

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 Florence

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

AUG 18 2015

Local Law No. 1 of the year 2015

MISCELLANEOUS
& STATE RECORDS

A local law to regulate and control clutter, litter and debris
(Insert Title)

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

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Florence

as follows:

SEE ATTACHED

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

TOWN OF FLORENCE
PROHIBITION OF CLUTTER, LITTER AND DEBRIS LAW

Adopted by the Town of Florence Town Board
July 13, 2015
Local Law No. of 2015

ARTICLE 1. INTRODUCTION

Section 110. Enacting Clause

Pursuant to the authority conferred by Town Law Section 130, and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Town Board of the Town of Florence hereby adopts and enacts the following law.

Section 120. Title

This local law shall be entitled "Town of Florence Prohibition of Clutter, Litter, and Debris Law."

Section 130. Purpose

By adoption of this law The Town of Florence declares its intent to regulate and control clutter, litter and debris and to regulate conditions of clutter, litter and debris whether they result from an operation for commercial profit or otherwise. The Town of Florence 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 clutter, litter and debris constitute a hazard to property and persons and can be a public nuisance.

Section 140. Applicability

The provisions of this Law shall supplement all local laws, ordinances and codes existing in the Town of Florence, and other statutes and regulations of authorities having applicable jurisdiction.

This Law shall replace and supercede Local Law No. 1, 1997 Prohibition of Clutter, Litter and Debris in the Town of Florence, New York.

ARTICLE 2. DEFINITIONS

Section 210. General

Except where specifically defined herein, all words used in this law carry their customary meanings. Words in present tense include the future, words in the singular include the plural and the plural the singular, and the word "shall" is intended to be mandatory..

Section 220. Definitions

- A. **Agricultural equipment:** Every agricultural tractor, self-propelled implement of husbandry, and towed, mounted or semi-mounted implement of husbandry. "Implement of husbandry" shall mean a vehicle or machinery designed or adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry.
- B. **Clutter, Litter and Debris:** The terms "Clutter," "Litter," and "Debris" shall mean any ordinary household or store trash or garbage including but not limited to: household garbage, paper, barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick, 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, including more than 1 junk vehicle, junk utility trailers, junk appliances, and junk mobile homes.

- C. **Junk:** Includes all definitions using the word "Junk".
- D. **Junk Appliance:** The term "junk appliance" shall mean any stove, washing machine, dryer, freezer, refrigerator or other household device or equipment abandoned, junked, discarded, or wholly or partially dismantled.
- E. **Junk Mobile Home:** The term "junk mobile home" shall mean any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and over-night trailers; which is no longer suitable for human habitation.
- F. **Junk Vehicle:** The term "junk vehicle" shall mean any motor vehicle, whether automobile, bus, truck, tractor, motor home, motorcycle, mini-bicycle, or snowmobile, or any other motorized vehicle, which is:
- a. unregistered; or
 - b. abandoned, wrecked, discarded, dismantled, or partly dismantled; or
 - c. not in condition for legal use upon the public highways.

With respect to any motor vehicle not required to be registered or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than six months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk vehicle unless refuted by verifiable and credible proof. Junk Vehicle shall not include Agricultural Equipment.

- G. **Person:** Any individual, corporation, governmental authority, trust, estate, partnership, association, two or more persons having a joint or common interest, or any other legal entity
- H. **Utility Trailer:** The term "utility trailer" shall mean any device designed to be towed behind a motor vehicle on the public highway, excluding farm machinery.

ARTICLE 3. REGULATIONS

Section 310. Clutter, Litter and Debris Prohibited

In order to preserve and promote reasonable quality of environment and aesthetics and to prohibit actions and conduct which offends the sensibilities and tends to debase the community and reduce real estate values, the deposit, accumulation, or maintenance of clutter, litter or debris, regardless of quantity, is hereby prohibited anywhere reasonably visible by persons lawfully traveling the public highways or reasonably visible from adjacent property. The provisions of this section shall be applicable to existing conditions.

Section 320. Complaints

Whenever a violation of this law occurs, any person may file a complaint with the Enforcement Officer. All complaints shall be in writing. The Enforcement Officer shall properly record and immediately investigate any such complaint. The Enforcement Officer shall notify the complainant of the final result of the investigation. The Enforcement Officer may also investigate any alleged violation that s/he has reason to believe has occurred or is occurring. The Enforcement Officer shall properly record all complaints and investigations.

Section 330. Variance

- A. The applicant may appeal to the zoning board of appeals for a variance from the provisions of this law.
- B. In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment to the health, safety, welfare and aesthetics of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - 1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
 - 2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;
 - 3) whether the requested variance is substantial;
 - 4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
 - 5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the variance.
- C. The board of appeals, in the granting of variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- D. All fees for appeals shall be as established by town board resolution.

ARTICLE 4. ADMINISTRATION AND ENFORCEMENT

Section 410. Enforcement Procedure

The Codes Enforcement officer of the Town of Florence shall have authority, as specified herein, to inspect property in the Town of Florence, to enforce the provisions of this Law, and to file a written report of violations with the Town Clerk.

The enforcement officer shall be authorized to prepare a written notice of violation and shall serve such notice upon the owner personally or by certified mail. The notice shall contain the following:

- a. The name of the owner(s), lessee, agent, tenant, and other person or persons with authority over the property to whom the notice shall be addressed.
- b. The location of the premises involved in the violation.
- c. A statement of the conditions of the property which it is alleged violate this law.
- d. A demand that the clutter, litter and debris be removed or placed so as to be in compliance with this Law within ten days of the service or mailing of the notice.

- e. A statement that a failure to comply with the demand may result in prosecution.
- f. A copy of this law.

Section 420. Extension

Upon application of the owner showing reasonable cause, the Town Board may grant an extension of up to 30 days for the owner to comply with the demands.

Section 430. Enforcement

If, after the expiration of ten days from the date of mailing the notice provided in Section 410 above, or after the completion of any extension period allowed in Section 420 above, the owner shall fail to comply with the requirements of Section 310 above, the Enforcement Officer or Town Board shall have the authority to institute enforcement procedures as follows:

- a. Pursuant to Section 150.20 {3} of the Criminal Procedure Law, the Code Enforcement Officer is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and shall cause such person to appear before the Town Justice.
- b. Remove such clutter, litter and debris from its location and dispose of same, and the expense thereof shall be charged to the property so affected by including such expense in the next annual tax levy against the property.
- c. File a complaint with the Town of Florence Justice Court.
- d. Maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with, or restrain by injunction, the violation of any section of this Law.

Section 440. Penalties

- A. Any violation of this local law is an offense punishable by:
 - a. a fine not exceeding \$350 for conviction of a first offense;
 - b. for conviction of a second offense, both of which were committed within a period of five years, a fine not less \$350 nor more than \$700 and,
 - c. upon conviction for a third or subsequent offense, all of which were committed within a period of five years, a fine not less than \$700 nor more than \$1,000
 - d. Each week's continued violation shall constitute a separate additional violation.
- B. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations.

ARTICLE 5. MISCELLANEOUS PROVISIONS

Section 510. Severability

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

Section 520. Effective Date

This Local Law shall take effect immediately upon filing in the office of the 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 2015 of the ~~(County)(City)(Town)(Village)~~ of Florence was duly passed by the Town Board on July 13, 2015, 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 _____ 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) (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 thereat 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 (Elective Chief Executive Officer*)

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.)

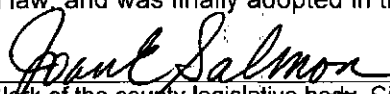
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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


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

Date: August 8, 2015

