

**TOWN OF MAMAKATING  
INTRODUCTORY LOCAL LAW  
PROPERTY MAINTENANCE**

BE IT ENACTED by the Town Board of the Town of Mamakating, County of Sullivan,  
State of New York, as follows:

Section 1. The Code of the Town of Mamakating is amended by adding a new Chapter 147, titled "Property Maintenance," to read as follows:

§ 147-1. Legislative intent.

The Town Board of the Town of Mamakating hereby determines that it is necessary for the public health, safety and general welfare of the residents of the Town of Mamakating to provide regulations where, keeping in mind the use and location, properties within the Town are kept reasonably clean and free from vermin, noxious weeds or growth and disease-bearing insects, and are properly maintained to avoid blight and nuisances, hazards, debris and litter. It is found and declared that by reason of lack of maintenance and progressive deterioration, properties and structures have the effect of creating adverse neighborhood conditions. By reason of regulations and restrictions, the public health, safety and welfare may be protected, blighted areas prevented and the desirability and value of properties maintained.

The Town Board recognizes the importance of bonafide farms and agricultural operations and encourages such farms and agricultural operations in the Town. Accordingly, it is not intended that this local law shall be applied to bonafide farms and agricultural operations within the Town.

§ 147-2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings ascribed to them. When not inconsistent with the context, the present tense shall include the future and words used in the plural shall include the singular and vice-versa.

**DETERIORATION** -- The condition or appearance of a building, structure, vehicle, machinery, equipment or other materials characterized by holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, excessive use or lack of maintenance.

**EXPOSED TO PUBLIC VIEW** -- Any premises or open space or any part thereof or any building or structure that may be lawfully viewed by any member of the public from a sidewalk, street, alleyway, public lands or from any adjoining or neighboring premises.

EXTERIOR PROPERTY AREA -- Those portions of a building that are exposed to public view and the open space of any premises outside of any building erected thereon.

GOOD WORKING CONDITION -- Fully operational for the use intended.

GOOD WORKING REPAIR -- A standard of maintenance that renders a building or structure safe, habitable and possessed of a neat and orderly appearance.

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

NUISANCE--

A. Any public or private condition that would constitute a nuisance according to the statutes, laws or regulations of the State of New York, its governmental agencies or the laws and regulations of the Town.

B. Any physical condition existing in or on the exterior of any premises which is potentially dangerous, detrimental or hazardous to the life, health or safety of persons on, near or passing within the proximity of premises where said condition exists.

C. Any waste material or any other matter attractive to vermin, likely to breed disease or which presents a fire hazard, creates offensive odors or otherwise is prejudicial to good health or is so unsightly of appearance as to be offensive to surrounding properties.

OCCUPANT -- Any person residing, living or sleeping in or on the premises or having possession, use or occupancy of a building or premises or any person or entity in possession of or using any premises or part thereof, whether or not the owner thereof and regardless of the duration of time of such possession, use or occupancy.

OWNER -- Includes any person or entity having any title or interest in or to real property in any form, whether legal or equitable and however acquired.

PERSON -- Includes an individual, a partnership, a joint venture, a corporation, an association, a club and any other organization or group and includes the owner and occupant of property and premises.

PROPERTY or PREMISES -- A building, dwelling, structure, open space, grounds and/or land and any thing erected on, growing on, placed on or affixed thereto.

WASTE -- Materials or substances discharged, discarded or rejected as being spent, useless, worthless or in excess by the owner at the time of such discard or rejection. Such waste shall include but is not limited to garbage, sludge, rubbish, ashes, incinerator residue, street cleanings, dead animals, refuse, abandoned vehicles, deteriorated machinery or equipment, agricultural waste, industrial waste, commercial waste and construction and demolition debris.

WORKMANLIKE MANNER -- Work performed in a skillful manner or in a manner characteristic of a skilled workman.

§ 147-3. Duties of owners, occupants and any other person responsible for maintenance.

