

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 Van Etten

Local Law No. 3 of the year 2023

A local law Regulation of Property Maintenance in the Town of Van Etten
(Insert Title)

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

County City Town Village
(Select one:)

of Van Etten

as follows:

SECTION 1 – TITLE.

This Local Law shall be known and cited as Local Law No. 3 of 2023 of the Town of Van Etten, Chemung County, New York, "Regulation of Property Maintenance in the Town of Van Etten."

SECTION 2 – GENERAL REQUIREMENTS.

All residential, agricultural, and commercial premises within the Town of Van Etten, whether improved or vacant, shall be maintained in conformity with the provisions of this local law.

SECTION 3 – DEFINITIONS.

As used in this local law, the following terms shall have the meanings indicated:

"Business Unit" means a building or combination of buildings and the lot on which the same is located, used wholly or in part for commercial purposes, including but not limited to offices, places of public assembly, shopping centers, supermarkets, retail stores, warehouses, governmental buildings, and other business or commercial uses.

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

"Code Enforcement Officer" means the Code Enforcement Officer of the Town of Van Etten or designee.

"Developed Property" means real property which has been altered from its natural state by the addition and attachment of any improvements such as, but not limited to, buildings, structures, and other impervious areas.

"Dwelling" means a building containing one or more units occupied exclusively for residential purposes.

"Garbage" means animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food and from the handling, processing, storage, and sale of food products and produce.

"Infestation" means the presence of insects, rodents, vermin, or other pests.

"Litter" means garbage, refuse, and rubbish, 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, or welfare.

"Lot" means a parcel of land used or set aside and available for use as the site of one or more buildings and accessory buildings thereto or for any other purpose and not divided by a street nor including any land within the right-of-way of a public or private street upon which said lot abuts, even if the ownership to such right-of-way is with the owner of the lot. A lot, for purposes of this law, may or may not coincide with a lot of record.

"Refuse" means all putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, street cleanings, dead animals, junk vehicles, and solid, market, and industrial wastes.

"Rubbish" means non-putrescible solid wastes consisting of both combustible and non-combustible wastes, such as papers, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

"Structure" means a combination of materials assembled, constructed, or erected at a fixed location, including a building, the use of which requires location on the ground or attachment to something having location on the ground.

"Unoccupied Hazard" means any building or part thereof which remains unoccupied for a period of more than 90 days with either doors, windows, or other openings broken, removed, boarded, or sealed, or any buildings under construction upon which little or no construction work has been performed for a period of more than 90 days.

"Yard" means an open or unobstructed space located upon the same lot as a structure, extending along a lot line and inward to the structure.

SECTION 4 – OPEN AREAS.

(a) Fences and other minor structures and improvements shall be maintained in a safe and stable condition.

(b) Yards and vacant lots shall be kept clean and free of physical hazards, litter, garbage, refuse, rubbish, rodent harborage, and infestation. They shall be maintained in a manner that will prevent dust or other particles from being blown about the neighborhood. Open wells, cesspools, or cisterns shall be securely closed or barricaded from access to the public.

(c) The owner or occupant of any developed property within the Town shall cut, trim, or remove grass, weeds, and other vegetation to a height of ten (10) inches or less on all portions of such developed property that are located within fifty (50) feet of any dwelling or street.

SECTION 5 – BUSINESS UNITS.

(a) Business units, as defined herein, shall at all times be maintained in compliance with the provisions of this local law.

(b) Storage or accumulation of garbage, crates, rubbish, refuse, or debris shall be kept inside the building on the premises or in an acceptable enclosure and shall be regularly collected and removed from the premises.

(c) All fences and planting areas installed or located on the premises shall be maintained by the owner of the property. Such maintenance shall include, but not be limited to, the replacement of trees and shrubs which may die and/or otherwise be destroyed, the maintenance and cutting of lawns and the replacement and/or repair of fences which may become in disrepair.

SECTION 6 – BUILDINGS AND STRUCTURES.

(a) All exterior exposed surfaces not inherently resistant to deterioration shall be repaired, coated, treated, or sealed to protect them from deterioration or weathering.

(b) Exterior walls, roofs, and porches, and any appurtenances thereto, shall be maintained in a manner so as to prevent the collapse of the same or injury to the occupants of the building or to the public.

(c) The foundation walls of every building shall be maintained in good repair and shall be structurally sound.

(d) Exterior walls, roofs, and all openings around doors, windows, chimneys, and other parts of a building shall be so maintained as to keep water from entering the building and to prevent undue heat loss from occupied areas. Materials which have been damaged or show evidence of dry rot or other deterioration shall be repaired or replaced and refinished in a workmanlike manner. Exterior walls, roofs, and other parts of the building shall be free from loose and unsecured objects and material and improperly secured objects and material. Such objects or materials shall be removed, repaired, or replaced.

(e) The owner of a vacated building shall take such steps and perform such acts as may be required of him from time to time to ensure that the building and its adjoining yard remain safe and secure and do not present a hazard to adjoining property or to the public. All openings shall be provided with painted, exterior-grade closures, securely fastened.

(f) Buildings and structures shall be maintained in such a condition that they shall not become unoccupied hazards as defined in this law. All graffiti or defacing shall be removed, and the surface finish restored within a thirty-day period.

(g) All signs and lighting systems shall be maintained in an operable, clean and safe condition.

