

Local Law 4 – 2024

A Local Law to Replace in its entirety, Local Law 1-2003 Property Maintenance Law of the Village of Allegany

BE IT ENACTED by the Board of Trustees of the Village of Allegany, New York, as follows:

SECTION 1.

This Local Law shall be entitled “Property Maintenance Law”.

Be it enacted by the Village Board of Trustees of the Village of Allegany, New York as follows:

Section 1: Short Title

This local law shall be known as the “Property Maintenance Law” of the Village of Allegany.

Section 2: Purpose

A sanitary and hazard free environment is declared to be of vital importance to the health, welfare, and safety of the inhabitants of the Village of Allegany. In addition, such an environment is deemed essential to the maintenance of and continued development of the economy of the Village of Allegany and the general welfare of its citizens. Therefore, recognizing the above and the need of the community for the maintenance of residential and business premises, whether improved or vacant, the Village Board does hereby enact this Local Law.

Section 3: Applicability

All lots located within the Village of Allegany, whether improved or vacant, shall be maintained in conformity with the provisions of this local law.

Section 4: Conflict with other Laws and Regulations

The provisions of this local law shall supplement all local laws, ordinances, codes or regulations existing in the Village of Allegany and the other statutes and regulations of the state and local agencies having jurisdiction applicable thereto. Where a provision of this law is found to be in conflict with any provision of any existing local law, ordinance, code, or regulation, or other statutes and regulations of state and local agencies, the provision or requirement which is more restrictive or which establishes the higher standard shall prevail.

Section 5: Definitions

The words used in this local law shall have the following meaning:

COMMERCIAL ESTABLISHMENT A business use or activity, at a scale greater than a home-based business, involving retail or wholesale marketing of goods and services. Examples of commercial establishments include offices and retail shops.

DWELLING UNIT A building or portion thereof that provides complete housekeeping facilities for one family. Each dwelling unit shall have its own sleeping, cooking, and toilet facilities. A dwelling unit is designed for permanent occupancy and shall not be construed to include a hotel, motel or other such use of a transient nature.

DWELLING, SINGLE FAMILY A building that contains one dwelling unit.

DWELLING, TWO FAMILY A building that contains two dwelling units.

DWELLING, MULTIPLE FAMILY A building that contains three or more separate dwelling units.

GARBAGE The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, whether from a business or residential premises.

HOME BASED BUSINESS Any land use or activity undertaken for gain within a dwelling unit, or within a structure that is accessory to the dwelling unit and on the same lot, by the resident or residents thereof. A home-based business is an accessory use, and shall be clearly incidental and secondary to the use of the structure as a residence.

INDUSTRIAL ESTABLISHMENT A business use or activity, that involves manufacturing, fabrication, assembly, warehousing, and/or storage.

INFESTATION The presence, within or contiguous to a structure or lot, of insects, rats, rodents, vermin or other pests.

INOPERABLE No longer capable of performing the purpose for which an object is designed.

JUNK The open storage or deposit of any of the following shall constitute junk:

- (1) one or more junk vehicles
- (2) One or more junk mobile homes
- (3) one ore more inoperable pieces of construction equipment
- (4) one ore more discarded or inoperable household appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.

(5) one or more discarded or irreparably damaged pieces of furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.

(6) disassembled vehicle parts or other disassembled machinery, bicycles or appliances.

(7) Parts of machinery, or parts of vehicles, or parts of appliances.

(8) Tires which do not meet New York State requirements for highway use.

(9) scrap metal, paper, rags, or lumber, except that cordwood being used for household purposes shall not be construed to be "junk."

JUNK MOBILE HOME Any enclosed dwelling built upon a chassis, used or designed to be used for either permanent or temporary living and/or sleeping purposes, including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and overnight trailers; which meets two out of three of the following conditions for six months or more:

(1) the electrical service is disconnected or terminated;

(2) it is abandoned as a dwelling unit

(3) it is no longer habitable for residential occupancy, pursuant to the New York State Building Code.

JUNK VEHICLE

A. Any vehicle intended for travel on the public highways or waterways which is:

(1) Unlicensed for a period in excess of six (6) months, or

(2) Abandoned, wrecked, discarded, dismantled, or partly dismantled.

