

## TOWN OF NEW LISBON

### A LOCAL LAW PROHIBITING THE ACCUMULATION OF GARBAGE AND JUNK

Be it enacted by the Town Board of the Town of New Lisbon as follows:

#### **Section 1 – Legislative Authority.**

This local law is enacted pursuant to Section 10 of the New York State Municipal Home Rule Law and in accordance with the Town’s Comprehensive Plan adopted pursuant to New York State Town Law Section 272-a.

#### **Section 2 – Purpose.**

Accumulation of Garbage and Junk, as such terms are defined in Section 4 of this Local Law, both of which detract from a clean, wholesome, and attractive environment of vital importance to the general welfare of town residents and visitors, can be an attractive nuisance for children, can be noxious and offensive to people, can attract nuisance birds, rodents, flies, and other vermin (some of which may be vectors for the transmission of harmful microorganisms) in proximity to neighboring residents or passersby, and can lead to contamination of soil and water.

It is the purpose of this local law to provide for the health, safety, and general welfare of persons and property in the Town of New Lisbon, by requiring that such accumulation of garbage and junk be avoided and, if it occurs, be remedied promptly.

#### **Section 3 - Title.**

This local law shall be known as “A Local Law Prohibiting the Accumulation of Garbage and Junk.”

#### **Section 4 – Definitions.**

(1) “**Garbage**” means putrescible waste, which is waste that is or contains organic matter that is or upon decomposition becomes noxious or offensive to the senses of smell or sight or that is or could be an attractant to nuisance birds, rodents, flies, or other vermin. Garbage includes, but is not limited to kitchen and other normal household waste. For the avoidance of doubt, for purposes of this law, Garbage does not include waste from exterior property maintenance such as raked leaves, cleared brush, tree branches, and yard trimmings or compost piles that are maintained and managed to minimize attractiveness to nuisance birds, rodents, flies, or other vermin.

(2) “**Junk**” means household appliances, electronic devices, interior fixtures and interior furnishings (including but not limited to clothes, washers, refrigerators, freezers, dishwashers, water heaters, pressure tanks, televisions, radios, computers, couches, sofas, cabinets, bathtubs, sinks, tables, pillows, cushions, carpets, and mattresses), which appliances, devices, fixtures or furnishings are broken, damaged, or otherwise unusable for their intended uses. For the avoidance of doubt, for purposes of this law, Junk does not include assembled or sculpted works of art, junk farm machinery, or junk vehicles (any or all of which are or may be subject to regulation under state or other local laws or regulations).

(3) **“Land Use Enforcement Officer”** and **“LEO”** each mean the person appointed by the Town Board to enforce Town of New Lisbon local laws and ordinances pertaining to land use. At its discretion, the Town Board may appoint additional LEO(s) for the limited purpose of implementing and enforcing this local law.

(4) **“Landowner”** means the person or persons identified in the current Otsego County Office of Real Property Tax Services assessment rolls as the owner(s) of a parcel within the Town, irrespective of whether the person resides on the parcel.

(5) **“Lessee”** means a person or persons who has a documented leasehold interest in a parcel within the Town, irrespective of whether or not the person resides on the parcel, under the explicit or implicit terms of which the Landowner has no right to enter upon the parcel for the purpose of remedying a violation of Section 5 of this Local Law on such parcel.

### **Section 5 - Accumulation of Garbage and Junk.**

It is unlawful to have accumulated on any parcel within the Town:

- (1) Garbage, outside of a closed and secured structure or other container that is weatherproof and inaccessible to rodents and
- (2) Junk, outside of a closed and secured structure, within eyesight of persons traveling the public highways or within eyesight of a neighboring property,

in each case, for any period of time longer than thirty (30) days.

### **Section 6 - Complaints.**

Any person may file a complaint with the Town Clerk or directly with the Land Use Enforcement Officer that a violation of Section 5 this Local Law has taken place. The LEO shall record and investigate any such complaint. The LEO may also investigate any such alleged violation that he or she otherwise has reason to believe may have occurred.

### **Section 7 - Notice of Violation and Order to Remedy.**

If the LEO determines that a property has accumulated Garbage or Junk in violation of Section 5 of this Local Law, then the LEO shall prepare and serve a Notice of Violation and Order to Remedy on the Landowner and, if any and if known to the LEO, the Lessee. The Notice of Violation and Order to Remedy shall be in writing and shall include, at a minimum:

1. the name(s) of the Landowner as shown in the current Otsego County Office of Real Property Tax Services assessment rolls;
2. the tax map parcel number;
3. the name(s) of the Lessee, if any and if known to the LEO;
4. a description of the violation of Section 5 of this Local Law;

5. an order to remedy the violation within thirty (30) days of the date of service of the Notice of Violation and Order to Remedy;
6. notice that a failure to comply with such order may result in prosecution in accordance with this Local Law; and
7. a copy of this Local Law.

### **Section 8 - Enforcement.**

If the Landowner (or Lessee, if any) fails to comply with such order, the LEO is authorized pursuant to Criminal Procedure Law §150.20(3) to issue an appearance ticket to the Landowner (or Lessee, if any) and shall cause such Landowner (or Lessee, if any) to appear before the Town Justice.

### **Section 9 - Penalties and Remedies.**

8.1 Misdemeanor. For the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this Local Law shall be deemed misdemeanors and, for such purpose, all provisions of law relating to misdemeanors shall apply to such violations.

8.2 Fines and Penalties. Any Landowner (or Lessee, if any) who violates the provisions of this Local Law by failing to comply with a Notice to Comply shall be guilty of a violation and subject to the following:

1. a fine not to exceed \$500.00 or
2. a penalty of \$500.00 plus attorneys' fees to be recovered by the municipality in a civil action.

Every such Landowner or Lessee shall be deemed guilty of a separate violation for each week such violation continues.

8.3 Injunction. The Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction, to compel compliance with a Notice of Violation and Order to Remedy or otherwise to enjoin violation of this Local Law.

8.4 Remedies Not Exclusive. Nothing herein shall prevent the Town from proceeding under any or all of the above enforcement methods for any violation. No remedy or penalty specified in this Local Law shall be the exclusive remedy or remedy available to address any violation and each remedy or penalty specified in this Local Law shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this Local Law. Any remedy or penalty specified in this Local Law may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Local Law or in any other applicable law.

### **Section 10 - Service.**

Notices of Violation and Orders to Remedy and appearance tickets issued to a Landowner pursuant to this Local Law shall be served by (1) certified mail, return receipt requested, to the address shown in the current Otsego County Office of Real Property Tax Services assessment rolls by certified mail or (2) personal service.

Notices of Violation and Orders to Remedy and appearance tickets issued to a Lessee pursuant to this Local Law shall be served by (1) certified mail, return receipt requested, to the postal address of the relevant property or, if the LEO has actual knowledge of a different residential address for the Lessee, then to such different address or (2) personal service, in either case with copies provided to the Landowner as provided in the preceding paragraph of this section.

Service shall be effective as of the date a Notice of Violation and Order to Remedy or appearance ticket is deposited with the U.S. Postal Service or is served personally.

**Section 11 - Notification of Notice of Violation to County Agencies.**

The Town Clerk will send copies of Notices of Violation and Orders to Remedy by first class mail to the Directors of Otsego County Code Enforcement and of Otsego County Health and Human Services.

**Section 12 – Severability.**

If any clause, sentence, paragraph, section or article of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 13 - Effective Date.**

This Local Law shall take effect immediately upon filing with the Office of the Secretary of State of the State of New York, in accordance with the applicable provisions of law, and specifically Article 3, Section 27 of Municipal Home Rule Law.