

TOWN OF PIERCEFIELD
LOCAL LAW No. 1 of 2017

Town of Piercefield Minimum Conditions for Maintenance of Structures, Equipment and Exterior Property to be enacted by the Town Board of the Town of Piercefield as follows:

ARTICLE A: INTRODUCTION

Section 1: Authority

This Local Law is enacted pursuant to the authority the Town of Piercefield in Section 10 of the Municipal Home Rule Law and in Section 103 (15) and 130 (6) of the Town Law.

Section 2: Title

The Local Law shall be known as the “Town of Piercefield Minimum Conditions for Maintenance of Structures, Equipment, and Exterior Property” (AKA “**Property Maintenance Law**”).

Section 3: Purpose

The purpose of this Local Law is, through regulation, to provide clarification, definitions, methods for notice of violations, and penalties for violations of the minimum conditions for property maintenance as set forth in the Property Maintenance Code of New York State and the Town of Piercefield Property Maintenance Law.

The Town Board hereby declares that a clean, wholesome and attractive environment is of vital importance to the continued general welfare of its citizens, and that regulation of the deposit, accumulation or maintenance of junk regardless of quality is hereby prohibited anywhere within sight of persons lawfully traveling public highways, trails, and waterways, or within sight of neighboring property.

By adoption of this Local Law the Town declares its intent to:

1. Protect the community from potential hazards to property and persons
2. Protect and preserve our lakes, water, resources, wildlife, and woodlands
3. Promote a reasonable quality of environment and aesthetics
4. Prohibit actions and conduct that tend to depreciate not only the property on which junk is located but also the property of other persons in the neighborhood and the community in general
5. Promote the goals of the comprehensive plan.

Section 4: Applicability

The provisions of this Local Law shall apply in addition to the provisions of any other Local Law or Ordinance adopted by the Town. Where there is a conflict the more restrictive provision shall apply.

Section 5: Definitions

General – As set forth in Chapter 2, Section 201-202 of the Property Maintenance Code of New York State.

Abandoned: The relinquishment of property as a cessation of the use of the property, by the owner or lessee without any intention of transferring rights of the property to any other owner, or of resuming the use of the property. This does not apply to real estate.

Boat: A small vessel propelled by oars, paddles, sails, by power or other means of propulsion.

Clutter: A number of things scattered in disorder and/or things that impede movement, and/or things that are conducive to the attraction of vermin.

Construction Equipment: Machinery including but not limited to: backhoe, bulldozer, tractors, etc. actively used in construction and excavation.

Debris: Bits and pieces of rubbish, the remains of something broken down or destroyed.

Enforcement Officer: The person(s) appointed by the Town to enforce the provisions of this Local Law.

Farm Equipment: Machinery including tractors actively used in agricultural crop production and raising livestock.

Inoperative: With regard to Motor Vehicles as set forth in Section 302.8 of the Property Maintenance Code of New York State, unlicensed, abandoned, wrecked, stored, discarded, dismantled or not in condition for legal use upon public highways, trails or waterways.

Junk: Items, whether or not having any value, includes the following examples but is not limited to: Any scrap, waste, reclaimable material or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed of, or for other use or disposition such as inoperative boats, inoperable motor vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, machinery, brush, lumber, garbage and solid waste.

Junk Appliance: Any household appliance, including but not limited to, a stove, washing machine, dryer, dishwasher, freezer, refrigerator, air conditioner, water heater, computer or television, which is stored outside of any residence or structure.

Junk Furniture: Abandoned, discarded, or irreparably damaged furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chest of drawers.

Junk Mobile Home: Any enclosed dwelling built upon a chassis, motor vehicle, trailer, or boat used, designed, or modified to be used for either permanent or temporary living or sleeping purposes, including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers, and overnight trailers. To qualify as a junk mobile home, the dwelling must meet two of the following three conditions:

1. Unlicensed, unregistered, abandoned, wrecked, stored, discarded, dismantled or partly dismantled
2. Inoperable vehicle or boat in such a condition that the cost of restoring it to an operating condition exceeds the market value of such vehicle or boat
3. Not in condition for legal use upon the public highways, waterways or trails.

The fact that a motor vehicle does not display a current motor vehicle registration or license plate or current valid motor vehicle inspection sticker shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways.

With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be moved under its

own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

Motor Vehicles (as set forth in Section 302.8 of the Property Maintenance Code of New York State) shall be further defined to include and is not limited to the following: All vehicles propelled or drawn by power originally intended for use on public highways, trails, and waterways including but not limited to automobiles, buses, trailers, trucks, tractors, motor homes, motorcycles and mini-bicycles, boats, personal water craft, all-terrain vehicles, snowmobiles, camping trailers, construction and farm equipment.