B. Any vehicle not required to be licensed or any vehicle not intended for use on public highways or on waterways shall be deemed a junk vehicle if:

(1) Such vehicles has remained unused for more than six (6) months, and

(2) It is not in usable condition, according to the standards set forth in the owner's manual.

C. Any used parts or waste materials which, taken together, equal in bulk one or more such vehicles.

JUNKYARD The open storage or deposit of any of the following:

(1) two or more junk vehicles

(2) two or more junk mobile homes

(3) two or more inoperable pieces of construction equipment

(4) two or more discarded or inoperable household appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.

(5) Two or more discarded or irreparably damaged pieces of furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.

(6) Any combination of the above or parts of the above that total two or more items.

(7) Disassembled vehicle parts or other disassembled machinery or appliances, or scrap metal, paper, lumber or rags.

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

OPEN STORAGE Storage other than in a complete enclosed structure.

OWNER The person having legal title to a property. For purposes of implementing this local law, the person listed on the current assessment rolls of the Village as the owner of a particular parcel shall be construed to be the owner of that property.

PERSON One or more individuals of either sex, firms, corporations, partnerships, associations, companies or organizations of any kind.

PUBLIC NUISANCE AFFECTING HEALTH A nuisance that is an occupation of or use of property, equipment or structures, either private or public, affecting the health of one (1) or more persons.

RECYCLING CENTER An establishment designed to be a collection point where recyclable materials are sorted and/or temporarily stored prior to delivery to a permanent disposal site or shipment to others for reuse or reprocessing. Recyclable materials include, but are not limited to, metal; cans; glass; plastics, and newspaper, books and other paper products. Oil, batteries, and other hazardous materials shall not be considered to be “recyclable materials” for the purpose of this local law.

RESIDENTIAL PREMISES A building or combination of buildings used solely for personal living purposes of the occupants thereof, whether as owners or tenants thereof and not used for any business purposes, except an allowable home-based business. A residential premises shall be either a single family dwelling, a two family dwelling, or a multiple family dwelling.

RUBBISH Combustible and noncombustible waster materials, except garbage; the term shall include the residue from the burning wood, coal, coke and other combustible materials; papers, rags, cartons, boxes, barrels, wood, excelsior, rubber, leather, tree branches, yard trimmings, leaves, cans, bottles, metals, mineral matter, plastics, glass, crockery; wood furniture and bedding; small quantities of rock, brick, and concrete; dirt, dust, and ashes; dead animals; and any and all tangible personal property no longer intended or in condition for ordinary and customary use; and other similar materials.

VEHICLE Any means of transport or conveyance originally intended for travel on the public highways, private property or public or private waterways, which was originally designed and manufactured (1) to be moved or propelled by any power other than muscular power; or (2) to be drawn or towed.

WASTE MATERIAL Waste produced by industrial or manufacturing processes, including but not limited to, food processing waste, boiling house cinders, lumber scraps and shavings, slag, industrial sludge or other chemical wastes and by-products, tires oils and large amounts of wood, concrete, rocks, brick, sand, and other wastes from building operations.

YARD An unoccupied space, open to the sky, on the same lot with a building or structure.

YARD, FRONT The open space on a lot, which extends across the full width of the lot between the front lot line and the nearest part of a building or structure.

SECTION 6. Prohibited Acts

- (A) The open storage of junk, garbage, litter and/or rubbish, regardless of quantity, except as is otherwise explicitly permitted in this local law, is prohibited. A recycling center with a valid special use permit from the Village of Allegany is exempt from this provision, if so, permitted in the special use permit.
- (B) No person shall throw, cast, deposit or allow to accumulate, any of the following:
- (1) any decomposable organic matter, which might create a nuisance or act as a breeding place for flies or bugs or as food rats or vermin; or
 - (2) any rubbish, garbage or waste materials.
 - (3) any discarded material or thing that is capable of holding water, which might serve as a breeding place for mosquitoes or harbor vermin; or
 - (4) any combustible matter or material which might create a fire hazard; or
 - (5) any junk vehicle; or
 - (6) any junk mobile home; or
 - (7) any discarded material or thing which tends to produce an unsightly and disagreeable appearance, objectionable to the neighborhood.
- (C) No person shall throw, cast deposit or allow to accumulate any junk. As defined herein, unless such person has a valid special use permit from the Village of Allegany for a recycling center.
- (D) No person shall throw or place any papers, trash, garbage, rubbish or junk in any street or street right-of-way, park, creek or creek bank, or any other public lands, except at the time and matter provided for the collection of garbage.
- (E) No person shall allow or permit the continuance of a public nuisance affecting health, as defined herein.

