

The Town of Lake Pleasant Junk Storage Law

ARTICLE A: INTRODUCTION

Section 1. Authority

This local law is adopted pursuant to the authority granted the Lake Pleasant Town Board in Section 10 of the Municipal Home Rule Law and in Section 130(6) of the Town Law.

Section 2. Title

This local law shall be known as “The Town of Lake Pleasant Junk Storage Law.”

Section 3. Purpose

The Lake Pleasant Town Board hereby declares that a clean, wholesome, and attractive environment is of vital importance to the continued general welfare of its citizens, and that regulation of the outdoor storage of junk, rubbish, clutter, litter, or debris, regardless of quantity, is hereby prohibited within sight of persons lawfully traveling the public roads, public waterways, or within sight of one or more neighboring properties anywhere in the Town of Lake Pleasant.

By adoption of this law the Lake Pleasant Town Board declares its intent to preserve and promote a reasonable quality of environment and aesthetics and to prohibit actions and conduct that tend to depreciate not only the property on which it is located but also the property of other persons in the neighborhood and the community generally.

Section 4. Applicability

The provisions of this law shall apply in addition to the provisions of any other local law or ordinance adopted by the Lake Pleasant Town Board. Where there is a conflict the more restrictive provision shall apply.

Section 5. Definitions

Outdoor Storage: The placing, maintaining or keeping of junk, rubbish, clutter, litter or debris in a place other than a structure with a roof and fully enclosed on all sides.

Junk: Worn out or discarded material of little or no value including, but not limited to a junk appliance, junk furniture, junk mobile home, junk motor vehicle or garbage, rubbish

and debris.

Rubbish, Clutter, Litter and Debris: Ordinary household or commercial trash such as paper and paper products, barrels, cartons, boxes, cardboard, cans, glass, metals, machinery, plastics, rubber, crates, furniture, rugs, clothing, rags, mattresses, blankets, cigarettes, tires, lumber, brick, stone and other building materials no longer intended or in condition for ordinary use; and any and all tangible personal property no longer intended or in condition for ordinary and customary use.

ARTICLE B: PROHIBITED ACTS

The outdoor storage of junk, rubbish, clutter, litter, or debris, regardless of quantity, is hereby prohibited within sight of persons lawfully traveling the public roads, public waterways, or within sight of one or more neighboring properties anywhere in the Town of Lake Pleasant. The provisions of this law shall also be applicable to conditions existing at the time of enactment.

ARTICLE C: EXCLUSIONS

Article B shall not apply to the storage or placement on the premises of the following material(s):

- (1) Wood intended for consumption in a wood burning stove, furnace or fireplace located in a building on the premises.
- (2) Lawn or yard or garden ornaments and implements.
- (3) Lawn and patio furniture.
- (4) Operable farm, garden and yard machinery and apparatus used on the premises.
- (5) Standing fences.
- (6) Hoses and sprinklers used for watering lawns or gardens.
- (7) Storage or placement and accumulation of materials in connection with a commercial operation duly conducted on the premises where such storage, placement and accumulation is expressly permitted by the laws of the municipality.
- (8) Construction materials and equipment used for the construction or renovation of a building on the premises for which a building permit has been issued.

ARTICLE D: ADMINISTRATION AND ENFORCEMENT

Section 1. Enforcement Officer

This law may be enforced by either the Town of Lake Pleasant Building Inspector, Zoning Enforcement Officer, or by any police officer. Said persons shall have the authority to enforce the provisions of this chapter and to inspect premises within the municipality as necessary for said enforcement.

Section 2. Complaints

Any person may file a written complaint with the Enforcement Officer, which indicates that a violation of this law may have taken place. The Enforcement Officer shall properly record and investigate any such complaint. The Enforcement Officer may also investigate any alleged violation that he or she has reason to believe has occurred or is occurring.

Section 3. Notice to Comply

The written "Notice to Comply" (see Appendix A) shall contain the following information:

- (1) The name of the owner or occupant to whom the notice shall be addressed.
- (2) The location of the premises involved in the violation.
- (3) A statement of the facts, which it is alleged violates this law.
- (4) A demand that the junk, rubbish, clutter, litter, or debris be removed or placed so as to be in compliance with the law within a specified number of days after the service or mailing of the notice.
- (5) A statement that a failure to comply with the demand may result in prosecution.
- (6) A copy of the law.