(h) All decorative pools and similar devices shall be maintained free of litter and operated as intended.

SECTION 7 – INFESTATION AND SCREENING.

(a) Grounds, buildings and structures shall be maintained free of vermin and rodent harborage and infestation. Methods used for exterminating vermin and rodents shall conform with generally accepted practice.

(b) Where the potential for rodent or vermin infestation exists, windows and other openings in basements and cellars shall be appropriately screened with wire mesh or other suitable materials.

SECTION 8 – SIDEWALKS.

The owner or occupant of any lot along or in front of which, or upon any part of which, a sidewalk is constructed or built, shall remove the snow and ice from the full paved width of such sidewalk within twelve (12) hours after the snow has ceased to fall or the ice to form. If said owner or occupant shall neglect to remove the snow and ice from such sidewalk within such time or within four (4) hours after notice by the Code Enforcement Officer to remove the same, the Code Enforcement Officer or his or her designee shall arrange for the removal of said snow and ice from such sidewalk and notify the Town Clerk of the total cost of labor, equipment, and materials incurred in connection with such removal. The Town Clerk shall promptly issue to such owner or occupant a bill setting forth the fee for removal of snow and ice as certified by the Code Enforcement Officer, which fee shall be equal the total cost of labor, equipment, and materials incurred by the Town plus a processing charge the amount of which shall be established from time to time by the Town Board and in any event shall not be less than \$75.00. In the event the fee remains unpaid, such fee, together with an additional processing charge of \$35.00, shall be added as a separate line item to the annual real property tax bill for such lot in accordance with section 11 of this local law.

SECTION 9 – RESPONSIBILITIES OF OWNERS.

(a) Owners of premises shall be responsible for compliance with the provisions of this law and shall remain responsible therefor regardless of the fact that this law may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

(b) Owners and operators of buildings shall be responsible for the proper installation, maintenance, condition, and operation of service facilities and for furnishing adequate heat and hot water supply where they have been contracted to so provide.

(c) Whenever any person or persons shall be in actual possession or have charge, care, or control of any property within the Town as executor, administrator, trustee, guardian,

operator, or agent, such person shall be deemed and taken to be the owner or owners of said property within the true intent and meaning of this law and shall be bound to comply with the provisions of this law to the same extent as the record owner; and notice to any such person of any order or decision of the Code Enforcement Officer shall be deemed and taken to be a good and sufficient notice, as if such person were actually the record owner or owners of such property. In instances where an occupant is responsible or shares responsibility with the owner for the existence of one or more violations of this law, said occupant shall be deemed and taken to be an owner within the true intent and meaning of this law.

SECTION 10 – EXCEPTIONS.

(a) The provisions of this local law shall not apply to cultivated crops, shrubs, or trees or other landscaping or weeds or grass which may be intermingled with cultivated crops, until such time as said crops are harvested.

(b) The provisions of this local law shall apply to cultivated flowers and gardens.

SECTION 11 – REMOVAL BY TOWN; COSTS.

If any lot is not maintained in compliance with the provisions of this local law, the Code Enforcement Officer shall serve written notice, either personally or by mail, upon the owner, lessee, or occupant, or any other person having the care or control, of any such lot, directing such person to comply with the provisions of this local law. If the person upon whom the notice is served fails, neglects, or refuses to comply with the provisions of this local law within the specified time, or if no person can be found in the Town of Van Etten who either is or claims to be the owner of such lot or who either represents or claims to represent such owner, the Code Enforcement Officer may cause or take such action as to bring the lot into compliance with the provisions of this local law, which action may include a duly authorized agent or employee of the Town entering onto the lot and providing for the removal and/or disposal of rubbish, debris, litter, infestation, and/or refuse, and/or the cutting of grass or weeds. The actual cost of such actions and any amounts incurred by the Town for the inspection of the property and the service of written notice of noncompliance, plus a processing charge the amount of which shall be established from time to time by the Town Board and in any event shall not be less than \$75.00, shall be certified by the Code Enforcement Officer as to the lot. If the total amount certified by the Code Enforcement Officer is not paid by the owner, lessee, occupant, or any other person, such total amount, together with an additional processing charge of \$35.00, shall constitute a lien thereon until paid or otherwise satisfied or discharged and, if not so paid or otherwise satisfied or discharged, shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

SECTION 12 – PENALTIES.

Any violation of this local law shall be punishable as provided in section 18 of Local Law No. 1 of 2022 of the Town of Van Etten.

SECTION 13 – AUTHORITY.

This local law is adopted pursuant to the Municipal Home Rule Law of the State of New York.

SECTION 14 – SEVERABILITY.

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provision or part hereof shall be deemed invalid all other provisions hereof shall remain valid and enforceable.

SECTION 15 – REPEALER.

All ordinances or parts of ordinances or local laws in conflict with or inconsistent with the provisions of this law are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or local law hereby repealed prior to this law taking effect.

SECTION 16 – EFFECTIVE DATE.

This local law shall take effect upon its adoption and filing with the Secretary of State of the State of New York as required by law.

(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. 3 of 2023 of the (County)(City)(Town)(Village) of Van Etten was duly passed by the Town Board of the Town of Van Etten on October 12 2023, in accordance with the applicable provisions of law.

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.

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.

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.

* 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.

Dawn M. Rose

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

Date: October 18, 2023

(Seal)