

Local Law Filing

New York STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(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~~ of Baxter Estates
Village

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STATE RECORDS

FEB 17 2023

DEPARTMENT OF STATE

Local Law 1 of the year 2023

(Insert Title)

A local law amending Chapter 144, "Property Maintenance," of the Village Code, to replace same in its entirety to expand the scope of property maintenance obligations in the Village.

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

County
City
~~Town~~ of Baxter Estates
Village

Section 1. Legislative Findings and Intent. The Board of Trustees (the "Board") of the Village of Baxter Estates (the "Village"), has determined that the current scope of the Property Maintenance Chapter of the Village Code is too limited and vague in its scope, such that it fails to adequately protect the health, safety and welfare of the Village and its residents. The Board finds that the provisions of Chapter 144 should be replaced in their entirety, in the manner herein provided, to accomplish the desired goals of providing for the maintenance of lots of real estate in the Village in a manner that promotes the health, safety and welfare of Village residents.

Section 2. Chapter 144, "Property Maintenance," of the Code of the Village of Baxter Estates, is hereby amended to read in its entirety as follows:

"Chapter 144
PROPERTY MAINTENANCE

§ 144-1. Applicability.

All residential and commercial premises within the Village of Baxter Estates, whether improved or vacant, shall be maintained in conformity with the provisions of this Chapter.

§ 144-2. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

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, retail stores, warehouses, manufacturing or fabrication plants, gasoline stations and other business uses.

COURT: An open and unoccupied space on a lot and enclosed on at least three sides by walls of a building.

GARBAGE: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

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

JUNKED VEHICLE: Any motor vehicle or trailer that is either dismantled, or impacted by exterior rust or decay or body damage that is readily observable.

LITTER: "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 and welfare.

LOT: Plot, tract, premises or parcel of land with or without buildings or structures located thereon, as surveyed and apportioned for sale or other purpose.

REFUSE: All putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, street cleanings, dead animals, junked vehicles and solid market and industrial wastes.

RUBBISH: Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

UNOCCUPIED HAZARD: Any building or part thereof, which remains unoccupied for a period of more than two years, with either doors, windows or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than two years.

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.

§ 144-3 Open and paved areas; drainage; fences; vegetation; junked vehicles.

- A. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all surface and subsurface water on such lot to be appropriately drained to protect buildings and structures and to prevent the development of stagnant ponds, including through the construction, installation, use and maintenance of gutters, culverts, catch basins, drain inlets, stormwater drywells or other satisfactory drainage systems where necessary. No owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause, suffer or permit any roof, surface or stormwater drainage on such lot to create a structural, safety or health hazard by reason of construction, maintenance or manner of discharge.
- B. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all fences and other minor construction on such lot to be maintained in a safe and structurally sound condition.
- C. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all steps, walks, driveways, parking spaces and similar paved areas on such lot to be maintained so as to afford safe passage under normal use and weather conditions. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all holes or other hazards that may exist on such lot to be filled and necessary repairs or replacement carried out.
- D. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all yards, courts and unimproved areas of such lot to be kept clean and free of physical hazards, rodent harborage and infestation. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all open wells, cesspools or cisterns on such lot to be securely closed or barricaded from access to the public.
- E. Each owner, lessee, tenant, occupant and any other person having possession or

control of a lot shall eliminate all heavy undergrowth and accumulations of plant growth which may be noxious or detrimental to health. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all trees or portions thereof located on such lot and constituting a hazard to persons or property to be removed after obtaining any permits or approvals required under the Village Code with respect to such removal.

- F. No owner, lessee, tenant, occupant or any other person having possession or control of a lot shall cause, suffer or permit any junked vehicle to be parked, stored or left uncovered from view from off of such lot.

§ 144-4 Business Units.

- A. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot containing any business units, as defined herein, shall at all times maintain such business unit in compliance with the provisions of this Chapter.
- B. Except during the period commencing one hour prior to sunset on the day immediately preceding any day designated by the Village for garbage collection for such premises and ending at 10:00 p.m. on each such designated day, no outside storage or accumulation of garbage, crates, rubbish, refuse or debris shall be permitted at any time, and all such garbage, crates, rubbish, refuse or 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.
- C. No mobile refrigeration unit shall be operated on the premises during any portion of the day while the business conducted thereon is closed for business unless such mobile refrigeration unit is electrically operated.
- D. No truck or other vehicle shall be loaded or unloaded outside the confines of the building or buildings on the premises before 7:00 a.m. or after the business conducted on the premises has been closed to the public in such manner as to violate any provision of Chapter 136, "Noise," of the Code.

