

# 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 Davenport

FILED  
STATE RECORDS

OCT 04 2021

Local Law No. 3 of the year 2021

DEPARTMENT OF STATE

A local law Property Maintenance Law  
(Insert Title)

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

County  City  Town  Village  
(Select one.)

of Davenport

as follows:

Section 1. Title:

This law shall be known as the "Property Maintenance Law" of the Town of Davenport.

Section 2. Legislative Intent:

A sanitary and hazard free environment is declared to be of vital importance to the health, welfare and safety of the inhabitants of the Town of Davenport as is the safeguarding of their material rights against unwarranted invasion and the protection of the public health. In addition, such enforcement is deemed essential to the maintenance and continued development of the economy of the Town of Davenport and the general welfare of its citizens. Therefore, recognizing the above and the need of the community for an effective and well-regulated procedure for the disposal of commercial waste and rubbish and for the maintenance of residential and business premises whether improved or vacant, the Town Board does hereby enact this Local Law.

Section 3. General Requirements:

All residential and business premises located within the Town of Davenport, whether improved or vacant, shall be maintained in conformity with the provisions of this law.

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

#### **Section 4. Definitions:**

**Appliance:** includes any stove, washing machine, dryer, freezer, refrigerator or other household device or equipment abandoned, junked or stockpiled.

**Business Unit:** 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, restaurants, supermarkets, retail stores, warehouses, manufacturing or fabrication plants, gasoline stations and other business uses.

**Commercial Hauler:** Any person, firm, corporation, partnership or other association engaged in the business of collecting or disposing or transporting garbage, refuse or waste material in any part of the Town of Davenport.

**Commercial Waste (C&D):** Construction and demolition debris is solid waste resulting from the construction, remodeling, repair and demotion of utilities, structures and roads, including but not limited to: bricks, concrete and other masonry materials; painted, treated and coated wood and wood products; roofing shingles and other roof coverings; wall coverings, plaster, drywall, and plumbing fixtures; pavement; glass; plastics; electric wiring and components; carpeting and other flooring material.

**Infestation:** The presence of insects, rodents, vermin or other pests.

**Litter:** 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 and welfare.

**Lot:** A plot, tract, premises or parcel of land with or without buildings or structures located thereon, as surveyed or apportioned for sale or other purpose.

**Outdoor Storage:** Includes the placing, maintaining or keeping of any rubbish and debris as the same are defined herein in a place other than a structure with a roof and fully enclosed on all sides.

**Owner:** The person having a legal title to property and also the person shown as owner of the property on the current assessment rolls of the town.

**Person:** One (1) or more persons of either sex, natural persons, corporations, partnership, associations, joint stock companies, unincorporated associations, their agents or employees, society clubs and all other entities of any kind capable of being sued.

**Private Property or Private Premises:** Any real estate or part thereof, yard or driveway, other than that used as a public place, road, street or highway, situated in the town, but not including land used for agriculture purposes.

**Public Nuisance Affecting Health:** A nuisance which is a thing, act or occupation or use of property, premises, equipment or structure, either private or public, affecting the health of one (1) or more persons.

**Refuse and Rubbish:** Plastics, combustible trash, including but not limited to paper, cartons, boxes barrels, wood, excelsior, tree limbs and branches, yard trimmings, wood furniture and bedding Also included is noncombustible trash, including but not limited to tires, metals, cans, plastics, metal furniture, small quantities of rock, brick and concrete, glass, metal fixtures, bottles and street rubbish, street sweepings, dirt, leaves, catch basin dirt and contents of litter receptacle, ashes, dead animals, solid market and industrial wastes, cardboard, leaves, crockery and similar materials.

**Resident:** Any person having a domicile within the town, including landlords and tenants. The term shall also include any person, firm, partnership, corporation or other association operating an established business within the limit of the Town of Davenport.

