



NYC Local Law 55 of 2011 Clean Waterfront Plan



The City of New York would like to thank everyone who lended their valuable assistance in producing this report: all correspondence related to this report should be directed to OLTPS, at planyc@cityhall.nyc.gov

Academic Citation:

City of New York, *New York City's Local Law 55 of 2011 Clean Waterfront Plan*, Mayor's Office of Long-Term Planning and Sustainability, New York, 2014.

This document was designed by Elisabetta Di Stefano.

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NYC LOCAL LAW 55 OF 2011

CLEAN WATERFRONT PLAN

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EXECUTIVE SUMMARY

New York City's waterfront is cleaner today than at any point in the past 100 years thanks to significant changes in land use, infrastructure, and public policy that have occurred over the past few decades. New Yorkers are taking advantage of the waterfront for recreation, housing, and new business opportunities in record numbers. At the same time, enthusiasm for waterfront living and working must be reconciled with the need to become more resilient to the impacts of climate change and extreme weather, which Hurricane Sandy displayed with force. With over 520 miles of coastline, New York City is inextricably linked to the waterfront and works to make it both more engaging and resilient.

Ensuring that the waterfront is free of debris, illegal dumping, and the improper handling of hazardous materials is an important objective that is consistent with the aspirations of the City's long-term sustainability and resiliency agenda, PlaNYC. In 2011, the New York City Council took action along these lines through the passage of two local laws that strengthened penalties for waterfront dumping and made it easier for the City to maintain a clean waterfront.

The second of these measures, Intro No. 53-A (Local Law 55 of 2011) called for the codification of clean waterfront protocols under a "Clean Waterfront Plan."

The law called on the Office of Long-Term Planning and Sustainability (OLTPS) to coordinate with relevant City agencies and non-City stakeholders to undertake a two-phased planning and reporting process that would help prevent waterfront dumping; littering on streets and properties adjacent to the waterfront; abandoning of vehicles and marine vessels; and the improper handling and storage of materials on wharves, piers, docks and bulkheads. This document fulfills the first two deliverables outlined in the law and meets all reporting requirements through April 2014. It describes the existing regulatory and administrative landscape, provides a preliminary assessment of waterfront conditions that will inform a more in-depth analysis called for in 2014, and provides recommendations to formalize and improve efforts to ensure a clean waterfront.

KEY FINDINGS

- *Waterfront dumping is not a major problem in New York City today. Preliminary analysis to determine the scope and scale of waterfront dumping focused on several sources of data, including 311 service requests, street cleanliness ratings issued by the City's Street Conditions Observation Unit (SCOUT), violations and summonses issued by the Departments of Sanitation (DSNY) and Small Business Services (SBS), and internal tracking of dumping incidents at City parks. Mayor's Office of Long-Term Planning and Sustainability (OLTPS) analysis indicated that incidents of dumping along the waterfront were minimal over the past five years and that properties adjacent to the waterfront were, on average, cleaner than the City at large.*
- *Stronger penalties and expanded enforcement will help to deter dumping. Local Law 4 of 2010, expanded the definition of dumping to specifically include waterfront locations and created a civil penalty for dumping with significantly increased penalties that is enforceable by multiple City agencies. Since the passage of Local Law 4 of 2010, 5 violations have been issued by SBS, DSNY or Department of Environmental Protection (DEP) and no major signs of dumping have been observed, suggesting that Local Law 4 of 2010 is helping to deter waterfront dumping.*
- *There is a strong level of agency coordination to promote a clean waterfront.*
- *Coordination among the City agencies responsible for waterfront cleanliness - the Dockmaster from SBS, DSNY, and DEP - is robust yet informal. These agencies coordinate on an incident-by-incident basis - often with the involvement of not-for-profit and community stakeholders - to identify, remediate, and serve violations for the potential dumping incidents. Agencies also have routine monitoring activities. These efforts are effective and should be formalized as part of implementing the Clean Waterfront Plan.*
- *Existing data collection could be refined to better track waterfront dumping.*
- *Although general complaints about littering and dumping are tracked through 311, there is no differentiation of infractions occurring on the waterfront. For this report, addresses of 311 service calls for dumping were mapped and analyzed. This is a time-consuming and inefficient process. Existing dumping classification codes in 311 could be augmented with a waterfront specific designation that would make it easier to track and respond to dumping incidents that occur along the waterfront.*



