

## Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village

of Chester

Local Law No. 1 of the year 2019

### A LOCAL LAW TO ESTABLISH PROPERTY MAINTENANCE LOCAL

**FILED  
STATE RECORDS**

Be it enacted by the Town Board of the

County City Town Village

Of Chester

as follows:

**JUN 19 2019  
DEPARTMENT OF STATE**

#### SECTION 1. PURPOSE AND INTENT

The purpose and intent of this Law is to provide protections for the health, safety and welfare for everyone living in and visiting the Town of Chester.

This Local Law is intended to preserve and improve the appearance of the Town, maintain residents' pride in the Town and protect property values.

#### SECTION 2. DEFINITIONS

For the purposes of this Law, the following terms shall have the meanings indicated:

*Blight* – a condition or continuing occurrence that impairs or harms the visual appearance, safety, wellness or pride of owning or belonging to a neighborhood or community.

*Enforcement Officer* – the Town of Chester Enforcement Officer, sometimes referred to as Zoning Enforcement Officer.

*Garage, yard (or similar) sale events* – an informal event for the sale of used goods by private individuals in which sellers are not required to obtain business licenses.

*Garbage* – the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

*Junk* – any manufactured good, appliance, fixture, furniture, machinery, motor vehicle, recreational vehicle, trailer or similar object which is abandoned, demolished, discarded or

generally unusable (in the case of a vehicle, unregistered such that it may not lawfully be operated on a public road).

*Person or entity* - the owner, tenant, occupant, vendee in possession, lessee, sub-lessee, agent or any other person, firm or corporation directly or indirectly in control of any premises, building or part thereof that is alleged to be in violation of the standards set forth in this local law.

*Premises* – any lot, plot or parcel of land, easement or public way, private or commercial, including any structures thereon.

*Rubbish* – any combustible and noncombustible waste materials including plant and tree trimmings and non-functioning products of any kind.

*Structure* – that which is built or constructed or a portion thereof.

*Vacant parcel* – a parcel of land with no buildings or structures located on same.

*Vacant Structure* – a building or structure, or a portion thereof, which has not been used or occupied for twelve (12) consecutive months.

### **SECTION 3. VACANT PROPERTY**

All vacant structures or vacant parcels shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blight condition within the meaning of this Law or adversely affect the public health or safety.

### **SECTION 4. STRUCTURE EXTERIOR MAINTENANCE**

The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

No owner or occupant shall allow the condition of property or an accumulation on the property of items which have a blighting effect.

### **SECTION 5. RUBBISH, GARBAGE AND JUNK**

All owners and occupants shall ensure that gathering and disposal of all rubbish, garbage and junk shall be handled in such a manner as to keep the premises free of insects, rodents and any other pests.

### **SECTION 6. RESPONSIBILITY OF OWNER OR OCCUPANT**

Owners and occupants shall be responsible for compliance with this Law. The Enforcement Officer may enforce the terms of this Law against any person or entity as defined herein that in the Officer's reasonable judgment will tend to accomplish the goals set forth herein.

### **SECTION 7. GARAGE SALES, YARD SALES OR SIMILAR SALES ACTIVITIES**

Garage or yard sales (or similar sales) may be held on weekends including holiday weekends

and shall not exceed four (4) days or the weekend length, whichever is shorter. No single parcel shall be the site of more than three (3) such events in a calendar year.

## **SECTION 8. ENFORCEMENT – GENERALLY**

- A. The Enforcement Officer is hereby charged with the duty of administering and enforcing this Law.
- B. The Enforcement Officer shall inspect or cause an inspection to be made when he or she has a reasonable basis to believe a property or structure is a threat to the health, safety, welfare and the property values for those living in or visiting the Town or otherwise in violation of the standards set forth herein.
- C. The Enforcement Officer is authorized to enter onto all premises, public or private, consistent with constitutional safeguards and any requisite warrant in order to effectuate investigation and enforcement.
- D. When the Enforcement Officer determines that conditions exist in or on any premises which violate the provisions of this Law, he or she may issue a Notice of Violation and Order to Remedy, which shall recite facts that establish each and every alleged violation of this Law, the specific violation alleged, the date upon which each violation is alleged to have occurred, whether it is alleged to be continuing and, if so, the time during which it is alleged to have continue(d). The Order to Remedy shall state with particularity what factual conditions must be eliminated or modified and, if applicable, in what way they must be modified to restore the premises to compliance with this Local Law. The Order to Remedy shall specify a reasonable date by which the alleged violation must be eliminated, which date shall be not less than ten (10) days from the date the Notice of Violation and Order to Remedy is served upon the person or entity as defined herein.
- E. Notwithstanding, it shall not be necessary for the Enforcement Officer to issue a Notice of Violation or to order in writing the correction of a condition in the instance of a second or any subsequent offense within a twelve (12) month period and, in the case of a second or subsequent offense, the person in violation may immediately be served with an Appearance Ticket or Summons.
- F. If there exists a conflict between this Law and the Town Zoning Local Law this Law, shall control.

