Property Maintenance

Sec. 1 **Purpose and Legislative Intent.**

This local law (this "Local Law") is adopted pursuant to § 10 of the Municipal Home Rule Law to provide for the administration and enforcement of the New York State Property Maintenance Code in the Town of Veteran. Except as otherwise provided by the New York State Property Maintenance Code, other applicable state law, or this Local Law, all buildings, structures, lots, and premises, regardless of use or occupancy, shall be subject to the provisions of the New York State Property Maintenance Code, as amended from time to time, which is hereby incorporated by reference.

This Local Law is further enacted in recognition that the outdoor storage of garbage, litter, or rubbish; the growth of weeds and noxious plants; the harborage or infestation of insects, vermin, or rodents; and the outdoor storage of abandoned motor vehicles, junk cars, appliances, and similar items on private property may constitute both public and private nuisances affecting the public interest within the Town of Veteran. Such conditions are hereby declared to be nuisances and unsightly sources of vexation to neighboring property owners, occupants, and the general public. These items may also pose significant hazards, particularly as attractive nuisances to children, often containing broken glass, sharp metal edges, combustible fuel residues, and harmful battery acids. Their presence diminishes neighboring properties and the Town as a whole. Accordingly, the preservation of peace and good order, the safeguarding of health, safety, and general welfare, and the protection of private property compel the Town Board to legislate on this subject.

The purpose of this Local Law is to promote and maintain a sanitary, safe, and hazard-free environment for the residents of the Town of Veteran, which is essential to their health, welfare, and safety, as well as the protection of their property rights. Such enforcement is deemed vital to the continued economic development and overall well-being of the community. Recognizing these needs, the Town Board hereby establishes effective and well-regulated procedures for the maintenance of all properties within the Town of Veteran. Nothing in this Local Law is intended to supplant or replace the provisions of the current or future Town of Veteran Zoning Ordinance(s), the New York State Property Maintenance Code, or the New York State Fire Safety and Building Code.

Sec. 2 **Definitions.**

For purposes of this Local Law the following words shall have the following definitions, other words shall have the definitions provided for in the NYS Property Maintenance Code:

ABANDONED MOTOR VEHICLE - Any vehicle in whatever condition which has not been registered and/or licensed in the State of New York or issued a valid New York State vehicle inspection sticker by a motor vehicle inspection station licensed by the State of New York, no more than 365 days preceding, and counting from, the date of detection by the enforcement officer; and Junk Cars (as hereinafter defined).

APPLIANCE - Any stove, range, washing machine, dryer, freezer, refrigerator, food or drink cooler, hot water heater, air conditioner, water softener, television, radio, antenna or other household or commercial device or equipment abandoned, junked, discarded, wholly or partially

dismantled, no longer intended or in condition for ordinary use for the purpose for which it was designated originally.

BRUSH - Uncultivated woody shrubs and immature trees.

GARBAGE - The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, or the discard of other customary household items.

GRASS - Herbaceous ornamental plants intended to be periodically cut close to the ground for the establishment of a lawn or ground covering. Grass may also be used for ground covering for the establishment of drainage swales, flood routes or water detention or retention basins.

JUNK CAR - Any motor vehicle in such condition or state of repair which renders the vehicle incapable of being lawfully driven or operated upon the public highway in its condition, immediately without repairs; any motor vehicle which has been abandoned, junked, discarded or dismantled, wholly or partially. The absence of a current inspection sticker shall be prima facie evidence that said vehicle is incapable of being lawfully operated on a public highway. An antique or classic motor vehicle shall be exempt from said definition if the owner can establish that he is engaged in a program of rehabilitation of said vehicle.

LITTER - Garbage, Refuse, Rubbish, each as herein defined, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.

MOTOR VEHICLE - Any automobile, bus, tractor, truck, trailer, mobile home or any other contraption propelled or drawn by power other than human muscular power.

OCCUPANT - Any individual living or sleeping in a building or having possession of a space within a building.

OPERATOR - Any person who has charge, care or control of a structure or premises which is offered for occupancy pursuant to a written or unwritten lease agreement or pursuant to a recorded or unrecorded agreement of contract for sale of land.

