing accounts – It is understood that these actions are purely budgetary, where accounts with excess funds are moved to accounts with existing or anticipated deficits. It is further understood that the activities covered by these accounts have either already occurred or been reviewed in accordance with SEQR, are Type II actions or actions that are not subject to SEQR, or are actions that will require future approval prior to being undertaken, at which time further SEQR review may be appropriate.
- Rescissions or reduction of bond acts to cancel unspent funds.

2. **SERVICES**

- Consultant services – Contracts or agreements that provide for administrative services, training, reports for Boards and Commissions, but not including studies or design of physical improvements, which has been listed under SEQR as Type II.
- Social Services – Actions or agreements that provide services to persons in need, such as employment assistance, family/domestic intervention and respite care.
- Youth services – Actions or agreements that provide for youth services, such as a Resource Allocation Plan, Invest-in-Kids Program, after-school programs, camp programs and head-start programs.
- Senior programs & services – Actions or agreements that provide for services to seniors, such as provision of information/education, home care, nutrition & transportation assistance, caregiver support, and acceptance of federal and state grants providing for such services (e.g., OAA Title III grants and NYSOFA grants, including CSE, CSI, CRC, EISEP, NYSTP, WIN & NSIP).
- Public Safety services – programs that promote public safety, such as STOP-DWI and Police Night Out; intermunicipal agreements (IMAs) for shared training, equipment and response to emergencies, including E-911; acceptance and administration of grants for law enforcement programs (e.g., JAG).
- Fire services – Fire district IMAs for shared training, equipment and response to emergencies.
- Legal services – Contracts for outside counsel, litigation or associated monetary settlements and collections.

- Medical Services – Contracts with medical providers for medical examinations, testing, vaccinations or medical treatment of County employees or the public.
- Mental Health Services – Contracts with agencies to provide treatment, services or education related to mental health.

3. PERSONNEL MATTERS

- Actions related to employment or employees.
- Contracts for temporary staff assistance.
- Legislation pertaining to establishment and membership of boards and commissions.

4. FINANCES

- Tax Anticipation Notes.
- Bond acts to finance tax certiorari payments.
- Banking contracts/agreements for money management services.
- Mortgage tax receipts disbursements (County Clerk).
- Refinancing of affordable housing mortgages.
- Payment in Lieu of Taxes (PILOT) agreements.

5. LAWS

- New laws or amendments of existing laws that regulate the sale or use of products for the protection of public health.
- New laws or amendments of existing laws that regulate businesses for the protection of consumers.
- Pertaining to consumer protection, not including professional licensing, which have been classified as Type II.
- Pertaining to animal welfare, excluding regulations involving habitat management.
- Pertaining to public safety.
- Pertaining to taxation, such as establishment of new taxes or tax exemptions.
- Pertaining to establishment or modification of fees.
- Pertaining to notices, publications and record keeping.
- Pertaining to hiring or contracting procedures.
- Pertaining to the functioning of County government, such as term limits, board appointments, etc. that do not impact the environment.

6. MISCELLANEOUS

- Amendments to existing agreements for changes in name or consultants.
- Education/training programs, contracts for clinical instruction.
- Prisoner Transport IMAs.
- Tourism Promotion Agency designation.
- Software licenses.

- IMAs for temporary housing in existing facilities (homeless, inmate, troubled youths, domestic violence victims).
- Naming or renaming of streets, buildings, parks or other public facilities.

WCDP
JAN 2024

RESOLUTION NO. ____ – 2024

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2024, entitled “A LOCAL LAW amending the Laws of Westchester County by amending Chapter 825 regarding source separation of recyclables from the waste stream. The public hearing will be held at __.m. on the ____ day of _____, 2024, in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.