

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 Highland

Local Law No. ___ of the year 2021

A LOCAL LAW INTRODUCING CHAPTER 140. Property Maintenance.

Be it enacted by the Town Board of the Town of Highland as follows:

(See Attached for Text of Local Law)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF HIGHLAND

LOCAL LAW NO. OF THE YEAR 2021

Be it enacted by the Town Board of the Town of Highland, Sullivan County, New York, as follows:

SECTION I - ENACTMENT

Chapter 140. Property Maintenance

§ 140-1. Title.

This chapter shall be known as the “Property Maintenance Law of the Town of Highland.”

§140-2. Legislative intent.

The purpose of this chapter is to provide for a sanitary and hazard-free environment for the health, safety, and welfare of the citizens of the Town of Highland. It is also the intent of this chapter to provide minimum standards for the maintenance of property to be enforced by the Town in its effort to prevent the gradual encroachment of blight, deterioration, unsightliness and property devaluation within its borders, and to ensure that all premises within the Town are maintained in a manner consistent with their use and which protect the health, safety, and welfare of the general public. Such an enforcement is deemed essential to the maintenance and continued development of the economy of the Town of Highland.

§140-3. Applicability.

- A. All residential, commercial, industrial, and private and public property located within the Town of Highland, whether improved or vacant, shall be maintained in conformity with the provisions of this chapter.
- B. This chapter shall not apply to any agricultural uses or lands, except that it shall apply to residential buildings and non-agricultural uses and structures on any agricultural lands.

§140-4. Compliance with Building Code.

Any alterations to buildings, structures or appurtenances thereto which may be caused directly or indirectly by the enforcement of this chapter shall be done in accordance with Chapter 34, “Building and Energy Code Administration and Enforcement” of the Town of Highland Code, and all other applicable sections of the Town of Highland Code, and the New York State Uniform Fire Prevention and Building Code.

§140-5. Conflict with other laws.

Where a provision of this chapter is found to be in conflict with any provision of an existing Town of Highland law, ordinance, or regulation, or regulations of the State of New York or any of its agencies or authorities, the provisions or requirements which are more restrictive or which establishes the higher standard shall prevail.

§140-6. Effect on existing remedies.

- A. Nothing in this chapter shall be deemed to abolish or impair existing remedies of the Town of Highland or its officers or agencies relating to the repair, removal or demolition of any buildings which are deemed to be dangerous or unsafe to the public from any cause whatsoever, in accordance with Chapter 180, "Unsafe Buildings" of the Town of Highland Code.
- B. Nothing in this chapter shall be deemed to abolish or impair existing remedies of the Town of Highland or its officers or agencies relating to the repair, removal or demolition of any litter which are deemed to be dangerous or unsafe to the public from any cause whatsoever, in accordance with Chapter 110, "Litter" of the Town of Highland Code.

§140-7. Responsibilities of owners.

All owners, operators, and tenants of property in the Town of Highland shall be responsible for compliance with the provisions of this chapter.

§140-8. Lot maintenance.

No person owning, leasing, renting, occupying, being in possession of or having charge of any property in the Town, including vacant lots, shall maintain or allow to be maintained on such property, any of the following conditions:

- A. Junk, trash, litter, discarded boxes, discarded lumber, salvaged materials, construction and demolition debris, crates, pallets, broken or discarded furniture, household equipment, furnishings, or other similar materials in any front yard, side yard, rear yard, or vacant lot, excepting when placed in appropriate trash receptacles for regular removal. This prohibition shall not include salvaged material, crates, pallets and other similar material not considered junk, trash, litter or similar debris, and which is directly associated with a business. Said materials may be allowed to be stored outside provided they are adequately screened from public rights-of-ways and adjoining property.
- B. Attractive nuisance affecting health, including, but not limited to, abandoned, broken or neglected equipment, machinery, refrigerators and freezers, and excavated areas, including, but not limited to wells or shafts.
- C. No shopping baskets, carts, or wagons shall be left unattended or standing in open areas. For commercial businesses, baskets, carts, or wagons shall be collected at the close of business each day by the owner or operator of the associated establishments and removed to the interior of the building or buildings, or to a designated storage area which does not hinder pedestrian or vehicular movement.
- D. Weeds, grass, or other vegetation exceeding 10 inches in height within any developed, and historically maintained lawn area or required and/or approved landscaped area.
- E. Accumulation of dead organic matter, offal, rat harborages, stagnant water, combustible materials and similar materials, or conditions which would constitute a fire, health, or safety hazard. However, this shall not apply to cultivated flowers, gardens, or agricultural uses.
- F. Any vegetative overgrowth that adversely affects neighboring properties, sidewalks or public rights-of-ways.

