

MOBILE HOMES

Chapter 164

MOBILE HOMES

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[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 7-9-1984 as L.L. No. 3-1984. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste — See Ch. 214.
Vehicles and traffic — See Ch. 239.

ARTICLE I
General Provisions

§ 164-1. Legislative authority.

The Village Board of the Village of Sherburne, County of Chenango, New York, does hereby ordain and enact the Village of Sherburne Mobile Home Use Chapter under and pursuant to the Municipal Home Rule Law and in accord with Article 7-700 of the Village Law.

§ 164-2. Title.

This chapter shall be known and be cited as "Chapter 164, Mobile Homes, of the Village of Sherburne" and is hereinafter referred to as "these regulations."

§ 164-3. Purpose.

- A. The purpose of these regulations is to promote the health, safety and general welfare of the community and thus to lessen congestion in the streets, to secure safety from fire, flood, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, to promote aesthetic values and to encourage the most appropriate use of land throughout the Village of Sherburne.
- B. It is further the purpose of these regulations to consider mobile home development in accord with the provisions of the Village Plan as regards the proposed settlement and density patterns and anticipated and desirable rates of population increase, to consider proposals for mobile home use and development relative to these policies as embodied in the Village Plan in order to preserve the character and quality of life enjoyed in the village at present and, further, to consider the ability of the responsible units of government to provide such services as would be required by the pattern of mobile home use and development and the appropriate manner of assuring equitable participation in these costs.

§ 164-4. Authority to approve building/use permits and certificates of compliance; applicability.

- A. Pursuant to the provisions of the Municipal Home Rule Law and in accord with the applicable provisions of the

Village Law, these regulations authorize and empower those duly appointed or delegated by the Village Board of the Village of Sherburne to approve or disapprove building/use permits and certificates of compliance according to the process and standards set forth herein.

- B. These regulations shall apply to the construction, installation or extension of any mobile home, the introduction of any new or expanded use, any change in use and any lot, plot or parcel of land used, occupied or otherwise maintained as herein provided for in the Village of Sherburne.

§ 164-5. Definitions.

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

CLASS A DOUBLE-WIDE MOBILE HOME — To be referred herein as simply “double-wide mobile home”; at least two (2) single-wide mobile home sections, transported separately and designed and intended to be joined together as a single dwelling unit when placed on a site. Minimum floor area shall be one thousand one hundred (1,100) square feet, not including attached garages, carports or utility sheds.¹

MOBILE HOME — A transportable, factory-finished, single-family dwelling unit suitable for year-long occupancy and containing the same provisions for water supply, waste disposal and electrical system as for immobile housing and complying with all applicable local and state building codes.

MOBILE HOME PARK — A parcel of land of no less than one (1) acre in area, under single ownership, which is improved for the placement of mobile homes which are

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

to be used as permanent residences and which is offered for rent to the public.

MODULAR HOME — A home manufactured, transported and erected in parts and certified according to the New York Uniform Fire Prevention and Building Code, Article 2. It shall have a minimum floor area of one thousand one hundred (1,100) square feet and is designed to be constructed and joined together as a single dwelling unit when placed on a site.²

ARTICLE II Establishment of Districts

§ 164-6. Objective.

In furtherance of those general purposes outlined above, it is the objective of these regulations to define various categories in the village where mobile homes presently exist, either by themselves or in mobile home parks.

§ 164-7. Setup outside designated areas prohibited; Location Map.

- A. Any further installation, construction, delivery or setting up of any mobile home after the date of adoption of this chapter, except in designated and approved mobile home parks in the village, is expressly prohibited.
- B. The location of all mobile homes in existence in the village, together with any designated and approved mobile homes parks, shall be delineated on the Mobile Home and Park Location Map, entitled "Mobile Home and Park Location Map of the Village of Sherburne,"

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

which map, with all subsequent amendments thereto, is hereby made a part of these regulations.³

ARTICLE III
General Regulations

§ 164-8. Requirements to be minimum.

- A. The regulations listed for mobile homes and mobile home parks are hereby adopted and prescribed for all mobile homes and mobile home parks in the village, subject to the provisions of other applicable sections of these regulations and, unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.
- B. Except as otherwise provided in these regulations, all mobile home parks shall comply with the following:
 - (1) A written construction permit will be issued by the Village Board authorizing the construction of a mobile home park when the plans for said park are in compliance with the provisions of this chapter and have received required reviews and approval. A fee of two hundred fifty dollars (\$250.) shall be paid to the Village Clerk-Treasurer at the time the request for a construction permit is filed. The fee will be refunded if the permit is not approved. Application for the permit should be accompanied by the site plan.
 - (2) The density of development in a mobile home park shall not exceed eight (8) mobile homes for each acre. Minimum lot size shall be five thousand (5,000) square feet.
 - (3) Each mobile home lot shall be provided with a mobile home stand capable of containing a mobile

³ Editor's Note: The Mobile Home Park and Location Map is included in a pocket at the end of this Code.

home in a stable and fixed position. Each mobile home shall be provided with anchor and tie-downs at each corner of the mobile home stand.

- (4) Each mobile home lot shall have an attachment for water supply. The water supply source must be approved by the State Department of Health.
- (5) Sewage disposal systems must conform to local regulations and laws and be approved by the State Department of Health.
- (6) A strip of land at least twenty-five (25) feet wide shall be maintained as a landscaped area abutting mobile home park property lines.
- (7) No additions shall be made to a mobile home except a canopy and/or porch open on three (3) sides or an addition made by a mobile home manufacturer or built in conformance with the Uniform Fire Prevention and Building Code regulations.⁴
- (8) Each mobile home must have permanent skirting of durable material.

§ 164-9. Mobile homes outside of designated areas.

