

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(A) 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(A) 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 section 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 section 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 _____ days after enactment.