

Chapter 142

SOLID WASTE

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[HISTORY: Adopted by the Town Board of the Town of Westmoreland as indicated in article histories. Amendments noted where applicable.]

ARTICLE I (Reserved) ¹

[Adopted 2-6-1989 by L.L. No. 1-1989]

§ 142-1. through § 142-6. (Reserved)

1. Editor's Note: Former Art. I, Commercial Haulers, adopted 2-6-1989 by L.L. No. 1-1989, was repealed 2-11-2013 by L.L. No. 2-2013.

ARTICLE II

Dumping**[Adopted 7-14-1997 by L.L. No. 1-1997]****§ 142-7. Legislative intent and title.**

This article is adopted in view of the increase in illegal dumping of garbage, rubbish, and other offensive materials, together with toxic materials. It is the intent of the Town Board of the Town of Westmoreland to restrict and regulate in a manner consistent with the interests of the residents of the Town of Westmoreland the dumping and/or other disposal of various wastes in order to promote the health, safety and general welfare of persons and property within the Town of Westmoreland. This article shall be known and cited as "The Dumping Local Law of the Town of Westmoreland." Therefore, pursuant to the authority contained in the Municipal Home Rule Law, and pursuant to its police power as contained in the Town Law § 130, the Town Board of the Town of Westmoreland does hereby enact the following article.

§ 142-8. Definitions.

As used in this article, the following terms shall have the meanings indicated:

COMPOST — To heap or pile matter capable of decay, including, but not limited to, grass cuttings, leaves, brush, decaying foods, or paper products for use as fertilizer.

CONSTRUCTION AND DEMOLITION DEBRIS — Any matter which is defined as construction and demolition debris in New York Compilation of Codes, Rules and Regulations, Title 6, Part 360 (hereinafter "NYCRR").

GARBAGE — Includes but is not limited to:

- A. Food waste of all kinds, whether for human or animal consumption.
- B. Used food containers or parts thereof, whether fabricated of metal, paper, wood, glass, plastic or synthetics.
- C. Paper materials used in food packaging.
- D. Dead animals or parts thereof.
- E. Any other matter which shall be capable of fermentation or decay, except:
 - (1) Lumber as defined herein; and
 - (2) Composted garbage used as fertilizer upon farms or gardens.

LITTER — Any matter capable or incapable of fermentation or decay.

LUMBER — Includes but is not limited to:

- A. Wood of growing trees sawed or split into boards or planks.
- B. Wood pallets.

- C. Wood used in packing and/or shipping.
- D. The term "lumber" does not include untreated wood products formerly used in construction or packing and/or shipping to be used as firewood pursuant to the provisions of § 142-9B(2) herein.

RUBBISH — Includes but is not limited to:

- A. Waste material.
- B. Garden refuse, grass and leaves.
- C. Tires.
- D. Glass, metal, tins, cans, ashes, cinders, pottery, crockery, aluminum, plastics, Styrofoam and synthetics, except matters defined herein as "garbage."

SLUDGE — Solids removed during the treatment of:

- A. Domestic or sanitary sewage.
- B. Stormwaters.
- C. Industrial wastewaters.
- D. From any combination of these.
- E. The term "sludge" does not include agricultural products or materials.

SOLID WASTE — Any matter which is defined as solid waste in either of the following:

- A. Oneida County Local Law No. 1 of 1990; or
- B. 6 NYCRR Part 360.

TOWN — The Town of Westmoreland.

TOXIC MATERIALS — Material listed or defined as hazardous by either of the following:

- A. New York State Department of Environmental Conservation; or
- B. U.S. Environmental Protection Agency.

§ 142-9. Prohibitions and restrictions.

- A. Dumping, disposing, burying, or littering of any of the following on any public or private lands in the Town of Westmoreland is prohibited:
 - (1) Garbage or rubbish, subject to the following:
 - (a) The storage of garbage or rubbish which is awaiting collection and removal in a durable container in a manner which does not impair the public health or safety shall not be deemed to be prohibited by this section.

- (b) The owner of a single-family residence or farm may compost on the property comprising said residence or farm matter capable of decay (as specified in the definition of "compost" in § 142-8 herein) generated from that residence or farm to be used as fertilizer so long as the disposal and composting is done in a nuisance-free manner which does not impair public health, safety or general welfare.
 - (c) The disposal on areas within the property boundaries of a single-family residence or farm of ashes generated from that residence or farm shall not be deemed to be prohibited by this section.
 - (d) The disposal on areas within the property boundaries of a single-family residence or farm of animal carcasses or parts thereof generated from that residence or farm shall not be deemed to be prohibited by this section so long as the same shall be disposed of pursuant to the applicable provisions of New York State's Agriculture and Markets Law.
- (2) Sludge. However, the disposal of sludge in accordance with the regulations and licensing requirements set forth in Oneida County Local Law No. 1 of 1990 and by the Department of Environmental Conservation shall not be deemed to be prohibited by this section.
 - (3) Toxic material.
 - (4) Solid waste. However, the disposal of solid waste at a disposal facility authorized and licensed in accordance with the regulations set for in Oneida County Local Law No. 1 of 1990 and 6 NYCRR Part 360 shall not be deemed to be prohibited by this section.
 - (5) Construction and demolition debris, subject to the following:
 - (a) The storage of construction and demolition debris which is awaiting collection and removal in a manner which does not impair the public health or safety shall not be deemed to be prohibited by this section; provided, however, that said debris is removed from the site within 60 days from the issuance of a building demolition permit pursuant to the Uniform Fire Protection and Building Code unless otherwise exempt under Subsection A(5)(b) herein.
 - (b) The disposal on areas within the property boundaries of a single-family residence or farm of construction and demolition debris generated from that residence or farm shall not be deemed to be prohibited by this section.
- B. Dumping, disposing or burying of lumber in the Town is prohibited, except:
- (1) Lumber awaiting use in any construction project stored in a manner which does not impair the public health or safety.
 - (2) This section shall not be deemed to prevent the storage of untreated lumber intended for use as firewood so long as the same shall not be stored in the following manner:

- (a) On any highway right-of-way; or
- (b) At or near any intersection in such a manner as to obstruct or impair the line of sight for vehicular or pedestrian traffic.

§ 142-10. Enforcement; penalties for offenses.

- A. Conviction under this article shall be a violation as defined by § 55.10(3) of the Penal Law of the State of New York.
- B. Each day during which a violation continues may be deemed to be a separate violation.
- C. Conviction of an offense as provided by this article shall be punishable by the following:
 - (1) Fine of not less than \$300 nor more than \$1,000, or, in the case of a corporation, an amount in accordance with Penal Law § 80.10.
- D. In addition, the sentencing court may impose:
 - (1) In the case of an individual(s), a term of imprisonment not to exceed 15 days; and/or
 - (2) Restitution based on avoided disposal fees and costs of collection and hauling; and/or
 - (3) Community service.
- E. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with this article by injunction, abate or otherwise compel cessation of each violation, or obtain restitution to the Town for costs incurred by the Town in identifying and remedying each violation, including, but not limited to, reasonable attorneys' fees and environmental testing.

§ 142-11. Amendments.

Any reference herein to any state, county and/or local law, rule or regulation shall include any future amendments thereof which become effective after the adoption of this article.

§ 142-12. Conflicts with other provisions.

Whenever any local law, ordinance, or regulation of the Town, County of Oneida, State of New York, or United States of America is inconsistent with this article, whichever local law, ordinance, or regulation is more stringent shall supersede the less stringent local law, ordinance, or regulation.

ARTICLE III

Recycling

[Adopted 2-13-2012 by L.L. No. 1-2012]

§ 142-13. Title.

This article shall be known as the "Recycling Law of the Town of Westmoreland."

§ 142-14. Legislative intent.

The Town of Westmoreland has an interest in the environmentally acceptable reduction and disposal of solid waste produced by Town residents ("waste generators") and in the reuse and recycling of materials where possible. Whereas the Town desires to encourage recycling in the interest of protecting the health, safety, and welfare of its residents, the Town Board of the Town of Westmoreland desires to foster source separation and recycling regulations and programs and does hereby declare that the following article be enacted toward such ends. See General Municipal Law §§ 10 and 120-aa; New York State Waste Management Act of 1988; and Oneida County Local Law No. 1 of 1990.

§ 142-15. Legislative findings.

The New York State Department of Environmental Conservation (DEC) has published findings of the Northeast Recycling Council ("NERC"), which findings indicate that some benefits of recycling include, inter alia, energy savings, pollution reduction, and conservation of natural resources. This Board is desirous of utilizing this article to help facilitate and achieve such environmental benefits.

§ 142-16. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CARDBOARD — All corrugated cardboard normally used for packing, mailing, shipping of containerizing goods, merchandise or other material, but shall not mean wax-coated or soiled cardboard.

GLASS — All clear (flint), green and brown (amber) colored glass containers, crystal, plate, window, laminated or mirrored glass, but shall not mean wired glass.

METAL CONTAINERS — Metal recyclables shall be clean and all contents shall be removed and all labels shall be removed prior to the collection and disposing of the same.

NEWSPAPER — Includes newsprint and all newspapers and newspaper advertisements, supplements, comics and enclosures.

PAPER — All high-grade office paper, fine paper, bond paper, office paper, xerographic paper, mimeo paper, duplication paper, magazines, paperbacks, school paper, catalogs, junk mail, computer paper, telephone books and similar cellulosic material, but shall not mean newspaper, wax paper, plastic or foil-coated paper, Styrofoam, wax-coated food and beverage

containers, carbon paper, blueprint paper, food contaminated paper, soiled paper and cardboard.

PLASTIC CONTAINERS — Containers composed of high-density polyethylene, polyethylene terephthalate or other specific plastics as the Town Board may designate.

RECYCLING — Any process by which materials, which would otherwise become solid waste, are collected, separated and/or processed, treated, reclaimed, used or reused to produce a raw material or product.

SOURCE SEPARATE — To separate recyclable materials from the solid waste stream at the point of waste generation (i.e., at the residence of the resident).

§ 142-17. Recycling requirements; designated recyclables.

- A. All solid waste generated in the Town shall be source separated for collection by a solid waste hauler contracted by the waste generator. Solid waste haulers contracted by waste generators within the Town shall assure that source-separated recyclables are transported and delivered to a designated recycling facility.
- B. A list of recyclables that is eligible and required to be source separated shall be maintained on file at the Town Clerk's office in a document titled "Designated Recyclables." Designated recyclables shall include but are not limited to those items defined at § 142-16 above.
- C. No person shall collect and dispose of eligible and required recyclables as waste or combine recyclables with other components of solid waste.