- A. No single-wide mobile home will be permitted outside of a mobile home park.
- B. All necessary county and state permits must be obtained and filed with the Village Clerk. A fee of ten dollars (\$10.) will be paid to the Village Clerk at the time of filing the permits. A permit may not be assigned or transferred in any manner.
- C. All mobile homes not in mobile home parks must comply with the following:

⁴ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- (1) A double-wide or modular home lot shall have a water service entrance for water supply. The water supply source must conform with local regulations and law.
- (2) A double-wide or modular home shall have proper sewage disposal, conforming to local regulations and law.
- (3) A double-wide or modular home shall be placed on a permanent foundation, such as a suitable gravel base or concrete slab.
- (4) The minimum width of the main body of a double-wide or modular home shall be not less than twenty (20) feet, as measured across the narrowest portion.
- (5) No additions shall be made to a double-wide or modular home with the exception of a canopy and/or porch open on three (3) sides or an addition made by a mobile home manufacturer or built in conformance with the Uniform Fire Prevention and Building Code regulations.⁵
- (6) Any double-wide or modular home must have manufactured skirting made of aluminum or vinyl.⁶
- (7) The pitch of the main roof shall be not less than one (1) foot of rise for each four (4) feet of horizontal run. The minimum distance from eaves to ridge shall be ten (10) feet. Any roofing material may be used that is generally acceptable for housing built on-site, if applied in a manner which is similar in appearance.
- (8) Mobile homes, including skirting, shall be compatible in appearance with site built housing that has been constructed in adjacent or nearby locations. Any materials generally acceptable for

⁵ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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housing built on-site may be used for exterior finish if applied in such a manner as to be similar in appearance to housing built on-site; provided, however, that the reflection from such exterior shall not be greater than the reflection from siding coated with clean white gloss exterior enamel paint. Necessary information to determine compliance with the foregoing shall be submitted with the application for a permit.

(9) No double-wide or modular home shall be placed on a lot with an area of less than six thousand (6,000) square feet or with a minimum dimension of sixty (60) feet along the facing street.

(10) A double-wide or modular home must be placed a minimum distance of fifteen (15) feet from the sidewalk or walking surface and ten (10) feet from any adjacent property line.

(11) Space must be provided on the lot for off-street parking for one (1) motor vehicle.

§ 164-10. Parking restrictions.⁷

No person shall park a mobile home which does not meet state construction standards on any public or private property except in an approved mobile home sales lot. The Board of Appeals may also issue a special permit for a mobile home to be located on a construction site of a new residence or industrial site for a period not to exceed six (6) months.

⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ARTICLE IV
Nonconforming Mobile Homes

§ 164-11. Continuance of existing uses.

The lawful use of any mobile home required to be in a designated and approved mobile home park and existing in the village on the effective date of this chapter may be continued although such mobile home does not conform to the provisions of these regulations, subject only to the following:

- A. A nonconforming mobile home shall not be added to or enlarged in any way that will extend the nonconforming features.
- B. A nonconforming mobile home, once willfully removed from a location outside of a designated mobile home park and not thereafter reintroduced for a period of six (6) months, shall not be subsequently reintroduced or replaced in the same location.
- C. A nonconforming mobile home which has been damaged or destroyed by fire or other natural causes may be replaced. Said replacement must be completed within one (1) year of such occurrence, except an application may be made to and considered by the Board of Appeals, which Board for good cause shown may authorize such extensions as it may determine appropriate.⁸

ARTICLE V
Administration and Enforcement

§ 164-12. Enforcement; citizen complaint; notification; penalties for offenses.

- A. Enforcement. These regulations shall be enforced by a person hereinafter called the "Enforcement Officer," designated by the Village Board, who shall in no case

⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

grant any permit or certificate where any proposed building or use would be in violation of any provision of these regulations. The Enforcement Officer shall establish such procedure and make such inspections of the premises as are necessary to carry out the Enforcement Officer's duties in the administration and enforcement of these regulations.

- B. Citizen complaint. Any resident, property owner or other person of legitimate interest may file with the Enforcement Officer a written, signed complaint against any alleged violation of these regulations. It shall be the duty of the Enforcement Officer to investigate such alleged violation and to report thereon to the Village Board in a timely manner, which report shall be filed and be part of the public records of the village.
- C. Notification and correction. Any building or use determined to have been located, created, expanded or maintained in a manner which does not comply with these regulations shall be so recorded by the Enforcement Officer and a report thereof filed with the Village Board. The Enforcement Officer, at the direction of the Village Board, shall give official written notice to this effect to the owner of record thereof. The owner shall initiate measures to correct such noncompliance within thirty (30) days from the date of notification. If within this thirty-day period application is not made to initiate a process for correction and if thereafter such correction is not pursued according to an agreed upon timetable and to the satisfaction of the Village Board, the village may institute proceedings to compel compliance and assess such penalties as are provided below.
- D. Violations and penalties shall be as follows:
 - (1) Any person or persons who are responsible for any acts contrary to the provisions of these regulations and who have not complied with the direction to remedy such noncompliance as provided for above shall be guilty of a violation of these regulations

and, upon conviction therefor, shall be subject to the penalty provided below.

- (2) Any owner, lessee, contractor, agent, partnership, corporation, association or other person or persons who violate or cause to be violated any provision of these regulations shall, upon conviction for such violation, be subject to a minimum fine of twenty-five dollars (\$25.), not to exceed two hundred fifty dollars (\$250.), imprisonment not to exceed fifteen (15) days, or both, for each violation, and every week, seven (7) days, that said violation continues shall constitute a separate and additional instance of violation.
- (3) In addition to the above-provided penalties and punishment, the Village Board may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of these regulations.

§ 164-13. Appeal and judicial review.