§ 144-5 Property in good repair; maintenance of signs, lights and decorative pools.

- A. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all exterior exposed surfaces of buildings and structures not inherently resistant to deterioration to be repaired, coated, treated or sealed to protect them from deterioration or weathering.

- B. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all floors, walls, ceilings, stairs, furnishings and fixtures of buildings to be maintained in a clean, safe and sanitary condition. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all floors, exterior walls, roofs and porches, and appurtenances thereto to be maintained in good repair and a structurally sound condition.
- C. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause the foundation walls of every building to be maintained in good repair and structurally sound.
- D. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all exterior walls, roofs and all openings around doors, windows, chimneys, and other parts of a building to be so maintained as to keep water from entering the building and to prevent undue heat loss from occupied areas. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all materials which have been damaged or show evidence of dry rot or other deterioration to be repaired or replaced and refinished in a workmanlike manner. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all exterior walls, roofs and other parts of the building to be free from loose and unsecured objects and material and improperly secured objects and material, and to cause any such unsecured objects or materials to be removed, repaired or replaced.
- E. Each owner, lessee, tenant, and any other person having possession or control of a vacant building shall maintain the building and yards in a safe and secure condition, and shall not cause, suffer or permit any conditions that poses a hazard to adjoining property or to the public. Each owner, lessee, tenant, and any other person having possession or control of a vacant building shall cause all means of ingress and egress for such vacant building to be securely fastened with a closure made of exterior-grade material, such as plywood, the exterior of which shall be painted or sealed with a finishing coating or other preservative.
- F. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all buildings and structures thereon to be maintained in such condition so that they shall not become an unoccupied hazard as defined in this Chapter. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all graffiti or defacing to be removed and the surface finish restored within five days after the owner learns or is notified of

such defacing or graffiti.

- G. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all signs and lighting systems to be maintained in an operable, clean and safe condition.
- H. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all decorative pools and similar devices to be maintained free of litter and operated for their intended purpose.

§ 144-6 Infestation and Screening.

- A. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all grounds, buildings and structures to be maintained free of insect, vermin and rodent harborage and infestation.
- B. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause all windows and other openings in basements and cellars to be securely fastened, or screened with wire mesh or other suitable materials for the purpose of preventing infestation.

§ 144-7. Littering; dumpsters and refuse receptacles.

- A. No owner, lessee, tenant, occupant or other person having possession or control of any premises shall allow, permit or tolerate any garbage or garbage receptacle to be placed or maintained on such premises at a distance of less than 10 feet from the curb line of a public street, except during the period commencing one hour prior to sunset on the day immediately preceding any day designated by the Village for garbage collection for such premises and ending at 10:00 p.m. on each such designated day.
- B. Each owner, lessee, tenant, occupant and any other person having possession or control of a lot shall cause commercially reasonable sanitary facilities and methods to be used for the collection, storage, handling and disposal of garbage and refuse in accordance with the provisions of applicable codes and ordinances.
- C. In multiple dwellings, no garbage or refuse shall be stored or allowed to accumulate in public halls and stairways.
- D. Dumpsters and similar large receptacles, to the extent permitted by the Board of Appeals pursuant to Section 175-80 of the Code, shall be shielded from the public

view by means of appropriate landscaping or architectural screening.

§ 144-8 Boat storage.

- A. The outside storage of boats is prohibited on any lot in a residence district of the Village except pursuant to a boat storage permit issued by the Village Clerk, in compliance with this section.
- B. Notwithstanding any contrary provision contained in the preceding Subsection A, the Village Clerk shall not issue any curb cut permit unless application for such permit is made by the owner of the affected premises, to the Board of Trustees, upon forms provided by the Village Clerk, all required permit fees and deposits have been paid, and such application has been approved by such Board. The Board of Trustees shall consider any such application at a public meeting, and the applicant shall deliver written notice of such application, and the date, time and place of the meeting of the Board at which such application shall be considered, to the record owner of each lot of property within the Village that is within 200 feet of the premises with respect which such application is made. Such notice shall be delivered in the same manner as variance applicants to the Village Board of Appeals must deliver notices of zoning variance applications to neighboring property owners. The fee for each permit shall be in an amount as set from time to time by resolution of the Board of Trustees and shall accompany the application.

