

# **Village of Avoca**

## **Local Law #1 of 2024**

A Local Law entitled “Property Maintenance Code of the Village of Avoca” shall be enacted by the Village Board of Trustees for the Village of Avoca as follows:

### **Article I**

#### **§1 Title.**

This chapter shall be known as the "Property Maintenance Code of the Village of Avoca" and may be referred to in this chapter as the "Property Maintenance Code" or as "this code."

#### **§2 Purpose.**

The purpose of this chapter is to provide for public health, safety and welfare; to avoid, eliminate and minimize hazards to public and safety; and to preserve the value of properties, structures and businesses within the Village. The Village provided for local enforcement of **the New York State Uniform Fire Prevention and Building Code in Local Law 1 of 2012.** This law is intended to supplement the provisions of said Code and local law.

#### **§3 Definitions.**

For the specific purpose of this code, the following terms, whenever used herein or referred to in this code, shall have the respective meanings given to them hereunder, unless a different meaning clearly appears from the context:

##### **ABANDONED**

A. Personal property which is in disrepair for a period for more than 45 days.

B. A motor vehicle, which is unregistered with the proper authorities for a period of at least 30 days or a trailer, which is unregistered with the proper authorities for a period of at least 180 days from the expiration of the last valid registration or is in a state of inoperability such that it cannot be legally operated. Excluded are vehicles in the possession of authorized car dealers or motor vehicle repair facilities.

##### **EXTERIOR OF PREMISES**

Those portions of a building or structure which are exposed to public view or are visible from adjoining or adjacent lots, including all outside surfaces and appurtenances thereto, and the open land space of any premises outside of any building or structure erected thereon.

##### **OCCUPANT**

Any person having actual possession, use or occupancy of a dwelling premises or rooming unit or any person or entity in possession of or using any premises or part thereof, whether or

not the owner thereof and regardless of the duration of time of such possession, use or occupancy.

### **OPERATOR**

Any person, persons or entity, not the owner, who has charge, care or control of a dwelling or premises or a part thereof, with or without the knowledge, consent or authority of the owner.

### **OWNER**

Any person, persons or entity who shall have legal title in any form whatsoever to any premises or part thereof, with or without accompanying actual possession thereof, or who shall have charge, care or control of any lot, premises, building or structure or part thereof as owner or agent of the owner or as a fiduciary, trustee, receiver, guardian, lessee or mortgagee in possession, regardless of how such possession was obtained. Any person, group of persons or entity who is a lessee, sublessee or assignee of a lessee of any part or all of any building, structure or land shall be deemed to be a co-owner with the lessor for the purposes of this chapter and shall have responsibility over the portion of the premises so sublet, leased or assigned.

### **PREMISES**

A lot, plot or parcel of land or right-of-way, including the building or structures thereon.

### **REFUSE or RUBBISH**

All discarded materials, including but not limited to garbage, trash, ashes, paper, paper goods and products, wrappings, cans, bottles, containers, yard clippings, garden waste, debris, junk, glass, boxes, crockery, wood, mineral matter, plastic, rubber, leather, furniture, household goods, appliances, bedding, scrap lumber, scrap metal, construction material, inoperable machinery or parts thereof, garden or farming implements and supplies, dead or rotting vegetation, fires, abandoned, inoperative or unusable automobiles and vehicles and solid commercial or industrial waste.

### **RODENT HARBORAGE**

Any condition created by the property owner, operator or occupant which provides shelter or protection for rodents or which favors their multiplication and continued existence.

### **TRAILERS**

Unpowered vehicles towed by another, to include vehicles that can be dragged, pulled or moved by another motorized vehicle, tractor or other implement and is not moveable under its own power.

### **VEHICLES**

Vehicles operated, driven, capable of being driven or operated upon a public highway by any power other than muscular power, including unpowered vehicles towed by another. This

definition includes lawn tractors, agricultural equipment, motorcycles, snowmobiles, and similar devices.

## **Article II**

### **§1 Compliance required.**

Every residential and nonresidential building or structure and the premises or part of the premises on which it is situated, including vacant lots, are required to comply with the provisions of this code.

### **§2 Conflict with other provisions.**

In any case where the provisions of this code impose a higher or stricter standard than set forth in any other ordinance, local law or regulation of the Village or under the laws or regulations of the State of New York or any of its agencies, then the standards as set forth herein shall prevail. In any case where the provisions of New York State Property Maintenance Code impose a higher or stricter standard than this code, then the standards as set forth in the New York State Property Maintenance Code shall prevail.

### **§3 Effect of compliance.**

Compliance with this code shall not constitute a defense against any violation of any other ordinance or local law of the Village applicable to any structure or premises, nor shall any one act of compliance constitute a defense against any subsequent or other violation of this code.

### **§4 Applicability of zoning provisions.**

Nothing contained in this code or any requirement of compliance herewith shall be deemed to alter, impair or affect the application of the Zoning Ordinance or Zoning Laws of the Village.

### **§5 Effect on existing remedies.**

Nothing in this code shall be deemed to abolish or impair existing remedies of the Village or its officers or agencies relating to the removal or demolition of any buildings or structures which are deemed to be dangerous, unsafe or unsanitary.

### **§6 Responsibility for compliance.**

In furtherance of the purposes of this chapter, it shall be the duty and responsibility of the owner, operator and occupant of premises to comply with all of the requirements and standards of this chapter to keep the premises free from conditions which constitute violations hereof and to promptly remove, prevent or abate such conditions.

### **§7 Maintenance of exterior of premises.**

The exterior of all premises shall be kept free of the following matter, material or conditions:

- A. Refuse or rubbish as hereinbefore defined.