(F) Exceptions. Nothing in this section shall be construed to prohibit the temporary storage of garbage or rubbish awaiting removal, provided that such storage is in receptacles that meet the requirements of this local law; nor shall this section be construed to prohibit the depositing of manure or fertilizers upon private property for the purpose of cultivating or improving the same.

Section 7. Litter

Residential premises and commercial and industrial establishments shall be maintained free of litter; provided however, that this section shall not prohibit the storage of garbage and rubbish for a reasonable period time prior to collection, in receptacles that meet the requirements of this local law.

Section 8. Furniture Used Out-of doors

All furniture that is used out-of-doors shall be suitable for such use, both in terms of the condition of such furniture and the purpose for which the furniture was originally intended or manufactured. Furniture used out-of-doors shall be in good repair and shall not be dilapidated. If upholstered, the springs, stuffing, frame and/ or other parts of the interior materials shall not be visible. Furniture used out-of-doors shall not be in such a condition that it either harbors, or has the potential to harbor, insects, fleas, rodents, mold, bacteria, or other nuisances.

Section 9. Infestation and Screening

(A) Yards, grounds, buildings and structures shall be maintained free of insects, vermin, rodents and other infestations. Methods used for exterminating infestations shall conform to generally accepted practice.

(B) Where the potential for rodent or other infestations exists, windows and other opening in basements and cellars shall be appropriately screened with wire mesh or other suitable materials.

Section 10. Garbage and Rubbish

(A) General Standards

1. Garbage and rubbish shall be regularly collected and removed from the premises.
2. No person shall place, or cause to be placed, garbage or rubbish out for pick-up prior to twenty-four hours before the scheduled pickup time.
3. Adequate sanitary facilities and methods shall be used for the collection, storage, handling, and disposal of garbage and rubbish in accordance with the provision of applicable codes.

4. Nothing in this local law shall prohibit a person from placing garbage and trash out for curbside pick-up in plastic bags or from placing recyclables out for curbside pick-up in containers approved for such use by the Building Officials, provided, however, that the materials are not placed out for pick-up more than twenty-four hours before the scheduled pick-up time.

(B) Commercial and Industrial Establishments and Multiple Family Dwellings

1. No open storage of garbage or rubbish shall be permitted, except in a fully enclosed container (s). Containers shall be made of metal, heavy-duty plastic or similar material as may be approved by the Village of Allegany's Building Official. Containers shall be sturdy enough to prevent the entrance of raccoons, rats, dogs, and other animals. If a dumpster is used, the lid shall be kept closed except when garbage or rubbish is being placed inside it.
2. The area used for the placement of dumpsters or other approved garbage/rubbish containers shall be fenced or otherwise screened from view from public streets.

(C) Single Family and Two-Family Residential Premises

1. No garbage or rubbish shall be permitted, except in tightly sealed containers that do not allow the entrance of vermin, raccoons or other animals. Containers shall be made of metal, heavy-duty, or similar material as may be approved by the Village of Allegany's Building Official.

Section 11: Unlicensed Vehicles and Junk Vehicles

- (A) The open storage of junk vehicles and unlicensed vehicles is prohibited. Junk vehicles or unlicensed vehicles may be stored in legal, fully enclosed structures.

(B) Expectations

- (1) Unlicensed vehicles in operating condition may be stored outdoors, for up to six (6) months, by or for the owner, if both of the following conditions apply:
 - (a) The vehicle is not stored in front yard, and
 - (b) The vehicle is for the personal use of the occupant, or of an immediate family member of the occupant, of the premises on which the vehicle is stored.

