

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee is in receipt of “A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 713 prohibiting Unauthorized Dumping on County-Owned Property.”

Your Committee is informed that over 1.5 million tons of illegal waste is dumped each year in the United States alone, and that cleaning up these unsightly, hazardous dumping sites frequently falls to the government because of the health risks they pose, the environmental damage they cause, and the blight they put on the community.

Your Committee is further informed that illegal dumping may consist of dumping of waste onto a public or private property that is not licensed or permitted to accept such waste or the dumping of trash without a license or permit into sewers or waterways by an individual perpetrator or as part of an organized trade in illegal dumping. In fact, even registered and reputable waste disposal firms have cut corners and saved costs by illegally dumping.

Your Committee is advised that illegal dumping can cause a myriad of problems, including impacting air, soil, and water sources nearby, contaminating soil and drinking water, interrupting migratory patterns, causing animals to become ill after consuming trash or getting tangled in debris, and increasing the risk of fires. Illegal dumping also impacts communities by increasing health risks from rodents and insects. Asthma, respiratory diseases, headaches, nausea and in extreme cases, cancers, can be linked to illegal dumping.

Your Committee is also advised that illegal dumping impacts property values, since trash heaps are unsightly and potential home buyers are certainly aware of the health and lifestyle implications of living in close proximity to them. Illegal dumping can also result in higher taxes and greater out-of-pocket expenses for local residents when local governments are responsible for cleanup.

Your Committee is advised that it has been suggested that those engaging in illegal dumping do so because they are unlikely to get caught and because the punishments are relatively lenient. Therefore, more rigorous local laws are imperative as a deterrent for future violations of any law.

The proposed legislation would permit the County to pursue both criminal and civil penalties, for the illegal dumping of waste or placement of fill on county owned property.

Your Committee notes that the proposed legislation requires that an offender remediate the area upon which the offender unlawfully dumped, and that the offender shall be liable for the cost of said remediation in the event the offender fails to do so. Very often the cost of remediating hazardous materials is exorbitant due to the environmental restrictions and rules applicable to the disposal of said materials. This penalty, shifts the cost of remediation to where it belongs—the person who did the dumping.

Your Committee is advised that the proposed Local Law 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. Your Committee concurs with this conclusion.

Your Committee, after careful consideration, recommends the adoption of this Local Law.

Dated: July 29, 2024
White Plains, New York


Dana Am
J. W.
Benjamin Boykin
D. W.
Colin Am


Nancy Dan
J. W.
J. H.
D. W.

Legislation

Parks & Environment

COMMITTEE ON

Dated: July 29, 2024
White Plains, New York

The following members attended the meeting remotely and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Margaret A. Cunzio

Emiljana Ulag

COMMITTEE ON

Legislation

FISCAL IMPACT STATEMENT

SUBJECT: Amend Ch.713 Proh. unauth. dumping 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 _____

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount To Be Determined

Describe: _____

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

Current Year: _____

Next Four Years: _____

Prepared by: Li-Li Ng

Title: Assistant Budget Analyst

Department: Budget

Date: July 23, 2024

zn
Reviewed By: *Christine Paquet*

Budget Director

Date: 7/24/24

LOCAL LAW INTRO. NO. -2024

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 713 prohibiting Unauthorized Dumping on County-Owned Property.

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

Section 1. The Laws of Westchester County are hereby amended to include a new Chapter 713 thereof to read as follows:

CHAPTER 713
DUMPING ON COUNTY-OWNED PROPERTY

Sec. 713.11. Definitions.

Sec. 713.21. Dumping Prohibited.

Sec. 713.31. Violations and Penalties.

Sec. 713.41. Remediation Required.

Sec. 713.51. Additional Penalties Permitted.

Sec. 713.61 Severability.

Sec. 713.11. Definitions.

A. Continuing Violation shall mean that a separate charge or violation may be filed for each day that any material described in 713.21 remains on any County-owned property, as that term is defined in subsection (C) below;

B. Corporate Entity shall mean any business organization or business unit, whether incorporated or unincorporated, including partnerships, limited liability corporations, professional corporations, corporations and other organizations which possess legal rights and responsibilities which are separate from its owners;

C. County-Owned Property shall mean all real property acquired by or under the jurisdiction or control of the County of Westchester or which may hereafter be acquired by or through the County of Westchester or come under the jurisdiction or control of the County of Westchester by way of a legal instrument, including a leasehold, easement agreement, inter-municipal agreement, license or deed.

