

Chapter 200. Zoning

Article V. Requirements Applying to All Districts

§ 200-79. Property maintenance.

- A. Purpose. To provide a method whereby vacant lands, improved properties and public lands, including roads and rights-of-way are properly maintained, properly repaired, kept clean, and kept free from vermin, nuisances, hazards, debris and litter. 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 constitutes a public nuisance.
- B. Compliance required.
- (1) All structures and premises, residential, commercial and industrial, shall comply with the provisions of this section, whether or not those structures and premises have been constructed, altered, or repaired before or after the enactment of this chapter and irrespective of any permits or licenses which may have been issued for their use or occupancy prior to the effective date of this chapter. Vacant lots, land and premises are also required to comply with the provisions of this section. This section does not replace or modify standards otherwise established for the construction, repair, alteration or use of the structure, the premises or equipment or use of the structure, the premises or the equipment of facilities contained therein, as are required by the New York State Uniform Fire Prevention and Building Code.
 - (2) In any case where a provision is found to be in conflict with any applicable zoning, building, plumbing, electrical, heating, ventilation, fire or safety code of the Town of Porter, Niagara County, State of New York or United States of America, the provision that establishes the higher standard, as determined by the Zoning/Code Enforcement Officer, shall prevail.
- C. Maintenance. It shall be the duty of the owner, operator and/or occupant to keep the exterior of the premises free of nuisances, which include but are not limited to the following:
- (1) Garbage and/or other refuse.
 - (2) Natural growth, such as dead and dying or storm-damaged trees and limbs or other growth, which by reason of its condition or nature, constitutes a hazard to persons lawfully in the vicinity. Trees shall be kept pruned and trimmed to prevent such conditions. Owners of vacant premises must keep them free of nuisances.
 - (3) Ground surface hazards, such as holes, excavations, breaks or projections. This requirement applies on residential premises within five feet of an unfenced property line or on any part of a nonresidential premises to which the public has lawful access.
[Amended 11-12-2013 by L.L. No. 2-2013]
 - (4) Sources of infestation, including all environments and conditions conducive to the increase or spread of vermin. The owner of any structure found to be infested with rats, termites, roaches

and/or other insects or vermin shall undertake an expedient means of extermination of such nuisances.

- (5) Surface or subsurface water shall be appropriately drained to protect buildings and structures and to prevent the development of stagnant ponds.
- (6) Lawns, except for pastureland, woodland, or land under cultivation, shall be cut, and bushes, shrubs and hedges shall be trimmed regularly during the growing season so as to avoid an unsightly appearance.

D. Exterior standards.

- (1) The exterior of all premises, whether vacant, unoccupied, or occupied shall be kept free of the following matter, materials or conditions:
 - (a) Abandoned, uncovered or structurally unsound wells, shafts, towers, exterior cellar openings, basement hatchways, foundations or excavations.
 - (b) Abandoned iceboxes, refrigerators, heaters, television sets, and other similar major appliances.
 - (c) Animal excrement, excluding farm animals.
 - (d) Buried or open to view any refuse or rubbish as herein defined.
[Amended 11-12-2013 by L.L. No. 2-2013]
 - (e) Nuisances as herein defined.
- (2) The exterior of a structure shall be maintained structurally sound and sanitary so as not to pose a threat to the health and safety of the occupants or operators and so as to protect the occupants or operators from the environment. Structures shall be maintained so as to reflect a level of maintenance in keeping with the appearance of the neighborhood and such that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property owners nor an element leading to the progressive deterioration and downgrading of the neighborhood with the accompanying diminution of property values.
[Amended 11-12-2013 by L.L. No. 2-2013]
- (3) All exposed exterior surfaces shall be maintained free of broken or cracked glass, loose shingles or loose or crumbling stones or bricks, loose shutters, railings, aerials, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance. Said conditions shall be corrected by repair or removal. All exposed exterior surface not inherently resistant to deterioration shall be coated, treated or sealed to protect them from deterioration or weathering. Wood, masonry or other exterior materials that will naturally resist deterioration do not have to be treated, but must be maintained in a sound, secure workmanlike manner. Exterior surfaces that have been painted or otherwise coated must be maintained in a neat, orderly, serviceable manner so as to prevent the collapse of the same or injury to the occupants or operators of the building or to the public.
[Amended 11-12-2013 by L.L. No. 2-2013]
- (4) Residential, commercial and industrial premises, whether improved or vacant, shall be maintained free of litter. Dumpsters and similar large receptacles shall be screened from the public view by means of landscaping, hedges, fences or screening.
- (5) An occupant or operator of premises shall be responsible for compliance with this section in regard to the following:
[Amended 11-12-2013 by L.L. No. 2-2013]
 - (a) Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.

- (b) Keeping exits from the building or occupant's portion thereof clear and unobstructed.
 - (c) Disposal of garbage and refuses into appropriate facilities in a clean and sanitary manner.
 - (d) Maintenance of yards in appropriate manner for the part of yard he occupies.
 - (e) Installation and removal of required screens
 - (f) Keeping domestic animals and pets in an appropriate manner and under control, in accordance with other regulations of the Town.
 - (g) Elimination of all prohibited uses for that part of the premises which he occupies, controls, or to which he has accessibility.
- (6) The owner of the premises shall be responsible for compliance with this section in regard to the following:
- (a) Owners shall be responsible for compliance with the provisions prescribed herein and shall remain responsible regardless of the fact that this section may also place certain responsibilities on operators and occupants and regardless as to which party shall assume such responsibility.
 - (b) Owners, occupants and operators of buildings shall be responsible for the proper installation, maintenance, conditions and operation of service facilities and for furnishing adequate heat and hot water supply where they have contracted to do so.
[Amended 11-12-2013 by L.L. No. 2-2013]
 - (c) Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the Town as executor, administrator, trustee, guardian, operator or agent, such persons shall be deemed and taken to be the owner or owners of said property within the intent and meaning of this section and shall comply with the provisions of this section to the same extent as the record owner, and notice to any such person of any order or decision of the Zoning/Code Enforcement Officer shall be deemed and taken to be good and sufficient notice, as if such person or person were actually the record owner in instances where an occupant is responsible or share responsibility with the owner for the existence of one or more violations of this section, said occupant shall be deemed and taken to be an owner within the intent and meaning of this section.

E. Inspection and enforcement.

- (1) The Zoning/Code Enforcement Officer of the Town of Porter is hereby designated as the officer(s) in charge with the enforcement of this chapter.
- (2) The Zoning/Code Enforcement Officer shall be authorized and directed to make inspections of premises within the Town of Porter as (s)he shall deem necessary to effect compliance with this chapter.
[Amended 11-12-2013 by L.L. No. 2-2013]
- (3) Whenever the Zoning/Code Enforcement Officer determines that there is a violation of the provisions of this chapter, (s)he shall cause a written notice to be served upon the owner, occupant or operator, which shall include:
[Amended 11-12-2013 by L.L. No. 2-2013]
 - (a) An enumeration of conditions which violate the provisions of this section.
 - (b) An enumeration of the remedial action required to meet the standards of this section.
 - (c) A statement of a definite number of days from the date of the notice in which the owner, occupant or operator must commence and complete such remedial action, not to exceed

30 days, except in the case of citation for grass and/or weeds, in which case remediation must be completed within 10 days.

- (d) A statement of the penalties for noncompliance, as set forth herein.
 - (e) In the case where the violation presents a clear and present danger to public health and safety, the complaint is to be turned over to the Niagara County Health Department, and/or the complaint is to be processed in Town Court for prompt action within its jurisdictions.
 - (f) Where the violation or conditions existing on the premises are of such a nature as to constitute an immediate threat to life and limb unless abated without delay, the enforcement officer may either abate the violation or condition immediately, or order the owner, occupant or operator to correct the violation or condition within a period of time not to exceed three days. Upon failure to do so, the enforcement officer shall abate the condition subject to the provisions of Subsection **F** of this section.
- (4) A copy of such notice shall be filed in the Town Clerk's office, and such notices shall be deemed sufficient if served upon the owner, occupant or operator as follows:
[Amended 11-12-2013 by L.L. No. 2-2013]
- (a) In person;
 - (b) By certified mail with return receipt requested; or
 - (c) By posting a copy of said notice on the building, only if attempts to serve the owner or occupant by the first two methods is unsuccessful.
- (5) Upon failure to comply with said notice, the enforcement officer shall issue an appearance ticket returnable in Town of Porter Court.

F. Abatement by Town. Where abatement of any nuisance, as defined herein, correction of a defect in the premises or work necessary to place the premises in a proper condition so as to conform to ordinances of the Town of Porter or applicable laws of the State of New York required expending Town moneys, the enforcement officer shall present a report of work proposed to be done to accomplish the foregoing to the Town Board with an estimate of the cost, along with a summary of the proceedings undertaken by the enforcement officer to secure compliance, including notices served upon the owners, occupants or operators or their agents, as the case may be. The Town Board may thereupon, by resolution, authorize the abatement of the nuisance, correction of the defect or work necessary to place the premises in proper condition and in compliance with this chapter. The enforcement officer shall thereafter proceed to have the work performed in accordance with the resolution at municipal expense, not to exceed the amount specified in the resolution, and shall, upon completion thereof, submit a report of the moneys expended and costs, whereupon the same shall become a lien against the premises, collectible as provided by law. A copy of the resolution approving the expenses and costs shall be certified by the Town Clerk and filed with the Assessor of the Town, who shall assess such expense against the record owner of the property. The charge shall be collected in the same manner and at the same time as other Town charges. A copy of the report and resolution shall be sent by certified mail, return receipt requested, to the owner of the effected premises.