

Chapter 13

BRUSH, GRASS AND WEEDS

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[HISTORY: Adopted Liberty Village Board 11-6-1989 by L.L. No. 8-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Garbage and rubbish — See Ch. 35.

§ 13-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING INSPECTOR -- The Building Inspector or his duly authorized representative.

PERSONS — Includes one or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

§ 13-2. Maintenance of rank vegetation prohibited.

It shall be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant, having control of any occupied or unoccupied building lot or plot of land or any part thereof in any developed section of the Village of Liberty, to permit or maintain on any such lot or plot of land or on or along the sidewalk, street or alley adjacent to the same, between the property line and the curb or the middle of the alley or for 10 feet outside of such property line, if there be no curb, any growth of weeds, grass or other rank vegetation to a height greater than 10 inches on the average or any accumulation of dead grass, weeds or brush. It shall also be unlawful for any such person to cause, suffer or allow poison ivy, ragweed or other poisonous plants or plants detrimental to health to grow on any such lot or plot of land in such manner that any part of such ivy, ragweed or other poisonous weed shall extend upon, overhang or border any public place.

§ 13-3. Duty of owner, lessee or occupant.

It shall be the duty of any owner, lessee or occupant of any such lot or plot of land in the Village of Liberty to cut and remove or cause to be cut and removed all such seeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of § 13-2, provided that cutting and removing such weeds, grass or vegetation at least once in every three weeks between May 15 and September 15 shall be deemed to be a compliance with this chapter.

§ 13-4. Deposit of rubbish or flammable material on vacant land.

It shall be unlawful for any person, either as owner, lessee, agent, tenant or otherwise, to throw, cast or deposit or cause or permit to run, drop or remain or to be thrown, cast or deposited, in or upon any vacant lot of land or vacant place upon the surface of any lot of land, enclosed or otherwise, within the

Village of Liberty, New York, except at such place or places as designated or provided by the Board of Trustees of the Village of Liberty, New York, any waste, leaves, brush, hay, weeds, straw, litter, wastepaper, boxes, shavings or any filthy, combustible or flammable materials, rubbish, garbage or dirt whereby a fire hazard, danger or risk is or may be engendered or injuriously effected or whereby the premises of another or the enjoyment of the premises of another are or may be injured, damaged, interfered with or prejudiced. Nothing in this section shall be construed as to prohibit the depositing of manure upon any private property for the cultivation of the same.

§ 13-5. Notice of noncompliance; request for hearing; removal; costs; challenge of costs. [Amended 9-3-1997 by L.L. No. 5-1997; 1-12-2006 by L.L. No. 1-2006]

- A. If the provisions to the foregoing sections are not complied with, the Code Enforcement Officer shall serve written notice, in the manner hereinafter provided, upon the owner and (if applicable) upon the lessee or occupant or any person having care or control of any such lot of land, to comply with the provisions of this chapter. The notice shall inform the owner and (if applicable) the lessee, occupant or person having the care or control of such lot or land that:
- (1) He is the owner, lessee, occupant or person having the care or control of any such lot or land.
 - (2) A description of the premises and its location.
 - (3) The manner in which the property is in violation of this chapter.
 - (4) He, she or it must forthwith remedy the violation of this chapter.
 - (5) He, she or it may request a hearing within 10 days after completion of service of the notice if he, she or

it believes that the property is not in violation of this chapter.

