

PROPERTY MAINTENANCE

Chapter 157

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**[HISTORY: Adopted by the Board of Trustees of the Village of Barker 2-4-2002 by ordinance. Amendments noted where applicable.]**

GENERAL REFERENCES

Unsafe buildings — See Ch. 91.

Fire prevention and building construction — See Ch. 110.

Health and sanitation — See Ch. 128.

Solid waste — See Ch. 171.

Streets and sidewalks — See Ch. 176.

Vehicles and traffic — See Ch. 192.

**§ 157-1. Legislative findings.**

- A. The Village Board of the Village of Barker hereby finds that the outdoor storage, accumulation, deposit, placement or growing of abandoned, junked, discarded, wholly or partially dismantled or unlicensed or unregistered motor vehicles, rubbish, debris, or solid waste or grass or weeds in excess of six inches in height upon private property threatens the health, safety and welfare of the Village residents. Outdoor storage, accumulation, deposit, placement or growing of such items creates a significant fire hazard, endangers the environment and groundwater, leads to infestation by insects, vermin or rodents, depreciates property values, and has a deteriorating and blighting effect upon the neighborhood and community.
- B. The Village Board hereby determines that the outdoor storage, accumulation, deposit, placement or growing of abandoned, junked, discarded, wholly or partially dismantled or unlicensed or unregistered motor vehicles, rubbish, debris, solid waste, or grass or weeds in excess of six inches in height upon private property constitutes a public nuisance.

**§ 157-2. Definitions.**

- A. As used herein, the following terms shall have the following definitions:

**DEBRIS** — The term includes all materials resulting from the construction, excavation, renovation, equipping, remodeling, repair or demolition of structures, property or roads as well as materials consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm-related clean-up. Such materials include, but are not limited to bricks, concrete and other masonry materials; soil; rock; wood; wall coverings; plaster; drywall;

plumbing fixtures; nonasbestos insulation; roofing shingles; asphaltic pavement; glass; window frames; electrical wiring and components; plastics; carpeting; foam padding; linoleum; metals; or any combination thereof which are incidental to construction, excavation, renovation, equipping, remodeling, repair or demolition.

**GARBAGE** — The term includes all putrescible animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including containers in which packaged.

**MOTOR VEHICLE** — The term includes all vehicles as defined by NYS Vehicle and Traffic Law § 125. The term “motor vehicle” as used in this chapter shall also include all-terrain vehicles as defined by NYS Vehicle and Traffic Law § 2281 and snowmobiles as defined by NYS Vehicle and Traffic Law § 2221, and shall further include any vehicle intended for operation by means other than muscle power.

**OUTDOORS** — The term shall include anything not housed in a fully enclosed building.

**OWNER** — The owner as identified on the current assessment roll.

**RUBBISH** — The term includes all nonputrescible solid wastes consisting of both combustible and noncombustible wastes, including but not limited to paper and paper products, rags, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, metals, plastics, tires, bedding, cloth, crockery, furniture, appliances and similar items.

**SOLID WASTE** — The term includes all putrescible and nonputrescible materials and substances having served their original intended use or being spent, useless, worthless or in excess to the owner, including but

not limited to household and commercial garbage, industrial waste, rubbish, debris, garbage, litter and ashes.

- B. All other terms as used in this chapter shall have their common or ordinary meaning.

**§ 157-3. Outdoor deposit or storage of waste; applicability; responsibility.**

- A. No person, as owner, occupant, lessee or agent, or in any capacity shall store, deposit, place, maintain, grow or cause or permit to be stored, deposited, placed or maintained or grown outdoors any abandoned, junked, discarded, wholly or partially dismantled, unlicensed or unregistered motor vehicle or any solid waste, rubbish, debris or grass or weeds in excess of six inches in height upon any private property within the Village.
- B. This section shall not apply:
- (1) To any solid waste, rubbish or debris temporarily stored or placed in a container for collection or disposal.
  - (2) To the maintenance of a mulch pile used for on-premises gardening or landscaping confined to an area to the rear of a residence and not exceeding 50 square feet.
  - (3) To the temporary storage on a premises of a single motor vehicle which meets New York State Inspection requirements, which is unlicensed or unregistered, but which is not dismantled, abandoned, junked or discarded.
  - (4) To the maintenance of any motor vehicle on a duly licensed automobile repair or sales business lot, properly zoned, while said vehicle is being repaired or sold, provided that this exception shall

not permit storage of vehicles which will not pass a New York State Vehicle Inspection on any premises for a period in excess of 30 days.

- C. For purposes of this chapter, every owner and occupant shall be strictly liable, and fully responsible, and shall be deemed to have permitted any condition on the premises they own or occupy.