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RECOMMENDATIONS

- *Add a waterfront dumping designation to the 311 system.*
- *To improve identification and tracking of waterfront conditions, it is recommended that existing dumping classification codes in 311 be expanded to specifically include waterfront dumping. When complaints are received all Clean Waterfront Liaisons will be notified and a coordinated response will be developed.*
- *Conduct a more detailed baseline survey of waterfront cleanliness. To aid in the production of the Clean Waterfront Progress Report in 2015 and subsequent activities, it is recommended that City agencies conduct a baseline inspection survey of the waterfront, including known locations of past dumping. The results of this survey will be reported in the Clean Waterfront Progress Report each April after the publication each April after the publication of this report. The survey results will also inform a strategy for utilizing signage, marketing, and targeted outreach to support the objectives of the Clean Waterfront Plan.*
- *Create a central repository of information related to clean waterfronts. Clean waterfront related materials will be added to the Department of Sanitation's anti-dumping website, with links to and from the Department of Small Business Services (SBS), Department of Environmental Protection (DEP), and Mayor's Office of Long-term Planning and Sustainability (OLTPS). As future information, marketing materials, and reporting documents are developed they will be added to this centralized repository.*
- *Formalize coordination efforts to inspect and respond to waterfront dumping. Formalizing coordination among City agencies' inspection and enforcement regimes will only serve to increase the cleanliness of the waterfront. This objective can be achieved through designating a Clean Waterfront Liaison within each relevant agency to help to better align inspection and enforcement activities; standardize communication protocols; track agencies' responses to waterfront dumping incidents; and inform ongoing management and reporting efforts.*
- *Implement criteria for handling hazardous materials along the waterfront. The City has several programs to ensure safe handling of chemicals and hazardous materials but these programs do not specifically address waterfront locations. In 2010, the Green Codes Task Force – an Urban Green Council led task force of more than 200 experts to recommend changes within any of the City's codes and regulations to make buildings more sustainable - proposed adding requirements pertaining to the handling of hazardous materials within the 100-year flood zone and the Building Resiliency Task Force - the expert panel they convened after Sandy to outline steps to fortify New York's buildings and strengthen building standards - reiterated this recommendation following Sandy. Implementing such a proposal would help to protect coastal communities from contamination during flooding events.*

CONCLUSION

New York City's ever-evolving waterfront is cleaner and more attractive today than at any point in the last century. Implementing the recommendations of the Clean Waterfront Plan will build on this progress and ensure that it continues for the benefit of future New Yorkers.



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INTRODUCTION

New York City's waterfront is cleaner today than at any point in the past 100 years. This is the result of significant changes in land use, infrastructure, NYC Local Law 55 of 2011 Clean Waterfront Plan, and public policy that have occurred over the past few decades. Stronger environmental regulations, improved wastewater treatment, and remediation of brownfields have helped to prevent and control water pollution. The redevelopment of vacant former industrial sites into new businesses and housing has promoted waterfront cleanup, and the creation of parks and greenways has reconnected New Yorkers to the coastline.

Today's Waterfront

These changes have accelerated over the past decade. With the development of Hudson River Park, the Bronx River Greenway, Brooklyn Bridge Park and other waterfront destinations, New Yorkers are now taking advantage of waterfront recreational opportunities in record numbers. Zoning modifications have created new opportunities to live near the waterfront, including the Williamsburg-Greenpoint neighborhoods in Brooklyn and Hunter's Point South in Queens, the largest affordable housing development to be built since the 1970s.

As demands for recreational access and housing have increased, so have efforts to restore and improve waterfront conditions. The City is cooperating with the U.S. Environmental Protection Agency (EPA) in its efforts to remediate contamination of Newtown Creek and the Gowanus Canal, which were designated as Superfund sites in 2010. In other parts of the city, including Port Richmond in Staten Island, Sunset Park in Brooklyn, and the South Bronx, local organizations are partnering with the City to create Brownfield Opportunity Areas and plans for cleanup of long-vacant sites. The City is also partnering with State, federal and not-for-profit partners to restore ecologically important wetlands and preserve coastal habitats.

The City is making strides to upgrade and increase the capacity of its fourteen wastewater treatment plants and to mitigate combined sewer overflows (CSOs). In 2011, the City launched a \$1.5 billion Green Infrastructure Plan that will help to reduce CSOs and save water ratepayers more than \$2 billion by making the city greener and more permeable. As the City is aggressively addressing infrastructure issue presented by CSOs, recreation opportunities along the waterfront will become increasingly available citywide.

The Future of the Waterfront

Building on these successes, in 2011, the City issued Vision 2020: New York City Comprehensive Waterfront Plan a 10-year vision for the future of city's 520 miles of shoreline. The 10-year plan establishes a framework for advancing numerous objectives, including expanding use of the waterfront for parks, housing and economic development, and making better use of the city's waterways for transportation, recreation and natural habitats.