## **SECTION 9. CIVIL ENFORCEMENT**

- A. Upon discovering a condition or persistent occurrence that is in violation of the standards established by this Law, the Enforcement Officer may issue a Notice of Violation and Order to Remedy as described in Section 8 (D). The Enforcement Officer shall forthwith file a copy of the Notice and Order with the Town Clerk and Zoning Administrator.
- B. The Notice of Violation and Order to Remedy may contain a notice, in typeface no smaller than twelve (12) point, that the Town Board, at a publicly noticed meeting, may

resolve to correct the violation and charge the property owner therefor, and absent payment to the Town by the property owner, the Town may add such charge as a lien payable with the Town real property taxes assessed against the parcel and collected and enforced in like manner.

- C. The Notice of Violation and Order to Remedy shall be served upon the person or other entity directed to comply and, if such person or entity is not the owner of the property, a copy shall also be served upon said owner. The Enforcement Officer or his or her designee shall attempt to personally serve any entity herein named who can be found in Warren County, New York. If any person or entity to be served cannot be located promptly within Warren County, New York, the Enforcement Officer shall serve the Notice of Violation and Order to Remedy in any manner authorized for service under Section 308 of the Civil Practice Law and Rules.
- D. Any party aggrieved by a Notice of Violation and Order to Remedy may appeal the issuance, findings and directed compliance actions to the Town Board. Any appeal shall be filed with the Town Clerk on or before thirty (30) days after the date service of the Notice of Violation and Order to Remedy upon the appealing party was complete either by personal service or when service under CPLR 308 was deemed complete.
- E. The Town Board shall consider the Notice of Violation and Order to Remedy at its next scheduled meeting or at a public meeting convened pursuant to its rules at an earlier time and date. The Town Board may affirm, vacate or affirm in part or in whole with modifications.
- F. Upon filing of a timely appeal to the Town Board, enforcement measures will be stayed until final action on the appeal is taken by the Town Board.

## **SECTION 10. JUDICIAL ENFORCEMENT**

The Enforcement Officer is authorized to seek criminal enforcement through the Town Justice Court or any other court with jurisdiction. The Enforcement Officer may issue an Appearance Ticket to the defendant directing the person or entity to appear in Town Justice Court no sooner than five (5) days from service of the Appearance Ticket upon such person or entity. The Appearance Ticket may be served upon the person or entity personally or in compliance with Section 150.40(2) of the Criminal Procedure Law.

Within two (2) business days after service of an Appearance Ticket upon a person or entity, but in no case later than the day before which an Appearance Ticket mandates an initial appearance, the Enforcement Officer shall file with the Court an Information that complies with the provisions of Sections 100.15 and 100.40 of the Criminal Procedure Law and shall immediately serve the same upon the defendant in the same manner as set forth in Section 8 (C).

If the Enforcement Officer elects, he or she may dispense with the Appearance Ticket procedure and file a sufficient accusatory instrument with the Court and request a Criminal Summons from the Court.

## **SECTION 11. PENALTIES FOR OFFENSES**

- A. A violation of this Law, as determined by the Court, is hereby declared to be an offense punishable by a fine of not more than \$250 for each and every day the violation exists after the date specified for compliance in a Notice of Violation and Order to Remedy duly served upon defendant, or the date an Information that meets the requirements set forth in this Local Law is served upon defendant, or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense.
- B. Conviction of a second offense, both of which were committed within a period of five (5) years, is punishable by a fine of not more than \$500 for each and every day the violation exists as calculated in Section 10 (A), or imprisonment for a period not to exceed six (6) months or both.
- C. Conviction for a third or subsequent offense, all of which were committed within a period of five (5) years, is punishable by a fine of not more than \$750 for each and every day the violation exists as calculated in section 10 (A), or imprisonment for a period not to exceed six (6) months or both.

