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September 13, 2016

Richard Kaulfuss, Supervisor
Town of Oswego
2320 County Route 7
Oswego, NY 13126

Re: Local Law Controlling Grass, Weeds and Brush

Dear Rick:

Enclosed please find a draft Local Law that I have prepared for consideration by the Town Board concerning the control of grass, weeds and brush. This Local Law has been utilized successfully by the Town of Scriba as well as the City of Oswego, and other communities in the area.

Since this is a Local Law it would require a public hearing before it is adopted. If you find the draft acceptable, the next step would be to present it to the Town Board members and schedule a public hearing, likely sometime in October or November.

Should you have any questions related to this matter, please do not hesitate to contact me.

Sincerely,



Kevin C. Caraccioli

KCC/dnp
Enclosure

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 of Oswego
Town
Village

Local Law No. 1 of the year 2016

A Local Law to Regulate and Control the Spread and Growth of Grass, Weeds and Brush
in the Town of Oswego

(Insert Title)

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

County
City of Oswego as follows:
Town
Village

SECTION 1 – SCOPE:

The provisions of this Local Law shall apply to all existing premises and constitute minimum requirements and standards for safe and sanitary maintenance.

SECTION 2 – PURPOSE:

This Local Law is intended to provide standards to safeguard public safety, health and general welfare insofar as they are affected by the maintenance of premises. Moreover, the purpose of this Local Law is to control the spread of weeds to surrounding lots and the spread of allergy-irritating pollen to adjoining lots, to protect the property values, to prevent blight and the spread thereof and to ensure Town-wide, uniform yard maintenance standards that will promote the

health, safety and general welfare of the residents and business owners in the Town of Oswego, together with their employees, patrons, guests and invitees and any travelers within the Town of Oswego.

SECTION 3 – APPLICABILITY:

This Local Law applies to all residential, commercial and industrial properties located in the Town of Oswego and improved with a building, dwelling or structure, whether occupied or unoccupied. This Local Law specifically excludes vacant lots, farming operations, and otherwise unimproved properties.

SECTION 4 – DEFINITIONS:

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING – A structure wholly or partially enclosed with exterior walls, or with exterior or party walls, and a roof, affording shelter to persons, animals or property.

CODE ENFORCEMENT OFFICER – An appointed officer of the Town of Oswego with the authority to enforce state and local laws, ordinances, and codes.

DWELLING – A building or place of shelter to live in; place of residence; abode; home. One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for use by one or more individuals.

NATURAL HABITAT – Uncultivated habitat whereupon native vegetation exists in a pristine state.

PREMISES – All real property located within the Town of Oswego improved with a dwelling or other structure, whether owned by an individual, corporation, or other entity. Evidence of the existence of a premises shall be the Oswego County Real Property Tax Records and the Tax Map Number assigned to each premises.

SECTION 5 – MAINTENANCE:

- A. The owner of every premises within the Town of Oswego shall maintain such premises to ensure that no growth of weeds or grass shall exceed ten (10) inches in length or height and to ensure that there is no accumulation of dead weeds, grass or brush.
- B. The owner of every premises within the Town of Oswego shall maintain such premises to ensure that all hedges and bushes are kept trimmed and free from becoming overgrown and unsightly where exposed to public view or where the same may constitute a blighting factor thereby depreciating adjoining property, or the quiet enjoyment of adjoining property.

- C. It is prohibited to allow grass, weeds, hedges, shrubs or trees to encroach onto public sidewalks and lines of sight of public streets and roadways.

SECTION 6 – INSPECTION:

- A. Any real property owned by an individual, corporation, or other entity is, when reported to the Town of Oswego, subject to inspection by the Code Enforcement Officer of the Town of Oswego, New York.
- B. Code Enforcement Officer, when directed by the Town Supervisor to inspect real property alleged to be in violation of this Local Law, shall be authorized to enter onto said premises for the purpose of conducting an inspection of the premises to determine if a violation of this Local Law exists.

SECTION 7 – ABATEMENT OF VIOLATIONS:

- A. If the provisions of the foregoing sections are not complied with, the Town of Oswego Code Enforcement Officer shall serve by regular mail and certified mail, written notice upon the owner, occupant or any person having the control of any such premises of such violation of this Local Law and which advises such owner, occupant or person having the control of any such premises to comply with the provisions of this Local Law within 10 days of the date of such notice of violation is mailed.
- B. If the person upon whom the notice is served fails, neglects or refuses to cure the violation within 10 days of the date such notice is mailed, or if no person can be found in the Town of Oswego who either is or claims to be the owner of such premises or who either represents or claims to represent such owner, the Town of Oswego Code Enforcement Officer shall cause such weeds, grass, and other vegetation on such premises to be cut and removed. The actual cost of such cutting and removal, plus a service charge of 50% thereof to cover the costs of supervision and administration, shall be certified by the Town of Oswego Code Enforcement Officer to the Town Supervisor and such certified amount shall thereupon be charged and assessed against the owner, tenant or other occupant of the property that was the subject of the violation. The expense, so assessed, shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town taxes and charges.
- C. The owner, occupant or any person having control over any lot, land or property found in violation of this Local Law shall be notified in writing only once in any given year for a particular violation. Subsequent violations of a similar nature at the same location during the same year shall be corrected by the Town or its agent without notice to the owner, occupant or person having control of said property. After initial notification, such owner, occupant or person having control of said property will be presumed to have been given sufficient notice of the infraction

