

LOCAL LAW NO. A-2020

TOWN OF VANBUREN

A LOCAL LAW TO REPEAL AND REPLACE CHAPTER 145 OF THE CODE OF THE TOWN OF VAN BUREN RELATIVE TO PROPERTY MAINTENANCE AND CONTROLLING JUNK

Be it enacted by the Town Board of the Town of Van Buren as follows:

SECTION 1. LEGISLATIVE PURPOSE AND INTENT

The purpose of this Local Law is to provide for regulations relative to property maintenance and controlling of rubbish, junk, and yard waste in a manner that preserves the health, safety and welfare of Town residents.

SECTION 2. AUTHORITY

This local law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

SECTION 3. REPEAL AND REPLACEMENT OF CHAPTER 145 OF THE CODE OF THE TOWN OF VAN BUREN

Chapter 145 of the Code of the Town of Van Buren is hereby repealed and replaced as follows:

“CHAPTER 145

PROPERTY MAINTENANCE AND CONTROLLING JUNK

- § 145-1. Declaration of purpose and application
- § 145-1A. Conflicting Provisions
- § 145-2. Definitions
- § 145-3. Prohibited Acts
- § 145-4. Exclusions and Exceptions
- § 145-5. Duty of Owner
- § 145-6. Penalties
- § 145-7. Notice of Failure to Comply

§ 145-8. Work Done by Town; Costs to Become Lien

§ 145-9. Authorization to Remedy Emergency Conditions; Expense

GENERAL REFERENCES

TOWN OF VAN BUREN CODES: Ch. 96 -Unsafe buildings, Ch. 115 –Fire Prevention and Building Code Administration, Ch. 129 -Littering and Dumping, Ch. 149, §130(16) authorizes the use of self-help provisions relating to unsafe buildings, Ch. 162-Solid Waste, Ch. 166- Storm Sewers, Ch. 175 -Subdivision of land, Ch. 194 –Water, Ch. 200- Zoning, GML Town Law §64(5-a), NYS Uniform Fire and Building Code, Section 302.8 Motor Vehicles, Exception A of NYS Uniform Fire and Building Code, NYS Vehicle & Traffic Laws, Property Maintenance Code of NYS, and NYS Agricultural and Markets Law.

§ 145-1. Declaration of purpose and application.

- A. It is hereby declared to be the policy of the Town of Van Buren (hereinafter the “Town”) to provide for the proper use of land to prevent unhealthy, hazardous, or unsightly conditions due to the accumulation of yard waste, weeds, junk, garbage, rubbish, litter, debris and construction equipment, in order to protect the public health, safety and general welfare of the residents of this Town. This Chapter is intended to provide to the residents of the Town, and to the owners and occupants, the responsibilities of the minimum requirements and standards in order to protect the public health, safety and general welfare of the residents of the Town insofar as they are affected by the occupancy and maintenance of structures, equipment and exterior property.
- B. The Town hereby declares that a clean and wholesome environment is of vital importance to the continued general welfare of its citizens, and that the regulation of the deposit, accumulation or maintenance of junk regardless of the quantity is hereby prohibited. By adoption of this Chapter, the Town declares its intent to preserve and promote a reasonable quality of environment and aesthetics and to prohibit actions and conduct that tend to depreciate not only the property on which it is located but also the property of other persons in the neighborhood and the community generally. It is the Town’s expressed desire and intent that residents and/or property owners comply with all Town codes so as to maintain clean, safe and sanitary properties, and property values of all parcels.
- C. By this Chapter, the Town seeks to remove such threats to health, life, property, and property values by requiring owners of land to take remedial action to cut, trim or remove brush, grass, rubbish and/or weeds, and remove all types of junk and construction equipment, as described in the definitions section below, and to further refrain from placing such items in a public right of way or easement, for prevention from being carried away or disrupted by animals and the elements.
- D. All structures and premises located within the Town, whether occupied or vacant, shall be maintained in conformity with the currently enacted Property Maintenance Code of New

York State, and the standards set out in this Chapter so as to assure that none of these structures or premises will adversely affect their immediate neighbors or neighborhood, or the larger community.

- E. It is the Town's desire that residents and/or property owners comply with Town codes and comply with the violation notices and time frames rather than having to force compliance through legal means and actions. It is the expressed desire and intention of the Town to give the resident and/or property owner the opportunity to rectify any code violation based upon a warning notice of the violation within a period of Thirty (30) days from the courtesy warning notification. The warning notification may be a courtesy phone call; a letter sent regular mail or a visit from the Codes Enforcement Officer. The first notification of violation following the warning will be served as described in Section 145-7. If the resident and/or property owner fails to rectify the violation within the 'warning' time frame, then the violation time frame shall be considered to have commenced on day Thirty one (31) following the 'warning period' which will be considered the date of the initial notification of the violation by the Town Official.