§ 144-9 Penalties for offenses.

Each and every violation of, or failure to comply with, any provision of this chapter shall constitute a violation, punishable as follows: for a conviction of a first offense, by a fine not more than \$250, or imprisonment for a period not to exceed 15 days, or both such fine and imprisonment; for a conviction of a second offense, both of which were committed within a period of five years, by a fine not less than \$250, nor more than \$500, or imprisonment for a period not to exceed 15 days, or both such fine and imprisonment; and for a conviction of a third or subsequent offense, all of which were committed within a period of five years, by a fine not less than \$500, no more than \$1,000, or imprisonment for a period not to exceed 15 days, or both such fine and imprisonment. Each day that a violation occurs or continues shall be deemed a separate and distinct violation hereunder.

§ 144-10 Right of Village to maintain private property and assess cost against property owner.

- A. The owners and occupants of all lots of real property within the Village shall:
 - (1) Keep grass, brush, undergrowth, accumulation of plant growth, and all other growth on such lots, plots and properties, except trees, shrubs, cultivated gardens and

pachysandra, ivy and similar ground coverings, cut and trimmed to a height which is no greater than six inches on every part of such properties;

(2) Keep such properties free from accumulations of physical hazards, garbage, refuse, rubbish, litter and debris of all kinds;

(3) Keep such properties free from rodent or other vermin harborage or infestation.

B. If any such owner or occupant shall fail to comply with the provisions of this section, the Village, after giving such owner or occupant 10 days' written notice by certified mail to such owner or occupant's last known address in the Village, may cause such grass, brush, undergrowth, accumulation of plant growth, garbage, refuse, rubbish, litter and debris, and all other similar materials to be cut, trimmed or removed, and cause any rodent or other vermin harborage or infestation to be exterminated. Any and all costs and expenses incurred by the Village in connection with the proceedings set forth in this Chapter, including, without limitation, legal and engineering fees, costs and expenses, and the cost of removing or remediating the building, structure or other condition, shall be assessed against the real property where the condition violating any provision of this Chapter is found to exist. The amount of such costs and expenses shall be audited and the assessment determined by the Board of Trustees, after providing the owner of the affected premises with an opportunity to be heard, as described below. The assessment shall be reported to the Village Treasurer as an amount to be levied and assessed against the real property. Said assessment shall be a lien and charge upon said real property on the date fixed by the Board of Trustees; and, if not paid within 30 days after the same is billed by the Treasurer, it shall be collected in the manner provided by law for the collection of delinquent taxes. Ten days' written notice of the date, time and place of the meeting at which the Board of Trustees shall make such audit and determination shall be sent to the last owner of record in the same manner as above provided for the Superintendent of Buildings' notice. At said meeting, the owner shall be given an opportunity to be heard on the necessity for and amount of the proposed assessment before the same is finally determined."

Section 3. Effective Date.

This local law shall take effect immediately upon filing with 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 2023 of the (County)(City)(Town)(Village) of Baxter Estates was duly passed by the Board of Trustees on February 1, 2023, in accordance with the applicable provisions of law.
(Name of Legislative body)

~~**2. (Passage by local legislative body with approval, no disapproval or re-passage after disapproval by the Elective Chief Executive Officer¹.)**~~

~~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) (re-passed after disapproval) by the _____ and was deemed duly (Elective Chief Executive Officer¹) 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____ (Name of Legislative Body) and was (approved)(not approved) (re-passed after disapproval) by the _____ (Elective Chief Executive Officer¹) 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 (Name of Legislative Body) (approved)(not approved) (re-passed after disapproval) by the _____ (Elective Chief Executive Officer¹) 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.~~

~~**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 _____~~

¹ 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.

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.


Clerk of the Incorporated Village of Baxter Estates

(Seal)

Date: February, 6, 2023