**§ 157-4. Inspection; report.**

Whenever it shall appear that the provisions of this chapter are violated, the Code Enforcement Officer, any police officer, or any such other officer or employee authorized by the Village to have jurisdiction thereof, is authorized to make an inspection of the property involved and prepare a written report of the conditions found, which report shall be filed with the Village Board.

**§ 157-5. Notice of violation.**

- A. If conditions existing on the inspected property violate the provisions of this chapter, the Code Enforcement Officer, a Police Officer or other designated officer or employee is authorized to serve or cause to be served a written notice of such violation, either personally or by certified mail, upon the owner or owner's agent as well as upon the lessee or occupant of said premises. Failure to serve either an owner or an occupant or lessee shall not prevent enforcement against any party served.
- B. Said notice shall contain substantially the following: the name of the owner, lessee or occupant of the premises; the address or location of the premises; the identification of the premises as the same appears on the current assessment roll; a statement of the conditions on the property deemed upon inspection to be in violation of this chapter, demand that the motor vehicle, solid waste, rubbish, debris or grass or weeds in excess of six inches in height determined to be in violation of this

chapter be removed from the property on or before 10 days after the service or mailing of such notice; a statement that a failure or refusal to comply with the provisions of this chapter and the notice given pursuant thereto within the time specified may result in a duly authorized officer, agent or employee of the Village entering upon the property and removing such motor vehicle, solid waste, rubbish, debris, grass or weeds, and causing the same to be disposed of or otherwise destroyed; and that the cost and expense of such removal and disposal or destruction shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

- C. Said notice shall also contain the date, time and location at which the Village Board will conduct a hearing to determine whether the conditions upon the subject property constitute a public nuisance. Said notice shall state that the property owner, his/her agent, lessee or occupant is entitled to be heard at such hearing and present evidence or testimony. The date of such hearing must be at least 10 days after service or mailing of the notice of violation.
- D. Nothing contained in § 157-4, 157-5, 157-6, 157-7 or 157-8 of this chapter shall require any report or notice as a prerequisite to the filing of an information or the issuance of a summons or appearance ticket for, or any prosecution of, a violation of any of the provisions of this chapter.

**§ 157-6. Second inspection and report.**

On or before the date of the hearing and prior to commencement of the hearing, the Code Enforcement Officer, police officer, or other duly authorized officer or employee shall conduct a second inspection of the property and file a written report of the conditions deemed in violation of this chapter found thereon

with the Village Board. Such inspection shall be conducted as close to the date of the hearing as practicable.

**§ 157-7. Declaration of public nuisance; remediation.**

At the close of the hearing, the Village Board may determine that the conditions upon the subject property which violate this chapter constitute a public nuisance. Upon a determination by the Village Board that conditions upon the property constitute a public nuisance, the Village Board is empowered to authorize officers, agents or employees of the Village to enter onto the property and remove any vehicle, solid waste, rubbish, debris, grass or weeds stored, deposited, placed or maintained in violation of this chapter and dispose of or otherwise destroy same. Any costs and expenses incurred by the Village when acting pursuant to this chapter to abate a public nuisance shall be assessed against the property involved and shall constitute a lien thereon to be collected as provided by law.

**§ 157-8. Emergency actions**

- A. Nothing in this chapter shall prohibit a municipality from entering onto private property to remove any solid waste, motor vehicle, appliance, rubbish or debris whenever there exists an imminent threat to the life or safety of persons. Municipal authority pursuant to this section may only be exercised where there is a dire necessity to protect life and safety. Any municipal action taken pursuant to this section must be reasonably calculated to alleviate or prevent the crisis condition and must be limited to those actions necessary to eliminate the emergency situation.
- B. A property owner shall be given notice and an opportunity to be heard prior to any costs and expenses incurred pursuant to this section being placed on the property's tax bill.

**§ 157-9. Penalties for offenses.**

- A. A violation of § 157-3 of this chapter is a violation punishable by a fine of up to \$250 and/or imprisonment for up to 15 days. Each additional week of continuous violation of the terms of this chapter constitutes a separate violation.
- B. The Village may seek injunctive relief in a court of competent jurisdiction and shall be entitled to a judgment for any expenses incurred, including reasonable attorney fees.
- C. All remedies set forth in this chapter are alternative and cumulative, and the Village may enforce this chapter utilizing any remedy or combination thereof.

**§ 157-10. Conflicting provisions.**

When the provisions of this chapter conflict with the provisions of any other local law or ordinance of the Village of Barker, the provisions of this chapter shall prevail.