D. Dumping shall mean the illegal dumping, deposit or other disposal of any material described in 713.21 onto land or water, which is not licensed as a transfer station under either the Laws of Westchester County or the New York State, instead of an authorized method such as curbside collection or an authorized transfer station;

E. Fill shall mean the material resulting from any act by which earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced or spread, and shall include the conditions resulting therefrom;

Sec. 713.21. Dumping Prohibited.

A. It shall be unlawful for any person or for any business or corporate entity, or their agent or employee, or for any person under their control, to dump, direct the dumping of, deposit or otherwise dispose of any dirt, sand, gravel, clay, loam, stone, rocks, rubble, building rubbish, sawdust, shavings, or commercial or household waste, refuse, ashes, manure, garbage, rubbish or debris of any sort, or any other organic or inorganic material or thing in or upon any sidewalk, street, lot, park, public place, wharf, pier, dock, slip, navigable waterway or other County Owned Property, except where such disposal conforms to the requirements of state and federal law and is authorized at the specific site in question pursuant to the Laws of Westchester County.

B. It shall be unlawful for any person or for any business or corporate entity, or their agent or employee, or for any person under their control, to dump, direct the dumping of, deposit or otherwise dispose of any materials described in 6 NYCRR 360, hazardous materials, as defined in New York State Environmental Conservation Law § 37-0103, hazardous waste, as defined in New York State Environmental Conservation Law § 27-0903, or any material described or defined in Chapter 825 and Chapter 826-a of the Laws of Westchester County in or upon any sidewalk, street, lot, park, public place, wharf, pier, dock, slip, navigable waterway or other County Owned Property, except where such disposal conforms to the requirements of state and federal law and is authorized at the specific site in question pursuant to the Laws of Westchester County.

C. No fill of any type in excess of 15 cubic yards shall be placed on County Owned Property without the issuance of a building permit by the Westchester County Department of Public Works and Transportation. Fill shall only be placed in accordance with accepted engineering practices and upon the presentation of documentation of the source of the fill to the Westchester County Department of Public Works and Transportation and the prior acceptance of such documentation by such Department.

Sec. 713.31. Violations and Penalties.

A. Any person and/or business or corporate entity violating the provisions of this Chapter shall, upon conviction thereof, be deemed guilty of a Class A misdemeanor and shall be punished by a fine of not less than \$1,000 nor more than \$50,000 or \$100,000 in the case of repeat offenders or in the case of hazardous waste or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

B. Any person and/or business or corporate entity violating the provisions of this Chapter shall also be liable and responsible for a civil penalty of not less than \$7,500 nor more than \$15,000. In addition, every owner of a dump truck or other vehicle shall be liable for a civil penalty of not less than \$7,500 nor more than \$15,000 for a violation by any person using or operating such truck or vehicle, in the business of such owner or otherwise, with the

permission, express or implied, of such owner. In the case of a continuing violation, every day's continuance thereof may be deemed to be a separate and distinct violation. These civil penalties shall be imposed through an administrative hearing by the Solid Waste Commission, pursuant to Section 826-a.600 et seq. of the Laws of Westchester County

Sec. 713.41. Remediation Required.

In addition to the foregoing penalties, the offender shall be required to remediate the area of County Owned Property upon which the offender dumped unlawfully within ten (10) days after conviction thereof, or after an administrative determination of liability. In the event that the offender fails to remediate the area within such time, such remediation may be done by the County of Westchester, or under their direction by a private contractor, and the cost of same shall be an additional penalty. In the event that the County of Westchester deems it necessary to remediate the area or to cause the area to be remediated by a private contractor prior to the offender's conviction or prior to an administrative finding the offender shall be responsible for the cost of such remediation. Payment by such offender, when required by this section, shall be made within ten (10) days of demand by the County.

Sec. 713.51. Additional Penalties Permitted.

The civil and criminal penalties and prohibitions contained in Sections 713.31 and 713.41 herein shall be in addition to any other penalties or prohibitions provided by law. This Chapter may be enforced and administered by authorized employees of the Westchester County Solid Waste Commission and by any other appropriate department of the County of Westchester.

Sec. 713.61. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this local law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 2. This Local Law shall take effect 30 days after enactment.