**Residential Premises:** A building or combination of buildings used solely for personal living purpose of the occupants thereof, whether as owners or tenants thereof and not used for any business purposes.

**Waste Material:** Includes, but is not limited to, waste produced by industrial or manufacturing process, including food shavings, slag, industrial sludge or other chemical waste and by-products, tires and oils and large amount of wood, concrete, rocks, brick, sand and other wastes from building operations.

**Yard:** An open space on the same lot, which contains a building and is located between the building line and the lot line which the particular building line faces.

#### **Section 5. Applicability:**

The provisions of this law shall supplement all local laws, ordinances, codes or regulations existing in the Town of Davenport and the other statutes and regulations of municipal authorities having jurisdiction applicable thereto. Where a provision of this law is found to be in conflict with any provision of any existing local law, ordinance or regulation, the provision or requirement which is more restrictive or which establishes the higher standard shall prevail.

#### **Section 6. Maintenance of Open Areas:**

- A. It shall be unlawful for any person, as owner, lessee, agent, tenant or otherwise, to throw, cast, spill or otherwise deposit or cause or permit to be thrown, cast, spilled or deposited any litter, rubbish and refuse, commercial waste, manure, offal or other decomposable organic or putrescible matter in or about any land or lot, vacant or otherwise, within the Town limit.
- B. Yards and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation. They shall be maintained in a manner that will prevent dust or construction debris from being blown about the neighborhood. Open foundations, open wells, cesspools or cisterns shall be securely closed or barricaded from access to the public.

- C. All land must be kept free of commercial waste, refuse or debris which would either tend to start a fire or increase the intensity of a fire already started or cause poisoning or irritation to people or animals or cause or tend to cause or enhance an unhealthy or dangerous or obnoxious condition on said property or on any adjacent or neighboring property.
- D. Nothing in this section shall be construed to prohibit the temporary storage of commercial waste, refuse and waste material if by using covered containers or cans wherever practicable, nor shall this section be construed as prohibiting the depositing of manure or fertilizers upon any private property for the purpose of cultivating or improving the same.

**Section 7. All Residential and Business Units:**

- A. No outdoor storage or accumulation of construction debris shall be permitted at any time and all such construction debris shall be kept inside the building or buildings, on the premises or in an acceptable enclosure and shall be regularly collected and removed from the premises.
- B. No Garbage or Refuse shall be placed in plastic bags or in uncovered containers for storage or awaiting waste removal as to create a haven for rodents and other animals.
- C. All waste containers in residential areas, except where a container is placed for storage and pickup by a registered commercial waste removal company or facility for a private or commercial business, must be out from the public view.
- D. All residential waste containers used for waste removal pickup, shall not be placed roadside sooner than the proceeding day before pickup by a commercial waste hauler and containers must be removed from the roadside by the following day of pickup by the waste hauler.

**Section 8. Infestation:**

- A. Grounds, building and structures within the Town of Davenport shall be maintained free of insects, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall conform to 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 9. Littering:**

- A. Residential and business premises within the Town of Davenport, whether improved or vacant, shall be maintained free of litter; provide, however, that this section shall not prohibit the storage of litter for a reasonable period of time in authorized private receptacles for collection.

- B. It shall be unlawful for any person to throw, spill,, place, deposit, leave or cause to be thrown, spilled, placed, deposited or left, or permit any agent, servant or employee to throw, spill, place, deposit, or leave in or upon any street, highway, alley, sidewalk, park or public building or in any running water or body of water within the Town of Davenport any garbage, refuse, rubbish and waste material or letter or filth, including but not limited to sewage, excrement, slops, dead carcasses, compost, ashes, soot or any material subject to be carried by the wind or unwholesome or putrescible matter of any kind.

**Section 10. Outdoor Deposit or Storage of Waste and Abandoned Appliances:**

- A. It shall be unlawful for any person, as owner, occupant, lessee, agent or in any capacity, to store, deposit, place, maintain or cause or permit to be stored, deposited, or placed any partially dismantled appliance, rubbish or debris as defined in this Article upon private property within the corporate limits of the Town of Davenport.