- A. Appeal. All appeals for relief from the application of these regulations in matters of interpretation or request for variance shall be directed to the Board of Appeals, whose duties and procedure for consideration of appeal are as set forth in Appendix A, which is hereby made a part of these regulations.⁹ Where the Board of Appeals finds that practical difficulty or unnecessary hardship may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of these regulations or the Village Plan. In granting such variance, the Board of Appeals

⁹ Editor's Note: See Appendix A at the end of this chapter.

shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied.

- B. Court review. Any person or persons jointly or severally aggrieved by any decision of the Planning Board, the Board of Appeals, the Village Board or any of its elected, appointed or paid officials or any officer or department of the village concerning these regulations may have the decision reviewed in the manner provided by Article 78 of the Civil Practice Law and Rules, provided that the proceeding is commenced within thirty (30) days after the filing of the decision in the appropriate office of the village. Costs shall not be allowed against the village unless it appears to the court that the village or its representatives acted with gross negligence or in bad faith or with malice in making the decision appealed from.

§ 164-14. Construal of provisions.

In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements, adopted for the promotion of the public health, safety or the general welfare, and only where exceptional conditions warrant, which conditions shall be fully documented, shall the responsible instrument of the village require such additional measures as are reasonable and appropriate under the circumstances to accomplish the purposes of these regulations. Whenever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standard shall govern.

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APPENDIX A BOARD OF APPEALS

A Board of Appeals consisting of three (3) members shall be established by the Village Board to carry out the duties prescribed for such Board under these regulations and according to the applicable provisions of law, the members of which Board shall be appointed by the Mayor, subject to the approval of the Village Board.

Powers and Duties

- A. The Board of Appeals shall prescribe such rules for the conduct of its affairs as may be necessary to carry out its duties under these regulations and all its determinations shall be made in accord therewith. In particular, the Board shall conduct itself according to the following:
- (1) Meetings. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as a majority of the members of the full Board may determine. All meetings in consideration of and preceding an official action of the Board shall be a public hearing, properly advertised as elsewhere required and open to the public. All meetings shall be conducted in accord with the guidelines established by the Chairman or, in his absence, the Acting Chairman, and such Chairman may administer oaths and compel the attendance of witnesses.
 - (2) Records. The Board shall keep minutes of its proceedings, including its examinations, findings and official actions, and shall record the vote of each member upon every question put to vote or, if absent or failing to vote, indicating such fact. All decisions of the Board shall be recorded in the minutes which shall fully set forth the reasons for the decision of the Board and the findings of fact on which the decision was based, and appropriate written notice of every official determination of the Board shall be

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filed with the applicant, the Enforcement Officer, the Village Clerk and the Planning Board and shall be a public record.

- (3) Voting requirements. The concurring vote of a majority of the full membership of the Board of Appeals shall be required to constitute an official action by the Board.
 - (4) Eligible applicant or appellant. An application or appeal to the Board of Appeals may be initiated by any persons or party aggrieved under or with a legitimate interest in these regulations, including the village and its official instruments. An appeal for an interpretation or variance may be made only after a determination and notification of action taken by the Enforcement Officer, the Planning Board or the Village Board or upon the initiative of the Enforcement Officer, the Planning Board or the Village Board.
- B. The Board of Appeals shall have all the powers and duties prescribed by law and by these regulations and may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made and to that end shall have all the powers of the officer or body from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of these regulations, the Board of Appeals shall have the power, in passing upon appeals, to vary or modify the application of any of the regulations or provisions of these regulations relating to the construction, location or installation of buildings and structures and the use of land, so that the spirit of the regulations shall be observed, public safety and welfare secured and substantial justice done. In particular, the powers of the Board of Appeals are as follows:

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- (1) Interpretation: to decide any question involving the interpretation or administration of any provision of these regulations. Such interpretation shall be considered and rendered by the Board only upon application or appeal following and based upon a determination made by the Enforcement Officer, the Planning Board or the Village Board or initiated by them.
- (2) Variance: to vary or adopt the strict application of any of the requirements of these regulations where strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance in the strict application of any provision of these regulations shall be granted by the Board of Appeals unless:
 - (a) There are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions were not created by action of the applicant.
 - (b) For reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of land or buildings, and that the variance, as granted by the Board, is the minimum variance that will accomplish this purpose.
 - (c) The granting of the variance will be in harmony with the general purpose and intent of the Village Plan and these regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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Procedure

- A. The Board of Appeals shall act in strict accordance with the procedures specified by law and by these regulations and shall be in accord with the following:
- (1) Application. All appeals made to the Board of Appeals shall be in writing, in the form prescribed by the Board. Every appeal shall refer to the specific provisions of the regulations involved and shall exactly set forth the interpretation that is claimed or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Such appeal shall be taken within thirty (30) days of the date of notification of the determination which is being appealed by filing with the Board of Appeals an application specifying the grounds thereof. Upon such application, the Enforcement Officer shall transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.
 - (2) Stay. An appeal stays all proceedings in furtherance of the action appealed from unless the Enforcement Officer, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal shall have been filed with the Enforcement Officer, that by reason of acts stated in the certificate a stay would, in the Enforcement Officer's opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or by a court of record on application, on notice to the Enforcement Officer, from whom the appeal is taken and on due cause shown.
 - (3) Notification and public hearing. The Board of Appeals shall fix a reasonable time for the public hearing required for every appeal and shall give

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public notice thereof by publication in the official paper of a notice of such public hearing at least five (5) days prior to the date thereof and shall, at least five (5) days before such public hearing, mail notice thereof to the applicant.

