

**INCORPORATED VILLAGE OF OLD WESTBURY
BOARD OF TRUSTEES**

LOCAL LAW NO. 2 OF 2019

**AMENDING CHAPTER 139, "NUISANCES" OF THE CODE
OF THE VILLAGE OF OLD WESTBURY**

WHEREAS, the Chief of Police of the Village, Robert Glaser, has recommended to the Board of Trustees the enactment of a local law amending Chapter 139, "Nuisances", relating to the prohibition of "Nuisance Parties"; and

WHEREAS, this Local Law was introduced by the Board of Trustees on January 22, 2019; and

WHEREAS, the Board finds that this Local Law is a Type II Action pursuant to the New York State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, this Local Law was the subject of a duly noticed public hearing in accordance with New York State Village Law and the Village Code before the Board on February 19, 2019.

BE IT ENACTED by the Board of Trustees of the Incorporated Village of Old Westbury as follows:

Section 1. Chapter 139, "Nuisances", of the Village Code of the Village of Old Westbury be and is hereby amended to read as follows:

Article I Public Nuisances

§ 139-1 Public nuisances prohibited; notice to remedy.

No owner or occupant of any lot or parcel of land in the Village of Old Westbury shall cause or permit any public nuisance to be or to remain upon such lot or parcel of land or between the same and the adjoining highway. Whenever there shall exist any such public nuisance and a complaint thereof is made to the Mayor of the Village, he shall forthwith cause a notice to be served upon the owner or occupant of the premises on which said nuisance exists, requiring them to abate the same within 24 hours after the receipt of said notice.

§ 139-2 Failure to comply.

In case of a failure of the owner or occupant of premises to comply with such notice or requirement within the time therein mentioned, said nuisance may be abated by the Street Commissioner of said Village at the expense of such owner or occupant of the premises, such expense to be collected by suit in the name of the Village, if not paid to the Village Treasurer in five days after demand.

Article II Nuisance Parties

§ 139-3 Nuisance Party

A. For the purposes of this chapter, the following terms are defined as follows:

NUISANCE PARTY

A gathering which is conducted on premises within the Village of Old Westbury and which, by reason of the conduct of the persons in attendance, results in any one or more of the following conditions or events occurring at the site of the gathering, or on neighboring public or private property:

- 1. Disorderly conduct.**
- 2. Unlawful possession of an open container of alcoholic beverage.**
- 3. Outdoor urination or defecation in public view.**
- 4. Unlawful sale, furnishing, dispensing or consumption of an alcoholic beverage.**
- 5. Sale or furnishing of an alcoholic beverage to an underage person.**
- 6. Unlawful possession, sale, or use of a controlled substance.**
- 7. Unlawful deposit of litter or refuse.**
- 8. The damage or destruction of real or personal property.**
- 9. Unlawful pedestrian or vehicular traffic.**
- 10. Standing or parking of vehicles that obstructs the free flow of traffic on the public streets and sidewalks or that impedes the ability to render emergency services.**
- 11. Unlawfully loud noise.**

RESPONSIBLE PERSON

Any person who is an owner, occupant, tenant, or otherwise has rightful possession or possessory control, individually or jointly with others, of any premises, who either sponsors, conducts, hosts, invites or permits a gathering on said premises.

§ 139-4 Nuisance parties prohibited.

No responsible person shall sponsor, conduct, host, invite, allow or permit a nuisance party.

§ 139-5 Police authorized to cease nuisance parties.

Any police officer, peace officer, or Code Enforcement Officer who observes a nuisance party occurring may order that the nuisance party be ceased and order all nonresidents on the premises where the nuisance party has occurred to leave the premises immediately.

§ 139-6 Remaining on premises prohibited.

No person shall remain on the premises where a nuisance party has been ordered to be ceased by an officer of the Village of Old Westbury unless the person resides at the premises where the nuisance party has occurred.

§ 139-7 Penalties for offenses.

Any person violating any provisions of this chapter shall be guilty of an offense punishable by a fine not to exceed \$5,000.00 in amount, or imprisonment not to exceed 15 days, or both such fine and imprisonment, or a civil penalty of \$5,000.00 for each offense. Nothing herein contained shall prevent the Village of Old Westbury from taking such other lawful action as necessary to prevent or remedy a violation.

§ 139-8 Severability.

In the event that any section, paragraph, sentence, clause or phrase of this chapter is held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portions of the chapter shall be deemed severable from the chapter and shall in no way affect the validity of the rest of the chapter.

Section 2. Chapter 139, "Nuisances" of the Village Code of the Village of Old Westbury shall otherwise remain in full force and effect.

Section 3. Severability. If a court determines that any clause, sentence, paragraph subdivision, or part of this local law or the application thereof to any person, firm or corporation or circumstance is invalid or unconstitutional, the Court's order or judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this local law or in its application to the

person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 4. Effective Date. This Local Law shall take effect immediately upon filing with the Secretary of State.

On motion made by Trustee Novick, seconded by Trustee Baker, the foregoing Local Law was enacted upon the following vote:

Fred J. Carillo, Mayor	-	Absent
Marina Chimerine, Deputy Mayor	-	Aye
Cory Baker, Trustee	-	Aye
Leslie Fastenberg, Trustee	-	Aye
Edward Novick, Trustee	-	Aye

Dated: Old Westbury, New York
February 19, 2019

Filed: Old Westbury, New York
February 20, 2019