**Section 11. Duties of Owners, Occupants or Tenants:**

- A. An occupant or tenant of the premises shall be responsible for compliance with this law as if they were an owner.
- B. Owners of premises shall be responsible for compliance with the provisions of this law and shall remain responsible therefore regardless of the fact that this law may also place certain responsibilities on tenants or occupants and regardless of any agreements between owners and tenants or occupants as to which party shall assume such responsibility.
- C. Whenever any person or persons shall be in actual possession of 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 provision 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 or persons 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 (1) 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 12. Inspections:**

- A. The Code Enforcement Officer of the Town of Davenport as designated by the Town Board of such town, shall have authority, as specified herein, to inspect all premises within the town to enforce the provisions of this law.
- B. Whenever it shall appear that the provisions of this Article are being violated, the inspector, shall, except upon plain view where no entry is necessary secure approval from an owner, lessee, agent, tenant, or other person with authority, to make an inspection of the property and shall prepare a written report of the condition found.

**Section 13. Abatement:**

Where the violation or condition existing on the premises is of a nature as to constitute an immediate threat to life and limb unless abated without delay, the Code Enforcement Officer may order the owner, operator or occupant to correct the violation or condition within the period of time consistent with the hazard involved and with the measures necessary to remove the hazard; and upon the failure of the owner, operator or occupant to correct said condition, the Code Enforcement Officer may abate said condition immediately thereafter.

**Section 14. Cost to become lien on property:**

Where abatement of any nuisance, as defined herein, or correction of a defect on the premises or the maintenance of the premises in a proper condition to conform to applicable ordinances of the Town of Davenport or the laws of the State of New York require expenditures of the Town of Davenport moneys therefore, either by supplying of labor by Town Employees, the furnishing of material by the Town or the hiring of outside contractors, the Code Enforcement Officer shall present a report of the work accomplished to the Town Board of the Town of Davenport, along with a summary of the proceedings undertaken to secure compliance, their agents as the case may be, by first-class mail, certified mail, or personal service. The Town Board shall then approve the expenditures made and assess the same against the premises, collectible as provided by law. A copy of the resolution approving said expenses shall be certified by the Town Clerk, and a copy of the report and resolution shall be sent by certified mail, return receipt requested, to the owner.

**Section 15. Order to remedy violation and penalties for failure to comply:**

The Code Enforcement Officer may issue an order to remedy any condition that violates any provision of this chapter. Such an order shall specify the noncompliant condition, the action needed to correct the condition and the date by which the condition shall be corrected. The date shall not be any earlier than seven days after the notice is mailed. The order to remedy shall be posted on the subject property and served by certified mail and first-class mail on the owner of record. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Failure to comply with the order to remedy by the specified date shall constitute a violation.

Every person convicted or violating this local law shall for a first conviction thereof be punished by a fine of not more than Two Hundred Fifty (\$250.00) Dollars or by imprisonment for not more than twenty (20) days or both such fine and imprisonment; for a second conviction within eighteen months thereafter, such person shall be punished by a fine of not more than Five Hundred (\$500.00) Dollars or by imprisonment for not more than sixty (60) days or by both fine and imprisonment and such upon third or subsequent conviction within eighteen months after the first conviction, such person shall be punished by a fine of not more than One Thousand (\$1,000.00) Dollars or by imprisonment of not more than Ninety (90) days or by both such fine and imprisonment.

**Section 16. Severability:**

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

**Section 17. Effective Date:**

This Local Law shall take effect upon its being duly filed 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.

(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 ~~County~~(City)(Town)(Village) of Davenport was duly passed by the Town Board on August 17, 2021, 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 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) *(Name of Legislative Body)* (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\*)*

\* 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.

*Jinda Adam*

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

Date: 09.29.2021

(Seal)