- (4) Referrals. Prior to the date of the public hearing required by law on an application to the Board of Appeals, the Board shall transmit to the Planning Board a copy of said application together with notice of the aforesaid public hearing and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said application, and the Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing. In addition, where any appeal for interpretation or variance involves lands within five hundred (500) feet of an adjoining municipality, state or county property or right-of-way, the application or appeal shall be referred to the Chenango County Planning Board and acted upon in accord with the requirements of the applicable sections of the General Municipal Law.
- (5) Decision and notification. Within sixty-two (62) days from the date of the public hearing, the Board shall render a determination with respect to the subject consideration, and the applicant or the applicant's authorized agent so notified, in writing, within five (5) days of the date of determination. Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board on file in the office of the Village Clerk, together with all documents pertaining thereto. The Board of Appeals shall notify the Enforcement Officer, the Village Clerk and the Planning Board of each interpretation rendered and each variance authorized under the provisions of these regulations.

NOISE

Chapter 168

NOISE

ARTICLE I
General Provisions

- § 168-1. Disturbances in places of public assembly.
- § 168-2. Annoyance of persons.
- § 168-3. Amplifying apparatus.
- § 168-4. Penalties for offenses.

ARTICLE II
Hours Restrictions

- § 168-5. Hours.
- § 168-6. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne: Art. I, 4-26-1948 as Art. III, Secs. 6, 7 and 8, of the 1948 Compilation, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I); Art. II, 10-9-1967 as Ord. No. 53, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 69.
Circuses, carnivals and exhibitions — See Ch. 97.
Firearms — See Ch. 120.
Peace and good order — See Ch. 178.
Peddling and soliciting — See Ch. 181.

ARTICLE I

General Provisions

**[Adopted 4-26-1948 as Art. III, Secs. 6, 7 and 8,
of the 1948 Compilation; amended in its
entirety at time of adoption of Code;
see Ch. 1, General Provisions, Art. I.]**

§ 168-1. Disturbances in places of public assembly.

No person shall make or assist in making any improper noise or disturbance by whistling, stamping, shouting, singing, indulging in any improper conduct or conversation or otherwise in any church, theater or place of public amusement or in any room or building in the Village of Sherburne, New York, in which any number of persons are lawfully assembled.

§ 168-2. Annoyance of persons.

No person shall make or assist in making any improper or unnecessary noise or disturbance or willfully commit any act or use any language which shall annoy or be intended to annoy, disturb or endanger the peace, comfort or safety of any person or persons then present or passing on any public street, avenue, sidewalk, lane or public place or on any premises in the Village of Sherburne, New York.

§ 168-3. Amplifying apparatus.

No person shall make or assist in making any improper or unnecessary noise by the use of any amplifying apparatus of voice or music without the written consent of the Village Clerk and upon the payment of a license fee to be fixed in the discretion of the Village Clerk upon application therefor, except when the same is operated for the benefit of the Village of Sherburne or any of its civic subdivisions, such as the Sherburne Central School.

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§ 168-4. Penalties for offenses.

Any person violating any of the provisions of this Article shall be punishable by a maximum fine of two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

ARTICLE II

Hours Restrictions

[Adopted 10-9-1967 as Ord. No. 53, amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I.]

§ 168-5. Hours.

It shall be unlawful for any person to make, continue or cause to be made or continued any unnecessary or unusual noises between the hours of 6:00 a.m. and 8:00 p.m. which either annoy, injure or endanger the comfort, repose, health or safety of others or to make, continue or cause to be made or continued between the hours of 8:00 p.m. and 6:00 a.m. whether in the operation of any machine or the exercise of any trade or calling or otherwise any noise which either annoys, injures or endangers the comfort, repose, health or safety of others, unless the making and continuing of the same is necessary for the promotion or prevention of property or the health or safety of life or limb of such person.

§ 168-6. Penalties for offenses.

Every person violating this Article shall be punishable by a maximum fine of two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

§ 178-1 PEACE AND GOOD ORDER § 178-1

Chapter 178

PEACE AND GOOD ORDER

§ 178-1. Defacing, injuring or damaging property.

§ 178-2. Loitering and begging.

§ 178-3. Penalties for offenses.

[**HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 4-26-1948 as Secs. 24 and 34 of the 1948 Compilation. Amendments noted where applicable.**]

GENERAL REFERENCES

Noise — See Ch. 168.

Peddling and soliciting — See Ch. 181.

§ 178-1. Defacing, injuring or damaging property.¹

No person shall willfully or maliciously break, mar, injure, remove or deface any building, fence, awning, sign, signboard, tree, shrubbery or other ornamental thing in the Village of Sherburne or pile up before any door on any sidewalk or street any boxes, casks or other things or tear down any notice or handbill lawfully posted in said village or post any handbill or notice or any paper whatever upon any electric light pole in said village or use pigments or grease or any other substance that will track upon any sidewalk or crosswalk in the Village of Sherburne or deface any buildings or other property by markings of any kind or post bills upon any shade tree or upon any buildings or other property belonging to said village.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 178-2. Loitering and begging.

No person shall loaf, lounge, idle or beg on any streets or sidewalks or in front or near the entrance of any church, moving picture theater, hotel, restaurant or place of amusement, and every such person shall move immediately from any such place when requested so to do by any police officer or by any official or member of such church or by the owner, occupant, tenant, manager or person in charge of any such moving picture theater, place of amusement, instruction or assemblage or any such building or by a duly authorized employee of such person.

§ 178-3. Penalties for offenses.²

Any person violating any provision of this chapter shall be punishable by a maximum fine of two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

PEDDLING AND SOLICITING

Chapter 181

PEDDLING AND SOLICITING

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- § 181-2. Exemptions.
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- § 181-5. Application for license; certificate of weights and measures.
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- § 181-10. Expiration of license.
- § 181-11. Revocation of license.
- § 181-12. Prohibited acts.
- § 181-13. Penalties for offenses.
- § 181-14. Effect on other provisions.

Application for License

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 6-9-1986 as L.L. No. 1-1986. Amendments noted where applicable.]

