

## **Chapter 71: LITTERING**

### **§ 71-1. Title.**

This chapter shall be cited and may be referred to hereinafter as the "Littering Law of the Village of South Blooming Grove."

### **§ 71-2. Legislative intent.**

It is the intention of the Village Board of the Village of South Blooming Grove by the adoption of this chapter to prevent the maintenance of any parcel of real property in the Village of South Blooming Grove in a cluttered or unclean condition, which renders it aesthetically offensive or creates the potential for a public nuisance or a public health hazard.

### **§ 71-3. Definitions.**

For the purposes of this chapter the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

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

**LITTER** — Garbage, refuse and rubbish, as defined herein, and all other waste material including snow and ice, which, if thrown or deposited as herein prohibited, tends to create a danger to the public health, safety and welfare; this includes the abandoning of vehicles or the stripping and junking of any vehicles.

**PARK** — A park, reservation, playground, beach, recreation center or any other public area in the Village, owned or used by the Village and devoted to active or passive recreation.

**PERSON** — Any individual, firm, partnership, association, corporation, company or organization of any kind.

**PUBLIC PLACE** — All publicly owned property, including any and all sidewalks, public parks, squares, spaces, grounds, buildings and school property, posts, hydrants, trees, street lamps, utility poles and traffic signs; and anything affixed thereto and there over.

**REFUSE** — All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, automobile parts and solid market and industrial wastes.

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

**VILLAGE** — The Village of South Blooming Grove.

### **§ 71-4. Littering prohibited.**

No person shall throw, deposit or place or permit to be deposited, placed or scattered in or upon any lot, any highway, roadway, sidewalk or other public place, or upon any private property within the Village, any litter or other material of any kind, except in public or private receptacles for collection or in official town dumps.

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### **§ 71-5. Placement in receptacles.**

Persons placing litter in public or private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any lot, sidewalk or other public place or upon any private property.

### **§ 71-6. Premises to be maintained free of litter; storage of motor vehicle parts.**

- A. The owner or person in control of any private property shall, at all times, maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in private receptacles for collection.
- B. All gas stations, service stations, auto repair shops and stores engaged in the sale of auto parts and/or the repair of motor vehicles shall construct a durable container, shed or solidly fenced-in area for the storage of all miscellaneous motor vehicle parts, such as tires, mufflers, batteries, etc., such list not being all inclusive. No storage outside these areas shall be permitted. The container and its location must be approved by the Building Inspector or his representative and be at least six feet in height and its contents not visible from the street.
- C. No person shall drive or move any truck or other vehicle within the village unless such vehicle is constructed, required or provides so as to prevent any litter from being blown or deposited upon any highway, roadway or other public place; nor shall any person drive or move any vehicle or truck within the village, the wheels or tires of which carry onto or deposit in any highway or other place mud, dirt, other substances or foreign matter of any kind.

### **§ 71-7. Sweeping litter into public places prohibited**

No person shall sweep into or deposit in any highway, roadway, sidewalk or any public place within the Village the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk or area in front of their premises free of litter.

### **§ 71-8. Littering on park property prohibited.**

No person shall throw, deposit or place or permit to be deposited, placed or scattered in or upon any park property or upon any pond, lake, stream or other body of water in a park or elsewhere within the Village any litter or other material of any kind. All such material is to be deposited in public receptacles, where available, and where receptacles are not available, litter is to be removed from the park by the person responsible for its presence and properly disposed of elsewhere. All litter or other such material shall be placed in receptacles in such a manner as to prevent it from being carried or deposited by the elements upon any part of the park or upon any street or other public place.

### **§ 71-9. Notice of violation.**

Police officers of the Town of Blooming Grove, or any Police Department servicing the Village, and the Building Inspector of the Village of South Blooming Grove (or a Building Inspector that represents the Village through an executed inter-municipal agreement as so stated in **§ 70-17** of the Village code), shall have the power, right and authority to serve a notice of violation upon the owner or the agent thereof of any property which is determined to be in violation of this chapter. Such notice shall be served personally or by certified mail, return receipt requested, upon the last known owner of said property, as shown on the last complete tax assessment roll of the Town of Blooming Grove. The notice shall give such owner 10 days after service of the notice to correct

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such violation, during which time the owner shall properly remove or cause to be removed such litter or other material from said property.