## **SECTION 12. OPTIONAL INFORMAL RESOLUTION OF VIOLATION**

- A. This Section establishes an informal process for resolution of an alleged violation of this Local Law that may be entered into by an owner or person or entity voluntarily. The election of such owner, person or entity to engage in this informal process or not to so engage shall not be prejudicial and no information or statements obtained during such informal process may be used in any enforcement proceedings, civil or judicial, against the owner, person or entity with regard to the same or substantially similar related violation. Such information obtained in informal resolution shall likewise not be used against the Town's interest.
- B. A Notice of Violation and Order to Remedy shall state that unless, within ten (10) days from service of the Notice, a written request is made for a conference with the Enforcement Officer, such Notice and Order shall, at the expiration of such ten (10) day period, be deemed an Order to Cease and Desist from and to abate the described violation; such Notice and order shall prescribe a reasonable time within which such person shall be required to cease and desist from and abate such violation. The notice may also contain specific remedial action which, if taken, will effect compliance with this Law.
- C. If the owner, person or entity requests a conference, the Enforcement Officer shall schedule the conference, in writing, for a date and time not later than ten (10) days after the request is made, provided that for good cause, the Enforcement Officer may postpone such conference for a reasonable time. If, after the conference, the Enforcement Officer finds that no violation exists or that unusual, extraordinary circumstances exist that justify such action, he shall withdraw the Notice and Order. If he or she finds that a violation does exist, he or she shall forthwith affirm the previously issued Notice of Violation and Order to Remedy requiring the abatement of the same within a prescribed reasonable time. The proceedings at such conference, which shall be informal in all respects, shall be summarized in a report reduced to writing and provided to or served upon the owner, person or entity.

### **SECTION 13. EMERGENCIES**

Whenever the Enforcement Officer finds that an emergency or a potential emergency exists which requires immediate attention to protect the public health or safety, he or she may, without notice or hearing, issue a Notice of Violation and Order to Remedy reciting the existence of such emergency or potential emergency. Notwithstanding any other provisions of this Local Law, such Order shall take effect immediately. Any person to whom such Order is directed shall comply therewith immediately but, upon appeal to the Town Board or the Town Justice Court shall be afforded a hearing as soon as possible. After such hearing, the Town Board or Court shall continue such Order in effect or shall modify or dismiss it.

### **SECTION 14. ACTION UPON NONCOMPLIANCE**

- A. Upon the failure, neglect or refusal of any owner, person or entity so notified to properly comply with this law within fifteen (15) days after the service of notice as provided herein, the Enforcement Officer is hereby authorized and empowered to arrange and pay for the correction of such violations or to request that the Town Board authorize the Town to pay for the correction of such violations.
- B. When the Town, due to failure, neglect or refusal of the property owner or person or entity to properly comply with this Law, has contracted for elimination of the dangerous or blight condition, such contracted maintenance will continue until the property owner notifies the Town Board, in writing, that the property owner has made arrangements to comply with this Law.
- C. In addition to any other remedies or penalties that may be imposed, a violation of this Law shall entitle the Town Board to remedy or repair the conditions constituting the violation, at the owner's expense, in order to bring the premises into conformity and compliance with this Law. The disbursements and expenses shall become a charge and a lien upon the premises and the same shall be added to the premises' next annual Town tax bill, to be collected with interest, as may be provided by law. This provision shall be in addition to any other provisions, penalties or powers available to the Town for enforcement of this Law.

Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2019 of the (County)(City)(Town)(Village) of Chester was duly passed by the

Town Board

On May 14, 2019, in accordance with the applicable

(Name of Legislative Body)

provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted (Elective Chief Executive Officer\*)

on \_\_\_\_\_ 20 \_\_\_\_, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_, and was (approved)(not

approved)

(Name of Legislative Body)

(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_ (Elective Chief Executive Officer\*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_. Such local (Elective Chief Executive Officer\*)

law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)  
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

  
\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: June 14, 2019

(Seal)