GENERAL REFERENCES

Circuses, carnivals and exhibitions — See Ch. 97.
Noise — See Ch. 168.
Peace and good order — See Ch. 178.

§ 181-1. Definitions.

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

SOLICITOR — Includes any person who goes from place to place or house to house or who stands in any street or public place, whether in a vehicle or not, taking or offering to take orders for goods, wares, merchandise or periodicals for immediate delivery or delivery in the future or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery. The term "solicitor" shall not apply to a person selling milk, newspapers, fuel oil, bottled gas or food distributed on regular customer routes.

VENDOR, HAWKER and PEDDLER — Includes, except as hereinafter expressly provided, any person, either principal or agent, who, from any vehicle, trailer, stand, booth, wagon, cart or other device or a public street or public place or by going from house to house or place of business to place of business on foot or on any animal or vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares, merchandise or periodicals, except milk, newspapers, fuel oil, bottled gas or food distributed on regular customer routes.

§ 181-2. Exemptions.

A. Nothing in this chapter shall be held to apply to:

- (1) Any sales conducted pursuant to statute or by order of any court.
- (2) Any honorably discharged member of the Armed Forces of the United States who has procured a license issued by the County Clerk as provided by the General Business Law of the State of New York.

- (3) Farmers and gardeners who themselves or through their employees vend, sell or dispose of products, including meat, fruit or produce, produced on their own farm and garden.
 - (4) Merchants being an established place of business within the village and the employees of such merchants and any person vending at the express invitation of the customer or serving the latter on a regular and established basis.
- B. Local nonprofit organizations and individuals working for or connected with such organizations shall also be exempt, provided that such organization shall register annually with the Village Clerk in the event that they plan to engage in vending, hawking, peddling or soliciting, indicating the type of activity to be undertaken and the time when it will be performed. The not-for-profit organization shall secure a receipt from the Village Clerk indicating that it has so registered.

§ 181-3. License required.

It shall be unlawful for any person within the incorporated Village of Sherburne to act as a vendor, hawker, peddler or solicitor, as hereinbefore defined, without first having obtained and paid for and having in full force and effect a license therefor, which license shall be obtained from the Village Clerk after paying the license fee hereinafter imposed.

§ 181-4. License fee.¹

- A. There is hereby imposed on the trade or occupation of hawking, vending and peddling the license fee of one hundred dollars (\$100.) per calendar year for each stand, booth, wagon, cart or other device so regularly used, as

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

hereinbefore defined, except on the day of Pageant of Bands when there will be an additional fee of twenty-five dollars (\$25.) for that particular day.

- B. There is hereby imposed on the trade or occupation of soliciting of orders in the streets and public places, as hereinbefore defined, a one-hundred-dollar license fee per calendar year, except on the day of Pageant of Bands when there will be an additional fee of twenty-five dollars (\$25.) for that particular day.

§ 181-5. Application for license; certificate of weights and measures.

- A. Any person desiring to procure a license, as herein provided, shall file with the Village Clerk a written application upon a form furnished by the Village Clerk and shall file at the same time satisfactory proof of good character, which application shall give:
- (1) The number and kind of vehicle, booth, wagon, cart or other device to be used by the applicant in carrying on the business for which the license is desired.
 - (2) The kind of goods, wares and merchandise desired to be sold, or the kind of service desired to be performed.
 - (3) The method of distribution.
 - (4) The name, address and age of the applicant.
 - (5) The name and address of the person, firm or corporation the applicant represents.
 - (6) The length of time the applicant desires the license.
 - (7) Such other information as may be required by the Village Clerk.
- B. If applicable, such application shall be accompanied by a certificate from the Sealer of Weights and Measures

certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

§ 181-6. License issuance or refusal; appeal.

Upon the filing of the application, as provided herein, and where the Village Clerk has given approval to such application, the Clerk shall issue to the applicant a license, as provided herein, setting forth the date of issuance and the effective date of said license, which latter date shall be not less than one (1) day after the date of issuance. Except as hereinafter provided, no license shall be refused except for a specific reason and for the protection of the public's safety, health, morals or general welfare. If the Clerk shall not issue the license, the applicant shall have the right to appeal to the Village Board for a final and binding decision on not less than five (5) days' written notice.

§ 181-7. Assignability of license.

A license shall not be assignable; any holder of such license who permits it to be used by any other person and any person who uses such license granted to any other person shall each be guilty of a violation of this chapter.

§ 181-8. Loss or destruction of license.

Whenever a license shall be lost or destroyed on the part of the holder or the holder's agent or employee, a duplicate in lieu thereof, under the original application, may be issued by the Village Clerk upon the filing by the licensee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery.

§ 181-9. Maintenance of records.

The Village Clerk shall keep proper records of all licenses issued, including the number and kind of vehicles, stands, booths, wagons, carts or other devices used, the day of issuance, the expiration of the license; the fee paid and the name and address of the licensee.

§ 181-10. Expiration of license.

In no case shall any license extend to later than December 31 in any calendar year from the date of issuance, but such license may specifically state and provide for an earlier expiration date.

§ 181-11. Revocation of license.

The Village Clerk may, at any time, for a violation of this chapter or for any other violation of village local laws or ordinances, revoke any license. If the license shall be revoked, no refund or any unearned portion of the license fee shall be made. Notice of such revocation and the reasons or reason therefor, in writing, shall be served by the Village Clerk upon the person named in the application or by mailing the same to the address given in the application.

§ 181-12. Prohibited acts.

- A. It shall be unlawful for a person to park a vehicle, trailer, stand, booth, wagon, cart or other device or allow such to be parked or stopped upon a paved or traveled portion of any street or highway or portions thereof in the Village of Sherburne for the purpose of hawking, peddling or vending wares and merchandise therefrom to persons traveling upon said streets or highways or sidewalks adjacent thereto, other than those excepted from license requirements as hereinbefore set forth.
- B. It shall be unlawful for any person to enter upon private property for the purpose of peddling or soliciting before

the hour of 9:00 a.m. of any day or after the hour of 7:00 p.m. of any day, except upon the invitation of the householder or occupant.