- (6) If the violation is not remedied within 10 days after the completion of service of the notice and if a timely demand for a hearing is not made, the Village of Liberty may perform the work at the expense of the owner, lessee, occupant or person having the care or control of such lot of land.
- B. The proper service of any notice required by this chapter shall be made by personal service or certified mail upon the record owner and (if applicable) upon the lessee, occupant or person having care or control of any such lot of land, at his, her or its last known address, and by posting a copy of the notice in a conspicuous place on the building or structure located on such lot of land; in the event that no such building or structure exists, no posting shall be required. Service shall be deemed complete upon the later of the personal service, mailing or posting, as aforesaid.
 - C. Within 10 days of the completion of service upon the owner and (if applicable) upon the lessee, occupant or person having the care or control of such lot of land, said person or entity may request a hearing.
 - D. Upon receiving a request for a hearing, the Code Enforcement Officer shall forthwith inform the Mayor that a request for a hearing has been filed. The Mayor shall designate a hearing officer to hear and determine the matter and shall inform the Code Enforcement Officer of the person so designated. The Code Enforcement Officer shall inform the person or entity requesting the hearing of the date and place of the hearing not less than 10 days prior to the date of the hearing. The hearing officer shall, upon the presentation of relevant evidence, determine whether a violation of this chapter exists. The rules of evidence shall not apply at such hearing, and the hearing officer shall follow such fair and equitable procedure in the conduct of the

hearing as he or she reasonably deems appropriate. The hearing officer shall promptly issue a report of the contentions of the parties, the findings of fact and his or her determination to the person or entity requesting the hearing and his, her or its attorney, if any, the Code Enforcement Officer, and the Board of Trustees. The Board of Trustees shall review the evidence and determination and may accept, reject or modify the determination of the hearing officer. The Village Clerk shall notify the person or entity requesting the hearing and his, her or its attorney, if any, and the Code Enforcement Officer of the decision. Any person or entity aggrieved by the decision may appeal said decision directly to the Supreme Court of the State of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such a proceeding shall not stay further action pursuant to this chapter unless the Court so orders.

- E. If the person or entity upon whom the notice is served fails, neglects or refuses to remedy the violation of this chapter or fails to request a hearing within 10 days after the completion of service of such notice, or fails to remedy the violation within 10 days of completion of service of the decision of the Board of Trustees (to be served as set forth in § 13-5B, without the requirement of any posting) finding a violation of this chapter after a hearing, the Code Enforcement Officer shall cause the violation to be remedied.
- F. In the event that the Board of Trustees has determined that a violation of this chapter existed or in the event that no hearing was requested, upon the Code Enforcement Officer causing the violation to be remedied, he or she shall file with the Village Clerk a sworn statement as to the actual cost to the Village of Liberty in remedying the violation of this chapter, plus 50% for inspection and other additional costs in connection therewith, which sums shall be added to and become and form part of the taxes next to be assessed and levied upon such lot of land and shall bear interest

at the same rate as taxes. The following such sworn statement with the Village Clerk shall constitute a lien and privilege on the property and shall remain in full force for the amount due, together with principal and interest and penalties, until final payment has been made. The foregoing charges shall be collected and enforced by the same officers and in the same manner as taxes or, in the discretion of the Board of Trustees, may be the basis of an action in a court of competent jurisdiction against any and/or all persons and/or entities responsible or liable for such violation of this chapter, for a money judgment for all such sums due and owing, together with all costs, disbursements and interest authorized by law.

- G. In the event that the Village decides to add such costs, plus 50% as aforesaid, to the taxes next to be assessed in the Village of Liberty upon such lot of land, the Code Enforcement Officer shall serve a notice upon the person(s) or entity(ies) upon whom the prior notice was served, in the same manner as the notice was required to be served pursuant to § 13-5B, advising him, her or it of the amount of the actual costs of such removal and the amount that will be placed upon the tax bill unless such person or entity pays same in full or objects, in writing, within 10 days after the completion of service of such notice. In the event that the person(s) or entity(ies) so served such notice objects within such ten-day period, he, she or it shall be entitled to a hearing, which shall be scheduled, conducted and decided in the same manner as set forth in § 13-5D above. If there is no such timely objection, and same is not paid in full, as aforesaid, the foregoing charges shall be added to the next Village tax bill, as set forth above.

§ 13-6. Penalties for offenses.

Any person committing an offense against any of the provisions of this chapter shall be guilty of a violation under the

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Penal Law and, upon conviction thereof, shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both.

§ 13-7. When effective.

This chapter shall take effect immediately.