

**TOWN OF GALLATIN
LOCAL LAW NO. _ OF 2013**

BE IT ENACTED by the Town Board of the Town of Gallatin as follows:

PART 1. TITLE.

This local law shall be known as the “Town of Gallatin Property Maintenance Law”.

PART 2. AUTHORITY; FINDINGS; PURPOSE AND INTENT.

- A. This Local Law is enacted pursuant to §10 of the Municipal Home Rule Law to provide for the health, safety, appearance and general welfare of the public, the residents of the Town of Gallatin, and the owners of real property located within the Town of Gallatin.

- B. The Town Board of the Town of Gallatin hereby finds that properties which are not properly maintained and repaired constitute a public nuisance since they may serve as an attractive nuisance, may result in injuries therein, may be a point of congregation by vagrants and transients, may attract rodents or insects and may also attract illegal drug activity. The Town Board of the Town of Gallatin further finds that properties which are not adequately maintained and repaired tend to diminish or lessen the appearance thereof or detract from the appearance of adjoining properties, which may lead to the progressive deterioration of a neighborhood. It is further found and declared that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same, and that by reason of the regulations and restrictions as herein contained, the growth of blight may be prevented, the desirability and amenities of neighborhoods enhanced and the public health, safety and welfare protected and fostered.

- C. The purpose and intent of this Local Law is to provide a method whereby properties within the Town are properly maintained and landscaped, properly repaired, kept clean, and kept free from vermin, nuisances, hazards, debris and litter which negatively impact their appearance.

PART 3. APPLICABILITY.

- A. This Local Law applies to the following properties:
 - (1) All lots, plots or parcels of land on which residential, nonresidential or mixed-use buildings are located, regardless of whether they are vacant, unoccupied or abandoned.

- (2) Principal and accessory buildings and structures used for or intended to be used for residential, nonresidential or missed uses or occupancies, regardless of whether they are vacant, unoccupied or abandoned.
- B. Every building, structure or use, and the premises on which it is situated located in the Town of Gallatin, which is used or developed for intended use for residential, nonresidential or mixed-use occupancy shall be maintained in compliance with the provisions of this Local Law. Whether or not it shall have been established, constructed, altered or repaired before or after the enactment of this Local Law, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the buildings structures or premises, or for the installation or equipment or facilities, or for the installation or repair of accessory structures and improvements, prior to the effective date of this Local Law.
- C. This Local Law establishes minimum standards for the initial and continued occupancy and use and for the maintenance of all such buildings, structures or uses, and the premises on which they are situated, and does not replace or modify standards otherwise established for their construction, repair, alteration or use for the equipment or facilities contained therein.
- D. The provisions of this Local Law shall supplement the Zoning Law, the local laws, codes and regulations of the Town of Gallatin and the Property and Maintenance Code of New York State. When a provision of this Local Law is found to be inconsistent with any provision of any other local law, code or regulation of the Town or State, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail. A greater penalty shall not be considered as more restrictive or a higher standard.
- E. After the date of enactment hereof, all licenses, permits, and approvals of any agency or board of the Town shall be issued conditionally upon compliance with this Local Law as well as compliance with the local law, code or regulation under which such license, permit or approval is granted.
- F. No license, permit, approval, or other certification of compliance with this local law shall constitute a defense against any violation of any other local law, code or regulation of the Town of Gallatin applicable to any structure or premises, nor shall any provision herein relieve any owner or operator from complying with any such other provision or with the order of any official of the Town.

PART 4. DEFINITIONS

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

ABANDON OR ABANDONED: To withdraw or give up by leaving the premises or ceasing to operate or inhabit the premises, to relinquish or renunciate an interest, claim. Privilege,

possession or right in a real property or an improvement on real property especially with the intent of never again resuming or reasserting it; more than a seasonal absence from the premises.

OWNER: The owner of record of a tract, lot, or parcel.

PERSON IN CONTROL: The owner, the attorney for the owner, the trustee in bankruptcy, a referee of foreclosure or a real estate broker or any other person exercising implied or express control of the premises, to be determined on a case-by-case basis.

UNOCCUPIED: Lack of habitual presence of human beings.

VACANT: Any unoccupied land, structure, building or part thereof, that is available and suitable for occupancy.

PART 5. PROPERTY AND LANDSCAPING MAINTENANCE,

The owner, occupant, tenant, operator or person in control, as the case may be, of any property subject to this local law shall comply with the following:

- A. All properties within the Town shall be properly maintained and landscaped. Lawns or other ground cover shall be kept trimmed to a height of no greater than ten (10) inches. All hedges, bushes and shrubs shall be kept from becoming overgrown and unsightly where exposed to public view and where the same constitute a blighting condition or factor that may depreciate the value of adjoining and nearby property, or which may impair the appearance of the neighborhood.
- B. No green waste, such as yard waste, wood chips, leaves, brush and grass clippings, shall be placed less than 10 feet from any property line. This section shall not apply to green waste placed at the curb for removal by the Town of Gallatin or by a private carter, provided that such placement is in accordance with any Town of Gallatin Highway Department requirements and schedule for removal. This section shall not prevent nor prohibit the maintenance of a compost site/area in a properly functioning manner, in an area no greater than 10 feet by 20 feet (200 square feet) and provided such compost site/area is not located within any front yard, side yard or rear yard setback.
- C. All properties subject to this local law shall be maintained so as to be free of nuisance, hazardous materials, debris, litter, garbage, refuse, unsanitary conditions and unsightly materials.
- D. Any firewood kept on any property or premises within the Town shall be neatly stacked and properly stored and kept free of rotted wood. Firewood shall not be stored in the front yard, as that term is defined in the Town's Zoning Law, of any premises.

