

Chapter 134

PROPERTY MAINTENANCE

GENERAL REFERENCES

Building construction and fire prevention — See Ch. 132.

Building Permits — See Ch. 132.

Unsafe buildings — See Ch. 247-35.

§ 134-1 Findings and determination.

- A. The Town Board of the Town of Pendleton 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 Town 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 Town 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.

§ 134-2 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 Town of Pendleton.

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.

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 non-putrescible 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 non-putrescible 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

Refers to, but is not limited to, any organic growths which constitute a fire, health or safety hazard.

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

§ 134-3 Unlawful growth of weeds, etc.

Each owner, occupant, lessee, or agent shall ensure that their exterior property be maintained free from weeds or plant growth in excess of 10 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include landscaping beds consisting of maintained gardens and clearly defined planting beds where actual care and maintenance is taking place on a regular basis. It shall also not include farming fields where continued planting is done on a yearly basis and is clearly used for farm planting including but not limited to corn, soy beans, wheat etc. It shall be the duty of any owner or an agent, lessee or tenant of any premises fronting on any public street to keep the terrace in front of the same in good order and repair. Said duty shall include but not be limited to the cutting and removing of brush, weeds or other unhealthful growth of plants.

§ 134-4 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 Town.

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 per scheduled collections established by the town.

- (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 operable business equipment or construction equipment for sale or in connection with a legally operating business.
 - (6) 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.

§ 134-5 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.

§ 134-6 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 written 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 5 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 Town to enter the property and remove such motor vehicle, solid waste, rubbish or debris, weeds or vegetation, and cause the same to be disposed of or otherwise destroyed. The Town department, officer or designee performing such work shall keep an accurate and itemized account of the expenses incurred for all labor, equipment and materials furnished plus any other incidental costs. All bills shall reflect work completed on property, plus a charge of 20% to cover the costs and disbursements and administrative handling.
- C. The Water Billing Clerk, upon receiving the invoice/invoices described in subsection B above regarding a property, shall be responsible to charge the unpaid bill to the most current water bill for that property. In the event that collection is not made within 30 days, the Water Billing Clerk shall forward the unpaid account to the Town Assessor, who shall charge the cost of such expenditure against the owner or owners of said property on the next regular tax bill.

- D. The Code Enforcement Official or any authorized Town employee shall have the right, at reasonable times, upon notification, to enter upon lands within the Town for the purpose of inspection to determine compliance with this section. The right of inspection herein granted shall apply to the exterior of the buildings and grounds only.

§ 134-7 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, 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.

§ 134-8 Penalties for offenses; enforcement.

In addition to the remedies set forth in §§ 134-3 through 134-8:

- A. A violation of § 134-3 or 134-4 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 Town may seek injunctive relief in a court of competent jurisdiction and shall be entitled to a judgment for any expenses incurred, including attorney fees.

§ 134-9 Conflicts with other laws.

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