

LOCAL LAW INTRO NO. 375 - 2021

TO: HONORABLE BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending Chapters 825 and 826-a of the Laws of Westchester County regarding classes of Solid Waste hauler licenses.”

Your Committee is advised that the Westchester County Solid Waste and Recyclables Collection Licensing Law, enacted in 1999, created six classes of local waste hauling licenses (A, B, C, D, E, and L), as part of an integrated, comprehensive and long-term plan to manage all solid waste and recyclables generated and collected within the County's borders.

Your Committee is further advised that this proposed Local Law will correct an internal inconsistency between the County's definition of “recyclables brokers” and the definition of a “Class B” license. Currently, the County defines “recyclables brokers” as “exclusively” operating in that business. However, the definition of “Class B” license holders specifically allows recyclables brokers to conduct all other classes of business, which is not the intent of that definition. The proposed Local Law eliminates this internal inconsistency by removing the line permitting Class B haulers to haul materials other than recyclables.

Your Committee is further advised that a Class F license has been added to address the recent growth of the food waste disposal industry. As more companies engage in the food scrap hauling business, there is an ever-growing need to regulate those companies.

The proposed Local Law does not meet the definition of an action under the New York State Environmental Quality Review Act ("SEQRA") and its implementing regulations, 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated May 14, 2021, which is on file with the Clerk of the Board of Legislators.

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

Dated: **June 29**, 2021
White Plains, New York

Nancy Barr
Mary Jane Shinsky
Richard Weber
Vedat Jashi
Cathy Parker
~~*Benjamin Taylor*~~
Kyle Lovell

Legislation
DHC 5/19/21

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COMMITTEE ON
Environment + Health

Mary Jane Shinsky
Richard Weber
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Public Works +
Transportation

FISCAL IMPACT STATEMENT

SUBJECT: Amend Law for Haulers Licenses

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 _____

Describe: _____

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

Current Year: _____

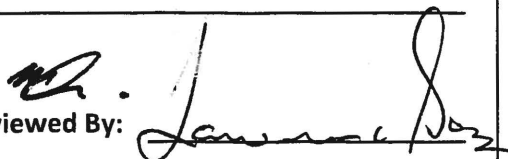
Next Four Years: _____

Prepared by: Mark Medwid

Title: Associate Budget Director

Department: Budget


Date: June 23, 2021

Reviewed By: 

Budget Director

Date: 6/25/21

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

FROM: David Kvinge, AICP, RLA, CFM 
Director of Environmental Planning

DATE: May 14, 2021

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 part of the Planning Department's ongoing review of its processes, we are streamlining the process for SEQR review and related document preparation for the BOL and BAC. The most effective method to achieve a more timely SEQR review is to create a list of categories of activities **that do not meet the definition of an "action"** as defined in SEQR. This list will reference 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

Activities not Subject to SEQR
May 14, 2021
Page 2

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 SEQR 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 SEQR for actions listed herein. 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 May 14, 2021, 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
Norma Drummond, Commissioner 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, Police Night Out, and intermunicipal agreements (IMAs) for shared training, equipment and response to emergencies.
- Fire services – Fire district IMAs for shared training, equipment and response to emergencies.
- Legal services – Contracts for outside counsel, litigation or associated monetary settlements.
- Medical Services – Contracts with medical providers for medical examinations, testing or vaccinations of County employees or the public.

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.
- Prisoner Transport IMAs.
- Tourism Promotion Agency designation.
- Software licenses.
- IMAs for temporary housing in existing facilities (homeless, inmate, troubled youths, domestic violence victims).

WCDP
5/14/2021

LOCAL LAW INTRO. NO. 375 -2021

A LOCAL LAW amending Chapters 825 and 826-a of the Laws of Westchester County regarding classes of Solid Waste hauler licenses.

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

Section 1. Section 825.30 of Chapter 825 of the Laws of Westchester County is hereby amended as follows:

16. Food waste means all food-based putrescible materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection.

§ 2. Section 826-a.200 of Chapter 826-a of the Laws of Westchester County is hereby amended to read as follows:

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:

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, Class F and Class L activities.

3. *Class B* refers to businesses or subsidiaries who operate exclusively as recyclables brokers, as defined below. Class B licensees may not conduct

Class A, Class C, Class D, Class E or Class L activities. [Class B licensees may also conduct Class C, Class D, Class E and Class L activities.]

6C. Class F refers to haulers who exclusively collect, store, transport, transfer, process or dispose of food waste, solely on behalf of the County and/or its local municipalities.

§ 3. Section 826-a.300 of Chapter 826-a of the Laws of Westchester County is hereby amended to read as follows:

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, Class F 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.

§ 4. Section 826-a.301 of Chapter 826-a of the Laws of Westchester County is hereby amended to read as follows:

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, Class F or Class L activities in Westchester County without having first obtained a license therefor from 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, Class F 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.

§ 5. Section 826-a.302 of Chapter 826-a of the Laws of Westchester County

is hereby amended to read as follows:

1. a. An applicant for a Class A, Class B and Class C, Class D, Class E, Class F 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.

§ 6. Section 826-a.304 of Chapter 826-a of the Laws of Westchester County is hereby amended to read as follows:

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~~ or Class F 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 (it) is utilizing at the time of application.

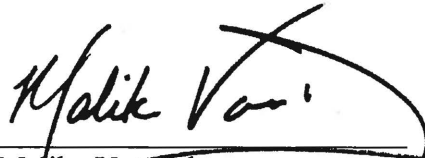
c. All applications shall include (i) a list of the names, dates of birth and home addresses of all principals of the applicant and of any manager or other person who has policy or financial decision-making authority in the business; and (ii) a list of the names and job titles of all employees and prospective 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.

§ 7. This Local Law shall take effect immediately.

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I HEREBY CERTIFY that I have compared the foregoing Local Law, Local Law Intro No. 375 - 2021, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Local Law, which was duly adopted by the County Board of Legislators, of the County of Westchester on September 20, 2021, and approved by the County Executive on September 21, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 22nd day of September, 2021.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