- C. No peddler or solicitor shall falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale. No person shall, by any trick or device or by any false representation, obtain or attempt to obtain admission to the house or garage of any person or corporation in this village.
- D. No peddler or solicitor will blow a horn, ring a bell or use any other noisy device to attract public attention to his wares or shout or cry out his wares.

§ 181-13. Penalties for offenses.

Any person who themselves or by their servants, agents or employees shall act as a hawker, peddler, vendor or solicitor, as hereinbefore defined, without a license or shall violate any of the provisions of this chapter or who, having had their license revoked, shall continue to act as a hawker, peddler, vendor or solicitor shall, upon conviction, be punished by a fine of not less than fifty dollars (\$50.) or more than two hundred fifty dollars (\$250.) and/or fifteen (15) days in jail for each offense.

§ 181-14. Effect on other provisions.

To the extent that any items in this chapter are in conflict with the Village of Sherburne ordinances or prior local laws, this chapter shall supersede and control.

PEDDLING AND SOLICITING
APPLICATION FOR LICENSE
(Vending, hawking, peddling and soliciting)

VILLAGE OF SHERBURNE

15 West State Street
Sherburne, NY 13460

Name of applicant _____

Kind of goods, wares or merchandise to be sold or kind of service to be rendered _____

Method of distribution of product _____

Number and kind of vehicles to be used _____

Number and kind of booths to be used _____

Name and address of person, firm or corporation the applicant represents _____

Length of time the applicant will use the license _____

Is this application for Pageant of Bands Day?
____yes ____no

Signature _____

Date _____

Chapter 187

PROPERTY MAINTENANCE

- § 187-1. **Purpose; applicability.**
- § 187-2. **Definitions.**
- § 187-3. **Open areas; buildings and structures.**
- § 187-4. **Notification.**
- § 187-5. **Action upon noncompliance; costs to become lien.**
- § 187-6. **Inspections and investigation; report.**
- § 187-7. **Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Sherburne 7-11-1983 as L.L. No. 4-1983. Amendments noted where applicable.]

GENERAL REFERENCES

Numbering of buildings — See Ch. 87.
Fire prevention and building construction — See Ch. 125.
Flood damage prevention — See Ch. 129.
Littering — See Ch. 158.
Mobile homes — See Ch. 164.
Solid waste — See Ch. 214.

§ 187-1. Purpose; applicability.

In order to prevent blight and the spread thereof, it is hereby declared that all structures, including but not limited to one- and two-family and multiple-family dwellings, whether or not used for residential purposes, garden apartments, all other apartment complexes, all shopping centers, supermarkets, retail stores, discount houses, warehouses, manufacturing or fabrication plants, factories, gasoline service stations, public garages, motor vehicle repair shops or other business uses and

accessory structures to all of the foregoing, whether occupied or vacant, shall be maintained in conformity with the standards set out in this chapter so as to assure that none of these structures or properties will adversely affect their neighborhood or the larger community. It is found and declared that, by reason of lack of maintenance and progressive deterioration, certain structures and properties have the further effect of creating blighting conditions and initiating slums and that, if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same. By reason of timely regulations and restrictions, as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

§ 187-2. Definitions.

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

PERSON — Includes a natural person or persons, firm, corporation, partnership, association or any other combination of two (2) or more persons who is or are the owner or owners, mortgagee, assignee of rents, receiver, executor, trustee, administrator, lessee or agent directly or indirectly in control of a building or other structure or area.

§ 187-3. Open areas; buildings and structures.

A. Open areas. Regulations shall be as follows:

- (1) Surface and subsurface water shall be appropriately drained to prevent the development of stagnant ponds.

- (2) No shopping baskets, carts or wagons shall be left unattended or standing, and such baskets, carts or wagons shall be collected as often as necessary and removed to the interior of the building or buildings from which they were taken by the person responsible for said building or buildings.
- (3) All fences shall be maintained by the person responsible for the property. Such maintenance shall include but not be limited to painting, as needed, and the replacement or repair of fences which may become in disrepair.
- (4) All landscaping shall be maintained so that lawns, hedges, bushes and trees shall be kept neatly and free from becoming overgrown and unsightly where exposed to public view and where the same may constitute a blighting factor having a tendency to depreciate adjoining property. Such maintenance should include but not be limited to the removal of trees and shrubs which may die and/or otherwise be destroyed.
- (5) The planting strip fronting the property shall be maintained in a safe condition, neat, mowed as necessary and free of litter, poison ivy, ragweed and any other noxious plant.
- (6) Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled and necessary repairs or replacement accomplished. All off-street parking facilities shall be swept as often as necessary in the determination of the enforcing officer.
- (7) Yards, courts and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation and shall be maintained in a manner that will prevent rubbish from being blown about them.

(8) All signs exposed to public view shall be maintained in good repair. Excessively weathered or faded signs shall be removed or put into good repair. Any nonoperative or broken electrical or other sign shall be repaired or removed.

B. Buildings and structures. Exterior walls, roofs and other parts of the building shall be free from loose and unsecured objects and materials. Such objects or materials shall be removed, repaired or replaced.

§ 187-4. Notification.

Upon its own investigation or receipt of information or complaint, the Village Police Department shall cause to be served upon a responsible person of any land or property upon which an act violative of § 187-3 has occurred written notice, in a form approved by the Village Attorney, directing removal or correction of such violation within seven (7) days after service of such notice or shall cause the posting of such notice in a prominent place upon said premises whenever a responsible person reasonably cannot be located. Immediately upon expiration of any period for correction set forth in any violation notice, the Village Police Department shall determine whether correction has occurred and, if not fully, shall, without further delay of any kind, file a request for criminal action with the prosecutor having jurisdiction.

