

Chapter 76

PROPERTY MAINTENANCE

[HISTORY: Adopted by the Town Board of the Town of Benton 9-8-2010 by L.L. No. 1-2010. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 30.

Zoning — See Ch. 110.

§ 76-1. Title.

This chapter shall be known and may be cited as the "Property Maintenance Law."

§ 76-2. Purpose.

The purpose of this chapter is to create Town-wide, uniform property maintenance standards which give the Town Code Enforcement Officer another tool to preserve the health, safety and general welfare of the residents, businesses and guests of the Town of Benton by controlling the spread of weeds and allergy-irritating pollen to surrounding lots, by protecting property values, by preventing blight, by prohibiting the outdoor placement or storage of abandoned or junked motor vehicles and by keeping lots free from nuisances, hazards, litter, vermin and the debris and hazards resulting from lots, buildings or structures damaged by fire, wind, weather or neglect.

§ 76-3. Definitions.

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

ABANDONED MOTOR VEHICLE — Any motor vehicle defined as an "abandoned vehicle" pursuant to § 1224 of the Vehicle and Traffic Law of the State of New York, as amended, and/or an unregistered, uninspected or inoperable automobile, snowmobile, lawn mower, go-cart, motorcycle or other motor vehicle which is openly stored or situated on property within the Town of Benton.

JUNK VEHICLE — Any automobile, snowmobile, lawn mower, go-cart, motorcycle or other motor vehicle, including component parts thereof, which is stored in open, outdoor storage and which, for any reason, is incapable of moving by its own power in the manner in which it was designed to move, and which is not intended for or in condition for safe and legal use on public highways.

NUISANCE, HAZARD AND LITTER — Includes, but shall not be limited to, abandoned motor vehicles or junk vehicles or any part thereof unless such party has a license to store the same, any waste metal or materials, garbage, refuse, rubbish, old refrigerators, stoves or like products, used bottles or cans, glass, wood, lumber or vegetable matter of any kind or any other matter which is flammable or capable of fermentation, evaporation or decay, abandoned building or construction

materials or supplies, discarded paper or material of junk substance, tree stumps or matter attractive to vermin or likely to breed disease, cause fire or be a health hazard.

§ 76-4. Prohibited actions; exceptions.

- A. No person, business or other entity shall place, deposit, store or allow to remain upon any property within the Town of Benton two or more abandoned motor vehicles or two or more junk vehicles for a period of more than four weeks, except in a garage or other similar enclosure.
- B. The provisions of Subsection A of this section shall not apply to new or used car sales dealers at their place of business or to motor vehicle repair garages.
- C. No person, business or other entity shall abandon, leave, dump, store or keep any nuisance, hazard or litter or matter attractive to vermin upon any public street, public place or privately owned property within the Town of Benton and all properties within the Town of Benton shall be kept free and clear of nuisances, hazards and litter.

§ 76-5. Maintenance of lots.

- A. The owner, tenant or occupant of every improved lot within the Town of Benton and the owner of every vacant lot that is within a subdivision approved by the Town of Benton Planning Board shall maintain such lot by cutting or mowing such property as frequently as is necessary to ensure that no growth of weeds or grass shall exceed 10 inches in length or height and shall ensure that there is no accumulation of dead weeds, grass or brush.
- B. The owner, tenant or occupant of every lot or parcel of land in the Town of Benton shall maintain hedges, shrubs and trees so as to keep the same from encroaching onto public sidewalks and into lines of sight of public roadways. It shall also be unlawful for the owner of any lot or parcel of land in the Town of Benton 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, other poisonous weed or other plants detrimental to the health shall extend upon, overhang or border a public sidewalk, public right-of-way, public highway or any other public place.
- C. The owner, tenant or occupant of property located in the Town of Benton is hereby required to remove all nuisances, hazards and litter or matter attractive to vermin, as hereinabove defined, when ordered to do so by the Town of Benton Code Enforcement Officer within five days of written notice therefor.
- D. The owner of any property within the Town of Benton which has been damaged by fire, weather or neglect shall clean up said property within six months of when the damage occurred so that any debris or materials resulting from the fire, weather or neglect or by the efforts to extinguish the fire are wholly removed from said property and so that any building or structure damaged by the fire, weather or neglect is either demolished and removed or repaired so that such building or structure has no visible signs of the damage caused by the fire, weather or neglect taking place thereat and is in full compliance with all New York State and local building codes.

§ 76-6. Notice of violation.

If the provisions of this chapter are not complied with, the Town of Benton Code Enforcement Officer shall serve within the Town of Benton written notice of the violation upon the owner of the property that is the subject of the violation or shall post a copy of the violation on the property if an owner cannot be found to personally serve. If the owner of said property is a nonresident of the Town of Benton or if the Code Enforcement Officer was unable to personally serve the owner, a notice to cure the violation shall also be mailed to such owner by registered mail, addressed to his or her last known address.

§ 76-7. Performance of work by Town; assessment of costs.

- A. If the person upon whom a notice to cut and/or remove grass, weeds and other vegetation is served fails, neglects or refuses to cure the violation within the time frame specified in the notice, the Town of Benton Code Enforcement Officer shall cause such weeds, grass and other vegetation on such lot or land to be cut and removed, and the actual cost of such cutting and removal plus a service charge of 50% thereof or \$50, whichever is greater, to cover the cost of supervision, inspection, administration and other additional costs in connection therewith, shall be certified by the Town of Benton Code Enforcement Officer to the Town Supervisor and such certified amount shall thereupon be charged and assessed against the owner, tenant or occupant of the property that was the subject of the violation. The expense, so assessed, shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected and enforced in the same manner and at the same time as other Town taxes and charges.
- B. The owner of any lot, land or property found in violation of Subsections A, B or C of § 76-5 of this chapter shall be notified in writing only once in any given calendar year for a particular violation. Subsequent violations of a similar nature at the same location during the same season shall be corrected by the Town or its agent without notice to the owner of said property. After initial notification, such owner, occupant or person having control of said property will be presumed to have been given sufficient notice of infraction for the entire season. The costs incurred by the Town in curing any subsequent violations shall be collected in the same manner as set forth in Subsection A of this section.
- C. The Town Board of the Town of Benton, by resolution, may cause any nuisance, hazard or litter to be removed from any property within the Town of Benton upon the failure of such owner, tenant or occupant to comply with the written notice aforementioned within the time limit specified on the notice. Said removal may be performed by the Town itself or the Town may contract with a private entity or contractor. The Town Board shall ascertain the cost of such removal, and such cost shall be charged and assessed against the owner of the property. The expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.
- D. The removal of any nuisance, hazard or litter by the Town of Benton or its designee or agent shall not operate to excuse such owner from properly maintaining his or her property as required by this chapter, and such owner, tenant or occupant shall, notwithstanding, be subject to the penalties set forth in this chapter.

§ 76-8. Penalties for offenses.

Any person found guilty of violating any provision of this chapter, and the owner of any premises on which a violation is committed, shall be punished by a fine not to exceed \$250 or imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate, additional violation.

§ 76-9. Compliance with other provisions.

The provisions of this chapter shall be subject to and subordinate to the provisions of the New York State Agriculture and Markets Law.

§ 76-10. Administration and enforcement.

The Town of Benton Code Enforcement Officer is hereby charged with the responsibility and duty to administer and enforce this chapter.