Sandy and its aftermath highlighted the challenges of waterfront living amid a changing climate. Low-lying coastal neighborhoods experienced the bulk of the damage from Sandy and its record-breaking storm surge. Future projections issued by the New York City Panel on Climate Change (NPCC) and recent updates to FEMA's 100-year flood zones suggest that the level of inundation experienced during Sandy could become more frequent unless the City undertakes proactive measures to protect its shoreline. The City's 2013 rebuilding and resiliency plan, A Stronger, More Resilient New York outlined over two hundred and fifty initiatives to improve coastal protection and strengthen the City's built environment and critical systems in the face of climate change.

LEGISLATIVE OBJECTIVES

With over 520 miles of coastline, New York City is inextricably linked to the waterfront. The work ahead will need to make waterfront living, recreation, and activities both more resilient and engaging for future New Yorkers.

Ensuring a Clean Waterfront

Illegal dumping along the waterfront has steadily decreased over the past decade thanks to improved enforcement efforts, stronger penalties, and changes in land use. However, ensuring a clean waterfront is a continual effort that involves coordination across a range of agencies, routine inspections, and effective responses to incidents as they arise. In 2011, the New York City Council took action to ensure that the waterfront is free of debris, illegal dumping, and the improper handling of hazardous materials by passing two pieces of legislation that strengthened penalties for waterfront dumping and made it easier for the City to maintain a clean waterfront. The second of these measures, Intro No. 53-A (Local Law 55 of 2011) called for the codification of clean waterfront protocols under a “Clean Waterfront Plan.” The resulting document examined the existing regulatory and administrative landscape; provided a preliminary assessment of waterfront conditions that informs future analyses; and provided recommendations to formalize and improve efforts to ensure a clean waterfront.

In September of 2011, the New York City Council passed Intro No. 53-A, a local law to amend the Administrative Code of the city of New York in relation to creating a Clean Waterfront Plan (Local Law 55 of 2011). The Law required the Director of the Mayor’s Office of Long-Term Planning and Sustainability (OLTPS), in coordination with relevant agencies, to undertake a two-phase planning and reporting process that would help to prevent waterfront dumping, littering on streets and properties adjacent to the waterfront, abandoning of vehicles and marine vessels, and the improper handling and storage of materials on wharves, piers, docks and bulkheads.

The objective of the first deliverable required by Local Law 55 of 2011 is to develop a Clean Waterfront Plan that contains the following components:

- *Centralized online source of information on all relevant laws, rules and regulations*
- *Determination of whether additional rules are needed to implement the plan*
- *Protocol to coordinate the efforts of City agencies and other jurisdictions to enforce against illegal activities and promote a clean waterfront, including the identification of problematic sites, periodic inspection, and posting of signage*
- *Public education and outreach program to increase awareness about the plan*

The objective of the second deliverable is to report publically, on an annual basis, regarding the implementation and enforcement of the Clean Waterfront Plan. Specifically, the biannual report should include the following:

- *Number of complaints received by the City concerning illegal activities*
- *Number of summonses and notices of violation issued by any agencies*
- *Total amount of civil penalties imposed for such notices of violation by the Environmental Control Board*
- *Recommended changes made to the Clean Waterfront Plan*
- *Summary of any rules promulgated to implement the Plan*
- *Recommendations for legislation and improved enforcement*

The reporting of such detailed information would be based on the interagency coordination, data sharing, and enforcement as outlined in the Clean Waterfront Plan.

The 2009-2012 three part coordinated effort conducted to promote the preservation and restoration of wetlands serves as a model for developing and implementing the Clean Waterfront Plan. In January of 2009, the City fulfilled a PlaNYC milestone by issuing NYC Wetlands: Regulatory Gaps and Other Threats.¹ The document assessed the scope and effectiveness of existing regulations across multiple levels of government and evaluated whether gaps existed in the city's ability to preserve and restore wetlands. The report recommended collecting additional information about the number, size, and value of unprotected wetlands to better understand the situation. This led to the enactment of Local Law 31 of 2009, which called for a survey of wetland areas and a comprehensive wetlands protection strategy. The City released these two documents in September of 2010 (Preliminary Survey of Wetland Areas) and May of 2012 (Wetlands Strategy) respectively.²

RESEARCH METHODOLOGY

Primary research was undertaken to assess the regulatory and programmatic landscape for clean waterfront management in New York City and to assess preliminarily the nature and degree of any waterfront dumping problem.

A range of City, State and federal agencies, as well as local organizations, were interviewed to understand their respective roles and perspectives on the issue, to categorize administrative and enforcement responsibilities, and to identify existing efforts to prevent waterfront dumping through education and outreach. Analysis was then performed on the results using the following sets of City data:

- *Violations issued by the Sanitation Department and Small Business Services*
- *Department of Parks and Recreations dumping incidents*
- *311 reports for dumping and requests for clean up*
- *Cleanliness ratings of streets along the waterfront from the Street Conditions Observation Unit (SCOUT) Scorecard*

Finally, regulations at the City, State and federal level were analyzed closely for their alignment with agencies' descriptions of their administrative and enforcement responsibilities and to determine whether regulatory gaps existed.

