

FINAL

part of the landfill issue is it cost \$9,778 in legal fees it also cost us another \$10,000 in engineering cost for the hydro geologists that come in and do the work necessary for us to defend ourselves with DEC.

Council-member White; we are not done yet. Just the fact that something is leaching out there we are in violation, even if it is pure water. We are negotiating a consent order from DEC. They are forcing us into some kind of a contract with them to agree to do something about this. The good news that Rene' was saying is that we are not harming the creek, so hopefully they are not going to make us do a lot. We don't know that yet.

Supervisor Merrihew; On record, DEC has been wonderful to work wit.

Council-member Potter; the sad thing about it though, it's a high school project and the high school project can cost taxpayers of this town a lot of money. Nothing against the kids, good for them for going out there and trying to protect something, but who ever set it up should be ashamed of themselves for starting a project like this, that has cost the tax payers \$20,000.

Council-member White; the high school kids went through the procedures to do this rapid bio assessment, but they did the procedures as high school kids would. They did one thing one weekend and then they came back and did other things. They really didn't follow the protocol you have to for a valid study. So their results were really meaningless but they were presented to everyone as if it had been done correctly and that is what focused DEC on the town.

Supervisor Merrihew; I think worth mentioning is the fact that the town of Duanesburg for the last twenty years and more intensely in the last ten years that we have been here has spent between \$25,000 to \$35,000 every single year for monitoring and testing of the landfill the leachate tanks. These samples and the analysis have gone to DEC every single quarter for ten years.

Council-member Potter; they don't have to go every single quarter.

Supervisor Merrihew; we found that out after we spent \$30,000 a year every year, that we could have done it twice a year.

Resolution #151-09-Council-member White motioned, seconded by Council-member Potter to adopt Local Law #2. This Local Law shall be known as the "Brush, Garbage, Grass, Rubbish and Weed Control Local Law" of the Town of Duanesburg. For discussion: Council-member Patter; I feel better about it, now that it has been explained to everybody and they understand that there is already a law, this is just to help us recoup our money if we clean up a property.

Supervisor Merrihew; We have only run into this a handful of times. We are not talking about mowing lawns, we are talking about absolute disgust, rats, dead deer carcasses on the deck and kids running around kid of thing. Motion carried 5 ayes, Council-members White, Potter, Frisbee, Carlson and Supervisor Merrihew.

FINAL

TOWN OF DUANESBURG Local Law No. 2 of the Year 2009

A LOCAL LAW AUTHORIZING THE TOWN OF DUANESBURG TO REMOVE
BRUSH, GARBAGE, GRASS, RUBBISH OR WEEDS AND SPRAY POISONOUS
SHRUBS OR WEEDS BASED ON
VIOLATION OF THE PROPERTY MAINTENANCE CODE
OF NEW YORK STATE

BE IT ENACTED by the Town Board of the Town of Duanesburg as follows:

SECTION 1. TITLE

This Local Law shall be known as the "Brush, Garbage, Grass, Rubbish and Weed Control Local Law" of the Town of Duanesburg.

SECTION 2. AUTHORITY

This Local Law is enacted pursuant to the authority of Chapter 634 of the Laws of 1932, as amended, constituting Chapter 62 of the Consolidated Laws of the State of New York, Section 64 of the Town Law, authorizing towns to require owners of real property to remove brush, garbage, grass, rubbish or weeds and spray poisonous shrubs or weeds and, where there is noncompliance, cause the work to be performed and compel property owners to bear the cost of removal or spraying, and pursuant to the authority of Chapter 843 of the Laws of 1932, as amended, constituting Chapter 36-A of the Consolidated Laws of the State of New York, Section 10 of the Municipal Home Rule Law, authorizing towns to enact, amend and repeal ordinances, rules and regulations by local law.

SECTION 3. PURPOSE

It is hereby declared to be the policy of the Town Board of the Town of Duanesburg to provide for the proper use of land to prevent unhealthful, hazardous or dangerous conditions resulting from the accumulation of brush, garbage, grass, rubbish or weeds, or growth of harmful or poisonous shrubs or weeds, in violation of the Property Maintenance Code of New York State (the "NYS Property Maintenance Code"), and to protect the public health, safety and general welfare of the residents of this Town.

By this Local Law, the Town Board of the Town of Duanesburg seeks to remove such dangers to health, life and property by requiring owners of land to comply with the NYS Property Maintenance Code, and, upon the default of the owner

FINAL

to do so, cause the same to be done and assess the costs against the real property on which such violations are found.

SECTION 4. DEFINITIONS

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

NYS PROPERTY MAINTENANCE CODE:

Property Maintenance Code of New York State, part of the New York State Uniform Fire Prevention and Building Code (the "Uniform Code"), the Uniform Code established pursuant to Article 18 of the Executive Law of New York State, including Part 1226 of Title 19 of the New York Code, Rules and Regulations, as may hereafter be amended from time to time.

