

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.

County City Town Village
(Select one.)

of Westville

FILED
STATE RECORDS

JUN 19 2018

DEPARTMENT OF STATE

Local Law No. 2 of the year 2018

A local law to regulate the unwanted accumulation of household waste and debris in the Town of

(Insert Title)
Westville

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

County City Town Village
(Select one.)

of Franklin

as follows:

(See attached)

(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. 2 of 2018 of the ~~(County)(City)(Town)(Village)~~ of Westville was duly passed by the Westville Town Board on June 2018, 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 _____ 2018, 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 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.)

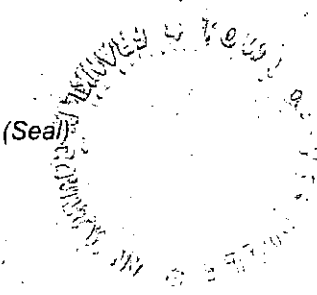
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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.



Ann J. Brady
Clerk of the county legislative body, City, Town or Village Clerk or
office designated by local legislative body

Date: June 4, 2018

TOWN OF WESTVILLE

LOCAL LAW #2 OF 2018

A Local Law to regulate the unwanted accumulation of household
Waste and Debris in the Town of Westville

ARTICLE A: INTRODUCTION

Section 1. Authority

Be it enacted by the Town of Westville as follows:

Section 2. Title

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

This local law shall be known as "A local law regulating junk storage in the Town of Westville."

Section 3. Purpose

The Westville 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 deposit, accumulation, or maintenance of junk, regardless of quantity is hereby prohibited anywhere within sight of persons lawfully traveling the public highways or within sight of neighboring property. By adoption of this law the Town of Westville 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 Town of Westville. Where there is a conflict the more restrictive provision shall apply.

Section 5. Definitions

Garbage: All animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including container in which packaged.

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.

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, litter and/or debris.

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.

ARTICLE B: PROHIBITED ACTS

It shall be unlawful for any person to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained outdoors, any junk, clutter, litter and debris upon private property within the Town of Westville.

ARTICLE C: EXCLUSIONS

Article B shall not apply to the storage or placement on the premises of the following materials:

- 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 are expressly permitted within the laws of the Town of Westville.
- 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 the building inspector, zoning enforcement officer, or by any police officer of the Town of Westville. 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 complaint with the enforcement officer 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

Following an investigation of the property this law authorizes the enforcement officer to prepare a written "Notice to Comply". The "Notice to Comply" may be served by personal service or through certified mail, return receipt requested, to the last known address of the property owner. When service is made by certified mail, return receipt requested, service shall be deemed complete upon delivery of the notice.

The written notice to comply should 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 violated this law;
- 4) A demand that the garbage, rubbish, clutter, litter, debris, and junk 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 Westville Town Justice.

Upon the failure of an owner, tenant or occupant with notice to correct a violation of the Town of Westville, the Westville Town Board may hold a public hearing to determine whether the violation constitutes a public nuisance requiring abatement by the Town of Westville. 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 record of the Town of Westville; 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;
- 3) Contain a demand that the conditions or condition constituting the public nuisance be immediately abated or removed before the date of the hearing specified in the notice;
- 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 Town of Westville 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 Westville 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 Westville 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 Westville, the Westville Town Board may cause the abatement or removal of the public nuisance. The abatement or removal may be performed by the Town of Westville or by its designee, or agent, including a private contractor lawfully engaged and authorized by the Town of Westville. The Westville Town 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 Town of Westville's potential remedies to recover its costs.

The removal of any nuisance by the Town of Westville'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 to any other penalties provided for by this law.

Section 5. Penalties and Remedies

Any person who shall violate any of the provisions of this law shall be guilty of a violation and subject to the following:

- 1) A fine not to exceed \$350.00 or imprisonment for a period not to exceed fifteen days, or both; or
- 2) A penalty of \$350.00 to be recovered by the Town of Westville in a civil action.

Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omission, neglect or refusal shall continue.

The Westville Town Board may also maintain an action or proceeding, in the name of the Town of Westville in a court of competent jurisdiction, to compel compliance with or restrain by injunction the violation of any provision of this law.

ARTICLE D: MISCELLANEOUS PROVISIONS

Section 1. Severability

If any clause, sentence, paragraph, section or article of this 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 said judgment shall have been rendered.

Section 2. Effective Date

This local law shall become effective upon the date it is filed in the Office of the Secretary of State of New York.