Litter: Things scattered about in disorder, especially bits of rubbish; to make untidy; to scatter about carelessly.

Nuisance: A condition or situation that results in an interference with the enjoyment and use of property.

Off Road Vehicle: Vehicles including dune buggies, all-terrain vehicles, snowmobiles, trail bikes, mopeds and motor bikes designed for use on unimproved surfaces.

Outdoor Storage: Storage other than in a completely enclosed structure such as a garage or barn.

Owner of Motor Vehicle: Person, other than a lien holder, having possession or title to a motor vehicle. The term includes a person entitled to the use and possession of a motor vehicle subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle having the exclusive use thereof, under a lease or otherwise, for a period of greater than thirty (30) days.

Person: An individual, partnership, association, corporation, or entity of any other kind.

Personal Water Craft: A small craft that employs a jet pump and nozzle for propulsion and direction and is designed to be operated by a person sitting, standing or kneeling on the vessel.

Recreational Vehicle: A vehicle type structure without permanent foundation that can be towed, hauled, or driven and is primarily designed as a temporary living accommodation for recreational and camping purposes. Recreational Vehicles include, but are not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes.

Repeat Offender: Any person who brings the property into compliance following receipt of a "Notice to Comply" (see Article D, Section 4 below), but who fails to maintain that property according to conditions required under this Local Law (See Article B below).

Scrap: Discarded or rejected materials that result from manufacturing, demolition, or fabricating operations.

Seasonal Use: A use carried on for only part of the year.

Solid Waste: Unwanted or discarded material including waste material with insufficient liquid content to be free flowing, solid waste may be categorized as Agricultural, Commercial, Industrial, Institutional, Municipal, and Residential.

Unlicensed: Not displaying a current motor, boat or recreational vehicle registration, or license plate shall be presumptive evidence that such motor vehicle, boat or recreational vehicle is not licensed.

ARTICLE B: PROHIBITED ACTS

It shall be unlawful for any person to store, deposit, place, maintain, or cause, or permit to be stored, deposited, placed or maintained outdoors, any junk, appliance, furniture, mobile home, clutter, inoperative vehicle, litter and debris upon private property within the Town. It shall be unlawful for any person to use a vehicle, boat, mobile home, trailer, or similar units for the storage of junk on any premises.

Any use not specifically permitted is prohibited.

It shall be unlawful for any person to use a bus, uninhabited mobile home, truck, truck trailer, horse trailer, semi-trailer, tank truck, or similar vehicles or units for the storage of junk on any premises. Exceptions shall be made for temporary use of such vehicles or units for construction purposes for periods of less than ninety (90) days, or when actively used in construction with active farming or agricultural operations.

ARTICLE C: EXCLUSIONS

Section 1: Vehicles

Article B shall not apply to the storage or placement on the premises of the following operable vehicles:

1. Seasonal off-road vehicles, boats, recreational vehicles and or construction machinery and equipment if kept in a location not visible from any road, street, highway or trails
2. Autos or trucks taken off the road for a season
3. Farm machinery, including tractors, when such machinery and equipment is actively used on site for agricultural purposes. Equipment or machinery kept for the parts shall be kept in a location not visible from any road, street, highway or trails
4. Plow vehicles- self propelled vehicles to be used on property of the owner solely for plowing and removal of snow
5. Machinery and equipment being used on a work site.

ARTICLE D: ADMINISTRATION

Section 1: General

The Enforcement Officer shall follow the administration and enforcement procedures set forth in the Uniform Fire Prevention and Building Code of New York State.

Section 2: Enforcement Officer

This Local Law may be enforced by Code Enforcement Personnel, or by any peace and or police officer of the Town. Said persons shall have the authority to enforce the provisions of this chapter within the Town as necessary for said enforcement. The Code Enforcement Officer shall make periodic inspections of the Town to ensure that the requirements of this Local Law are met.

Section 3: Complaints

Any person may file a complaint with the enforcement officer that a violation of this Local Law exists. The enforcement officer shall properly record and investigate any such complaint within seven (7) days of such complaint. The enforcement officer may also investigate any violation that he or she has reason to believe has occurred or is occurring.

Section 4: Notice to Comply

Following an investigation of the property the enforcement officer is authorized to prepare a written "Notice to Comply". The written notice to comply will be served through certified mail return receipt requested to the last known address of the property owner. When service is made by certified mail return receipt requested, service shall be deemed complete upon mailing of the notice.

The written notice to comply shall contain the following information:

1. The name of the owner and or occupant of the real property upon which the nuisance vehicle or violation is located
2. The location of the premises involved in the violation
3. A statement of the fact, which it is alleged, violates this Local Law
4. A demand that violation or nuisance be removed or placed so as to be in compliance with this Local Law within seven (7) days after mailing of the notice
5. With regard to vehicles notice shall be given that if the vehicle is not removed within the seven (7) day period, the town may remove such vehicle(s) in violation
6. A statement that a failure to comply with the demand may result in prosecution
7. A reference to this Local Law.

Section 5: Penalties and Remedies

Any person who violates any of the provisions of the New York State Property Maintenance Code or the Town of Piercefield Property Maintenance Law shall be guilty of a violation and shall be punishable as follows:

1. A fine not to exceed \$350.00 or imprisonment for a period not to exceed fifteen days, or both
2. A penalty of \$350.00 to be recovered by the Town in a civil action
3. Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omission, neglect or refusal shall continue.

Any repeat offender, following inspection by the Building Code Enforcement Officer, shall within seven (7) days of the inspection be issued a summons to appear in Town Court, and if found guilty, shall be fined as follows:

1. First repeat offense shall result in a fine not to exceed \$350.00.
2. Subsequent violations shall result in a fine at least \$100 greater than the previous fine.

Section 6: Additional Provisions

In addition to the provisions of Section 5, upon the failure of an owner, tenant, or occupant with notice to correct a violation, other than a junk motor vehicle, of the Town of Piercefield, the Town may hold a public hearing to determine whether the violation constitutes a public nuisance requiring abatement by the Town.

The public hearing shall be held upon notice posted conspicuously on the subject property. The notice shall also be sent to the last known address of the property owner, as it appears on the current assessment records of the Town, by certified mail, return receipt requested or served on the owner by personal service. Posting and service of such notice shall not be less than fifteen (15) calendar days, exclusive of the date of service, prior to the date of the public hearing.

The notice shall:

1. Identify the premises as the same that appears on the current assessment roll

2. Contain a statement of the conditions on the property deemed upon inspection to constitute a public nuisance
3. Contain a demand that the condition or conditions constituting the public nuisance be immediately abated or removed before the date of the hearing specified in the notice
4. Contain a statement that a failure or refusal to comply within the period specified may result in a duly authorized officer, agent or employee of the Town entering upon the property and abating or removing the public nuisance, and
5. Contain a statement that the cost and expense of such abatement or removal shall be the responsibility of the owner, tenant or occupant, and without limitation on the Town's potential remedies to recoup its expenses, such cost and expense shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law, including but not limited to a levy on the property owner's tax bill.

Where the Town finds, based on substantial evidence in the public hearing record, that the violation or violations amount to a public nuisance requiring abatement by the Town, the Town may cause the abatement or removal of the public nuisance. The abatement or removal may be performed by the Town or by its designee, or agent, including a private contractor lawfully engaged and authorized by the Town.

The Town shall ascertain the cost of removal, and assess such expense against the record owner of the property. The expense so assessed shall constitute a lien in charge on 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. The foregoing shall not be construed as a limitation on the Town's remedies to recover its costs.

The removal of any nuisance by the Town's agents shall not operate to excuse such owner, tenant or occupant from properly maintaining the premises required by this Local Law. Such owner, tenant, or occupant shall, in addition to the remedies provided herein, be subject to any other penalties provided for by this Local Law. Every such person shall be deemed guilty of a separate violation for each week such violation disobedience, omission, neglect, or refusal shall continue.

Section 7: Injunctive Relief:

The Town Board may also maintain an action or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this Local Law.

ARTICLE E: MISCELLANEOUS

Section 1: Severability

If any clause, sentence, paragraph, section or article of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, and shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 2: Prior Existing Violations Junk Storage Law

Grace Period: In recognition of the fact that prior existing violations to this Local Law are present a grace period of thirty (30) days shall be given to owner, tenant or occupant to comply with the provisions of this Local Law from the date this Local Law becomes effective.

Section 3: Effective Date

This Local Law shall become effective upon the date it is filed in the Office of the New York Secretary of State.

Section 4: Authority

This Local Law shall supersede all previous Local Laws and Ordinances regulating Town of Piercefield minimum conditions for maintenance of structures, equipment and exterior property, and as of the effective date of this Local Law, all said previous Local Laws and Ordinances are hereby declared null and void.