

State

New York State Department of

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Local Law Filing

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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 of Kinderhook
Town
Village

Local Law No. 3 of the year 2021

A local law adopting Chapter 251 of the Town of Kinderhook Code

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

County
City of Kinderhook as follows:
Town
Village

PURPOSE AND INTENT

The Town Board of the Town of Kinderhook seeks to adopt Chapter 251 of the Town of Kinderhook Code to ensure that all properties within the Town are used in conformity with the Town Code and maintained in a way so as to assure the desirable character of the property, to prevent blight and the spread thereof, and to prevent hazards to the public health, safety, and welfare.

AUTHORIZATION

The Town Board of the Town of Kinderhook enacts this Local Law under the authority granted by:

1. Article IX of the New York State Constitution, §2(c) (6) and (10).
2. Town Law §130

3. New York Municipal Home Rule Law §10.

ENACTMENT

Be it enacted by the Town Board for the Town of Kinderhook that Chapter 251 of the Kinderhook Town Code be hereby adopted as follows:

§ 251-1 Declaration of policy; standards.

A. Consistent with the New York State Uniform Fire Prevention and Building Code and the standards contained therein, it is hereby declared by the Town Board of the Town of Kinderhook that all improved properties shall be maintained in conformity with the provisions of this chapter so as to assure the desirable character of the property, to prevent blight and the spread thereof and to prevent hazards to the public health, safety and welfare. Properties used for bona-fide agricultural production shall not be construed as improved properties for purposes of this chapter.

B. Standards.

- (1)** Surface and subsurface water shall be appropriately drained to protect buildings and structures, to prevent damage to adjacent property and to prevent the development of stagnant ponds. Swimming pools, spas, hot tubs and other structures erected for recreational use shall be maintained so as to avoid the stagnation of the water contained therein.
- (2)** Stops, walks, driveways, parking spaces and appurtenances and other paved areas shall be maintained so as to afford safe passage for pedestrian traffic and motor vehicle traffic under normal use and weather conditions. Holes or other hazards shall be immediately filled or otherwise repaired or replacements be effected. All off-street commercial parking facilities paved with impervious materials shall be swept and shall have properly maintained visible pavement markings.
- (3)** All landscaping shall be maintained so that lawns, hedges, bushes and trees shall be kept trimmed and free from becoming overgrown and unsightly, constituting an unsafe condition or blight. In addition, all leaves and brush collecting on the public right-of-way shall be kept out of the Town's right-of-way directly adjacent to a property, except to the extent that said leaves may be properly disposed of pursuant to the Highway Department's spring and fall cleanup program. Leaves and brush not properly disposed of pursuant to the Program rules, available online and from the Highway Department, shall constitute a violation of this chapter pursuant to § **251-2** herein.
- (4)** All garbage, crates, rubbish, refuse or debris shall be kept inside the building or buildings on the premises, or in an acceptable enclosed container, and shall be regularly collected and removed from the premises.

- (5) No portable storage unit or receptacle shall be permitted on a residential parcel for more than two weeks, unless the property benefits from an open and valid building permit. If the property benefits from an open and valid building permit, said portable storage unit may remain until either the building permit expires, or a certificate of occupancy and/or compliance is issued for the work described in the permit, whichever occurs first. Thereafter, the portable storage unit must be removed.
- (6) No dumpster shall be permitted in the front yard or side yard of a residential property for more than four weeks, unless the property benefits from an open and valid building permit. If the property benefits from an open and valid building permit, said dumpster may remain in the front yard or side yard until either the building permit expires, or a certificate of occupancy and/or compliance is issued for the work described in the permit, whichever occurs first. Thereafter, the dumpster must be removed.
- (7) Yards, courts, play areas and vacant lots shall be kept clean and free of physical hazards. They shall be maintained in a manner that will prevent rubbish from being blown about the neighborhood. Open wells, cesspools or cisterns shall be securely closed or barricaded to prevent access by the public.
- (8) 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 yards remain safe and secure and do not present a hazard to adjoining property or to the public.
- (9) A junked vehicle may not be parked, stored or left in the open but shall be stored in a suitable enclosed location inside a building or behind a fence which suitably screens such junked vehicles from view. A "junked vehicle," for the purposes of this chapter, shall be defined as any vehicle, including a trailer, which is without a currently valid license plate or plates and is in such a rusted, wrecked, discarded, dismantled, partly dismantled, inoperative or abandoned condition as to be no longer intended or in condition for legal use on the public highways. The Building Inspector shall make the final determination as to whether any particular vehicle shall be classified as a "abandoned, junked or inoperative motor vehicle" consistent with Chapter 232 of the Town Code.
- (10) All lights, lighting stanchions, utility poles and other appurtenances situated on commercial property shall be suitably maintained in a safe condition so as to prevent hazards to the public health, safety and welfare.
- (11) Exterior facades shall at all times be kept free of graffiti or any other defacement.

