

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

FILED
STATE RECORDS

DEC 21 2018

County City Town Village
(Select one.)

of LaGrange

DEPARTMENT OF STATE

Local Law No. 14 of the year 2016

A local law OF THE TOWN OF LAGRANGE, DUTCHESS COUNTY, NEW YORK TO AMEND

(Insert Title)
IN ITS ENTIRETY CHAPTER 181, PROPERTY MAINTENANCE, OF THE LAGRANGE

TOWN CODE.

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of LaGrange

as follows:

SEE ATTACHMENT.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 14 of 2016 of the (County)(City)(Town)(Village) of LaGrange was duly passed by the Town Board on DEC. 14 2016, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law. *(Elective Chief Executive Officer*)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

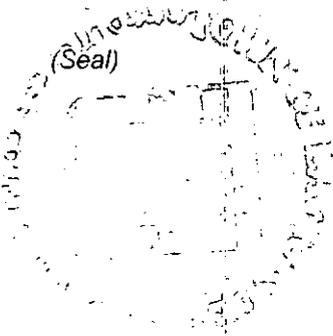
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 _____ above.

Aristine O'Reilly Leo

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: December 14, 2016



Section 1. Chapter 181, Property Maintenance, of the LaGrange Town Code is amended in its entirety to read as follows:

Section 181-1. Authority; Findings; Purpose and Intent.

A. This Chapter 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 LaGrange, and the owners of real property located within the Town of LaGrange.

B. The Town Board of the Town of LaGrange 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 LaGrange 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 primary, but not exclusive, purpose and intent of this Chapter is to address adverse conditions, neighborhood blights and nuisances which are associated with abandoned and vacant properties, or properties which are subject to mortgage foreclosure or real property tax foreclosure. This 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.

Section 181-2. Applicability.

A. This Chapter applies to the following properties:

(1) All lots, plots or parcels of land on which residential, non-residential or mixed-use buildings are located, regardless of whether they are vacant, unoccupied or abandoned, with the exception of that portion of the provisions of Section 181-7(B) which pertain to the Town's removal and disposal of personal property which shall apply only to vacant and abandoned real property.

(2) Principal and accessory buildings and structures used for or intended to be used for residential, non-residential or mixed uses or occupancies, regardless of whether they are vacant, unoccupied or abandoned, with the exception of that portion of the provisions of Section 181-7(B) which pertain to the Town's removal and disposal of personal property which shall apply only to vacant and abandoned real property.

B. Every building, structure or use, and the premises, on which it is situated located in the Town of LaGrange, 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 Chapter or any amendment thereto, whether or not it shall have been established, constructed, altered or repaired before or after the enactment of this Chapter, and irrespective of any permits or licenses or permits 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 Chapter or any amendment thereto.

C. This Chapter establishes minimum standards for the initial and continued occupancy and use and for the maintenance of all 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 or for the equipment or facilities contained therein.

D. The provisions of this chapter shall supplement the local laws, codes and regulations of the Town of LaGrange. When a provision of this chapter is found to be inconsistent with any provision of any other local law, code or regulation of the Town, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail.

E. After the date of enactment of this Chapter, or any amendment thereto, all licenses, permits, and approvals of any agency or board of the Town shall be deemed to be issued conditionally upon compliance with this Chapter as well as compliance with the local law, code or regulation under which such license, permit or approval is granted. Violation of this Chapter shall be grounds for revocation of the aforesaid licenses, permits or approvals by the Town Board after written notice of at least 10 calendar days mailed to the address of the owner as stated on the last preceding assessment roll and opportunity to be heard by the Town Board.

F. No license, permit, approval, other certification of compliance with this chapter shall constitute a defense against any violation of any other local law, code or regulation of the Town of LaGrange 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.

Section 181-3. Definitions.

ABANDON OR ABANDONED. To withdraw or give up by leaving the premises or ceasing to operate or inhabit the premises; to relinquish or to renunciate an interest, claim, privilege, possession or right in a real property or an improvement on real property especially with the apparent intent of never again resuming or reasserting it; more than a seasonal absence from the premises. It shall be reliable evidence of abandonment if the Town establishes that it has conducted at least three (3) consecutive inspections of real property, with each inspection conducted at least thirty (30) days

apart and at different times of day, and at each inspection (i) no occupant was present and there was no evidence of occupancy on the property to indicate that any persons are residing there, and (ii) the real property was not being maintained in a manner consistent with standards set forth in Chapter 3 of the New York Property Maintenance Code. Other reliable evidence of abandonment shall include, but not be limited to, (i) overgrown or dead vegetation, (ii) accumulation of newspapers, circulars, flyers, or mail, (iii) past due utility notices, disconnected utilities, or utilities not in use, (iv) accumulation of trash, refuse, or other debris, (v) absence of window coverings such as curtains, blinds or shutters, (vi) one or more boarded, missing or broken windows, (vii) openness to casual entry or trespass, or (viii) the property has a building or structure that is or appears to be structurally unsound or has any other condition which presents a potential hazard or danger to safety of persons.