- (2) The resident of the property has a valid storage permit for the unlicensed vehicle.
- (3) The resident of the property has a valid restoration permit for the vehicle.
- (4) An automobile dealer licensed by New York State, and who is conducting business in accordance with the regulations of the Village of Allegany zoning law, is permitted to have unlicensed vehicles for sale on the lot where the business is conducted. All vehicles shall be in condition for use on the public highways.
- (5) An automobile repair shop licensed by New York State, and who is conducting business in accordance with the regulations of the Village of Allegany zoning law, may have disassembled vehicles awaiting repair. These vehicles shall be repaired and be in condition for use on the public highways within 90 days of the date on which they were first brought to the site.
- (6) The Village of Allegany's impound lot is exempt from these regulations.

(C) Unlicensed Vehicle Storage Permits

- (1) The open storage of unlicensed vehicles for longer than six months is prohibited, unless the occupant of the premises obtains an Unlicensed Storage Permit from the Village of Allegany. The occupant of the premises shall apply to the Code Enforcement Officer for a permit to store such vehicle. The Code Enforcement Officer may grant such a permit, for a period not to exceed one year, if the applicant shows that the owner of the unlicensed vehicle is a resident of the property and that at least one of the following situations applies to the owner of the unlicensed vehicle:
 - (a) A full time student who is attending a school, college, or university
 - (b) A member of the United States Armed Forces
 - (c) Suffering from an injury or illness requiring hospitalization or confinement to a bed
- (2) A valid permit to allow the storage of an unlicensed vehicle shall require that the vehicle not be stored in the front yard, as defined herein, and shall have a term for the permit. Upon expiration of the permit, the vehicle shall be licensed or removed, or the owner may apply for an extension of the permit.

(D) Restoration Permits

- (1) A person may apply to the Code Enforcement Officer for a restoration permit. The restoration permit will allow the open storage and repair of one junk or unlicensed vehicle. The repairs shall be for the purpose of restoring the vehicle to a condition such that it may legally be operated on public highways.
- (2) The Code Enforcement Officer may issue that restoration permit only if all the following conditions are met:
 - (a) The vehicle is for the personal use of the occupant of the property on which the vehicle will be located and the vehicle is not being restored for commercial purposes.
 - (b) Vehicle is in an enclosed structure during periods of restoration and is not stored in the front yard the remainder of the time.
 - (c) Noise and other nuisances associated with the restoration shall be limited to between the hours of 7:30 a.m. through 9:00 p.m.
- (3) The Restoration Permit shall be valid for a period of six months. The applicant may apply for an extension of the permit, for up to an additional six months. The Code Enforcement Officer may issue an extension, provided that sustained and continuous progress in restoring or repairing the vehicle is being made.

- (E) Pre-existing junk vehicles and unlicensed vehicles.** All junk and unlicensed vehicles existing at the effective date of this local law shall be brought into compliance with this section within (30) days from the date of notification by the enforcement official.

Section 12. Duties of Owners and Occupants

- (A) An occupant or tenant of the premises shall be responsible for compliance with this law, as if he/she were an owner.
- (B) Owners of premises shall be responsible for compliance with the provisions of this law and shall remain responsible therefore regardless of the facts that this law may also place certain responsibilities on tenants or occupants and regardless of any agreements between owners and tenants or occupants as to which party shall assume such responsibility.
- (B) Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the Village as executor, administrator, trustee, guardian, operator or agent, such person shall be deemed and taken to be the owner or owners of said property within the true intent and meaning of this

law and shall be bound to comply with the provision of this law to the same extent as the owner of record. 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 owner(s) of record of such property. In instances where an occupant is responsible or shares responsibility with the owner for the existence of one or more violations of this law, such occupant shall be deemed and taken to be an owner within the true intent and meaning of this law.

Section 13. Administration and Enforcement

(A) Enforcement Official

The Code Enforcement Officer is hereby designated to be the Village enforcement official, who is charged with the administration and enforcement of this local law. The Village Board may designate other officials to help in the enforcement of the provisions of this law.

(B) Complaints

- (1) Any person may file a complaint with the enforcement official that a violation of this law may have taken place or is allegedly taking place. All complaints shall be in writing and shall specify the property on which the alleged violation has occurred.
- (2) The enforcement official shall record and investigate any such complaint.
- (3) The enforcement official may also investigate any alleged violation that he or she has reason to believe has occurred or is occurring.