SUMMARY OF EXISTING REGULATIONS

New York City prohibits illegal dumping in both the Sanitation and Economic Affairs titles of the Administrative Code, Titles 16 and 22 respectively. Section 16-119 of the Administrative Code, titled "Dumping Prohibited", defines the problem of dumping generally and authorizes the Sanitation Commissioner to issue summonses and civil penalties for violations. According to this section, it is unlawful for any person to permit raw materials, construction debris, refuse or any other organic or inorganic material being transported in a dump truck or other vehicle to be dumped or otherwise disposed of on streets, lots, parks, public place or other area whether publicly or privately owned. The passage of City Council Intro 54-A of 2010 (Local Law 4 of 2010) amended this section to explicitly prohibit dumping on the waterfront including wharfs, piers, docks, bulkheads, and slips, as well as navigable waterways. The law also strengthened enforcement by extending authority to the Commissioners of Small Business Services (SBS) and the Department of Environmental Protection (DEP).

Section 22-112 of the Administrative Code, titled “Navigable waters; fouling; obstructing,” specifically references the problem of dumping in or along waterways and authorizes the Commissioner SBS to undertake enforcement measures. According to this section, it is unlawful for any person to place, discharge, deposit, or otherwise release refuse matters floatable or otherwise into the Port of New York, unless done under the supervision of the United States supervisor of the harbor defined as the United States Coast Guard’s “Captain of the Port”. The law also makes it unlawful for discharge from any ship, steamer or other vessel any oil, oil refuse, or other inflammable matter. Local Law 4 of 2010 amended Section 22-112 to make violators subject to a civil penalty of between \$1,500 and \$10,000 dollars for the first violation and between \$5,000 and \$20,000 for each subsequent violation. The amendment also broadened enforcement authority to include the Commissioners of SBS and the DEP. SBS will update its fee schedule this year.

Local Law 26 of 1988 created the City’s framework for ensuring proper handling and risk mitigation of hazardous materials. The law expanded the authority of the Commissioner of DEP—in Title 14 of the City’s Administrative Code—to include collection of information concerning the amount, location, and nature of hazardous substances and to respond to emergencies involving such substances.

A new Chapter 7 was added to the title, requiring the Commissioner to create a “Community Right-to-Know Program” that identifies the location of all hazardous materials. Rules outlined in Chapter 41 of Title 15 of the Rules of the City of New York require building owners to disclose information on the handling of hazardous substances through annual filings of Facility Inventory Forms to DEP. Facilities that exceed minimum quantities of hazardous substances are also required to submit an annual Risk Management Plan, which includes a risk assessment, a risk reduction plan and emergency response procedures. DEP reviews Risk Management Plans and inspects facilities in coordination with the Fire Department.

These regulations and rules do not specifically address hazardous materials along the waterfront, but Local Law 143 (2013) seeks to implement the recommendation of the Green Codes and Building Resiliency Task Forces that would amend the Community Right-to-Know Law. The proposal would require a determination of whether a facility is located within the FEMA 100-year flood zone as part of the annual Facility Inventory Form submittal.

SUMMARY OF EXISTING OPERATIONS

Facilities located within the 100-year flood zone that store significant quantities of hazardous materials on site would then be required to include in their Risk Management Plans measures to flood proof any hazardous chemicals or processes, locate operations within a flood protected space or above the floodplain, or include approved operational plans to relocate hazardous materials above the floodplain in advance of a flood event.

A number of other State and federal laws and regulations prohibit unlawful waterfront dumping. The Federal Clean Water Act of 1972 makes the discharge of pollutants and dumping of materials into the waterways of the United States illegal without a permit and authorizes states to adopt and enforce more stringent standards. Various laws in New York State, including the Navigation Law, Vehicle and Traffic Law, and Public Health Law prohibit dumping, discharge and release of any materials into the State's waterways without a permit.

For a complete list of City, State and federal regulations pertaining to waterfront dumping, see Appendix A.

The Departments of Small Business Services (SBS), Department of Sanitation (DSNY), and Environmental Protection (DEP) are the primary agencies responsible for enforcement of regulations against waterfront dumping, and they each play a key role in ensuring the existence of a clean waterfront.

As the successor agency to the former Department of Ports and Trade, SBS plays a key role in promoting the upkeep of waterfront properties. SBS inspects waterfront properties for hazardous conditions, issues notices of violation and summonses, and assists in the abatement of hazardous conditions through site enclosure and interagency coordination. SBS also issues permits for waterfront construction, monitors for compliance with construction permits, and maintains waterfront permit and property records to ensure compliance. SBS employs a Dockmaster whose primary role is to oversee these waterfront activities.