GARBAGE. Putrescible animal and vegetable waste, liquid or solid, resulting from the handling, preservation, preparation, cooking or consumption of food; any readily combustible material such as paper, cardboard, wood, excelsior, cloth, food and drink cans, glass food and drink containers or any like material or object which may be discarded by a person; any dead birds, cats, dogs and other small animals or fish; any organic waste substance of any kind which may emit offensive odors.

HAZARDOUS MATERIAL. Any item or agent (biological, chemical, physical) which has the potential to cause harm to humans, animals; or the environment, either by itself or through interaction with other factors.

NUISANCE.

- A. Any public nuisance known at common law or in equity jurisprudence, or as provided by the statutes of the State of New York, or the laws, codes or regulations of the Town of LaGrange;
- B. Any attractive nuisance which may prove detrimental to the health or safety of children, whether in a building, on the premises of a building or upon an unoccupied lot, including, but not limited to, abandoned wells, shafts, basements, excavations, abandoned iceboxes,

refrigerators, motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris or vegetation, such as poison ivy, oak or sumac, which may prove a hazard for inquisitive minors;

- C. Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the condition exists;
- D. Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this code;
- E. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings;
- F. Fire hazards.

OWNER. The owner of record of a tract, lot, or parcel as stated on the Town's last preceding assessment roll.

PERSON IN CONTROL. The owner, the attorney for the owner, the trustee in bankruptcy, a mortgagee prosecuting foreclosure, 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.

RUBBISH. All combustible and noncombustible waste, except garbage.

SOLID WASTE, DEBRIS and LITTER. Any unwanted or undesired material, substance, waste material, including but not limited to garbage or other putrescible substance, refuse, tobacco products and packaging, rubbish, tires, inoperable vehicles and parts, discarded furniture, appliances, water heaters, bottles, cans, plastic containers, pipes, bags of fertilizer, pet excrement, building or construction materials or supplies when stored outside on a site where no active construction or use of land is taking place, discarded or strewn papers or material or other junk substances, tree stumps, logs, wood, brush or any other matter attractive to vermin, likely to breed disease, present a fire hazard, create offensive odors or otherwise be prejudicial to good health; or being so unsightly of appearance as to be offensive to surrounding properties.

UNOCCUPIED. Lack of habitual presence of human beings.

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

Section 181-4. Property and landscaping maintenance.

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

(1) The property 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.

(2) No green waste, such as yard waste, wood chips, leaves, brush and grass clippings shall be placed less than ten (10) feet from any property line. This section shall not apply to green waste placed at the curb for removal by the Town of Lagrange or by a private carter, provided that such placement is in accordance with any Town of LaGrange 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.

(3) All properties subject to this chapter, and public rights of way which are contiguous, shall be maintained so as to be free of nuisance, hazardous materials, solid waste, debris, litter, garbage, rubbish, unsanitary conditions and unsightly materials.

(4) Any firewood kept on any property or premises shall be neatly stacked and properly stored and kept free of rotted wood.

(5) 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 LaGrange.

(6) 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.

(7) The property shall be maintained so as to prevent soil erosion and sedimentation.

(8) Walks and sidewalks shall be maintained in good condition, and free of snow and ice, and shall be repaired or replaced as necessary.

(9) 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.

(10) Cracks, projections or obstructions on paths, walks, driveways, parking areas and other parts of the premises shall be repaired or removed.

(11) All holes, excavations, breaks, trenches, and digging left open shall be appropriately filled and repaired or replaced.

Section 181-5. Enforcement official. The Building Inspector is hereby designated to administer and to enforce this Chapter.

Section 181-6. Compliance orders.

A. The Building Inspector 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 Chapter. Upon finding that any such condition or activity exists, the Building Inspector shall issue a compliance order.

B. The Building Inspector shall cause the compliance order, or a copy thereof, to be served by at least one (1) of the following methods:

(1) personal service upon the owner, tenant, occupant, managing agent or person in control of the property or premises;

(2) mailing by registered or certified mail to the owner as shown on the last preceding assessment roll, tenant, occupant, managing agent or person in control of the property or premises; or

(3) 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 last preceding assessment roll of the Town.

C. The compliance order shall:

(1) be in writing;

(2) be dated and signed by the Building Inspector;

(3) specify the condition or activity that violates this Chapter;

(4) specify the provision or provisions of this Chapter which is/are violated by the specified condition or activity;

(5) specify that such violation must be corrected or abated within five (5) days of the date of service; and

(6) state the appropriate consequence for failure to correct or abate the condition or activity within the specified period of time, as set forth in section 181 - 7.

D. The date of service of a compliance order issued pursuant to this section shall be the date of personal service or the date of mailing, whichever is applicable.