### § 71-10. Failure to comply with notice.

- A. In the event that all such litter or other material shall not be removed within the time specified in the notice to remove, the Village Board may hold a hearing, upon a minimum of five days' public notice, to determine whether the continued deposit of such materials is aesthetically offensive or constitutes a public nuisance or a public health hazard. Notice of such hearing shall be given to the owner of the property in the manner specified in § 71-9 hereinabove at least five days prior to such hearing. Or the Village Board can empower the Police Department servicing the Village of South Blooming Grove and/or the enforcement official designated in this chapter to issue an appearance ticket as so stated in § 71-11 hereinbelow.
- B. If after such hearing the Village Board deems the continued deposit of such materials to be aesthetically offensive or to constitute a public nuisance or a public health hazard, it shall give notice of such findings by certified mail addressed to the owner of record of such property at the address shown on the last complete tax assessment roll. Such notice shall further state that if at least 10 days elapse from the service thereof and the violation has not been fully corrected, the Village Board will cause the violation to be corrected, and that the entire expense of such correction shall be assessed against such property.
- C. If a period of at least 10 days elapses from the service of the notice required by § 71-10B hereinabove, and the violation has not been fully corrected, the Village Board shall proceed to take whatever action is necessary to cause the litter or other material to be removed from such property. The total expense of such removal shall be assessed against such property by the Village Board in the manner provided in § 71-10D hereinbelow.
- D. The Village Board shall serve personally or by certified mail upon the owner of record of such property at the address shown on the last complete tax assessment roll a written notice, stating that at a time and place specified therein, it will assess the expense of such removal against such property. Such notice shall be served at least eight days previous to the time specified therein. If directed against a corporation, it may be served upon the corporation at its principal place of business, upon an agent of the corporation within the Village or upon the Secretary of State. Notice served upon the Secretary of State shall be served at least 12 days previous to the time specified therein. At the time and place so specified, the Village Board shall hear the parties interested and shall thereupon finally determine the assessment, stating therein the name of each owner and the amount so assessed. The amount so assessed shall constitute a lien on the real property on which it is levied until paid or otherwise canceled pursuant to law and shall be collected in the manner fixed by law for the collection of Village taxes.

### § 71-11. Enforcement.

The Police Department servicing the Village of South Blooming Grove and/or the enforcement official designated in this chapter shall have the power, right and authority to issue an appearance ticket, as the same is defined in Article 150 of the Criminal Procedure Law of the State of New York, for the violation of any section of this chapter.

### § 71-12. Penalties for offenses.

- A. Any person who shall refuse or neglect to comply with the conditions of any notice as provided for by this chapter shall be guilty of a violation of this chapter. In addition to any other penalty or remedy herein provided, each and every violation of this chapter shall be fined in an amount not exceeding \$1,500 or imprisonment for up to 15 days.

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- B. In the case of continuing violation of this chapter, each day that such violation exists shall constitute a separate and distinct violation and shall be punishable as such hereunder; said individual shall also be subject to imprisonment for up to 15 days.
- C. In addition to all other remedies provided for herein, the Village Board may also enforce obedience to this chapter by injunction or by any other remedy available to it by virtue of the judicial process.
- D. The remedies contained within this chapter shall further not be exclusive, but shall be in addition to any other remedy provided by law, so long as not inconsistent herewith, nor shall the invoking of any remedy or procedure contained within this chapter preclude the pursuit of any and all other remedies, and the same are intended to be cumulative.

### **§ 71-13. Supersession of other laws.**

This chapter supersedes, and is in derogation of, Chapter 152 of the Code of the Town of Blooming Grove, County of Orange, State of New York.

### **§ 71-14. Authority.**

This chapter is enacted by authority of § 20, Subdivision 5, of the Municipal Home Rule Law and any other law referenced herein as authority herefor.

### **§ 71-15. Repeal.**

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

### **§ 71-16. Effective Date.**

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.