OUTDOOR STORAGE - The placing, maintaining or keeping in a place other than a structure having a roof and fully enclosed permanent sides in a state of good repair, and capable of being secured.

OWNER - The person having legal title to property; the person shown as the owner of real property on the current assessment rolls of the Town.

PERSON - Any natural person; any association, partnership, firm or corporation, trust, estate, foundation or fund, charitable or otherwise; any municipality or municipal corporation; or any other unit or entity owning real property or abandoned Motor Vehicle, Junk Car or Appliance in the Town.

PREMISES or LOT - A tract of land with or without a building on it.

REFUSE or RUBBISH - Plastics, combustible trash, including but not limited to paper, cartons, boxes, barrels, wood, excelsior, tree limbs and branches, yard trimmings, wood furniture and bedding. Also included is noncombustible trash, including but not limited to tires, metals, cans, plastics, metal furniture, small quantities of rock, brick and concrete, glass, metal fixtures, bottles

and street rubbish, street sweepings, dirt, leaves, catch-basin dirt and contents of litter receptacles, ashes, dead animals, junked vehicles, solid market and industrial wastes, cardboard, leaves, crockery and similar materials.

RUBBISH - Combustible and noncombustible waste materials, including but not limited to the residue from the burning of wood, coal or other combustible materials, paper, brush, rags, cartons, boxes, lumber, rubber, plastics, leather, tin cans, metals, glass, crockery, discarded appliances or vehicle tires and garbage.

TOWN - The Town of Veteran.

WASTE MATERIAL - Includes, but is not limited to, waste produced by industrial or manufacturing processes, including food processing waste, boiling house cinders, lumber scraps and shavings, tires and oils and large amounts of wood, concrete, rocks, brick, sand and other wastes from building operations.

WEEDS - Wild, useless, poisonous or noxious and generally undesirable plants growing at random in inappropriate locations.

YARD - The area on all sides of every structure on a Premises; for each such structure, said area shall be equal to the setbacks of the zoning district as measured from the sides of each Structure.

Sec. 3 **Property maintenance.**

The Owner, Operator, tenant, lessee, agent, or Occupant of the Premises shall maintain the Premises as follows:

A. All yards on a Premises shall be trimmed, mowed and maintained free of Weeds and noxious plant growth in excess of 10 inches, other than trees, shrubs and cultivated flowers and gardens, and with all dead, damaged or diseased trees or shrubs, or portions thereof, removed or replaced.

B. The Premises shall be maintained free of Garbage, Rubbish, insects, vermin and rodent harborage and infestation. All Rubbish and Garbage must be stored in a clean and sanitary manner by placing such in leakproof containers provided with close-fitting covers until removed from the Premises for disposal.

C. The Premises shall be maintained in compliance with the NYS Property Maintenance Code, which is incorporated herein by reference as amended from time to time, and this Local Law.

D. The Premises shall be maintained not to allow the storing, depositing, placing, maintaining or causing or permitting to be stored, deposited, placed or maintained in outdoor storage any abandoned Motor Vehicle, Junk Car, discarded, wholly or partially dismantled or unlicensed motor vehicle, appliance, motorized equipment, Rubbish, or debris, upon any public or private property within the Town.

E. The Premises shall be maintained such that surface or subsurface water shall be properly drained to protect buildings and structures and to prevent the accumulation of stagnant water.

F. The Premise shall be maintained such that all unoccupied buildings, structures and Premises shall be maintained in a clean, safe, secure and sanitary condition so as not to cause a blighting problem or adversely affect public health or safety.

The Premise shall be maintained free of litter; provided, however, that this section shall not prohibit the storage of litter for a reasonable period of time in authorized private receptacles for collections. The Premise shall not allow for any person to throw, spill, place, deposit, leave or cause to be thrown, spilled, placed, deposited or left, or permit any agent, servant or employee to throw, spill, place, deposit or leave, in or upon any street, highway, alley, sidewalk, park or public building or in any running water or body of water any Garbage, Refuse, Rubbish, waste material or litter or filth, including but not limited to sewage, excrement, slops, dead carcasses, compost, ashes, soot or any material subject to be carried by the wind or unwholesome or putrescible matter of any kind.