The DSNY regularly monitors for illegal dumping and abandoned debris throughout the city, including waterfront properties. In addition to monitoring known dumping locations, DSNY relies on tips that come through the 311 calling system and through a citizen affidavit program that allows individuals to report specific dumping incidents on record.

When DSNY observes dumping occurring out of a dump truck or vehicle, it has the authority to issue violations and impound the vehicle. DSNY will also coordinate with SBS, other relevant City agencies, and the New York State Department of Environmental Conservation (DEC) to assist in enforcement actions and remediation of any hazardous conditions.

DEP also plays a role in ensuring the quality and cleanliness of the City's waterways. DEP oversees both "upstream" pollution prevention efforts and "downstream" enforcement and mitigation efforts. Upstream, DEP helps to prevent litter and debris from entering waterways by maintaining over 144,000 street-corner catch basins that prevent solid materials from entering into storm drains and by monitoring discharges from industrial and commercial customers through its Industrial Pretreatment Program. In the downstream, DEP operates fourteen wastewater treatment plants that remove physical debris and biologically treat wastewater prior to discharging it into open water bodies. DEP also operates the Floatables Containment Program in open waterways. Inspections at nearly two-dozen combined sewer overflow (CSO) outfall locations are conducted on a weekly basis during dry weather periods. After heavy rainfall events exceeding one-half inch of rain

per hour, inspections are conducted at every CSO outfall location in the upper harbor, lower harbor and in Jamaica Bay. Finally, DEP patrols the open waters in New York Harbor with a skimmer vessel to intercept floating debris.

As a result of the passage of Local Law 4 (2010) and the amendments to sections 16-119 and 22-112 of the City's Administrative Charter, the Commissioners of SBS, DSNY, and DEP each have the authority to issue notices of violation to dumpers, which can lead to civil penalties of up to \$5,000 for the first offense and \$20,000 for subsequent offenses. When violations are witnessed the City will coordinate with the New York State Department of Environmental Coordination (DEC) which has additional enforcement power.

When dumping is witnessed or debris is found in navigable waterways, including abandoned vessels, the City will coordinate with the U.S. Army Corps of Engineers to remove any dangerous conditions. The City also coordinates with the U.S. Coast Guard in the event that any spills or hazardous conditions are spotted in the port. Not-for-profit and community groups also play a crucial role in promoting a clean waterfront. For example, the 501(c)(3) organization Bronx River Alliance and Riverkeeper monitor conditions along the waterfront and are sometimes first to identify a problem.

The SBS Dockmaster and other agencies have developed a productive working relationship with these groups and respond to incidents of dumping that they report. Continued and improved coordination with these groups will foster an even cleaner waterfront.

FINDINGS

Waterfront dumping is not a major problem in New York City today.

Analysis to determine the scope of the problem focused on several sources of data, including 311 service requests for dumping, street cleanliness ratings issued by the City's Street Conditions Observation Unit (SCOUT), violations and summonses issued by the Department of Sanitation (DSNY) and Small Business Services (SBS), and dumping incidents at parks and recreation sites identified by the Parks Department. This analysis substantiated earlier testimony that waterfront dumping is no longer a major problem in New York City.³

311 Reports

Spatial analysis of five years of 311 reports related to illegal dumping determined that such activity is uniformly distributed throughout the city and not confined to the waterfront (See Figure 1).

In fact, fewer reports were made regarding dumping at waterfront properties compared to the rest of the City. As Table 1 indicates, while adjacent property within 50, 100 and 500 feet of the waterfront accounted for <0.03%, 3%, and 5.9% respectively, the share of dumping complaints to 311 in those zones was much lower—0%, 0.2%, and 2.6% respectively.