§140-9. Building and structure maintenance.

- A. Exterior walls, roofs, and other parts of buildings shall be free from loose, unsecured and improperly secured objects and materials. Such objects or materials shall be removed, repaired, or replaced.
- B. The owner of vacated buildings shall take such steps and perform such acts as may be required from time to time to ensure that all buildings and its adjoining yards remain safe and secure and do not present a hazard to adjoining property or to the public. All openings shall be securely fastened to prevent trespassing or animal or vermin entry or harborage.
- C. All lighting systems shall be maintained in a fully operable, clean, and safe condition.
- D. All swimming pools shall be maintained and operated in a clean, safe, and sanitary manner. Swimming pool recirculation and disinfection equipment shall be operated to maintain water quality.
- E. All decorative pools, fountains, architectural garden features, and similar items shall be maintained free of litter and operated as intended. Should these devices be abandoned or should they deteriorate because of lack of adequate maintenance, the owner shall either repair, remove, or replace these items within five days of written notice.

§140-10. Drainage.

- A. Surface and subsurface water shall be appropriately drained to protect property, including buildings and structures and to prevent the development of standing water.
- B. No roof, foundation, or sump pump drainage shall be discharged directly onto adjacent property, across or onto a sidewalk, town, county or state road, or any public right-of-way or in a manner that creates a nuisance to the owners or occupants of adjacent premises or to the public or creates a structural, safety, or health hazard by reason of construction, maintenance, or manner of discharge.
- C. Any drainage or discharge which creates a nuisance to the owners or occupants of adjacent premises or to the public or a structural, safety, or health hazard by reason of construction, maintenance, or manner of discharge, shall be immediately abated by the owner of the drained area.
- D. For the purposes of this section, a nuisance includes, but is not limited to, the discharge or drainage of water that results in the accumulation of standing or freezing water or which causes the erosion of soils on any public property, right-of-way or neighboring private property.

§140-11. Trash Disposal and receptacles.

- A. Adequate sanitary facilities and methods shall be used for the collection, storage, handling, and disposal of garbage, refuse, and litter.
- B. Dumpsters and similar large receptacles shall be screened from public streets, rights-of-way, and areas where pedestrians frequently travel. Said screening shall consist of a solid row of evergreens, or solid fencing to hide the dumpster/receptacle from public view.
- C. Shopping centers, supermarkets, and similar businesses shall provide appropriate sanitary litter receptacles for public use. Receptacles shall be of sufficient numbers and size to accommodate small items of patron's trash and be appropriately emptied at regular intervals.

§140-12. Violations and Notice of Violations.

- A. The Code Enforcement Officer shall be charged with identifying violations pursuant to the requirements of this chapter and the issuance of any Notice of Violations or any other subsequent enforcement measures, in accordance with duties granted in Chapter 34 of Highland Town Code.
- B. All written notices under this section shall be served by posting a copy of such violation notice upon the front portion of the property or upon the main structure and by mailing a copy of such notice by certified mail, return receipt requested, to the last known address of the property owner as it appears on the current assessment records of the Town.

§140-13. Public hearing, removal by Town; assessment of expense.

Upon the failure of an owner, operator or person in control with notice to correct a condition complained of within 30-days of the date the notice was posted and mailed, the Town Board shall hold a public hearing.

- A. The public hearing shall be held upon notice posted conspicuously on the affected property and forwarded to the last known address of the property owner, as it appears on the current assessment records of the Town, by certified mail, return receipt requested. Posting and service of such notice shall not be less than 10 days prior to the date of the public hearing. The public hearing shall be held within 30-days of the posting and service of such notice.
- B. The Town Board, after a public hearing as provided for herein, may cause the correction of the violation, upon the failure of such owner, operator, or person in control to comply with any requirements and/or conditions of the Town Board. Said correction of the violation may be performed by the Town of Highland or by its designee, or agent, including a private contractor. The Town Board shall ascertain the cost of the proceeding and the costs of removal and assess such expense, plus a fee for administration and overhead of 25% against the record owner of the property. Thereupon, said charges shall become and be a lien upon the property on which the removal was performed and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes levied against such property.
- C. The correction of the violation by the Town in accordance with this chapter shall not operate to excuse such owner, operator or person in control from properly maintaining the premises as required by this chapter, and such owner, operator or person in control shall, notwithstanding such action, be subject to any other penalties as provided for herein.

§140-14. Penalties for offenses.