- E. The owner, managing agent or person in control of any multifamily dwelling, nonresidential building or mixed-use building or premises shall provide and maintain at all times one or more covered dumpsters, containers or enclosures of adequate size to temporarily store all nuisance, hazardous materials, debris, litter, garbage or other refuse or matter until it is properly removed from the premises. The site of such dumpster, container or enclosure shall be in a location approved by the Planning Board and landscaped or screened in accordance with the provisions of the Zoning Law of the Town of Gallatin.
- F. All dead, damaged or diseased trees or shrubs, or any portion thereof, which present any hazard to life or property shall be removed from the property.
- G. The property shall be maintained so as to prevent soil erosion and sedimentation.
- H. Walks and sidewalks which are the legal responsibility of the property owner shall be maintained in good condition and shall be repaired or replaced as necessary.
- I. Loose and overhanging objects which, by reason of their location above ground level, constitute a danger of falling on persons in the vicinity thereof shall be repaired or removed.
- J. Cracks, projections or obstructions on paths, walks, driveways, parking areas and other parts of the premises which are the responsibility of the property owner shall be repaired or removed.
- K. All holes, excavations, breaks, trenches, and digging left open shall be appropriately filled and repaired or replaced.

PART 6. ENFORCEMENT

- A. Enforcement Official: The Building Inspector is hereby designated to administer and to enforce this local law.
- B. Compliance Orders:
 - (1) The Code Enforcement Officer and/or Zoning Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any building structure, or premises in violation of this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer and/or Zoning Enforcement Officer shall issue a compliance order.
 - (2) The Code Enforcement Officer and/or Zoning Enforcement Officer shall cause the compliance order, or a copy thereof, to be served by at least one of the following methods.

- (a) Personal service upon the owner, tenant, occupant, managing agent or person in control of the property or premises;
 - (b) Mailing by registered or certified mail to the owner, tenant, occupant, managing agent or person in control of the property or premises; or
 - (c) Posting a copy of the compliance order upon the front portion of the property or upon the main structure and mailing a copy of such notice by certified or registered mail to the owner of the property as shown on the current assessment records of the Town.
- (3) The compliance order shall:
- (a) Be in writing;
 - (b) Be dated and signed by the officer;
 - (c) Specify the condition or activity that violates this local law;
 - (d) Specify the provision or provisions of this local law which is/are violated by the specified condition or activity;
 - (e) Specify that such violation must be corrected or abated within five days of the date of service; and
 - (f) State the appropriate consequence for failure to correct or abate the condition or activity within the specified period of time, as set forth in Part 6(C).
- (4) The date of service of a compliance order issued pursuant to this section shall be the date of personal service or ten days following the date of mailing, whichever is applicable.

C. Compliance; Correction or Removal by Town.

- (1) Any owner, tenant, occupant, managing agent or person in control of any property or premises which has been determined to be in violation of the requirements of this local law shall cure, abate, correct or remove such violation, when ordered to do so by the Building Inspector, within five days of the service of written notice as provided in Part 6 above.
- (2) If the violation is not timely corrected or removed pursuant to the compliance order, the Town may cause the removal or correction. Said correction or removal may be performed by the Town of Gallatin or by its

designee, or agent, including a private contractor. In carrying out such correction or removal, the Town may move any debris, litter, garbage or other refuse or matter to a different, screened location on the property so as to remove it from view, but will not remove it from the property. The Town shall also have the right to mow or trim lawns or other ground cover which violate the provisions of this Local Law and take whatever other steps or actions are necessary to abate or correct the violations set forth Part 5 of this Local Law.

- (3) The owner, occupant, tenant, managing agent or person in control of the property shall be responsible to reimburse the Town of Gallatin for the costs of the removal, abatement or correction of the violation. Such costs shall include the necessary and reasonable attorneys' fees incurred by the Town in prosecuting the violation. In the event of failure to reimburse the Town for such costs, the following shall apply:
 - (a) The Town may seek recovery of such costs by action venued in a court of appropriate jurisdiction, and the defendant(s) shall be responsible for the reasonable and necessary attorneys' fees expended by the Town in prosecuting such action.
 - (b) Alternatively, and at the sole discretion of the Town, a default in reimbursement of costs incurred by the Town shall be remedied by charging such sums against the real property which is the subject of the violation, by adding that charge to, and making it a part of, the next annual real property tax assessment roll of the Town. Such charges shall be levied and collected at the same time and in the same manner as Town assessed taxes and shall be paid to the Town Comptroller, to be applied in reimbursing the fund from which the costs were defrayed for the corrective or abatement action. Prior to charging such assessments, the owner(s) of the real property shall be provided written notice to their last known address of record by certified mail, return receipt requested, of an opportunity to be heard and object before the Town Board to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than 30 days after its mailing.
- (4) The removal or correction or correction of any violation by the Town of Gallatin or its agents shall not operate to excuse such owner, tenant, occupant, managing agent or person in control from properly maintaining the property or premises as required by this local law.

PART 7. EMERGENCIES

Whenever the Code Enforcement Officer or Zoning Enforcement Officer, at any state of the proceedings instituted under the provisions of this local law, finds that a violation exists which,

in his or her opinion, requires immediate action to abate a direct hazard or immediate danger to the health, safety or welfare of the occupants of a building or the public, he or she may, without prior notice or hearing, issue an order citing the violation and directing that such action be taken as necessary to immediately remove or abate the hazard or danger. Such order may include an order to vacate. Notwithstanding any other provision of this local law, such an order shall be effective immediately upon service and shall be complied with immediately or as otherwise provided.

PART 8. SEVERABILITY

If any provision of this local law is held invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this local law.

PART 9. EFFECTIVE DATE

This local law shall become effective immediately upon its filing in the Office of the New York State Department of State.