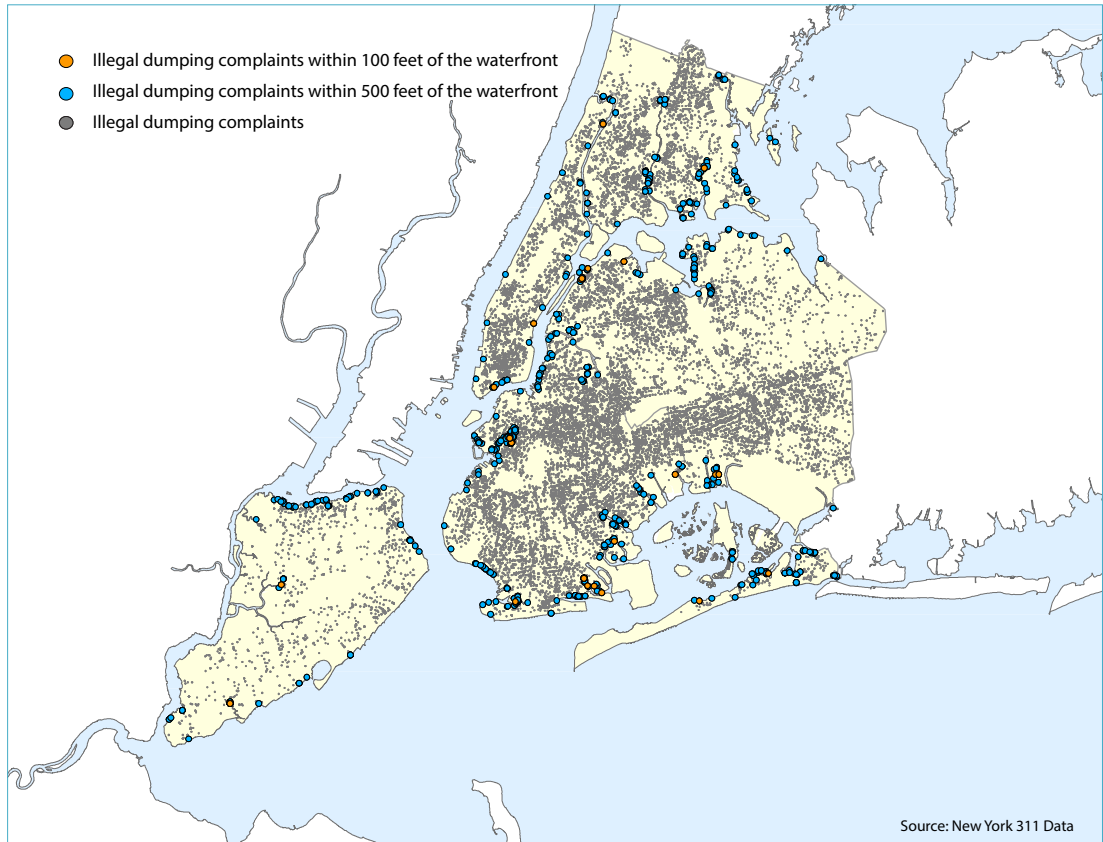
Dumping reports to 311 that occurred within these waterfront zones did not appear to be concentrated in any particular stretch of the shoreline.

In total, of over 25,000 dumping complaints to 311 that were received between 2008 and 2013, fewer than 700 pertained to locations within 500 feet of the waterfront.

SCOUT (Street Conditions Observation Unit) Street Cleanliness Scorecards

Spatial analysis was also conducted using street cleanliness ratings conducted by the SCOUT unit, which inspects every City street once per month and reports conditions that negatively impact quality so that agencies can take corrective actions.⁴

Figure 1: Map of 311 Service Requests for Dumping, 2008-2013



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Table 1: Dumping Complaints to 311 in Waterfront Zones from 2008 to 2013

Waterfront Zones			311 Dumping Complaints	
Distance From Shoreline (Feet)	Area (Sq Miles)	Percent of Total NYC Area	Number of Complaints	Percent of Total NYC Complaints
< 50	0.1	0.02%	0	0.00%
< 100	9.1	2.98%	40	0.16%
< 500	17.8	5.85%	659	2.57%
Citywide Total		304.8	25,658	

Consistent with the analysis of 311 complaints, the SCOUT analysis determined that on average streets located within 50, 100 and 500 feet of the waterfront were cleaner and less likely to have adverse conditions compared to streets citywide. Over 12,000 unique street inspections occurred within 500 feet of the waterfront—see *Table 2 for details*.

Dumping Incidents and Violations from City Agencies

The Department of Sanitation (DSNY) and Small Business Services (SBS) track dumping incidents as well as the number of violations and summonses issued. From 2004 to 2013, no notices of violations for waterfront dumping were issued. In 2013, one notice of violation was issued for refuse deposited into navigable waterway in English Kills, Brooklyn for lumber, debris, and dirt into water. In 2014, three notices of violation were issued for illegal dumping of asphalt millings in wetland by owner/operator located at Bayview Avenue in

Queens. Respondents were found guilty and fined \$1,500.00 totaling \$4,500.00 total fines imposed. Internal tracking of illegal dumping on parks properties is conducted internally from the Department of Parks and Recreation (DPR).

Stronger penalties and expanded enforcement are helping to deter dumping

Local Law 4 of 2010 expanded the definition of dumping to specifically include waterfront locations and created a civil penalty for dumping with significantly increased penalties. The passage of Local Law 4 also made it easier for the City to enforce a clean waterfront by extending the authority to issue violations for waterfront dumping to the Department of Small Business Services (SBS) and the Department of Environmental Protection (DEP), supplementing the existing authority of the Sanitation Department. Since the passage of Local Law 4 of 2010, no violations have been issued by SBS, DSNY or DEP and no major signs of dumping have been observed.