§ 145-1A. Conflicting Provisions.

The provisions of this law shall apply in addition to the provisions of any other local law or ordinance adopted by the Town. Where there is a conflict the more restrictive provision shall apply. The provisions of this law shall also be applicable to conditions existing at the time of enactment.

§ 145-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ANTIQUÉ MOTOR VEHICLE – A motor vehicle, but not a reproduction thereof, manufactured more than twenty-five years prior to the current year, which has been maintained in or restored to, or will be maintained in or restored to a condition which is substantially in conformance with the manufacturer's specifications.

BRUSH – Uncultivated woody shrubs and/or immature trees.

CLASSIC MOTOR VEHICLE – A motor vehicle, but not a reproduction thereof, manufactured more than ten years prior to the current year and which because of discontinued production and limited availability, is considered to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored to a condition which is substantially in conformity with the manufacturer's specifications and appearance.

CONSTRUCTION/DEMOLITION DEBRIS – Includes but is not limited to brick, stone, lumber, pipes, cement, and other building materials no longer intended for or in condition for ordinary use.

CONSTRUCTION EQUIPMENT – Shall include but is not limited to backhoes, cement mixers, loaders, excavators, skid steers, and dump trucks over ten thousand (10,000) pounds.

GARBAGE – Animal, food, and vegetable waste resulting from the growing, handling, processing, cooking and serving of foods, marketing and preparation, and storage, sale, of food items, including containers in which it is packaged and clippings and old matter from flower gardens.

GRASS – Herbaceous ornamental plants intended to be periodically cut close to the ground for the establishment of a lawn or ground covering, and may also be used as ground covering for the establishment of drainage swales, flood routes or water detention basins.

JUNK – Worn out, discarded, inoperable, abandoned, irreparably damaged, unusable, scrapped materials of little or no value, including but not limited to: small and large appliances, furniture, manufactured and/or mobile homes, motor vehicles, accessory vehicles, seasonal vehicles such as campers, RVs (recreational vehicles), watercraft, ATVs (all-terrain vehicles), swimming pools, hot tubs, spas, and tires as well as scrap metal waste which is stored outside of any residence or enclosed structure.

JUNK MOBILE OR MANUFACTURED HOME – Abandoned for seven (7) months or more or discarded structure, or part thereof, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or 40 body feet or more in length, or, if erected on a site, is 320 or more square feet, and which is built on a permanent chassis or foundation/slab and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. To qualify as a Junk Mobile or Manufactured Home, the dwelling must meet two out of three of the following:

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.

JUNK MOTOR VEHICLE – Any motor vehicle or used parts or waste materials from motor vehicles which, taken together, equal in bulk one or more such vehicle, which is:

1. Unlicensed or unregistered, or uninspected; or
2. Abandoned, wrecked, stored, discarded, dismantled, or partly dismantled; or inoperable, or
3. Being used for any and all purposes other than as a motor vehicle, or
4. Not in condition for legal use upon the public highways.

JUNKED/SCRAPPED WATERCRAFT – Any abandoned or discarded boats (including motorized and non-motorized), canoes, kayaks, and jet skis, all of which may or may not be required to be licensed and which are unusable due to mechanical defects.

MOTOR VEHICLE – Any vehicle as defined by New York State Vehicle and Traffic Law which is required to be licensed including all vehicles propelled or drawn by power other than muscular power originally intended for use on public highways, including but not limited to automobile, bus, trailer, truck, tractor, motor home, RV, motorcycle and mini-bike. The vehicle shall not be, at any time, in a state of major disassembly, disrepair or in the process of being stripped or dismantled.

NOXIOUS PLANTS – Those plants that are dangerous to the physical health of humans, animals, or plants or capable of causing damage to humans, animals, or plants. Noxious plants shall include but are not limited to: poison ivy, poison oak, and poison sumac.

OWNER – Includes an individual or individuals, society, club, firm, partnership, corporation or an association of persons, and the singular number shall include the plural number.

OWNER OF A MOTOR VEHICLE – A person, other than a lien holder, having possession or title to a motor vehicle. The term includes person entitled to the use and possession of a motor vehicle subject to a security interest in another person and also includes any lessee or Bailee of a motor vehicle having the exclusive use thereof, under a lease or otherwise, for a period of thirty (30) days or greater.