Sec. 4 **Code Enforcement Officer.**

The Code Enforcement Officer of the Town of Veteran shall administer and enforce all the provisions of the New York State Property Maintenance Code and this Local Law. The Code Enforcement Officer shall have the following powers and duties:

A. To review and investigate complaints;

B. To conduct inspections incidental to the investigation of complaints and to conduct inspections incidental to the Code Enforcement Officer's own witnessing of violations of the New York State Property Maintenance Code or of this Local Law;

C. To maintain records;

D. To pursue administrative enforcement actions and proceedings;

E. In consultation with the Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the New York State Property Maintenance Code and this local law; and

F. To issue an appearance ticket to any person whom the Town of Veteran Code Enforcement Officer has reason to believe has violated this Local Law, causing such person to appear before the Town Justice.

Sec. 5 **Complaints; inspection; notice to Owner.**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the New York State Property Maintenance Code or with this Local Law. The process for responding to a complaint or upon the Code Enforcement Officer witnessing a violation of the New York State Property Maintenance Code or of this Local Law shall include such of the following steps:

A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

B. If a violation is found to exist, providing the Owner or operator of the affected Premises and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation. The Town of Veteran Code Enforcement Officer shall personally serve such notice(s) within the Town of Veteran or shall post a copy of the violation on the Premises if an Owner, operator or responsible person cannot be found to personally serve. If the Owner or operator of said premises is a nonresident of the Town

of Veteran or if the Code Enforcement Officer was unable to personally serve the Owner or operator, a notice to cure the violation shall also be mailed to such Owner or operator by registered mail, addressed to the Owner or operator's last known address.

C. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

Sec. 6 **Emergency Situations.**

A. Where the violation or condition existing on said property is of such a nature as to constitute an immediate threat to the public health, safety and general welfare unless abated without delay, the Town may either cause the violation to be abated or order the Owner to correct the violation within a period of time not to exceed three days. Upon failure by the Owner to do so, the violation or condition may be abated pursuant to and subject to the provisions of this chapter.

Sec. 7 **Performance of mowing work by Town; assessment of costs.**

A. If the Person upon whom is served a notice to abate, correct or cure a violation of the New York State Property Maintenance Code regarding the keeping of Premises and immediate exterior Premises maintained free from Weeds or plant growth in excess of the height set forth in the New York State Property Maintenance Code or this Local Law fails, neglects or refuses to abate, correct or cure such violation within the timeframe specified in the notice, the Town of Veteran Code Enforcement Officer shall cause such Weeds, grass and other vegetation on such lot or land to be cut and removed, and the actual cost of such cutting and removal plus a service charge of 50% thereof or $100.00, whichever is greater, to cover the cost of supervision, inspection, administration and other additional costs in connection therewith, shall be certified by the Town of Veteran Code Enforcement Officer to the Town Supervisor and such certified amount shall thereupon be charged and assessed against the Owner, operator, tenant or occupant of the premises that was the subject of the violation. The expense, so assessed, shall constitute a lien and charge on the real Premises on which it is levied until paid or otherwise satisfied or discharged and shall be collected and enforced in the same manner and at the same time as other Town taxes and charges.

B. The Owner and/or responsible Person of any lot, land or Premises found in violation of the New York State Property Maintenance Code regarding the keeping of Premises and immediate exterior Premises maintained free from Weeds or plant growth in excess of the height set forth in the New York State Property Maintenance Code or this local law shall be notified in writing only once in any given calendar year for such violation. Subsequent violations of a similar nature at the same location during the same season shall be corrected by the Town or its agent without notice to the Owner or operator of said Premises. After initial notification, such Owner, operator, occupant or Person having control of said Premises will be presumed to have been given sufficient notice of infraction for the entire season. The costs incurred by the Town in curing any subsequent violations shall be collected in the same manner as set forth in Subsection A of this section.

C. The performance of any work by the Town of Veteran or its designee or agent pursuant to this section shall not operate to excuse such Owner or responsible Person from properly

maintaining such Premises as required by this Local Law, and such Owner, operator, tenant or occupant shall, notwithstanding, be subject to the penalties set forth in this Local Law.