- A. Criminal Sanctions.
 - (1) Any person violating this law shall be guilty of a misdemeanor, punishable by a fine up to \$1,000 or imprisonment for a period of up to 15 days, or both. In addition to the penalties set forth above, or in lieu of same, the court may impose a fine, to be payable to the Town, equal to the cost or removal of the litter, refuse or rubbish deposited by the violator.
 - (2) Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

- (3) The Code Enforcement Officer or agent may commence criminal proceedings in the justice court by issuing an appearance ticket to any alleged violator and/or by filing information and supporting deposition pursuant to the New York Criminal Procedure Law. In the alternative, the Code Enforcement Officer or agent or the Town Board may request the District Attorney to prosecute the violation or to appoint the Town Attorney as a special district attorney for that purpose.
- (4) Such fines may be compromised or released as part of any disposition.

§190-15. Severability.

If any provision, paragraph, word, section or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and articles shall not be affected and shall continue in full force and effect.

§190-16. Definitions.

- A. Word usage. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter it's most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL LANDS

Lands primarily used for Agricultural Uses, as defined herein. This shall also include lands in a county agricultural district, lands that are classified as Agricultural for tax assessment purposes, or as defined by New York State Agriculture and Markets Law. Agricultural lands need not be in active use and maybe considered such if left to lay fallow as part of regular crop rotation or any prevailing market circumstances.

AGRICULTURAL USES

The practice of cultivating soil, producing crops, and raising livestock and other animals or insects and/or the preparation and marketing of the resulting products in compliance with State regulations. Uses shall be either traditional in the Hudson Valley or those recognized as agricultural in nature by the State of New York Agriculture and Markets Laws.

BUILDING

Any structure which is permanently affixed to the land, has one or more floors and a roof and is intended for the shelter, housing or enclosure of persons, animals or equipment or goods.

JUNK

Discarded, broken, or disabled material including, but not limited to, furniture, appliances, toys, or other items that are not in functioning condition, excepting vehicles to be used for agricultural purposes.

LITTER

Discarded waste materials, including but not limited to, paper wrappings, packaging materials, discarded or used bottles, and discarded or used cans.

OWNER

Any person owning property, as shown on the real property records of Ulster County or on the last assessment role for taxes; and shall also mean any lessee, tenant or other person having control or possession of the property.

PERSON

Any person, firm, partnership, association, corporation or organization of any kind.

PRIVATE PREMISES

Any private owned unimproved land or any dwelling, house, building of other structure designated of used either wholly or in part for private residential purposes, whether inhabited or continuously uninhabited or vacant, and includes any yard, acreage, grounds, walk, driveway, porch, steps or vestibule belonging of appurtenant to such dwelling, house, building or other structure.

PROPERTY

A lot, plot, or parcel of land, including any structures thereon.

PUBLIC PLACE OR PUBLIC PROPERTY

Any roads, sidewalk, boulevards, alleys or other public ways, and any and all parklands, squares, spaces, grounds and buildings.

REFUSE

All putrescible solid wastes (except body wastes) including garbage, rubbish, street cleanings, dead animals, abandoned automobiles, dismantled automobiles and parts thereof, scrap metal junk, machinery and solid market and industrial wastes.

STRUCTURE

A static construction of building materials, including buildings, mobile homes, stadia, platforms, towers, sheds, storage bins, antennas and other receivers, swimming pools and the like.

TRASH

Waste food products and other household garbage.

VEHICLE, JUNK

Any motor vehicle, including automobiles, buses, trucks, tractors, mobile homes, motorcycles, motor bicycles, snowmobiles, boats, recreational vehicles, watercrafts, camping trailers, or any other contraptions originally intended for travel on streets, highways, or waterways, whether intact or dismantled, which:

- A. Vehicle is not currently registered by the State of New York or any other state or foreign country and which has not been so registered for the preceding six months; or
- B. Vehicle is not currently registered by the State of New York or any other state or foreign country and which is not in a condition to meet New York State motor vehicle inspection requirements.

SECTION II – AUTHORITY

This Local Law is enacted pursuant to the authority of Section 10 of the New York State Municipal Home Rule Law.

SECTION III – SEVERABILITY

If any part or provision of this local law is judged invalid by any Court of competent jurisdiction, such judgment shall be confined in application to the part of provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this law even without such part of provision or application.

SECTION IV - EFFECTIVE DATE

This local law shall become effective immediately upon the filing in the office of the New York Secretary of State pursuant to Section 27 of the New York State Municipal Home Rule 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. _____ of 2021 of the (County)(City)(Town)(Village) of Highland was duly passed by the Town of Highland Town Board on _____ 2021, in accordance with the applicable 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) (repassed after disapproval) by the _____ and was deemed duly adopted 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) (repassed after disapproval) by the _____ on _____ 20____.

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) (repassed after disapproval) by the _____ on _____ 20____.

Such local 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 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 _____, above.

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

(Seal)

Date: _____

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF _____

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Title

County
City of _____
Town
Village

Date: _____