

RESOLUTION TO SCHEDULE PUBLIC HEARING ON A LOCAL LAW AMENDING §9-906 OF THE ZONING LAW TO UPDATE THE PENALTIES AND INCREASE THE AMOUNT OF FINES FOR A ZONING VIOLATION

RESOLVED, that the Board of Trustees of the Village of Dering Harbor hereby directs that a public hearing shall be held on **Saturday, October 13, 2018 at 9:00 a.m.** prevailing time, at the Dering Harbor Village Hall, Locust Point Road, Dering Harbor, New York, to hear any and all persons either for or against the following local law entitled: “Local Law amending §9-906 of the Zoning Law to update the penalties and increase the amount of fines for a zoning violation.”

LOCAL LAW NO. ___ OF 2018

A LOCAL LAW amending §9-906 of the Zoning Law to update the penalties and increase the amount of fines for a zoning violation.”

BE IT ENACTED by the Board of Trustees of the Village of Dering Harbor as follows:

Section 1. Legislative Intent. Currently §9-906 of the Zoning Law provides for penalties for each violation or offense of the Zoning Law of a fine in the amount of \$250.00. The penalties under the Zoning Law were adopted in 1970 and have not been updated since. The penalties and fines are not commensurate with the modern economy and it is the intent and purpose of this Local Law to update the penalties and increase the amount of the fines. First, the penalties will recognize that for the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of the Zoning Law shall be deemed misdemeanors, and an offense can be punishable by a fine and/or imprisonment for a period not to exceed fifteen (15) days. The amount of the fine for a first offense within five years will be increased to a fine not exceeding \$1,000.00; a second offense to a fine of not less than \$500.00 nor more than \$1,500.00; and a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$1,500.00 nor more than \$2,500.00. Moreover, the amount of a civil penalty for not complying with a notice of violation will be increased to up to \$1,000.00 per offense. Lastly, the amount of the fine for engaging in a commercial activity is increased to up to \$5,000.00 per offense

Section 2. Amendment. Section §9-906 of the Zoning Law is hereby amended by deleting strikethrough words and adding underlined words as follows:

Section 9-906 Violations and Penalties; Remedy Not Exclusive

(a) ~~Any person who violates or is an accessory or is necessary to the violation of any provision of this local law, or who fails to comply with any of the requirements thereof, or who erects, constructs, alters, enlarges, converts, moves or uses any building structure or land in violation of any statement made on any application or in the plans and specifications accompanying the same submitted as to any premises and approval, shall be guilty of a violation under the N.Y. Penal Law and shall be punishable by a fine of not more than two hundred fifty dollars (250) for each violation or offense.~~ Where a violation of the Zoning Law has been committed or shall exist, the owner and the agent or contractor of the building or other structure or lot where such violation has been committed or shall exist, the lessee or tenant of the part of or of the entire building or other structure or lot where such violation has been committed or shall exist, and the agent, architect, contractor or any other person who takes part or assists in such violation or who maintains any building or other structure or lot in which any such violation shall exist shall be guilty of a violation of the Zoning Law.

(b) A violation of the Zoning Law is hereby declared to be an offense, punishable by a fine not exceeding \$1,000.00 or imprisonment for a period not to exceed fifteen (15) days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$500.00 nor more than \$1,500.00 or imprisonment for a period not to exceed fifteen (15) days, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$1,500.00 nor more than \$2,500.00 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of the Zoning Law shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each and every day that any such violation continues shall constitute a separate additional violation.

~~(b)~~ (c) If any person fails to abate any violation within five days after written notice has been personally served on him, or within ten days after written notice has been sent to him by registered mail at his home or business address, and posted in a conspicuous place on any building or structure at any premises which are in violation of any of the provisions of ~~this local law~~ the Zoning Law, the Board of Trustees may instruct the building inspector to revoke any building permit or certificate of occupancy for any building or structure on the premises on which such violation occurs and such person shall be deemed to be a disorderly person and subject to a civil penalty of not more than ~~two hundred fifty (250)~~ one thousand (\$1,000.00) dollars for each violation or offense and every day that any such violation continues, or exists shall be a separate violation or offense with a separate penalty and fine hereunder recoverable by suit brought by the village and retained by it. These penalties shall be assessed as a tax lien against the property if not paid within thirty (30) days of notification of the violation.

~~(c)~~ (d) If any person violates the provision of ~~this local law~~ the Zoning Law with regard to engaging in any commercial activity the penalty for such activity shall be ~~one thousand dollars (1000) per incident~~ five thousand (\$5,000.00) dollars for each violation or offense and every day that any such violation continues.

~~(d)~~ (e) Remedy Not Exclusive. The Village of Dering Harbor shall not be precluded from and shall maintain all remedies available to it by law, and the election by the Village of the issuance of violation and assessment of penalties shall not be a waiver of or with prejudice to any civil or other remedy available to the Village.

Section 3. Authority. The proposed local law is enacted pursuant to Village Law §7-714 and Municipal Home Rule Law §§10(1)(i), 10(1)(ii)(a)(11), 10(1)(ii)(a)(12), and 10(1)(ii)(e)(4)(b).

Section 4. Severability. If any section or subsection, paragraph, clause, phrase, or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole, or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

Section 5. Effective Date. This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Village Clerk is hereby authorized and directed to refer this local law to the Suffolk County Planning Commission; and

AND BE IT FURTHER RESOLVED, that the Village Clerk is hereby authorized and directed to publish the following Notice of Public Hearing:

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE, that the Board of Trustees of the Village of Dering Harbor hereby directs that a public hearing shall be held on **Saturday, October 13, 2018 at 9:00 a.m.** prevailing time, at the Dering Harbor Village Hall, Locust Point Road, Dering Harbor, New York, to hear any and all persons either for or against a local law entitled: “Local Law amending §9-906 of the Zoning Law to update the penalties and increase the amount of fines for a zoning violation.”

Copies of the proposed law, sponsored by the entire Board of Trustees, are on file in the Village Hall, Tuesday, from 9:00 a.m. to 12:00 noon and Thursday 9:00 a.m. to 12:00 noon, or by appointment, and on the Village’s website.

BY ORDER OF THE BOARD OF TRUSTEES

VILLAGE OF DERING HARBOR, NEW YORK