

**VILLAGE OF HOBART LOCAL LAW #1, 2010
BRUSH, GRASS, RUBBISH AND WEED CONTROL**

1. Title

This Local Law shall be known as the "Brush, Grass, Rubbish and Weed Control Local Law of the Village of Hobart.

2. Declaration of Policy

- A. It is hereby declared to be the policy of the Village Board of the Village of Hobart to provide for the proper use and maintenance of land to prevent unhealthful, hazardous or dangerous conditions resulting from the accumulation of brush, grass, rubbish or weeds, or the growth of harmful or poisonous shrubs or weeds, or unsafe, unoccupied, or abandoned buildings, and to protect the public health, safety and general welfare of the residents of this village. Local Governments are responsible for administering the State's Property Maintenance Code in their jurisdiction. This local law will allow the Village Government to fulfill this obligation by providing the village a format to enact and administer the State's Property Maintenance Code. It will also serve as a way for village officials to reinforce the Public Health Law Article 13 and the Common Law of Public Nuisance, if necessary. It is not the intention of this law to enhance the general looks of the village, but to place this law into effect for public health reasons that may arise.
- B. By this Law the Village Board seeks to remove such dangers to health, life and property by requiring owners of land to cut, trim or remove brush, grass, rubbish or weeds, or to spray with herbicides, and cut, trim, remove or destroy poisonous shrubs, or weeds, and, upon default of the owner to do so, cause the same to be done and assess the costs against the real property(s) on which such brush, grass, rubbish, shrubs or weeds are found.

3. Definitions

The following terms shall have the meanings indicated:

"Owner" includes the following:

- A. The owner of real property/properties on which any brush, grass, rubbish or weeds ordered cut, trimmed or removed pursuant to this Local Law is located, or upon which any harmful or poisonous weeds or shrubs ordered cut, trimmed, removed or destroyed are located.

- B. The owner of the real property(s) immediately fronting on a portion of any highway, street or road of the Village of Hobart upon which portion any rubbish ordered removed pursuant to this Chapter is located.

“Rubbish” includes the following:

- A. Refuse, garbage and discarded matter;
- B. Tree trimmings, or trees or portions thereof severed from their roots, or uprooted; (with the exception of firewood) and
- C. Brush or shrubbery trimmings, or bush or shrubbery, or portions thereof, severed from their roots, or uprooted.

“Unoccupied Building” includes the following:

- A. Any building or part thereof which remains unoccupied for a period of more than ninety (90) days with either doors, windows or other openings broken, removed, boarded or sealed up.
- B. Any building under construction upon which minimal or no construction work has been performed for a period of more than ninety (90) days.

4. Duty of Owner or Occupant

It shall be the duty of any owner or occupant or person having control of any lot or plot of land in the Village of Hobart to cut and remove, or cause to be cut and removed, all brush, grass, rubbish and weeds or other harmful or poisonous vegetation as often as may be necessary to comply with the provisions of this Local Law. All premises and immediate exterior property shall be maintained free from grass or weeds in excess of ten (10) inches, rubbish and harmful or poisonous vegetation. Any lot or plot of land situated at street intersections or curved streets shall be kept in such condition as to give a clear and unobstructed view of the intersection or curve.

- A. Exception: This rule shall not be construed to prevent the raising of garden or cultivated crops on farmlands or to unreasonably require the cutting of grass and brush on undeveloped areas except within 200 feet of improved properties.

5. Inspection and Report

Upon receipt of a written complaint that there exists an unhealthful, hazardous or dangerous condition due to the accumulation of brush, grass, rubbish or weeds, or an accumulation of poisonous or harmful shrubs, weeds or other vegetation upon any property within the Village of Hobart, the Code Enforcement Officer (CEO) or the Supervisor of DPW shall make or cause to be made an inspection of the subject property.

A written report of such inspection shall be made and maintained in the Village Clerks Office. Copies will be transmitted to the Mayor and all members of the Village Board.

6. Regulation by Village

After review of such complaint, the Mayor and the Village Board shall make a determination as to whether unhealthful, hazardous, or dangerous conditions exist due to an unoccupied building, or the accumulation of brush, grass, rubbish or weeds, or a growth or accumulation of poisonous or harmful shrubs or other vegetation upon property within the village. Upon making an affirmative determination, the Code Enforcement Officer shall serve or cause to be served the notice as herein provided, upon the owner(s), occupant(s) or person(s) having control of such property/properties in person or by regular mail or certified mail, return receipt requested.

7. Contents of Notice and Order

Such notice shall contain a description of the premises, a statement of the particulars in which the premises is unhealthful, hazardous or dangerous, and shall contain an Order of the Code Enforcement Officer requiring abatement of the conditions stated in the Notice, stating a time for the completion of such abatement. The Order shall state that such abatement must be completed within seven (7) days of the service of the Notice and Order.

8. Compliance Required

Any person, corporation or association being the owner of real property in the Village of Hobart shall be required to cut, trim or remove brush, grass, rubbish or weeds or poisonous or harmful vegetation or to correct any unhealthful, hazardous or dangerous situation upon their lands when ordered to do so by the Code Enforcement Officer and upon receipt of the Notice and Order provided herein.

9. Failure to Comply

Whenever a Notice and Order provided herein has been served upon such owner(s), occupant(s) or person(s) having control in the manner required, and such person shall fail to comply with the requirements of such Notice and Order within the time provided, the Code Enforcement Officer shall direct that a Notice of Hearing shall be issued and served upon the property owner(s), occupant(s) or person(s) having control directing that person or entity to appear before the Village Board.

10. Hearing

At least seven (7) days written notice of the hearing shall be given to the owner(s), occupant(s) or person(s) having control and other interested parties. The Notice shall state the time, date and place of a hearing to be conducted to review the determination of

the Code Enforcement Officer that such unhealthful, hazardous or dangerous conditions exist and that appropriate enforcement action will be considered. The owner(s), occupant(s) or person(s) having control and other interested parties may attend the hearing, be represented by counsel, offer evidence and call witnesses on their behalf. The hearing shall be conducted by the Village Mayor.

If the hearing results in a determination that unhealthful, hazardous or dangerous conditions exist and that the owner(s), occupants(s) or person(s) having control has willfully failed to abide by the Notice and Order of the Village Board, the Mayor may direct the performance of appropriate remediation work by Village employees or agents.

11. Performance of Work by Village

Upon authorization from the Mayor, village employees or agents shall enter upon the subject property and perform such remediation work as is required to alleviate the unhealthful, hazardous or dangerous conditions that have been found to exist.

12. Reimbursement for Costs: Assessment upon Real Property

The Village shall be reimbursed for the reasonable cost of the work performed or services rendered by village employees or agents at the direction of the Mayor and Village Board. Such cost shall include all costs related to ascertaining the identity and location of the owner(s), occupant(s) or person(s) having control of the property, service of Notices required hereunder, the performance of remediation work on the property by village employees and the removal and disposal of brush, grass, or rubbish. The expenses so determined shall be reimbursed to the village by means of assessment and levy upon the land whereon such work was performed or such services rendered, and such expenses shall constitute a lien and a charge on the real property on which it is levied and shall be collected in the same manner and at the same time as other village taxes.

13. Interference with Village Employee or Agent

It shall be unlawful for any person to resist, obstruct, or interfere with any village employee or agent engaged in the performance of remediation work ordered by the Mayor and Village Board of the Village of Hobart.

14. Repeat Offenses

The owners(s), Occupant(s) or person(s) having control over the land or property found to be in violation of this Local Law, after the hearing provided for herein, shall not thereafter be entitled to further hearings for subsequent offenses in the same calendar year. Repeat or subsequent offenses occurring within the same calendar year on the same property shall be corrected by the village, or its agent, without notice to the owner(s), occupant(s) or person(s) having control of the property. After initial notification and a hearing, such owner(s), occupant(s) or person(s) having control of the property will be

presumed to have been given sufficient notice of violation of this Local Law for the duration of the calendar year.

15. Prohibited

No owner(s), occupant(s) or person(s) of any lot or plot of land in the village shall throw, cast deposit or allow to accumulate thereon any decomposable organic matter which might create a nuisance or act as a breeding place for flies or bugs or as food for rats or vermin; or any trash or discarded material or thing, capable of holding water, which might serve as a breeding place for mosquitoes; or any combustible matter or material which might increase the fire hazard in his or neighboring property; any weeds, high grass, trash, rubbish, junk or any discarded material or thing which tends to produce an unsightly, disagreeable appearance objectionable to the neighborhood.

- A. Exceptions: Notwithstanding the provisions of this section, nothing herein contained shall be construed to prohibit the proper and temporary accumulation in suitable containers of garbage, ashes, refuse, etc., for collection or the depositing of manure and/or compost for the immediate or reasonable cultivation of land or gardens; or the lawful collection and storage of junk by regularly licensed junk dealers; or for agricultural practices that would constitute farming practices as described and defined by the Department of Agriculture and Markets.

16. Validity

If any article, section, subsection, paragraph, sentence, clause, phrase or provision of this Local Law shall be, for any reason, held or adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall not affect the validity and enforceability of the remainder of this Local Law.

17. Effective Date

Subject to the provisions of Municipal Home Rule Law of the State of New York, this Local Law shall take effect immediately upon its filing in the Office of the Secretary of State of the State of New York.