RUBBISH–

A. Shall include but is not limited to the following:

1. Lumber, junk, debris, building, construction or demolition materials/debris, or any other deleterious materials.
2. Any abandoned, discarded or unused objects or equipment, such as, but not limited to, automobile parts, furniture, stoves, refrigerators, freezers, appliances, cans, containers, vehicle tires, inoperable lawn and snow equipment whether motorized or not, and any lawn furniture, or children’s play or playground equipment, swimming pools, hot tubs and spas, and any and all tangible personal property no longer intended or in condition for ordinary and customary use.
3. Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or gas, or attract rodents, vermin or other disease-carrying pests, animals, or insects.
4. Any unsanitary matter or materials.
5. Solid waste and garbage.

B. However, for purposes of this Chapter, the term “rubbish,” shall not include any of the foregoing if stored within enclosed containers.

SEASONAL MOTOR VEHICLE – A vehicle to be used during a specific time period in the Town as per ‘typical’ seasons, such as but not limited to: (1) running from April 16 to October 31 and, (2) only during the Town determined “winter parking season” which runs from November 1 to April 15. Such seasonal vehicles may include but are not limited to, a motor vehicle with or without a removable roof, Jet Ski, a boat whether or not motorized, ATV, snowmobile, and snowplow truck less than 10,000 lbs. and recreational vehicle.

SOLID WASTE – As defined in § 162-2 of the Town of Van Buren Code and those materials specified in 6 New York Code of Rules and Regulations Part 360-1.2 as the same may be amended, superseded, or replaced.

YARD WASTE – Vegetative or organized plant materials resulting from lawn maintenance or other horticultural gardening or landscaping activities and includes but is not limited to grass, leaves, pruning, brush or shrubbery or portions thereof severed from their roots, or uprooted trees, brush, shrubs, and tree trimmings/limbs up to four (4) inches in diameter, Christmas trees and garden materials.

WEEDS – Wild, useless, uncultivated plants and vegetation growing at random in inappropriate locations and at the whim of nature in locations not specifically intended.

WORKING/FARM OPERATION – Shall have the same meaning as set forth and defined by the New York State Agriculture and Markets Law.

§ 145-3. Prohibited Acts

- A. It shall be unlawful for any person to store, deposit, place or maintain or cause or permit to be stored, deposited, placed or maintained outdoors, any “Junk”, “Rubbish”, “Yard Waste” as described in the definitions section above, upon any private or public property within the Town.
- B. It shall be unlawful for any person to use a bus, uninhabited mobile home, truck or horse trailer, semi-trailer, tank truck, motor home or flatbed trailer or similar vehicles or units for the storage of junk or rubbish on any premises or when actively used in connection with active farming or agricultural operations.
- C. No outside storage of automobile parts, dismantled vehicles, tires, construction equipment or similar articles will be permitted. However, the restoration of vehicles may be done in residential areas, but only when performed within an enclosed building or enclosure such as but not limited to a garage, barn, or shed and is not a commercial activity.
- D. No more than one (1) Junk Motor Vehicle may be stored outdoors on a property for a period not to exceed six (6) months provided the vehicle is fully covered by an appropriate motor vehicle covering. Based upon extenuating circumstances an

individual may submit a request to the Code Enforcement Officer for an extension of an additional six (6) month period.

- E. General Prohibition: Except as provided in this Chapter or otherwise authorized by resolution of the Town Board, no person shall place, or cause to be placed, any rubbish, junk, refuse or other waste materials on or within any road right-of way, easement, sidewalk, public walkway, park, drain, ditch, watercourse, body of water, wetland, or any municipal property.

§ 145-4. Exclusions and Exceptions.

A. The following instances of storing ordinary household items are exempted from the above prohibitions set forth in § 145-3:

1. Wood intended for consumption in a wood burning stove, furnace, fireplace, or outdoor fire pit located on the property/premises or in a building on the premises.
2. Usable lawn and/ or patio furniture.
3. Operable farm, garden and yard machinery and apparatuses used on the premises.
4. Operable hoses and sprinklers used for watering lawns or gardens.
5. Storage or placement and accumulation of materials in connection with a commercial operation duly conducted on the premises in accordance with the laws of the Town.
6. Construction materials and equipment used for the construction or renovation of building on the premises for which a building permit has been issued.
7. Junked motor vehicles and junked scrapped watercraft may be located on a property for a maximum of six (6) continuous months but must be either in an enclosure or fully covered.

B. Nothing in this Chapter shall be construed to prohibit the minor maintenance or repair of a motor vehicle on a property where the work is performed either by the property owner or occupant of the property.

C. Nothing in this Chapter shall be construed to prohibit the maintenance of compost or mulch piles, provided that no garbage other than kitchen vegetable scraps and yard or garden waste is deposited in such piles, and further provided that such compost or mulch piles do not develop obnoxious odors, attract rodents or obnoxious insects, or otherwise create a hazard to the health and enjoyment of neighboring property owners, and

additionally the compost piles shall not be closer than three (3) feet from either the rear or side yards and shall not be in the front yard.

- D. The provisions of § 145-3 of this Chapter related to the growth of yard waste or weeds shall not apply to any lots or land which are under cultivation in a good or husbandry-like manner, from which crops are regularly grown for actual use, to drainage areas or natural open space areas, or to a section of a subdivision which is actively under construction and is less than 75% complete.
- E. A person wishing to display for sale on their property an unregistered motor vehicle, must have a for sale sign in the vehicle at all times and the vehicle may be for sale for a maximum of six (6) months. No more than two vehicles may be sold on a property within a calendar year.

§ 145-5. Duty of Owner.

- A. It shall be a violation of this Chapter for the owner of any lot within the Town to permit or maintain on any such lot or land, inclusive of the land between the curb line and lot line, any growth of brush, grass, noxious plants, or weeds higher than Ten (10) inches on the average.
- B. As used in this section, the term “lot” shall mean a building lot designed to be occupied by one or more structure(s) regardless if occupied, vacant or abandoned. Owners and/or occupants of a property with a lot size of one (1) acre or larger, must maintain and mow the grassed area in the front and side yards and to the rear lot line of the property or to a depth of at least equal to seventy five (75) feet beyond the rear line of the dwelling house or building, whichever is less.

§ 145-6. Penalties.

- A. Each violation of this Chapter shall be punishable by a fine not to exceed \$250 per day, imprisonment up to 15 days, or both. Each day’s violation shall be considered a new and separate offense subject to a separate penalty.
- B. Any person who violates any provision of this Chapter for a second time within one year from the date of a prior conviction for a violation of this Chapter shall be subject to a fine not to exceed \$500 per day, imprisonment up to 15 days, or both.

§ 145-7. Notice of failure to comply.

- A. The Code Enforcement Officer, or such other title as may be given by the Town Board, is empowered to enforce the provisions of this Chapter and to issue and serve appearance tickets and such other process as may be required and/or authorized by these regulations or the Criminal Procedure Law in the course of such enforcement proceedings. Any enforcement action or proceeding may be commenced upon the personal knowledge of the Code Enforcement Officer or upon the sworn statement of another individual.

- B. If any of the provisions of this Chapter are not complied with, following the warning notification, the Code Enforcement Officer shall serve written notice and an order to remedy such violation via the following means:
1. Personally upon the owner of the property;
 2. Send it by certified mail, return receipt requested;
 3. By regular mail addressed to the last known address of the owner; or
 4. Post the written notification in a conspicuous place on the property.
- C. Service of notice upon any owner of land, or the designated person to receive process as provided by law, shall suffice for the purposes of this section. Service of such notice shall not, however, be a required prerequisite to the prosecution of any violation of this Chapter in any court of competent jurisdiction.
- D. All complaints must be in writing and signed by the complainant. The statement must also give permission to the Codes Enforcement Officer, or other Town Official, to enter the complainant's property so as to view the offending property as contained in the complaint.

§ 145-8. Work done by Town; costs to become lien.

- A. If the owner upon whom the notice is served fails, neglects or refuses to comply with said notice within 10 days after the service of such notice, or if such notice was served by posting upon the premises, then within 15 days after such posting:
1. The Town shall cause such noncompliance to be remedied; and
 2. All expenses incurred in such work shall:
 - a. Be certified by the Town Officer or employee overseeing the work to the Town Clerk/Receiver of Taxes; and
 - b. There upon become and be a lien upon the property on which such work was performed; and
 - c. Be added to and become part of the taxes next to be assessed and levied upon such lot or land; and
 - d. Bear interest at the same rates as taxes and shall be collected and enforced by the same officer and in the same manner as Town taxes.
- B. This remedy is available to the Town in addition to such penalties and enforcement proceedings as are otherwise authorized under this chapter.

§ 145-9. Authorization to remedy emergency conditions; expense.

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property unless an unsafe condition is immediately remedied, removed or repaired, the Town Board may, by resolution, authorize the Code Enforcement Officer to immediately cause the remedy, removal or repair of such unsafe condition. The expense of such remedy, removal or repair shall be a charge against the property on which it is located and shall be assessed, levied and collected as provided in § 145-8.”

SECTION 4. SEVERABILITY.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

SECTION 5. EFFECTIVE DATE.

This Local Law shall be effective upon filing with the office of the Secretary of State.