OWNER:

Any person, agent, operator, firm or other entity having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession or real property by a court.

SECTION 5. DUTY OF OWNER

It shall be the duty of any Owner of any real property in the Town of Duanesburg to cut and remove, or cause to be cut and removed, all brush, garbage, grass, rubbish and weeds or other harmful or poisonous vegetation as often as may be necessary to comply with the provisions of the NYS Property Maintenance Code.

SECTION 6. TOWN BOARD ACTION

. Any Owner of real property in the Town of Duanesburg shall be required to comply with this Local Law when directed to do so by resolution of the Town Board, pursuant to authority provided under Town Law Section 64(5-a).

SECTION 7. NOTICE

Whenever the Town Board shall adopt a resolution requiring the Owner of real property to cut, trim or remove brush, garbage, grass, rubbish or weeds or destroy poisonous or harmful shrubs or weeds which exist thereon based on the Owner's violation of the NYS Property Maintenance Code, the Town Board shall specify the time within which such work shall be completed. Such notice shall set forth, with

FINAL

reasonable certainty, the location at which the condition exists and the manner in which the work shall be performed. The Owner shall be given at least ten (10) days from the date of the mailing of the notice during which the work shall be performed and, in any event, such notice shall grant a reasonable time giving due consideration to the amount of work to be done and the location thereof. Notice of the adoption of a resolution requiring the work shall be served upon the Owner of the real property at which the condition exists by certified mail, addressed to the last known address of said Owner.

SECTION 8. FAILURE TO COMPLY

Whenever a notice referred to in Section 7 of this Local Law has been served and the Owner shall neglect or fail to comply with such notice within the time provided therein, the Town Board shall authorize the work to be done or services to be rendered by Town employees, agents and/or independent contractors and shall provide for the cost thereof to be paid from general Town funds as directed by resolution.

SECTION 9. MANNER OF ASSESSMENT

In any case where it shall be necessary for the Town Board to have work performed or services rendered due to the failure of the Owner to comply with the Town Board's resolution, the Town shall be reimbursed for the costs of the work performed or the services rendered at its direction, by assessment or levy upon the lots or parcels of land where such work was performed or such services rendered. All costs actually incurred by the Town upon each lot or parcel and the charge therefor shall be assessed and collected in the same manner and in the same time as other ad valorem Town charges.

SECTION 10. INTERFERENCE WITH TOWN EMPLOYEE, AGENT OR
INDEPENDENT CONTRACTOR

It shall be unlawful for any person to resist, obstruct, or interfere with any Town employee, agent or independent contractor engaged in the performance of remediation work ordered by the Town Board of the Town of Duanesburg pursuant to this Local Law. A violation of this Section shall constitute a violation of this Local Law and shall be subject to Penalties as stated in Section 12 of this Local Law.

SECTION 11. ADDITIONAL ENFORCEMENT

In addition to, or instead of, remediation by the Town Board of any violation of this Local Law, the Town Board itself, or through its Code Enforcement Officer, may enforce the provisions of this Local Law by filing with the Town of Duanesburg Justice Court an Information alleging a violation of this Local Law, and by causing a

FINAL

Summons and Notice of that violation to be served upon the person responsible for the violation, requiring that individual to answer the allegations in Court.

SECTION 12. PENALTIES FOR OFFENSES

A. In addition to any expenses which may be collected pursuant to Section 9 above, any violation of this Local Law shall be punishable by a fine of not less than \$100 nor more than \$250 for a first offense thereof, and by a fine not less than \$250 nor more than \$500 for any further offense thereof, at any time, by the same owner, plus costs of remediation.

B. In addition or as an alternative to the above provided penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Local Law.

SECTION 13. SEVERABILITY CLAUSE

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof involved in the controversy in which such judgment shall have been rendered.

SECTION 14. PRONOUNS AND PLURALS

Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural, and vice versa.

SECTION 15. EFFECTIVE DATE

This Local Law shall take effect immediately upon its filing with the Secretary of State.

Resolution #152-09-Council-member Potter motioned, seconded by Council-member Carlson to appoint Jeffrey Siegel to represent Judge Butler regarding a judicial matter. Motion carried 5 ayes, Council-members Potter, Carlson, White, Frisbee and Supervisor Merrihew.

Resolution #153-09-Council-member Carlson motioned, seconded by Council-member Potter to schedule a public hearing for September 10th, 2009 at 7:20PM or immediately following the conclusion of the Section 8 housing public hearing. Hearing is for the purpose of amending Local Law #1 of 1981 Providing for the Defense of Town Officers