Sec. 8 **Performance of other than mowing work by Town; assessment of costs.**

A. Upon the failure of an Owner or responsible person who was served with notice of a violation to abate, correct or cure a violation of the New York State Property Maintenance Code, other than violations discussed in Sec. 7 of this Local Law, or of this Local Law, the Town Board of the Town of Veteran may hold a public hearing to determine whether the violation constitutes a violation of this Local Law, including but not limited to, a public nuisance requiring abatement by the Town. The public hearing shall be held upon notice posted conspicuously on the subject Premises. The notice shall also be sent to the last-known address of the Premises Owner, as it appears on the current assessment records of the municipality, 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 fifteen 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 roll;

(2) Contain a statement of the conditions on the Premises deemed upon inspection to constitute a violation of this Local Law, including, but not limited to, a public nuisance;

(3) Contain a demand that the condition or conditions constituting the violation of this Local Law, including, but not limited to, a public nuisance be immediately abated or removed before the date of the hearing specified in the notice;

(4) Contain a statement that failure or refusal to comply within the period specified may result in a duly authorized officer, agent or employee of the Town entering upon the Premises and abating or removing the violation of this Local Law, including, but not limited to, a public nuisance; and

(5) Contain a statement that the cost and expense of such abatement or removal shall be the responsibility of the Owner, operator, tenant or occupant, and, without limitation on the Town's potential remedies to recoup its expenses, such cost and expense shall be assessed against the described Premises on the next Town tax bill and shall constitute a lien thereon to be collected in the same manner and at the same time as other Town charges.

B. Where the Town Board finds, based on substantial evidence in the public hearing record, that the violation or violations amount to a violation of this Local Law, including, but not limited to, a public nuisance requiring abatement by the Town, the Town Board may cause the abatement or removal of the violation of this Local Law, including, but not limited to, a public nuisance. The abatement or removal may be performed by the Town or by its designee or agent, including a private contractor lawfully engaged and authorized by the Town Board. The Town Board shall ascertain the cost of removal and assess such expense against the record owner of the Premises. The expense so assessed shall constitute a lien and charge on the real Premises 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's potential remedies to recover its costs.

C. The performance of any work by the Town or its designee or agent pursuant to this section shall not operate to excuse such Owner or responsible Person from properly maintaining such Premises as required by this Local Law, and such Owner, operator, tenant or Occupant shall, notwithstanding, be subject to the penalties set forth in this Local Law.

Sec. 9 **Penalties.**

A. Any Person convicted of violating any provision of this Local Law, and the Owner of any Premises on which a first violation is committed, shall be subject to a fine not to exceed $500, and/or a term of imprisonment not to exceed fifteen days.

B. Any second or subsequent conviction of the same offense within five years shall be deemed an unclassified misdemeanor, punishable by a fine not to exceed $1,000, and/or a term of imprisonment not to exceed one year.

Sec. 10 **Civil relief.**

The Town may institute and maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of any provision of the New York State Property Maintenance Code or of this Local Law.

Sec. 11 **Remedies not exclusive.**

No remedy or penalty specified in this Local Law shall be the exclusive remedy or penalty available to address any violation described in this Local Law, 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, in the Code of the Town, in the New York State Property Maintenance Code, or in any other applicable 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, in the Code of the Town, in the New York State Property Maintenance Code, or in any other applicable law.

Sec. 12 **Effect of state law.**

The provisions of this Local Law shall be subject to and subordinate to the provisions of the New York State Agriculture and Markets Law.

Sec. 13 **Severability.**

If any clause, sentence, paragraph, or section 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.

Sec. 14 **Repealer.**

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Sec. 15 **SEQRA Determination.**

It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 NY ECL, Section 0101 et seq. and its implementing regulations, Part 617 of 6 NYCRR, that the adoption of the local law is a Type 'II' Action within the meaning of Section 617.5 (c)(1), (26) and (33) of 6 NYCRR, and accordingly, is of a class of actions which do not have a significant effect on the environment, no further review is required.

Sec. 16 **Effective date.**

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.