

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2018**

No. 135

Introduced by Council Members Miller, Holden, Yeger and Borelli.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to unlawful dumping and the improper placement of discarded material

Be it enacted by the Council as follows:

Section 1. Subdivisions a and b of section 16-119 of the administrative code of the city of New York, subdivision a as amended by local law number 4 for the year 2010 and subdivision b as amended by local law number 29 for the year 1995, are amended to read as follows:

a. It shall be unlawful for any person, his or her agent, employee or any person under his or her control to suffer or permit any *amount of* dirt, sand, gravel, clay, loam, stone, rocks, rubble, building rubbish, sawdust, shavings or trade or household waste, refuse, ashes, manure, garbage, rubbish or debris of any sort or any other organic or inorganic material or thing or other offensive matter being transported in a dump truck or other vehicle to be dumped, deposited or otherwise disposed of in or upon any *sidewalk*, street, lot, park, public place, wharf, pier, dock, bulkhead, slip, navigable waterway or other area whether publicly or privately owned.

b. Any person who violates the provisions of this section *while engaged in commercial activities* shall be liable to arrest and upon conviction thereof shall be deemed guilty of a misdemeanor and shall be punished by a fine of [not less than one thousand five hundred dollars

nor more than ten thousand dollars] *\$4,000 for the first offense and \$9,000 for any subsequent offense* or by imprisonment not to exceed [ninety] *90* days or by both such fine and imprisonment.

§ 2. Paragraph (1) of subdivision c of section 16-119 of the administrative code of the city of New York, as designated by chapter 500 of the laws of 1999, is amended to read as follows:

(1) Any person who violates the provisions of subdivision a of this section shall also be liable for a civil penalty of [not less than one thousand five hundred dollars nor more than ten thousand dollars] *\$4,000* for the first offense, [and not less than five thousand dollars nor more than twenty thousand dollars] *\$9,000 for the second offense within any eighteen-month period and \$18,000* for each subsequent offense *within any eighteen-month period*. In addition, every owner of a dump truck or other vehicle shall be liable for a civil penalty of [not less than one thousand five hundred dollars nor more than ten thousand dollars] *\$4,000* for the first offense- [and not less than five thousand dollars nor more than twenty thousand dollars]- , *\$9,000 for the second offense within any eighteen-month period and \$18,000* for each subsequent offense *within any eighteen-month period* of unlawful dumping described in subdivision a of this section by any person using or operating the [same] *dump truck or other vehicle*, in the business of such owner or otherwise, with the permission, express or implied, of such owner. *It shall not be a defense for any owner of a dump truck or other vehicle that the person using or operating the dump truck or other vehicle in violation of this section is a member of the owner's immediate family, including, but not limited to, spouse, domestic partner, sibling, child, grandchild, parent or grandparent.*

§ 3. Paragraph 2 of subdivision e of section 16-119 of the administrative code of the city of New York is amended to read as follows:

(2) In addition to any other penalties provided in this section, the interest of an owner as defined in subdivision c of this section in any vehicle impounded pursuant to paragraph (1) of this subdivision shall be subject to forfeiture upon notice and judicial determination thereof if such owner (i) has been convicted of or found liable for a violation of this section in a civil or criminal proceeding or in a proceeding before the environmental control board [~~three~~ *two*] or more times, [~~all~~] *both* of which violations were committed within an eighteen month period or (ii) has been convicted of or found liable for a violation of this section in a civil or criminal proceeding or in a proceeding before the environmental control board if the material unlawfully dumped is a material identified as a hazardous waste or an acute hazardous waste in regulations promulgated pursuant to section 27-0903 of the environmental conservation law.

§ 4. Subdivisions e and f of section 16-120 of the administrative code of the city of New York, as amended by local law number 42 for the year 2007, are amended to read as follows:

e. (1) *No person shall deposit household or commercial refuse or liquid wastes in a public litter basket placed on the streets by the department or any other person . There shall be a rebuttable presumption that the person whose name, or other identifying information, appears on any household or commercial refuse or liquid wastes deposited in such public litter basket violated this [subdivision] paragraph.*

(2) *No person shall place household or commercial refuse in or upon any sidewalk, street, lot, park, public place, wharf, pier, dock, bulkhead, slip, navigable waterway or other area whether publicly or privately owned, except in accordance with rules of the department relating to collection (i) by the department or (ii) by a private carter that is required to be licensed or registered pursuant to chapter 1 of title 16-A of the code. There shall be a rebuttable presumption*

that the person whose name, or other identifying information, appears on any household or commercial refuse placed in or upon any sidewalk, street, lot, park, public place, wharf, pier, dock, bulkhead, slip, navigable waterway or other area whether publicly or privately owned violated this paragraph.

f. Any person violating the provisions of this section, except subdivision e, shall be liable for a civil penalty of not less than [twenty-five] \$25 nor more than [one hundred dollars] \$100 for the first violation, not less than [one hundred dollars] \$100 nor more than [two hundred dollars] \$200 for a second violation within any twelve-month period, and not less than [two hundred dollars] \$200 nor more than [three hundred dollars] \$300 for a third or subsequent violation [with] *within* any twelve-month period. Any person violating the provisions of *paragraph (1)* of subdivision e of this section shall be liable for a civil penalty of [not less than one hundred dollars nor more than three hundred dollars] \$100 for the first violation, [not less than two hundred fifty dollars nor more than three hundred fifty dollars] \$250 for a second violation within any twelve-month period, and [not less than three hundred fifty dollars nor more than four hundred dollars] \$350 for a third or subsequent violation within any [twelve month] *twelve-month* period. *Any person violating the provisions of paragraph (2) of subdivision e of this section shall be liable for a civil penalty \$75 for the first violation, \$300 for a second violation within any twelve-month period, and \$400 for a third or subsequent violation within any twelve-month period.*

§ 5. Subdivision h of section 16-120 of the administrative code of the city of New York, as amended by local law number 1 for the year 2003, is amended to read as follows:

h. In the event that a person fails to answer such notice of violation within the time provided therefor by the environmental control board, that person shall become liable for additional

penalties. The additional penalties shall [not exceed three hundred dollars] *be* \$300 for each violation.

§ 6. For one year after the effective date of section four of this local law, the commissioner of sanitation shall make reasonable efforts to include information concerning paragraph (2) of subdivision (e) of section 16-120 of the administrative code of the city of New York, as added by this local law, in public outreach or education conducted by the department of sanitation related the improper disposal of household or commercial refuse.

§ 7. This local law takes effect 60 days after it becomes law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 28, 2018 and returned unsigned by the Mayor on July 31, 2018.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 135 of 2018, Council Int. No. 656-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEVEN LOUIS, Acting Corporation Counsel.