

**TOWN OF DAY**  
**LOCAL LAW 2004-01**  
**PROPERTY MAINTENANCE LAW**

This Law is hereby adopted pursuant to §10 of the NYS Municipal Home Rule Law

**1 INTENT**

The purpose of this Ordinance is to provide for a sanitary and hazard free environment for the citizens of the Town of Day.

**2 DEFINITIONS**

As used in this Ordinance, the following terms shall have the meaning indicated:

**APPLIANCE**-includes any stove, washing machine, dryer, freezer, refrigerator or other household device or equipment abandoned, junked, discarded, wholly or partially dismantled or no longer intended or in condition for ordinary use for the purpose which it was designed originally.

**BUSINESS UNIT**- A building or combination of buildings and the lot on which the same is located, used wholly or in part for commercial purposes, including, but not limited to offices, places of public assembly, shopping centers, restaurants, supermarkets, retail stores, gasoline stations and other business uses.

**GARBAGE**-Any refuse from animal and vegetable matter, waste food or part thereof, refuse from kitchen, market store or house, floor sweeping, table waste or animal or vegetable matter, meat, fish, bones and all organic waste substance or substances capable of decay.

**INFESTATION**-The presence of rodents, vermin or other pests.

**LITTER**-Garbage, refuse and rubbish as herein defined and all other waste material which, if thrown or deposited as herein prohibits, tends to create a danger to public health, safety and welfare.

**LOT**- A plot, tract, premises or parcel of land with or without buildings or structure located thereon.

**MOTOR VEHICLE**-Includes any and all vehicle propelled or drawn by power other than muscle power, intended for use on public highways; any unregistered, old or secondhand motor vehicle or trailer; any motor vehicle in such condition or state of repair that it cannot be licensed immediately without extensive repairs; any abandoned, junked, discarded, wholly or partially dismantled motor vehicle no longer intended or in condition for legal use on public highways, or any motor vehicle incapable of passing a New York State inspection. This does not include inoperable farm or construction equipment or machinery retained for the purpose of salvaging usable parts in connection with the ongoing operations of an on site farm, construction, or licensed auto repair business, provided that such items are stored within a consolidated area out of the public view.

**MOTORIZED EQUIPMENT-** Included, but not limited to power machines, lawn mowers, or parts that were once motorized equipment.

**OUTDOOR STORAGE-**Includes the placing, maintaining or keeping of any motor vehicle, appliance, motorized equipment, rubbish and debris as the same are defined herein a place other than a structure with a roof and fully enclosed on all sides.

**OWNER-** The person having legal title to the property and also the person shown as the owner of the property on the current assessment rolls of the Town of Day.

**PERSONS-** One (1) or more persons of either sex, natural persons, corporation, partnership, association, joint stock companies, unincorporated associations, their agents or employees, society clubs and all other entities of any kind capable of being sued.

**PRIVATE PROPERTY OR PRIVATE PREMISES-**Any real estate or part thereof, yard or driveway, other than that used as a public place, road, street or highway, situated in the Town of Day.

**PUBLIC NUISANCE AFFECTING HEALTH-** A nuisance which is a thing, act or occupation or use of property, premises, equipment or structure, either private or public, affecting the health of one (1) or more persons.

**REFUSE AND RUBBISH-** Plastics, combustible trash, including but not limited to paper, cartons, boxes, barrels, wood, excelsior, tree limbs and branches, yard trimmings, wood furniture and bedding. Also included is noncombustible trash, including but not limited to tires, metals, cans, plastics, metal furniture, small quantities of rock, brick and concrete, glass, metal fixtures, bottles and street rubbish, street sweepings, dirt, leaves, ashes, dead animals, junked vehicles, industrial waste, cardboard and similar materials.

**RESIDENT-** Any person having a residence within limits of the Town of Day. Including landlords and tenants. The term shall include any person, firm, partnership, corporation or other association operating an established business within the limits of the Town of Day.

**RESIDENTIAL PREMISES-** a building or combination of buildings used solely for personal living purpose of the occupants thereof, whether as owners or tenants thereof and not used for any business purposes.

**WASTE MATERIAL-**Includes, but not limited to, waste produced by industrial or manufacturing process, including food processing waste, lumber scraps and shavings, tires and oil and large amounts of wood, concrete, rocks, bricks, sand, and other waste from building operations.

**YARD-**an open space on the same lot which contains a building and is located between the building line and the lot line which a particular building line faces.

### **3 GENERAL REQUIREMENTS**

All residential and commercial premises located within the Town of Day, whether improved or vacant, shall be maintained in conformity with the provisions of this Ordinance.

### **4 APPLICABILITY**

The provisions of this Ordinance shall supplement all Local Law, Ordinances, Codes or requirements existing in the Town of Day and other statutes and regulations of municipal authorities having jurisdiction applicable thereof. Where a provision of this Ordinance is found to be in conflict with any provision of any existing Local Law, Ordinance or regulation, the provision or requirement which is more restrictive or which establishes the higher standard shall prevail.

### **5 OPEN AREAS**

5.A. Yards and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation. They shall be maintained in a manner that will prevent dust or other particles from being blown about the neighborhood. Open wells, cesspools or cisterns shall be securely closed or barricaded from access to the public.

5.B. Fences and other minor construction shall be maintained in a safe and substantial condition.

### **6 BUSINESS UNITS**

No outside storage or accumulation of garbage, crates, rubbish, refuse or debris shall be permitted at any time and all such garbage, crates, refuse or debris, shall be kept inside the building or buildings on the premises or in an appropriate enclosure and shall be regularly collected and removed from the premises.