Section 4. Enforcement and Summary Abatement

The Enforcement Officer is hereby authorized pursuant to Criminal Procedure Law §150.20(3) to issue an appearance ticket to any person whom the Enforcement Officer has reason to believe has violated this law, and shall cause such person to appear before the municipal justice.

Upon the failure of an owner, tenant or occupant with notice to correct a violation of this local law, the Lake Pleasant Town Board may hold a public hearing to determine whether the violation constitutes a public nuisance requiring abatement by the municipality. The public hearing shall be held upon notice posted conspicuously on the subject property. The notice shall also be sent to the last known address of the property owner, as it appears on the current assessment records of the Town of Lake Pleasant, by certified mail, return receipt requested or served on the owner by personal service. Posting and service of such notice shall not be less than 15 calendar days, exclusive of the date of service, prior to the date of the public hearing.

The notice shall:

- (1) Identify the premises as the same appears on the current assessment role;
- (2) Contain a statement of the conditions on the property deemed upon inspection to constitute a public nuisance; and
- (3) Contain a demand that the condition or conditions constituting the public nuisance be immediately abated or removed before the date of the hearing specified in the notice; and
- (4) Contain a statement that a failure or refusal to comply within the period specified may

result in a duly authorized officer, agent or employee of the municipality entering upon the property and abating or removing the public nuisance; and

(5) Contain a statement that the cost and expense of such abatement or removal shall be the responsibility of the owner, tenant or occupant, and, without limitation on the Town of Lake Pleasant's potential remedies to recoup its expenses, such cost and expense shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

Where the Lake Pleasant Town Board finds, based on substantial evidence in the public hearing record, that the violation or violations amount to a public nuisance requiring abatement by the Town of Lake Pleasant, the town board may cause the abatement or removal of the public nuisance. Its designee, or agent, including a private contractor lawfully engaged and authorized by the municipality, may perform the abatement or removal. The governing board shall ascertain the cost of removal, and assess such expense against the record owner of the property. The expense so assessed shall constitute a lien in charge on real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other town charges.

The foregoing shall not be construed as a limitation on the municipality's potential remedies to recover its costs.

The removal of any nuisance by the municipality's agents shall not operate to excuse such owner, tenant or occupant from properly maintaining the premises as required by this law. Such owner, tenant or occupant shall, in addition to the remedies provided herein, be subject any other penalties provided for by this law.

ARTICLE E: MISCELLANEOUS

Section 1. Prior Existing Junk Storage Law

Upon filing of this local law with the New York State Department of State, Local Law # 3 of 1997 is hereby repealed.

Appendix A:

Notice to Comply with Town of Lake Pleasant Junk Storage Law

Name

Address

Dear _____,
According to records of the Town of Lake Pleasant Assessor, you are the owner of property tax map # _____ located at
_____.

On _____ I observed an apparent violation of the Town of Lake Pleasant Junk Storage Local Law # 10 of 2009 on your property, specifically:

_____.

That activity is a violation of Article _____, Section _____ of the Town of Lake Pleasant Junk Storage Local Law #10 of 2009, a copy of which is attached for your information. I hereby request that you either eliminate the violation or file plans with this office for corrective measures by _____.

If you believe that you are not in violation of the Junk Storage Law, please contact this office to review the situation. If you intend to bring your property into compliance with the law, but you cannot meet the stated deadline, please contact this office and we will attempt to work with you on a short extension.

If you do not take the requested action or make other arrangements with this office by _____, we will begin formal enforcement action against you. You will **NOT** receive an additional warning before we begin formal enforcement action.

THIS IS THE ONLY LETTER YOU WILL RECEIVE. Your next communication from us will involve formal enforcement action.

If you wish to discuss any aspect of your case, you can call me at _____ Because I am often in the field, the best time to reach me is:

_____.

Sincerely,

Name and Title

Date