Table 2: SCOUT Street Cleanliness Scores in Waterfront Zones from 2008 to 2013

Waterfront Zones			SCOUT Inspections			
Distance From Shoreline (Feet)	Area (Sq Miles)	Percent of Total NYC Area	Number of Visits	% of Total Visits	Avg Sidewalk Score*	Max Score
< 50	0.1	0.02%	70	0.02%	1.17	1.23
< 100	9.1	2.98%	704	0.20%	1.16	1.7

* The lower the score, the cleaner the street.

These findings suggest that the stronger penalties for waterfront dumping and expanded enforcement capabilities have helped as a deterrent to illegal dumpers. As a result, no additional rules or regulations are needed at this time to enforce the Clean Waterfront Plan.

There is a strong level of coordination by City agencies with waterfront jurisdiction

Regulatory and enforcement activities are fairly robust both for illegal dumping into water bodies and on properties along the waterfront. Although no formal protocols for coordination exist, the primary City agencies responsible for waterfront cleanliness—the Dockmaster from the Department of Small Business Services (SBS), the Department of Sanitation (DSNY), and the Department of Environmental Protection (DEP)—informally coordinate to identify and, if possible, remediate or issue violations for dumping incidents. The few incidents that have occurred have done so in coordination with not-for-profit groups that routinely patrol the waterfront. These informal communications channels appear to work well in preventing and responding to waterfront dumping. However, elements of coordination could be formalized and expanded upon.

Existing data collection systems could be refined to better track waterfront dumping

Although general complaints about littering and dumping are tracked through 311, there is no differentiation of infractions occurring on the waterfront. As conducted for this report, it is possible to utilize the addresses of reported 311 service calls to identify which ones pertain to waterfront conditions. However, this is a time-consuming and inefficient process. Existing dumping classification codes in 311 could be augmented with a waterfront specific designation that would make it easier to track dumping incidents that occur along the waterfront.

RECOMMENDATIONS

Add a waterfront dumping designation to the 311 system

To improve identification and tracking of waterfront conditions, it is recommended that existing dumping classification codes in 311 be expanded to specifically include waterfront dumping. Collecting data in this form will aid in future analysis of waterfront conditions and will feed into the follow up report on waterfront conditions that Local Law 4 of 2010 requires to be published by April 1 annually. When complaints are received, all Clean Waterfront Liaisons will be notified and a coordinated response will be developed.

Conduct a baseline survey of the waterfront

To aid in the production of subsequent Clean Waterfront Progress Reports and subsequent years, the City will engage SBS (Small Business Services), DSNY (Department of Sanitation), DEP (Department of Environmental Protection) and SCOUT (Street Conditions Observation Unit) in a coordinated baseline inspection survey of waterfront locations. The survey will include sufficient numbers of inspections from both the waterside and land side of the waterfront to achieve statistical significance. It will also include inspections of known dumping locations. The results of this survey will be reported in the Clean Waterfront Progress Report. The survey results will also inform a strategy for utilizing signage, marketing, and targeted outreach to support the objectives of the Clean Waterfront Plan.

Create a central repository of information related to the Clean Waterfront Plan

A page dedicated to the Clean Waterfront Plan and related materials will be hosted on the Department of Sanitation's anti-dumping website, with links to and from the Department of Small Business Services (SBS), Department of Environmental Protection (DEP), and Mayor's Office of Long-term Planning and Sustainability (OLTPS). As future illegal dumping data, marketing materials and reporting documents are developed, they will be added to this centralized repository of information.



Long Island City Pier with view of Manhattan skyline © iStock

Formalize coordination efforts to inspect and respond to waterfront dumping

Local Law 4 of 2010 called for a protocol to coordinate between City agencies — and State and federal actors when necessary — to promote a clean waterfront. As discussed previously, informal coordination efforts have worked well in the past. However, improved coordination among various agencies' inspection regimes and a more regular process for coordinating responses to dumping incidents will only serve to increase the cleanliness of the waterfront. The following recommendations will help to achieve this goal:

- *Clean Waterfront Liaisons: Designating a Clean Waterfront Liaison within each relevant agency will help to better align inspection activities and streamline communications when dumping occurs and must be remediated.*
- *Communication Protocols: Work with Clean Waterfront Liaisons and other key agency representatives to formalize the process of reporting, tracking and responding to dumping activities through mitigation activities, issuance of summonses, violations, or civil penalties; and follow up inspections.*

Implement criteria for handling hazardous materials along the waterfront

The City has several programs to ensure safe handling of chemicals and hazardous materials but these programs do not specifically address waterfront locations. In 2010, the Green Codes Task Force proposed adding requirements pertaining to the handling of hazardous materials within the 100-year flood zones and the Building Resiliency Task Force reiterated this recommendation following Sandy. Implementing such a proposal would help to protect coastal communities from contamination during flooding events.

