

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(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

of DELAWARE

Local Law No. 1 of the year 2001

A local law establishing a littering law within the Town of Delaware

(Insert Title)

Be it enacted by the Town Board of the

(Name of Legislative Body)

County

City

Town

Village

of Delaware as follows:

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

SECTION I

Title.

This law shall be cited and may be referred to hereinafter as the "Littering Law of the Town of Delaware."

SECTION II

Definitions.

Unless otherwise expressly stated, the following definitions shall, for the purpose of this law, have the meanings herein indicated. Any pertinent word or term not a part of this listing shall be constructed to have its legal definition.

GARBAGE- Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

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

PERSON- An individual, firm, partnership, association, corporation, company or organization of any kind.

PUBLIC PLACE- All publicly owned property, including any and all streets, roads, highways or other public ways; any and all public parks, grounds, buildings and school property; and anything affixed thereto and thereover.

REFUSE- All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, automobile parts and solid market and industrial wastes.

TOWN- Town of Delaware.

SECTION III

Prohibited Acts.

A. No person shall throw, deposit or place or permit to be deposited or scattered in or upon any public place or upon any private property within the town any litter, except in public or private receptacles for collection.

B. No person shall utilize any public receptacle for the deposit of garbage, litter or refuse collected or accumulated at their household or business.

SECTION IV

Placement of Receptacles.

Persons placing litter in public or private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any public place or upon any private property. No litter, garbage or refuse shall be placed outside, next to or along any public receptacles.

SECTION V

Maintenance of Premises.

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in private receptacles for collection or disposal.

SECTION VI

Sweeping Litter Into Public Places.

No person shall sweep into or deposit in any street, road or highway within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk in front of their premises free of litter.

SECTION VII

Notice of Violation.

The Code Enforcement Officer of the Town Code of the Town of Delaware shall have the power, right and authority to serve a notice of violation upon the owner or the agent thereof of any property which is determined to be in violation of this law. Such notice shall be served personally or by certified mail, return receipt requested, upon the last known owner of said property, as shown on the last complete tax assessment roll of the town. The notice shall give such owner ten (10) days after service of the notice to correct such violation, during which time the owner shall properly remove or cause to be removed such litter from said property.

SECTION VIII

Failure to Comply with Notice.

A. In the event that all such litter shall not be removed within the time specified in the notice to remove, the Town Board shall hold a hearing, upon five (5) days' public notice, to determine whether the continued deposit of such materials constitutes a public nuisance or a public health hazard. Notice of such hearing shall be given to the owner of the property in such manner specified in §VII hereinabove at least five (5) days prior to such hearing.

B. If, after such hearing, the Town Board deems the continued deposit of such materials constitutes a public nuisance or a public health hazard, it shall give notice of such findings by certified mail addressed to the owner of record of such property at the address shown on the last complete tax assessment roll. Such notice shall further state that if at least ten (10) days elapse from the service thereof and the violation has not been fully corrected, the entire expense of such correction shall be assessed against such property.

C. If a period of at least ten (10) days elapses from the service of the notice required by §VIII B hereinabove and the violation has not been full corrected, the Town Board shall proceed to take whatever action is necessary to cause the litter or other material to be removed from such property. The total expense of such removal shall be assessed against such property by the Town Board in the manner provided in §VIII D hereinbelow.

D. The Town Board shall serve personally or by certified mail upon the owner of record of such property at the address shown on the last complete tax assessment roll a written notice stating that, at a time and place specified therein, it will assess the expense of such removal against such property. Such notice shall be served at least eight (8) days previous to the time specified therein. If directed against a corporation, it may be served upon the corporation at its principal place of business, upon an agent of the corporation within the town or upon the Secretary of State. Notice served upon the Secretary of State shall be served at least twelve (12) days previous to the time specified therein. At the time and place so specified, the Town Board shall hear the parties interested and shall thereupon finally determine the assessment, stating therein the name of each owner and the amount so assessed. The amount so assessed shall constitute a lien on the real property on which it is levied until paid or otherwise cancelled pursuant to law and shall be collected in the manner fixed by law for the collection of town taxes.

SECTION IX

Enforcement.

All police agencies and the Code Enforcement Officer of the Code of the Town of Delaware shall have the power, right and authority to issue an appearance ticket, as the same is defined in Article 150 of the Criminal Procedure Law of the State of New York, for the violation of any section of this law.

SECTION X

Penalties for Offenses.

A. Any person committing an offense against any provision of this law shall be guilty of a violation, punishable by a fine not exceeding two hundred fifty dollars (\$250) or by imprisonment for a term not exceeding fifteen (15) days, or both such fine and imprisonment. The continuation of an offense against any provisions of this law shall constitute a separate and distinct offense hereunder for each period of twenty-four (24) hours the offense is continued.

B. In addition to all other remedies provided for herein, the Town Board may also enforce obedience to this law by injunction or by any other remedy available to it by virtue of the judicial process.

SECTION XI

Effect of Invalidity

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjusted finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provision not be included.

SECTION XII

When Effective.

This law shall become effective immediately upon filing with the New York State Secretary of State.

(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. 1 of 2001 of the ~~XXXXXX~~(Town)(~~XXXX~~) of Delaware was duly passed by the Town Board on Sept 17 2001, 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)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*~~

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)(repassed after disapproval) by the _____ on _____ 20____. 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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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)(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.
(Name of Legislative Body)
(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.)~~

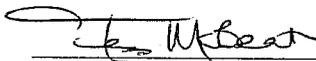
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
TESS MCBEATH, Town Clerk

Date: September 21, 2001

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Sullivan

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature KENNETH C. KLEIN

Town Attorney

Title

County
City of Delaware
Town
Village

Date: _____, 2001