

Chapter 157

PROPERTY MAINTENANCE

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| § 157-1. Findings and determination. | § 157-7. Determination of public nuisance; removal by Village. |
| § 157-2. Definitions. | § 157-8. Emergency actions. |
| § 157-3. Outdoor deposit or storage of waste. | § 157-9. Penalties for offenses; enforcement. |
| § 157-4. Inspection and report. | § 157-10. Conflicts with other laws. |
| § 157-5. Notice of violation. | § 157-11. Authority. |
| § 157-6. Second inspection and report. | § 157-12. Effective date. |

[HISTORY: Adopted by the Board of Trustees of the Village of Barker 2-4-2002 by ordinance; amended in its entirety 1-6-2025 by L.L. No. 1-2025. Subsequent amendments noted where applicable.]

§ 157-1. Findings and determination.

- A. The Village Board of the Village of Barker hereby finds that the outdoor storage, accumulation, deposit or placement of abandoned, junked, discarded, wholly or partially dismantled or unlicensed or unregistered motor vehicles, rubbish, debris, or solid waste upon private property threatens the health, safety and welfare of the Village residents. Outdoor storage, accumulation, deposit or placement of such items and uncontrolled weeds and vegetation 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 or placement of abandoned, junked, discarded, wholly or partially dismantled or unlicensed or unregistered motor vehicles, rubbish, debris, or solid waste and uncontrolled weeds and vegetation upon private property constitutes a public nuisance.

§ 157-2. Definitions.

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

CODE ENFORCEMENT OFFICER — The Building Inspector or Code Enforcement Officer or their deputies or staff, or any other person having Code Enforcement authority in the Village of Barker.

DEBRIS — 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 cleanup. 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 — Includes all putrescible animal and vegetable waste resulting from processing, marketing and preparation of food items, including the container in which packaged.

MOTOR VEHICLE — Includes all vehicles as defined by New York State Vehicle and Traffic Law § 125. The term "motor vehicle" as used in this chapter shall also include all-terrain vehicles as defined by New York State Vehicle and Traffic Law § 2281 and snowmobiles as defined by New York State Vehicle and Traffic Law § 2221 and shall further include any vehicle intended for operation on land by means other than muscle power.

OCCUPANT — Any person residing in or occupying the premises as identified on the current assessment role.

OUTDOORS — Includes anything not housed in a fully enclosed building.

OWNER — The owner as identified on the current assessment roll, or the managing representative of the owner.

RUBBISH — 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 — 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.

WEEDS or VEGETATION — All brush, grass, weeds or other vegetation, which exceed the height of 12 inches, on a premises which is improved by a residential, commercial, industrial building.

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

§ 157-3. Outdoor deposit or storage of waste.

- A. No person, as owner, occupant, lessee or agent, or in any capacity, shall store, deposit, place, maintain, or cause or permit to be stored, deposited, placed or maintained outdoors any abandoned, junked, discarded, wholly or partially dismantled, unlicensed or unregistered motor vehicle or any solid waste, rubbish, or debris or weeds and vegetation as defined herein upon any private property within the Village.
- B. This section shall not apply to:

- (1) Any solid waste, rubbish or debris temporarily stored or placed in a container for collection or disposal.
 - (2) 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) The temporary storage on a premises of a single motor vehicle meeting New York State inspection requirements which is unlicensed or unregistered but which is not dismantled, abandoned, junked or discarded. This exception shall only apply where the vehicle is stored on a stone or paved surface not closer to the street than the front facade of the building.
 - (4) 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.
 - (5) The maintenance or storage of farm equipment or materials used in a farming or agricultural operation or weeds or vegetation on farms on a premises in actual use for agricultural purposes.
 - (6) The maintenance or storage of operable farm equipment, business equipment or construction equipment for sale or in connection with a legally operating business.
 - (7) Vegetation consisting of maintained gardens and landscaping where actual care and maintenance is taking place on a regular basis.
- 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 and report.

Whenever it shall appear that the provisions of this chapter are violated, the Code Enforcement Officer 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 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, if known; 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; a demand that the motor vehicle, solid waste, rubbish, or debris, weeds or vegetation 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; and 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 the Code Enforcement Officer, or any authorized officer, agent or employee of the Village entering upon the property and removing such motor vehicle, solid waste, rubbish or debris, weeds or vegetation, and causing the same to be disposed of or otherwise destroyed and that the cost and expense of such removal and disposal or destruction and an enforcement fee in the amount of \$500 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. 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, or taking any civil action.

§ 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 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. Determination of public nuisance; removal by Village.

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 Code Enforcement Officer is empowered to authorize and direct officers, agents or employees of the Village to enter onto the property and remove any vehicle, solid waste, rubbish or debris, weeds or vegetation deposited, placed or maintained in violation of this chapter and dispose of or otherwise destroy the same. Any costs and expenses incurred by the Village and an enforcement fee in the amount of \$500 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 the Village from entering onto private property to remove any solid waste, motor vehicle, appliance, rubbish or debris, weeds or vegetation 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 an immediate 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.
- 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; enforcement.

In addition to the remedies set forth in §§ 157-4 through 157-8:

- 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 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. Conflicts with other laws.

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.

§ 157-11. Authority.

This chapter is adopted pursuant to provisions of General Municipal Law Section 10(1)(i)(ii)(a) and New York State Constitution Article IX § 2(c)(10).

§ 157-12. Effective date.

This chapter shall take effect immediately upon filing with the Secretary of State of the State of New York.