¹ "NEW YORK CITY WETLANDS: A GREENER, GREATER NEW YORK REGULATORY GAPS AND OTHER THREATS" [2009] <http://nytelecom.vo.llnwd.net/o15/agencies/planyc2030/pdf/nyc_wetlands_january_2009.pdf>

² "PRELIMINARY SURVEY OF WETLAND AREAS" [2010] <http://nytelecom.vo.llnwd.net/o15/agencies/planyc2030/pdf/nyc_wetland_survey_september_2010.pdf>

³ Testimony of Todd Kunitz, Director of Enforcement for the NYC Department of Sanitation, and Joshua Verleun, Staff Attorney and Chief Investigator for Riverkeeper (City Council Committee on Waterfronts – February 22, 2010; Testimony of Leslie Lipton, Chief of the Division of Pollution Control and Monitoring in the Bureau of Wastewater Treatment and Monitoring in the Bureau of Wastewater Treatment at the NYC Department of Environmental Protection (City Council Committee on Waterfronts - April 29, 2011).

⁴ Street cleanliness ratings have risen approximately eight percentage points from FY 2001 to today, with all of the gains occurring before Fiscal 2009. New York City Mayor's Management Report (2013). NYC Mayor's Office of Operations.

APPENDIX A

List of Applicable City Laws and Rules

REGULATION	OBJECTIVE
City Administrative Code, Title 16, Section 119 (“Dumping Prohibited”)	Defines the problem of dumping generally and authorizes the Sanitation Commissioner to issue summonses and civil penalties for violations. According to this section, it is unlawful for any person to permit raw materials, construction debris, refuse or any other organic or inorganic material being transported in a dump truck or other vehicle to be dumped or otherwise disposed of on streets, lots, parks, public place or other area whether publicly or privately owned. The passage of City Council Intro 54-A of 2010 (Local Law 4 of 2010) amended this section to explicitly prohibit dumping on the waterfront including wharfs, piers, docks, bulkheads, and slips, as well as navigable waterways. The law also strengthened enforcement by extending authority to the Commissioners of Small Business Services and the Department of Environmental Protection.
City Administrative Code, Title 22, Section 109 (Waterfront Property Code)	Authorizes the Commissioner of Small Business Services to remove trucks, merchandise and vessels that are illegally stored or dumped along the waterfront or that encumber or obstruct free use and navigation of waterways. The Commissioner may store “obstruction” in a warehouse or other suitable place at the expense of the owner. Owner may redeem “obstruction” upon payment to the commissioner in the amount of all expenses for removal and storage.
City Administrative Code, Title 22, Section 112 (Navigable Waters; Fouling; Obstructing)	References the problem of dumping in or along waterways and authorizes enforcement measures. According to this section, it is unlawful for any person to place, discharge, deposit, or otherwise release refuse matters floatable or otherwise into the Port of New York, unless done under the supervision of the United States supervisor of the harbor defined as the United States Coast Guard’s “Captain of the Port”. The law also makes it unlawful for discharge from any ship, steamer or other vessel any oil, oil refuse, or other inflammable matter. Local Law 4 of 2010 amended Section 22-112 to make violators subject to a civil penalty of between \$1,500 and \$10,000 dollars for the first violation and between \$5,000 and \$20,000 for each subsequent violation. The amendment also broadened enforcement authority to include the Commissioners of Small Business Services and the Department of Environmental Protection.
City Administrative Code, Title 14, Chapter 7; Rules of the City of New York, Title 15, Chapter 41.	Requires the Commissioner of Environmental Protection to create a “Community Right-to-Know Program” that identifies the location of all hazardous materials in the City. Require building owners to disclose information on the handling of hazardous substances through annual filings of Facility Inventory Forms to DEP. Facilities that exceed minimum quantities of hazardous substances are also required to submit an annual Risk Management Plan, which includes a risk assessment, a risk reduction plan and emergency response procedures.
NY Code - Article 1	Preservation of soil and water resources. It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and water resources of this state, and for the improvement of water quality, and for the control and prevention of soil erosion and for the prevention of floodwater and sediment damages and for furthering the conservation, development, utilization and disposal of water, and thereby to preserve natural resources, control and abate nonpoint sources of water pollution, assist in the control of floods, assist in the drainage and irrigation of agricultural lands, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety and general welfare of the people of this state.
Clean Water Act	The Clean Water Act as amended by the Oil Pollution Act of 1990, provides the basic statutory authority for pollution prevention, contingency planning, and response activities within the 200-mile Exclusive Economic Zone for oil and hazardous substances.
Coast Guard Regulations	In 1992 Congress enacted the Abandoned Barge Act to prevent future marine pollution from abandoned barges. This Act gives the Coast Guard additional authority to take law enforcement action with respect to abandoned barges over 100 gross tons.

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