§ 187-5. Action upon noncompliance; costs to become lien.

A. In addition to and not in substitution for the penalty provision of § 187-7, the Village Police Department may refer an incident of noncompliance with a notice of violation to the Village Board for further action. Upon failure of a responsible person to comply with a notice of violation, the Board may direct correction of the violation at the expense of the village and may appropriate funds

therefor, and all costs of such correction shall constitute a lien upon the subject property.

- B. Charge included in tax bill. When the village has corrected the violation or has paid for its correction, the actual costs thereof, plus accrued interest at the rate of nine percent (9%) per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to such owner by the village, and said charge shall be due and payable by said owner at the time of payment of such bill.

§ 187-6. Inspections and investigation; report.

The Village Police Department, in conjunction with the Village Board, shall initiate inspections and investigations and shall receive information and complaints concerning compliance with this chapter. Covering the calendar month preceding the report, it shall submit a written report to the Village Board not later than 12:00 noon of the day on which the first monthly meeting is held containing not less than:

- A. The address of and the date of each investigation or inspection initiated by it.
- B. The address of each alleged violation concerning which information or complaints have been received by it.
- C. The date of such receipt.
- D. The nature of each violation found or complained of, if any.
- E. The date of the correction notice issued.
- F. The date(s) of each reinspection.
- G. The date of filing of the request for criminal action with the prosecutor having jurisdiction.
- H. The disposition of each case closed.
- I. The status report of each case referred to.

§ 187-7. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

ARTICLE II
Brush, Grass & Weeds

§ 187-8. Responsibility of owners.

No person, partnership, corporation or other entity, being the owner or in control of or charged with the control or management of any premises in the Village of Sherburne, shall suffer or permit the growth, accumulation, deposit or storage thereon of any idle, wild, uncultivated or obnoxious grass, weeds, thistles, brush, briars, brambles, leaves, materials or objects of any kind, rubbish, garbage, dirt, waste or waste materials, whereby said premises are, or may be or become, or liable to become, unsanitary, or whereby the fire hazard, danger or risk is or may be increased, or whereby the life, health or safety of another or others is or may be endangered or injuriously affected, or whereby the premises of another or the enjoyment thereof are or may be injured, damaged, interfered with or prejudiced.

§ 187-9. Enforcement; inspections.

A. It shall be the duty and responsibility of the Village Superintendent, Village Code Enforcement Officer or their designee to enforce the provisions of this chapter.

B. Upon the receipt of a request, complaint or becoming aware that any premises within the Village boundaries may be in violation of this chapter, the Village Superintendent, Village Code Enforcement Officer or their designee shall inspect the said premises for compliance with the above section herein.

C. No inspection of any lands within the Village for compliance with this chapter shall be conducted where to do so would constitute a trespass upon the premises or neighboring premises. All inspections shall be conducted from the vantage of a public sidewalk, street or other public lands, or shall be with the consent of the person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of any such

§ 187-9.

SHERBURNE CODE

§ 187-11.

premises, or with the consent of the owner or occupant of premises adjoining the subject premises and affording a vantage of the subject premises.

§ 187-10. Notice of violation.

A. Upon a determination by the Village Superintendent, Village Code Enforcement Officer or their designee that a premises is in violation of Section 187-8 herein, the Village Superintendent, Village Code Enforcement Officer or their designee shall cause a written notice of violation to be given to the person, partnership, corporation or other entity, being the owner or in control of or charged with the control or management of the premises.

B. Notice shall be given by personal service upon the person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of the premises or by return receipt requested United States mail addressed to the owner of said premises at the address listed upon the latest Village of Sherburne real property tax roll for said premises. If notice cannot be effectuated by personal service or return receipt mail, the Village Superintendent, Village Code Enforcement Officer or their designee shall make application to the Judge of the Village of Sherburne Court for an order directing the manner of giving notice most likely to notify the person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of the premises of the violation.

§ 187-11. Contents of notice.

The notice of violation shall contain:

- A. A statement that the premises was inspected on a specified date and found to be in violation of Section 187-8 of this chapter.
- B. A recitation of Section 187-8 of this chapter.

§ 187-11. PROPERTY MAINTENANCE § 187-11.

C. A specific date on which the premises will be re-inspected for compliance with Section 187-8 herein. The specific date shall not be less than five days computed from the date of mailing said notice.

D. A statement that failing compliance by the specified date, the Village, without further notice to the addressee, shall cause the premises to be cleared and cleaned of the offensive vegetation and materials and that the cost thereof will be billed to the addressee for payment within 30 days of receipt and that failure to timely pay the cost thereof will result in the cost being added to the Village real property taxes to be levied and collected against the premises.

E. A statement that unless the addressee, the person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of the premises notifies the Village Superintendent, Village Code Enforcement Officer or their designee on or before the said specified date in the notice of violation for compliance that the addressee or the said person, partnership, corporation or other entity does not consent to the entering upon the premises by Village personnel and equipment or the Village's independent contractor for the purpose of clearing and cleaning same, it shall be presumed that the addressee does consent and gives permission to the entering upon the premises by the Village or its independent contractor and the payment of the costs of the addressee of the clearing and cleaning work performed.

F. A statement of the estimated cost to be charged for clearing and cleaning if performed by the Village and a statement that if performed by an independent contractor the costs may vary from the Village estimate.

G. A statement that failure to comply by the specified date or authorized extension thereof and failure to consent to entering upon the premises for the purpose of clearing and cleaning by the Village or its independent contractor may result in the issuance of an appearance ticket or other legal process to appear in the Village of Sherburne Court and,

upon conviction, may subject the addressee to a penalty, the maximum of which is imprisonment for a term of 15 days or a fine not more than \$250, or both such imprisonment and fine.