(C) Inspection

- (1) Whenever a complaint has been filed, or whenever it shall appear that the provisions of this local law are being violated, the enforcement official, except in cases where the alleged violation is in plain view and/or where no entry is necessary, shall obtain approval from an owner, lessee, agent, tenant, or other person with authority, to make an inspection of the property.
- (2) Following the inspection of the property, the enforcement official shall file a written report, which details the findings of his/her inspection, with the Village Clerk and with the Village Board of Trustees. If the inspection was the result of a complaint, a copy of the report shall be sent the person who filed the complaint.

- (3) A search warrant may be obtained from the local court pursuant to NYS Criminal Procedure Law 690.

(D) Notice of Violation

- (1) If the enforcement official finds that a violation of this local law exists on the property, he/she shall prepare a written Notice of Violation which shall contain the following information:
 - (a) The name of the owner or occupant to whom the Notice shall be addressed
 - (b) The location of the premises involved in the violation
 - (c) A statement describing the condition of the premises at the time of the inspection, and showing in which way the premises is in violation of this local law
 - (d) A demand that the violation be remedied to comply with this local law within 10 days of the date of the Notice of Violation.
 - (e) A statement that a failure or refusal to comply with the provisions of this chapter and the notice given pursuant thereto within the time specified may result in a duly authorized officer, agent or employee of the Village entering upon the property and removing said violation for example: junk, garbage, litter, waste material, etc. and causing the same to be disposed of or otherwise destroyed; and that the cost and expense of such removal and disposal or destruction shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.
- (2) The Notice of Violation shall be served by personal service or by certified mail, return receipt requested, upon the owner or owner's agent as well as upon the lessee or occupant of said premises.
- (3) Said notice shall also contain the date, time, and location at which the Village Board will conduct a public hearing to determine whether the conditions upon the subject property constitute a public nuisance. Said notice shall state that the property owner, his/her agent, lessee or occupant is entitled to be heard at such hearing and present evidence or testimony. The date of such public hearing must be at least 10 days after service or mailing of the notice of violation. Notice of the public hearing shall be published in a paper of general circulation in the Village at least five (5) days prior to the date of the hearing.
- (4) Nothing contained herein shall require notice as a prerequisite to the issuance of a summons or appearance ticket for a violation of this chapter.
- (5) **Extension.** Upon application of the owner or occupant showing reasonable cause, the enforcement official may grant an extension of up to

thirty days for the owner or occupant to comply with the demands of the Notice of Violation.

(E) Second Inspection Report

On or before the date of the public hearing and prior to commencement of the public hearing, the enforcement official or duly authorized officer or employee shall conduct a second inspection of the property and file with the Village Board a written report of the conditions deemed in violation of this chapter found thereon. Such inspection shall be conducted as close to the date of the public hearing as practicable.

(F) Declaration of public nuisance; remediation

At the close of the public hearing, the Village Board may determine that the conditions upon the subject property which violate this chapter constitute a public nuisance. Upon a determination by the Village Board that conditions upon the property constitute a public nuisance, the Village Board is empowered to authorize officers, agents or employees of the Village to enter onto the property to remove any vehicle, waste material, garbage, junk, or rubbish stored, deposited, placed or maintained in violation of this chapter and dispose of or otherwise destroy same. Any costs and expenses incurred by the Village when acting pursuant to this chapter to abate a public nuisance shall be assessed against the property involved and shall constitute a lien thereon to be collected as provided by law.

(G) Enforcement

- (1) The enforcement officer is hereby authorized, pursuant to Criminal Procedure Law Section 150.20 (3), to issue an appearance ticket to any person whom the enforcement office has reason to believe has violated this law, and shall cause such person to appear before the court of competent jurisdiction.
- (2) The Village Board reserves the right to seek a court order to have the violation corrected by the Village. The expense thereof shall be charged to the property so affected by including such expense in the next annual tax levy against the property.

(H) Penalties

- (1) Any violation of this local law is an offense punishable by a fine not less than \$50.00 and not to exceed the sum of \$250.00. Each week that a violation continues shall constitute a separate offense.

- (2) The Village Board may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel with or restrain by injunction the violation of any provision of this law.

Section 14. Fees

The Village Board of Trustees may set reasonable fees to cover the cost of issuing any permits required by this local law.

Section 15. Separability

Each separate provision of this local law shall be deemed independent of all other provisions therein, and if any provision shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 16. Effective Date

This local law shall take effect immediately upon filing with the New York State Department of State.