

**TOWN OF NORTH EAST
LOCAL LAW NO. 4 OF 2016**

BE IT ENACTED by the Town Board of the Town of North East as follows:

SECTION 1. TITLE.

This local law shall be known as the "Town of North East Grass Maintenance Law".

SECTION 2. AUTHORITY; FINDINGS; PURPOSE AND INTENT.

- A. This Local Law is enacted pursuant to §10 of the Municipal Home Rule Law to provide for the health, safety, appearance and general welfare of the public, the residents of the Town of North East, and the owners of real property located within the Town of North East.
- B. The Town Board finds that properties on which the lawns are not adequately maintained tend to diminish or lessen the appearance thereof or detract from the appearance of adjoining properties, which may lead to the progressive deterioration of a neighborhood.
- C. The purpose and intent of this Local Law is to provide a method whereby the lawns on properties within the Town are properly maintained.

SECTION 3. APPLICABILITY.

- A. This Local Law applies to all lots, plots or parcels of land on which residential, nonresidential or mixed-use buildings are located, regardless of whether they are vacant, unoccupied or abandoned.
- B. The provisions of this Local Law shall supplement the Property and Maintenance Code of New York State. When a provision of this Local Law is found to be inconsistent with any provision of any other local law, code or regulation of the Town or State, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail. A greater penalty shall not be considered as more restrictive or a higher standard.

SECTION 4. DEFINITIONS

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

LAWN: Exterior portion of property which includes grass, ground cover, weeds and/or other similar plant growth and vegetation. This term shall not, for purposes of this law, include cultivated flowers and gardens.

OWNER: The owner of record of a tract, lot, or parcel.

PERSON IN CONTROL: The owner, the attorney for the owner, the trustee in bankruptcy, a referee of foreclosure or a real estate broker or any other person exercising implied or express control of the premises, to be determined on a case-by-case basis.

SECTION 5. PROPERTY AND LANDSCAPING MAINTENANCE,

The owner, occupant, tenant, operator or person in control, as the case may be, of any property subject to this local law shall maintain his/her lawn trimmed to a height of no greater than eleven (11") inches. .

SECTION 6. ENFORCEMENT

- A. Enforcement Official: The Zoning Enforcement Officer is hereby designated to administer and to enforce this local law.

- B. Compliance Orders:
 - (1) The Zoning Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any premises in violation of this local law. Upon finding that any such condition or activity exists, the Zoning Enforcement Officer shall issue a compliance order.

 - (2) The Zoning Enforcement Officer shall cause the compliance order, or a copy thereof, to be served by at least one of the following methods.
 - (a) Personal service upon the owner, tenant, occupant, managing agent or person in control of the property or premises;

 - (b) Mailing by registered or certified mail to the owner, tenant, occupant, managing agent or person in control of the property or premises; or

 - (c) Posting a copy of the compliance order upon the front portion of the property or upon the main structure and mailing a copy of such notice by certified or registered mail to the owner of the property at the address shown on the current assessment records of the Town.

 - (3) The compliance order shall:
 - (a) Be in writing;

 - (b) Be dated and signed by the officer;

- (c) Specify the condition or activity that violates this local law;
 - (d) Specify the provision or provisions of this local law which is/are violated by the specified condition or activity;
 - (e) Specify that such violation must be corrected or abated within fourteen days of the date of service; and
 - (f) State the appropriate consequence for failure to correct or abate the condition or activity within the specified period of time, as set forth in Section 6(C).
- (4) The date of service of a compliance order issued pursuant to this section shall be the date of personal service or ten days following the date of mailing, whichever is applicable.

C. Compliance; Correction or Removal by Town.

- (1) Any owner, tenant, occupant, managing agent or person in control of any property or premises which has been determined to be in violation of the requirements of this local law shall cure, abate, correct or remove such violation, when ordered to do so by the Zoning Enforcement Officer, within five days of the service of written notice as provided in Section 6 above.
- (2) In the event that the property owner, tenant, occupant, managing agent or person in control of any such premises shall fail to comply with the Order to Remedy, as set forth in Section 6(B)(1) the Zoning Enforcement Officer shall make an inspection of the property and report his or her findings to the Town Board.
- (3) The Town Board, after review of the report may take any, or all, of the following action:
 - (a) Provide authorization to the Zoning Enforcement Officer and/or the Attorney to the Town to institute appropriate legal action in a court of competent jurisdiction, seek civil and/or criminal remedies for the violation(s);
 - (b) Take all necessary steps to correct or remove the violation, either by Town of North East employees, or by the Town's designee or agent, including a private contractor to mow or trim the lawn or mow the ground cover, which violate the provision of this local law.

- (4) The owner, occupant, tenant, managing agent or person in control of the property shall be responsible to reimburse the Town of North East for costs and expenses incurred in abatement of the violation. Such costs and expenses shall include the necessary and reasonable attorneys' fees incurred by the Town in prosecuting the violation. In the event of failure to reimburse the Town for such costs, the following shall apply:
- (a) The Town may seek recovery of such costs by action venued in a court of appropriate jurisdiction, and the defendant(s) shall be responsible for the reasonable and necessary attorneys' fees expended by the Town in prosecuting such action.
 - (b) Alternatively, and at the sole discretion of the Town, a default in reimbursement of costs incurred by the Town shall be remedied by charging such sums against the real property which is the subject of the violation, by adding that charge to, and making it a part of, the next annual real property tax assessment roll of the Town. Such charges shall be levied and collected at the same time and in the same manner as Town assessed taxes and shall be paid to the Town, to be applied in reimbursing the fund from which the costs were defrayed for the corrective or abatement action. [Prior to charging such assessments, the owner(s) of the real property shall be provided written notice to their last known address of record by certified mail, return receipt requested, of an opportunity to be heard and object before the Town Board to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than 30 days after its mailing.] Optional
- (5) The removal or correction or correction of any violation by the Town of North East or its agents shall not operate to excuse such owner, tenant, occupant, managing agent or person in control from properly maintaining the property or premises as required by this local law in the future.

SECTION 7. SEVERABILITY

If any provision of this local law is held invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this local law.

SECTION 8. EFFECTIVE DATE

This local law shall become effective immediately upon its filing in the Office of the New York State Department of State.