In furtherance of the purposes of this chapter, it shall be the duty and responsibility of the owner, occupant and any other person responsible for maintenance of the property or premises to comply with any and all of the requirements and standards of this chapter and to promptly remove, prevent or abate such conditions. No such person shall be relieved of any duty, obligation or responsibility hereunder nor be entitled to assert, as a defense against any charge made against him or them for violation of this chapter, the fact that another owner, occupant or any other person is also responsible and in violation.

§ 147-4. Applicability of provisions.

- A. The provisions of this chapter shall supplement federal, state and local laws, codes or regulations. Where a provision of this chapter is found to be in conflict with a provision of a federal, state or local law, code or regulation, the more restrictive provision shall prevail when legally permissible.
- B. This local law shall not be enforced against a bonafide farm or agricultural operation located within the Town.

§ 147-5. General.

- A. Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.
- B. Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.
- C. Vacant structures. All vacant structures and premises thereof of vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

§147-6. Exterior property areas.

- A. Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupants shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.
- B. Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.
- C. Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.
- D. Grasses and weeds. All premises and immediate exterior property shall be maintained free from grass, weeds or plant growth in excess of 10 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided, however, this term shall not include cultivated flowers and gardens.
- E. Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.
- F. Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.
- G. Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
  - (1) Gates. Gates which are required to be self-closing and self-latching in accordance with the Building Code of New York State shall be maintained such that the gate will positively close and latch when released from a still position of 6 inches from the gatepost.
  - (2) Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.
  - (3) Enclosures. An approved enclosure at least 4 feet in height shall be provided around outdoor swimming pools so that such pools are inaccessible to children. The enclosure may surround either the pool area or the property.

- H. Motor vehicles. Except as provided for in statute or other regulations, two or more inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.
  
- I. Construction sites. If substantial construction activity ceases for thirty (30) days, then the owner and any other person responsible for construction or property maintenance shall take such steps and perform such acts as may be required to ensure that the property and premises remain safe, secure, clean and in compliance with the requirements for vacant property and the other applicable provisions of this chapter, and including but not limited to the following:
  - (1) safeguard the property, premises and any structures and buildings thereon;
  - (2) remove all equipment and materials or store such equipment and materials to the satisfaction of the Building Inspector;
  - (3) remove or spread on site all piles of stone, soil or dirt;
  - (4) remove all garbage, refuse, waste and debris;
  - (5) mow or cut grasses and other growth so as to prevent excessive and/or noxious growth, nuisance, and deterioration of structures and to prevent the property and premises from harboring insects, rodents, vermin or other pests. Grasses on the property shall be kept mowed or cut to a height not to exceed ten (10) inches;
  - (6) install and maintain acceptable storm water and erosion control measures.

§ 147-7. Exterior structure.

- A. General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.
  
- B. Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to

inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

- C. Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
- D. Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.
- E. Exterior walls. All exterior walls shall be free from holes, breaks and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.
- F. Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
- G. Decorative features. All cornices, beltcourses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- H. Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- I. Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- J. Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- K. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

- L. Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
  - (1) Glazing. All glazing materials shall be maintained free from cracks and holes.
  - (2) Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.
- M. Reserved.
- N. Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with the State Property Maintenance Code.
- O. Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.
- P. Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

§ 147-8. Interior structure.

- A. General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Every occupant shall keep that part of the structure which such occupant occupies or controls in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.
- B. Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.
- C. Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean, and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.
- D. Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

- E. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- F. Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

§ 147-9. Rubbish and garbage.

- A. Accumulation of waste, rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of waste, rubbish or garbage.
- B. Dry vegetation, combustible waste and refuse. Combustible waste, refuse and large quantities of dry vegetation, which by reason of their proximity to buildings or structures would constitute a fire hazard or contribute to the spread of fire, shall be removed.
- C. Disposal or rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.
  - (1) Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.
  - (2) Refrigerators. Refrigerators and similar equipment shall not be discarded, abandoned, or stored on the premises accessible to children without first removing the doors.
- D. Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.
  - (1) Garbage facilities. Except as otherwise provided by local law, the owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit, or an approved leakproof, covered, outside garbage container.
  - (2) Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.



§ 147-10. Extermination.

- A. Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.
- B. Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.
- C. Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.
- D. Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.
- E. Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure, except where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

§ 147-11. Enforcement.