### **7 INFESTATION AND SCREEN**

7.A. Grounds, buildings and structures within the Town of Day shall be maintained free of vermin and rodent harborage and infestation. Methods used for exterminating vermin and rodents shall conform with generally accepted standards.

7.B. Where the potential for rodent and vermin infestation exists, windows and other openings in basements and cellars shall be appropriately screened with wire mesh or other suitable materials.

### **8 LITTERING**

8.A. Residential and business premises within the Town of Day, whether improved or vacant, shall be maintained free of litter, provided, however, that this section shall not prohibit the storage of litter for a reasonable period of time in authorized private receptacles for collections.

8.B. Adequate sanitary facilities and methods shall be used for the collection, storage, handling, disposal of garbage and refuse in accordance with the provisions of applicable codes.

8.C. It shall be unlawful for any person to throw, spill, place, deposit, leave or cause to be thrown, spilled, placed, deposited or left, or permit any agent, servant or employee to throw, spill, place, deposit or leave, in or upon any street, highway, right of way, alley, sidewalk, park or

public building or in any running water or body of water within the Town of Day any garbage, refuse, rubbish, waste material or litter or filth, including but not limited to sewage, excrement, dead carcasses, compost, ashes or any material subject to be carried by the wind or matter of any kind.

## **9 OUTDOOR DEPOSIT OR STORAGE OF WASTE AND ABANDONED APPLIANCES**

9.A It shall be unlawful for any person, as owner, occupant, lessee, agent or in any capacity, to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained outdoors within public view any abandoned, junked, discharged, wholly or partially dismantled or unlicensed motor vehicles or vehicle, motorized equipment, appliance, rubbish or debris as defined in this Article upon private property within the limits of the Town of Day.

9.B. No appliance may be discarded, abandoned or stored in a place accessible to children without first completely removing any locking device and doors.

## **10.MAINTENANCE OF PROPERTY**

Nothing in this Ordinance shall prohibit the temporary storage of garbage, refuse and waste materials awaiting removal, provided that such storage is accomplished by way of tightly covered containers or cans wherever practicable, nor shall this Ordinance prohibit the depositing of manure or fertilizer upon private property for the purpose of cultivating or improving the same.

## **11.DUTIES OF OWNERS, OCCUPANTS OR TENANTS**

11.A. An occupant or tenant of the premises shall be responsible for compliance with this Ordinance as if they were an owner.

11.B. Owners of premises shall be responsible for compliance with the provisions of this Ordinance and shall remain responsible therefor regardless of the fact that this Ordinance may also place certain responsibilities on tenants or occupants and regardless of any agreement between owners and tenants or occupants as to which party shall assume such responsibility.

11.C. Whenever any person or persons shall be in actual possession of, or have charge, care or control of any property within the Town of Day as executor, administrator, trustee, guardian, operator or agent, such person or persons shall be deemed and taken to be the owner or owners of said property within the true intent and meaning of this Ordinance and shall be bound to comply with the provisions of this Ordinance to the same extent as the record owner, and notice to any such person of any order or decision of the Code Enforcement officer shall be deemed and taken to be a good and sufficient notice, as if such person or persons were actually the record owner or owners of such property.

## **12 INSPECTIONS**

12.A. The Code Enforcement Officer of the Town of Day as designated by the Town Board of such Town, shall have authority, as specified herein, to inspect all premises within the Town of Day to enforce the provisions of this Ordinance.

12.B. Whenever it shall appear that the provisions of this Ordinance are being violated, the inspector, shall except upon plain view where no entry is necessary, secure approval from an owner, lessee, agent, tenant, or other person with authority, to make inspection of the property and shall prepare a written report of the conditions found.

### **13 NOTICE OF VIOLATION**

13.A. If the condition existing on the property violates the provisions of this Ordinance, the Enforcement Officer shall serve or cause to be served, a written notice, by certified mail or personal service, upon the owner, lessee, agent, tenant or other person who has authority over said premises.

13.B. Said notice shall contain substantially the following: The name of the owner, lessee, agent, tenant or other person with authority over the premises; the identification of the premises as the same appears on the current assessment roll of the Town of Day; a statement of the condition of the premises as found on the inspection; a demand to maintain property and/or that the motor vehicle, motorized equipment, litter, appliance, rubbish, refuse, or debris be removed from the premises on or before ten (10) days after the service of such notice.

13.C. That upon the failure of the owner, lessee, agent, tenant, or other person with authority over the premises to correct the violation after receipt of the ten (10) day notice, the enforcement officer shall file a complaint with the Town of Day Justice Court. In addition to the above provided penalties, the Town Board may also maintain an action with or restrain by injunction the violation of any section of the Ordinance.

### **14 PENALTIES**

A violation of this Ordinance is declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six (6) months, or both for conviction of the first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine of not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1000) or imprisonment for a period not to exceed six (6) months, or both. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Ordinance shall be deemed misdemeanors and for such purpose only all provisions of the law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. In addition thereto, the Town shall have such other remedies as are provided by law to restrain, correct, or abate any violation of this Ordinance.

### **15 FAILURE TO COMPLY; WORK DONE BY TOWN**

In the event of the failure, refusal or neglect of the person to comply with said order of the Town Board or Town Court and after the hearing, the Town Board shall provide for the removal of any such materials either by town employees or by contract.

### **16 LEVY AND COLLECTION OF TOWN'S EXPENSES**

All expenses incurred by the town in connection with the proceedings to collect and dispose of levy. any materials shall be assessed against the land on which such materials are located and shall be levied and collected in the manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem