

Chapter 127

Property Maintenance

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§127-1 Legislative intent. It is the intention of the Village Board of the Village of Menands to ensure both Residential and Business premises shall be maintained in conformity with the provisions of this code and assure the desirable residential character of the property so as to improve the quality of life and aesthetic nature of the Village of Menands.

§127-2 Responsibility of property owners; action by Village; Notice of Violation costs of abatement; hearing.

A. All property owners or persons owning, occupant (renter or lessee), or entity otherwise having control of property within the Village of Menands shall at all times maintain both the structure and the surrounding property and adjoining public ways. Owners, occupants or other responsible entities found not to be maintaining their property or premises free of litter, excessive accumulation of refuse, garbage, brush, waste, and/or any hazardous materials, junked vehicles, equipment, debris, or rubbish (including but not limited to: paper, plastics, metals, tires, construction material, electronics, fill, etc.) that would create an unsafe, unkempt or deleterious appearance which creates an undesirable public nuisance or is otherwise unsafe, hazardous or threatens the public health shall be a violation under this section.

B. Appropriate ground cover shall be properly established and maintained. Lawn areas shall be maintained with grass not exceeding than 10 inches. All premises and immediate exterior property shall 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 cultivated flowers, ornamental grasses, and gardens.

C. (1) All ornamental and shade trees in the public streets in front of said premises shall be trimmed so that branches thereof shall not be lower than eight (8) feet from the surface of the ground and so as to not interfere with or obstruct the light from or impede the public travel on any of the streets or sidewalks thereof. Heavy undergrowth, weeds and/or overgrowth of plant material which are noxious or detrimental to the public health, safety and welfare shall be eliminated. Hedges, bushes and trees must be maintained clear of the public right of way.

(2) Repair or replacement of public sidewalks due to homeowner neglect or work performed by the homeowner shall be the homeowner's responsibility to return public sidewalk to its original condition. Deterioration of public sidewalks due to normal wear and tear, shall otherwise be the responsibility of the Village of Menands.

D. The Code Enforcement Officer may assess a violation when it is determined that the structure is in violation of the provisions as provided in **the NYS Property Maintenance Code**.

E. Upon receiving a complaint, or noting a violation of this code, the Code Enforcement Officer shall be authorized to inspect the entire property, or properties, within three (3) business days. Following an inspection of the property, the Code Enforcement Officer of the Village of Menands shall notify the property owner, occupant or entity having control of the property, as hereinafter provided, of any condition(s) on the property or sidewalk violating provisions of this chapter. The Code Enforcement Officer may issue notice to the owner, occupant or entity requiring them to contact the Code Enforcement Officer within seven (7) calendar days from the date such notification was mailed or, within five (5) calendar days of personal service of the notification, so as to acknowledge receipt of notification and submit a plan to rectify the violation. Failure by the responsible party to do so will result in a Notice of Violation to be sent by the Code Enforcement Officer to the property owner, occupant, or entity having been notified.

F. Notice of Violation

(1) All notices issued hereunder to restrain, or correct, any violation or to enforce compliance with any provision or requirement may be served on behalf of the Village of Menands via USPS.

(a) Delivering to and leaving a copy of the same with any person or persons owning, occupying, otherwise in control or who may be liable;

(b) By registered or certified mail to the most current address on file of this Code, if any;
or

(c) If none is on file, to the most current address on file in the Village of Menands Office.

(d) If such person or persons cannot be served by any of the aforesaid methods, after diligent search shall have been made for such person or persons, then such notice may be served by posting the same in a conspicuous place upon the premises where such violation is alleged to exist, or to which such notice may refer, which shall be equivalent to personal service of said notice upon all parties for whom such search shall have been made; or

(e) By any other method of service authorized pursuant to Article 3 of the Civil Practice Law and Rules.

(2) Notice of violation by mail to owners, tenants or lessees, and owners residing out of state. If the person or persons or any of them to whom said notice is directed do not reside in the State of New York and have no known place of business therein, the notice may be served by delivering to, and leaving with, such person or persons, or either of them, a copy of said notice, or if said person or persons cannot be found within said state after diligent search, then by posting a copy of the same in the manner as aforesaid and at their last known place of residence; and said posting and mailing a copy of said notice shall be equivalent to personal service of said notice.

G. Hearing.

The notice required herein shall indicate that a request for a hearing may be made by the owner or entity in control of the property alleged to be in violation, which must be made and received by the Code Enforcement Officer before the expiration of the five-day period. Such request must either be delivered personally to the Village of Menands or mailed by certified mail to the Code Enforcement Officer, or Court Clerk. Upon such request duly made and received, a hearing will be held before the Menands Village Court at a time, date and place set by written notice sent to the owner through USPS mail. The hearing shall be held within fourteen (14) calendar days following receipt of the request and at least two days' notice of the hearing shall be given to the owner. The owner or owner's agent shall be given an opportunity to present evidence and be heard during the hearing. Within five (5) days of the conclusion of the hearing, the notice shall be affirmed, amended, modified, or rescinded.

H. Costs of abatement.

(1) If the owner or person upon whom notice was made fails, neglects or otherwise refuses to timely comply with such notice or fails to attend a hearing scheduled pursuant to Subsection D, any duly authorized employee of the Village or contractor hired by the Village shall be authorized to enter the property in violation and shall cause the premises to be put in such condition to correct the violation(s) cited and comply with the provisions of this chapter; the costs of which, together with a 25% surcharge for inspection and other administrative costs in connection therewith, shall be certified and filed with the Village Treasurer who shall render a bill to the owner and/or the responsible person, party or legal entity which pays the taxes on the building, lot or parcel of land for payment.

(2) The aforesaid charges, if unpaid for 20 days, shall become a lien upon said property and shall be added to become, and form a part of the taxes to be next assessed and levied upon such parcel, shall bear interest at the same rate as the annual tax rate and shall be collected and enforced in the same manner as village property taxes.

(3) The assessment of the cost for the work done by the Village upon the property involved shall be in addition to the penalties imposed herein for any violation or noncompliance with any provision of this chapter, and the Village may initiate legal proceedings against such person, party or legal entity to recover all such costs.

(4) No costs assessed for abatement work completed by the Village of Menands or any contractor hired to do such work, herein shall be added to the tax bill nor shall any legal action be instituted by the Village to recover such costs until the owner or other persons to be charged have been afforded an opportunity to be heard at a hearing convened by the Code Enforcement Officer in accordance with rules promulgated by the Code Enforcement Officer.

I. Rules and regulations. The Code Enforcement Officer is hereby authorized to promulgate rules and regulations not inconsistent with the provisions of this article and necessary to effectuate the same.

J. Appeal. Any person or persons aggrieved by a decision of the Code Enforcement Officer may file an administrative appeal with the Board of Trustees in the manner and thereafter in accordance with the provisions of Article 78 of the New York Civil Practice Law and Rules.

K. Penalties for offenses. Any person who engages in unlawful conduct as defined in this article shall be punishable by a fine which shall not exceed \$1,000 in amount or by imprisonment not exceeding 15 days, or both. The Village of Menands may impose the costs of enforcement, abatement, court costs, legal fees and accumulated interest on liens imposed.