- A. This chapter may be enforced by the Building Inspector, Code Enforcement Officer and any other officer, employee or agent appointed by resolution of the Town Board. All said enforcement officers are authorized to issue violation notices and appearance tickets.
- B. Whenever the enforcement officer determines that there is or has been a violation of any provision of this chapter, he shall give notice of such violations to the person or entity responsible therefor. Such notice shall be in writing and shall include a concise statement of the reasons for its issuance. Such notice shall be deemed to be properly served if a copy thereof is sent by certified mail to the last known address of the person or entity upon which the same is served, as shown on the most recent assessment roll of the Town, or a copy thereof is personally delivered to said person or entity or a copy is left at the usual place of abode or office of the person or entity. Notice shall be given as aforesaid within or outside the Town. The notice shall also state that unless the violation is corrected, removed or prevented within five (5) days, or such other greater or lesser time as deemed reasonable by the enforcement officer under the circumstances, of the date of service of such notice, exclusive of the date of service, an appearance ticket may be issued for such violation.
- C. Whenever the enforcement officer finds that an emergency condition exists, which

condition requires immediate attention in order to protect the public health or safety or to protect the health or safety of an owner or occupant, he may issue an order by service of notice in the manner set forth above, reciting the existence of such emergency condition and requiring that remedial action be taken immediately. Any person to whom such an order is directed shall comply therewith immediately.

- D. Failure to comply with the direction of the enforcement officer or the Town Board when notice has been provided in accordance with this chapter shall constitute a separate and distinct offense hereunder.
- E. In addition to and not in lieu of any other remedies, upon failure of a person or entity to comply with a notice to correct, remove or prevent a condition which violates a provision of this chapter, the Town Board may, upon due notice and due opportunity for a hearing, order the condition abated and authorize the enforcement officer to take the necessary steps to carry out the Board's order. All costs and expenses, including but not limited to reasonable attorney, engineering and consultant fees, employee salaries and administrative costs, associated with the correction, removal or prevention of the condition shall be charged to the owner of such real property. If such charge is not paid in full within thirty (30) days after billing to the owner, the charge and costs shall be assessed and levied against and constitute a lien on the real property upon which it is levied until paid or otherwise satisfied and discharged, and shall be collected in the same manner and at the same time as other Town real property taxes.

§ 147-12. Penalties for offenses.

- A. In addition to and not in lieu of any other remedies, any person who violates any provision of this chapter or who violates or fails to comply with any lawful order promulgated hereunder shall be guilty of a violation and, for a first conviction thereof, shall be subject to a fine in an amount not less than \$100 nor more than \$250 or a maximum of fifteen (15) days imprisonment or both; for conviction of a second violation committed within twelve (12) months of the first violation, such person shall be subject to a fine in an amount not less than \$150 and not more than \$350 or a maximum of fifteen (15) days imprisonment or both; for conviction of a third violation committed within twelve (12) months of the first violation, such person shall be subject to a fine in an amount not less than \$400 and not more than \$750 or a maximum of fifteen (15) days imprisonment or both; for conviction of a fourth violation and for each subsequent violation committed within twelve (12) months of any prior violation, such person shall be subject to a fine in an amount not less than \$500 and not more than \$1,500 or a maximum of fifteen (15) days imprisonment or both.
- B. Civil penalties and injunction. In addition to and not in lieu of any other remedies, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to obtain civil monetary penalties and compel compliance with or to restrain, by injunction, the violation of this chapter or any order promulgated

hereunder. The civil monetary penalties shall be in accordance with and not exceed the monetary penalties set forth in Section 147-12A of this Chapter.

- C. Each calendar day a violation occurs or continues shall constitute and be deemed a separate and distinct violation.

Section 2. Severability.

If a provision of any article, section, subsection, paragraph, subdivision or clause of this local law shall be adjudged 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 3. Supersession.

Pursuant to the state Municipal Home Rule Law, this local law is intended to supercede any inconsistent provisions of the state Town Law and any other special law.

Section 4. Effective date.

This local law shall take effect immediately upon filing with the Secretary of State.