for the entire season. The cost incurred by the Town for any subsequent violations shall be collected in the same manner as set forth in in Section B of this Section.

SECTION 8 – PENALTIES FOR OFFENSE:

The Planning Board for the Town of Oswego is hereby authorized and shall have the following enforcement alternatives available to it in the event the premises shall be reported to be in violation of this Local Law.

1. In addition to any other penalties imposed or other remedies available to the Town, the Planning Board may conduct a hearing to determine whether such violation constitutes a significant public health or safety issue. Such hearing shall be on a minimum of ten (10) days notice to the owner, which notice may be served personally or by certified mail, return receipt requested, to the last known address of the owner as shown on the last completed tax roll.
 - a) Such notice shall specify the date, time and place of the hearing, the purpose of the hearing, the nature of the alleged violation, the owner may be present and participate in the hearing individually and/or through counsel, the fact that if the Town does determine that there is a significant health, safety or welfare issue, that it may enter the property to clean up the violation, and that all costs so incurred, including legal expenses, will be assessed against the land on which the building is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.
 - b) The Planning Board shall conduct a hearing on the date and time indicated in the notice and shall make findings of fact. Based on such findings, the Planning Board shall determine whether any remedial action is required.
 - c) The Planning Board shall notify the owner of its decision in the same manner as the notice of hearing. If no corrective action is taken within ten (10) days of such notice being either mailed or personally served upon the owner, then the Planning Board may authorize entry onto the property to do such remedial work or removal of grass, weeds, or brush and may charge all costs so incurred, including legal expenses, as a tax against the land.
2. In addition to all other penalties and remedies available to the Town under this Section, the Town shall have the authority, upon resolution of the Town Board, to make an application at a special term of the Supreme Court in the judicial district in which such property is located for an order determining the premises to be a public nuisance, directing that it be remediated by either the owner or the Town and imposing a fine of \$250.00 per day for each day the property remains in violation. In the event the Town is authorized to secure and remediate the

premises, the costs so incurred, including legal expenses, shall be a tax against the land on which such building is located in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.

3. The hearing process outlined in Subdivision 1 of this Section is not an administrative remedy that must be exhausted before proceeding to Supreme Court. The Planning Board for the Town of Oswego shall have the discretion to determine which enforcement alternative is appropriate under the circumstances of each case, and shall have the discretion to determine whether to pursue more than one enforcement alternative.

SECTION 9 – ADMINISTRATION AND ENFORCEMENT:

The Code Enforcement Officer of the Town of Oswego is hereby authorized to administer and enforce the provisions of this Law. The Planning Board of the Town of Oswego is hereby authorized to enforce the provisions of this Local Law.

SECTION 10 – EMERGENCY CONDITIONS:

All premises shall be maintained properly such that it shall not be a threat to public safety. In the event that the Code Enforcement Officer identifies a premises that immediately endangers the public health, safety or welfare, he shall take appropriate measures to render the condition safe pursuant to Section 5 of this Local Law (Maintenance).

SECTION 11 – CRIMINAL PENALTIES FOR REFUSING ACCESS:

Any person who refuses entry or access to the Code Enforcement Officer to any premises or any part thereof that the Officer is lawfully authorized to inspect, or any person who unreasonably interferes with an authorized inspection shall be guilty of an offense punishable by a fine of not more than \$250.00 or by imprisonment for not more than five (5) days, or by such fine and imprisonment, or other penalties pursuant to the Penal Law of the State of New York.

SECTION 12 – EFFECTIVE DATE:

This Local Law shall take effect immediately upon filing with the New York State Department of State.

[END OF LOCAL 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. 1 of 2016 of the Town-of Oswego was duly passed by the Town Board on September, 2016, in 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) *(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__. Such *(Elective Chief Executive Officer*)* 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 *(Elective Chief Executive Officer*)* local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20__, in accordance with the applicable provision 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 of 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.

NIKKI FOWLER, Town Clerk

(Seal)

Date: _____ September _____, 2016

(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 OSWEGO) ss:

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceeding have been had or taken for the enactment of the local law annexed hereto.

Signature KEVIN C. CARACCIOLI
TOWN ATTORNEY

Title

County
City of OSWEGO

Town
Village

Date: _____ September _____, 2016