E. Property owners are not entitled to a series of multiple compliance orders for repetition of the same or similar violations of this Chapter. For a period of one year after issuance of an initial compliance order, the Building Inspector shall not be required to issue compliance orders addressing an owner's repetition of the same or similar violation, for instance, but not limited to, the failure to cut lawn areas before exceeding a height of ten (10) inches. Instead, in such circumstances, the enforcement provisions of this Chapter may be applied without the precondition of a compliance order.

Section 181-7. Compliance; Correction or removal by Town.

A. 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 Chapter shall cure, abate, correct or remove such violation, when ordered to do so by the Building Inspector, within five (5) days of the service of written notice as provided in section 181- 6, above.

B. If the violation is not timely corrected or removed pursuant to the compliance order, or if the violation is of a repetitive nature for which issuance of a compliance order is excused and at least 24 hours advance notice is given by posting at the property, the Town or its designees or agents including a private contractors may enter the property and cause the correction of the premises, including the removal of violating materials or personal property if the property is vacant and abandoned. If the property is vacant and abandoned, in carrying out such correction, the Town may elect, in its sole discretion, to remove the violating materials from the property or the adjoining public right of way and transport them to a suitable place of disposal. Failure to correct or to remove materials, in the nature of nuisance, hazardous materials, solid waste, debris, litter, garbage, rubbish pursuant to a compliance order or the aforesaid

posted notice shall constitute an admission by the owner(s), tenant(s), operator(s), or other persons in control that the materials are abandoned and of no value, that the Town may remove and dispose of them, and such failure shall further constitute a waiver and release of any claims against the Town for damage to or the value of the materials. Property need not be vacant or abandoned for the Town to enter and to undertake corrective measures which do not entail the removal and disposal of violating materials or personal property.

C. The owner, occupant, tenant, managing agent or person in control of the property shall be responsible to reimburse the Town of LaGrange 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:

(1) 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.

(2) 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 thirty (30) days after its mailing.

D. The removal or correction of any violation by the Town of LaGrange 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 Chapter.

Section 181-8. Emergencies.

Whenever the Building Inspector, at any stage of the proceedings instituted under the provisions of this Chapter 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 chapter, such an order shall be effective immediately upon service and shall be complied with immediately or as otherwise provided.

Section 181-9. Severability.

If any provision of this Chapter 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 article.

§ 181-10. Penalties for offenses.

A. A violation of this chapter or regulation is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, or both for conviction of a first offense; a fine not less than \$350 and not exceeding \$700 or imprisonment for a period not to exceed 15 days, or both for conviction of a second offense; a fine of not less than \$700 and not exceeding \$1,000 or imprisonment for a period not to exceed 15 days, or both for conviction of a third offense or any subsequent additional offenses. Each 24 hours during which a violation shall continue constitutes a separate and distinct violation within the meaning of this chapter. However, for the

purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or regulations shall be deemed violations and, for such purpose only, all provisions of law relating to violations shall apply to such offenses.

B. In addition to any other remedies set forth herein authorizing the Town to enforce the provisions of this chapter, establishing penalties, and setting forth additional remedies, the person charged with the responsibility to enforce the provisions of this chapter may impose a civil fine or agree to a civil fine not to exceed \$500 per day for each day of the violation. If said civil fine is imposed, then the alleged violator may appeal the imposition of the civil fine, or the amount of the civil fine, to the Town Board which shall dispose of the appeal after public hearing.

C. This chapter shall also be enforceable by action for injunctive relief venued in Supreme Court, Dutchess County, and in the event the Town prevails in obtaining injunctive relief, the defendant shall be responsible for the Town's reasonable and necessary attorneys' fees.

181-11. Applicability In Relation to Section 1308 of the New York Real Property Actions and Proceedings Law.

This Chapter, or any amendment thereto, shall not apply to impose duties, liabilities, or obligations upon any state or federally chartered bank, savings bank, saving and loan association or credit union (collectively referred to in this section as a "lending institution") which is covered by preemptions of local regulations stated within Section 1308 of this state's Real Property Actions and Proceedings Law. However, the provisions of this Chapter, or any amendment thereto, shall apply to such lending institutions to the extent not expressly preempted by Section 1308 of the Real Property Actions and Proceeding Law. This Chapter shall be reconciled with, and applied consistent with, Sections 1308, 1309, and 1310 of the Real Property Actions and Proceeding Law to the fullest extent possible, including but not limited to the cumulative exercise of rights and remedies by the Town against lending institutions to the extent allowed by those statutory sections, and this Chapter shall not be viewed as, or deemed to be, an election of

remedies in lieu of rights afforded to the Town under those statutory sections.

Section 2. If any of this section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this law.

Section 3. Pursuant to Section 22 of this state's Municipal Home Rule Law, this local law shall modify and supersede any provisions of state statute which are inconsistent with the terms of this local law.

Section 4. This local law shall take effect immediately upon filing with this state's Secretary of State.