- B. Abandoned or uncovered wells, shafts, towers, exterior cellar openings, basement hatchways, foundations or excavations.
- C. Abandoned iceboxes, refrigerators, heaters, television sets and other similar major appliances.
- D. Structurally unsafe or unsound buildings or portions thereof, structures or fences.
- E. Rodents, vermin, pest infestations or rodent harborages.
- F. Vehicles or parts thereof, including boats and trailers, motorized or not, licensed or unlicensed, registered or unregistered, which vehicles or parts thereof are or have been junked, dismantled or are in a state of visible disrepair.
- G. Vegetation, including trees and shrubs, that block egress components such as doors or rescue windows as defined in the New York State Uniform Building Code.
- H. Any accumulation of personal property which is abandoned or stored in driveways or walkways.

### **§8 Storage of Vehicles.**

It shall be unlawful for any owner, operator or occupant person, firm or corporation, to store or deposit, or permit to be stored or deposited, **more than one abandoned or unlicensed motor vehicle upon any property within the corporate limits of the Village of Avoca.**

### **§9 Removal of grass and weeds.**

- A. Any person, firm or corporation, being the owner of occupied or vacant real property situated in the Village of Avoca, shall cut, trim or remove grass or weeds within 40 feet of any residence or right-of-way within the Village of Avoca.
- B. All premises and immediate exterior property shall be maintained free from grass, weeds or plant growth in excess of 10 inches (254 mm) as in accordance with New York State Property Maintenance Code Section 302.4

## **Article III**

### **§1 Enforcement; Penalties for Offenses.**

- A. Compliance Orders. The Zoning Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of this chapter. The compliance order shall be in writing; be dated and signed by the Zoning Officer; specify the condition or activity that violates this chapter; specify the period of time which the Zoning Officer deems to be reasonably necessary for achieving compliance; direct that compliance be achieved within the specified period of time; and state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Zoning Officer shall

cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail.

- B. Appearance Tickets. The Zoning Officer is authorized to issue appearance tickets for any violation of this local law.
- C. Civil Penalties. Any person who violates any provision of this chapter shall be liable to a civil penalty of not more than \$250 per occurrence or imprisonment for a term not to exceed (15) days. Each day or part thereof, during which such violation continues, shall be deemed a separate offense for the purpose of assessing a civil penalty and/or a term of imprisonment. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Village.
- D. Injunctive Relief. An action or proceeding may be instituted in the name of this Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this chapter, or any compliance order or other notice or order issued by the Zoning Officer pursuant to any provision of this chapter. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Board of Trustees of this Village.

## **§2 Removal by Village with a Court Order.**

Whenever a compliance order referred to in this chapter has been served upon an owner of property and such owner fails, neglects or refuses to comply with the requirements of such notice within the time provided therein, the Town Court of Avoca, or alternate jurisdiction in the event of recusals, can order an entity within the Village of Avoca, right to enter upon the property in order to cut, trim or remove such grass or weeds, or to remove such vehicles, trailers, or rodents, or to otherwise correct the failure to comply as follows:

- A. This process shall only be conducted after the issuance of a Court Order, and
- B. The expense of such work shall be a lawful charge against the owner of said property. All work done by the Village of Avoca upon the failure of the owner to comply with the notice to cut, trim or remove brush, grass, rubbish, litter, vehicles, trailers, rodents, weeds, etc. shall be charged on the following basis:
  - 1. When such work is performed by Village employees, the costs of labor, materials and equipment, calculated and billed as determined by the Village Board to reflect the cost to the Village for such labor, materials and equipment.
  - 2. When such work is let by contract, the amount paid to the private contractor plus 10% of such amount to cover the cost of clerical work and Village inspection.
- C. A bill or statement of the amount of expense incurred in doing such act shall be served upon the owner of the property by certified mail to his last known address. If not paid within 60 days of the due date thereof, a statement of the amount thereof, with an addition of 10% and a description of said real property, shall be filed with the Town Assessor. Such amount shall be

added to the taxes on the real property and shall constitute a lien and charge on said real property until paid or otherwise satisfied or discharged.

## **Article IV**

### **§1 Filing with Office of the Secretary of State – Effective Date.**

This Local Law shall take effect as outlined after filing in the Office of the Secretary of State of the State of New York as provided in Section 27 of the Municipal Home Rule Law.

### **§2 Inconsistent Provisions.**

To the extent any parts of this Local Law are inconsistent with or conflict with any parts, sections or chapters of the Local Laws of the Village of Avoca, the provisions of this Local Law shall control any previous provision of local laws passed for the Village of Avoca.

The motion having been made for and been duly seconded for the adoption of Village of Avoca Local Law 2024-1, the following votes were cast:

<u>Name</u>	<u>AYE</u>	<u>NAY</u>	<u>Absent/ Abstain</u>
Mayor Eric R. Tyner	_____	_____	_____
Trustee Andrew Hubbard	_____	_____	_____
Trustee Lannie Gay	_____	_____	_____
Trustee Donald Rodbourn	_____	_____	_____
Trustee Marcia Rowe-Smalt	_____	_____	_____

Dated: January 11, 2023

Board of Trustees of the Village of Avoca, Steuben County, New York.

IN WITNESS WHEREOF, the Village of Avoca caused this Resolution to be signed by its Village Clerk,  
and its corporate seal to be hereunto affixed and attested by its own Village Clerk and to be dated as of the  
11<sup>th</sup> day of January , 2023.

VILLAGE OF AVOCA

*SEAL*

By: \_\_\_\_\_

Christine Haar, Village Clerk

ATTEST: \_\_\_\_\_

Christine Haar, Village Clerk