§ 251-2 **Penalties for offenses.**

- A. Except as required by § **251-2B** below, violations of this chapter shall be punishable by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 15 days, or both, for each violation. Each day's continued violation shall constitute a separate additional violation.
- B. Any second or subsequent conviction for a violation of this chapter within an eighteen-month period shall be considered an unclassified misdemeanor and shall be punishable by a fine of not less than \$1,000 nor more than \$5,000 or a term of imprisonment not to exceed six months, or both. An individual convicted hereunder shall not be subject to the mandatory blight mitigation surcharge discussed in § **251-2A** above.
- C. When authorized by a duly adopted resolution of the Town Board, the Town Attorney may pursue any and all actions in law or equity, including but not limited to actions for compensatory damages; civil penalties; to compel compliance, or to restrain by injunction violations of the standards enumerated in § **251-1**.
 - (1) Each day of a continuing violation of §**251-1** shall be subject to an escalating civil penalty as follows: \$150 for the first day of violation or any part thereof, \$250 for the second day of violation or any part thereof, and \$500 for the third day of violation or any part thereof and for all subsequent days of violation.
 - (2) Civil penalties may be recovered in any action or proceeding brought by the Town Attorney in any court of competent jurisdiction or before a duly appointed hearing officer whenever permitted by law.
- D. Any civil penalty imposed shall be in addition to any fine and/or imprisonment as a result of a criminal prosecution provided for under this section or any state or local law.

§ 251-3 **Administrative remedy.**

Where the standards enumerated in §251-1 are violated with regard to a property, the Town Board of the Town of Kinderhook shall have the right to direct appropriate agencies of the Town to take proper actions to bring the property into conformance with the standards of this chapter after the owner of the land has been notified by registered or certified mail at the address shown on the last previous assessment roll of the violation of the standards of this chapter and if such violation is not corrected by or on behalf of such owner 30 days after receipt of such notice. Said notice shall state specifically which standards have been violated. All costs and expenses incurred by the Town of Kinderhook in performing this work shall be assessed against the land on which such work is performed and be added to the tax bill applicable to said property for the next taxable period.

SEVERABILITY

In the event that any word, phrase or part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not effect the remainder of said local law which shall remain in full force and effect.

EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the Office of 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. 3 of 2021 of the Town of Kinderhook was duly passed by the Town Board on May, 2014, in (Name of Legislative Body) 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 (Name of Legislative Body) disapproval) by the _____ and was deemed duly adopted on _____, 20____, (Elective Chief Executive Officer*) 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 (Name of Legislative Body) disapproval) by the _____ on _____, 20____. Such local law was (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 (approved)(not approved)(repassed after (Name of Legislative Body) disapproval) by the _____ on _____, 20____. Such local law was subject (Elective Chief Executive Officer*) 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 chairman 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.)

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 _____, _____, became operative.

6. (County local law concerning adoption of Charter.)

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.

Kim Pinkowski, Town Clerk

(Seal)

Date: May __, 2021

(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 COLUMBIA

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 _____
Andrew B. Howard, Esq.
Title: Counsel

County _____
City of _____ Kinderhook _____
Town _____
Village _____

Date: May __, 2021