§ 187-12. Village empowered to clear and clean.

A. In the event the addressee, person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of the premises does not comply with this chapter on or before the date so specified in the notice of violation provided for in Section 187-10 and Section 187-11 herein, or any extension thereof, the Village Superintendent, Village Code Enforcement Officer or their designee shall without further notice to the said addressee, person, partnership, corporation or other entity cause the premises to be cleared and cleaned of the offensive vegetation or materials and the cost thereof charged to the said person, partnership, corporation or other entity. In clearing and cleaning the premises, the Village Superintendent may cause the work to be performed by Village manpower and equipment or may contract for the performance of the work with an independent contractor.

B. In the event the addressee, person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of the premises notifies the Village Superintendent, Village Code Enforcement Officer or their designee, in accordance with Section 187-11-E that consent for entering upon the premises is denied, neither the Village nor its independent contractor shall enter upon the premises and this chapter may be enforced in accordance with Section 187-15 herein.

§ 187-13. Costs of clearing and cleaning.

A. The following costs are hereby established to be imposed when the Village or its independent contractor clears and cleans a noncomplying premises in accordance with Section 214-6.3 herein:

§ 187-13. PROPERTY MAINTENANCE § 187-14.

(1) First occurrence within a three-year period: \$100, plus the actual cost of the work.

(2) Second occurrence within a three-year period: \$200, plus the actual cost of the work.

(3) Third or more occurrences within a three-year period: \$300, plus the actual cost of the work.

B. For the purposes of this article, the "actual cost of the work" is defined as follows:

(1) In the case of an independent contractor, the total agreed-upon contract consideration.

(2) In the case of the Village performing the work, the sum total of man hours expended multiplied by the hourly wage, plus fringe benefits paid each Village employee utilized, plus the sum total of equipment hours utilized multiplied by an hourly rental charge therefore.

§ 187-14. Payment of costs.

A. A statement of costs incurred for clearing and cleaning in accordance with Sections 187-12-A and 187-13 herein and a demand for payment of same upon completion of work shall be mailed to the addressee, person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of the premises by United States Postal return receipt requested mail. Such statement of costs shall require payment to the Treasurer not later than 30 days from receipt.

B. In the event the said costs are not timely paid, the Board of Trustees of the Village of Sherburne may direct the Village Attorney to bring a proceeding in a court of competent jurisdiction for its collection and thereafter to proceed to enforce such judgment by lawful process.

§ 187-15. Criminal proceedings; penalties for offenses.

A. In any instance involving a violation of this chapter and the failure of the person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of premises to comply with this chapter before or on the date specified for compliance in the notice provided for herein or any extension thereof and upon such person, partnership, corporation or other entity's denial of consent to the Village or its independent contractor for entry upon said premises for the purpose of clearing and cleaning offensive vegetation and materials there from as required herein, the Village Superintendent, Village Code Enforcement Officer or their designee may cause to be issued to said offending person, partnership, corporation or other entity an appearance ticket based upon a misdemeanor information charging a violation of this chapter. Such misdemeanor information shall be returnable in the Village of Sherburne Court, Village of Sherburne, where the matter shall be adjudicated.

B. Any person, partnership, corporation or other entity violating any of the provisions of this chapter shall, upon conviction, be guilty of a violation and shall be liable, upon conviction, to a fine of not more than \$250 or imprisonment not exceeding 15 days, or both fine and imprisonment.

§ 187-16. PROPERTY MAINTENANCE § 187-16.

Chapter 187
PROPERTY MAINTENANCE
ARTICLE III
Abandoned Vehicles

§ 187-16. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

ABANDONED MOTOR VEHICLE

- A. Any junked vehicle, as defined below; or
- B. Any vehicle which does not have a current/valid NYS registration/inspection; or
- C. Any motor vehicle situated on private property other than of its owner, which has not been moved or used for seven consecutive days or more and is determined to be deserted by the Police Department.

JUNKED VEHICLE

Any motor vehicle which is without a valid NYS registration/inspection or license plates or is in either a rusted, wrecked, discarded, dismantled, partly dismantled, inoperative or abandoned condition.

PERSON

Any person, firm, partnership, company, corporation or organization of any kind.

PROPERTY

Any real property within the Village which is not a street or highway.

STREET or HIGHWAY

The entire width between boundary lines of every thoroughfare or way publicly maintained when any

part thereof is open to the use of the public for purposes of pedestrian or vehicular travel.

VEHICLE

A machine propelled by other than human power, designed to travel along the ground by use of wheels, treads or other mechanical means to transport persons or property or pull machinery, and shall include, without limitation, automobile, truck, tractor, trailer, motorcycle and wagon.

§ 187-17. Prohibited acts; exceptions.

A. No person shall abandon any vehicle within the Village, and no person shall leave any vehicle at any place within the Village for such time and under such circumstances as to cause such vehicle to appear to have been abandoned.

B. It shall be unlawful for any person, either as owner, lessee, occupant or otherwise, to store or deposit or cause or permit to be stored or deposited an abandoned, junked, discarded, dismantled, unlicensed or unregistered vehicle in and upon any real property lying, being and situated in the Village of Sherburne except as provided in this section.

C. The parking of unlicensed or unregistered/uninspected motor vehicle(s) in a fully enclosed private garage is permitted.

D. Temporary storage of one unlicensed or unregistered/uninspected motor vehicle per property, covered with a fitted cover designed specifically for the vehicle, may be permitted, subject to such conditions as will safeguard the public health, safety, convenience and general welfare as determined by the Village Code Enforcement Officer or their designee.

§ 187-18. Abandonment on streets or highways prohibited.

No person shall leave any dismantled, partially dismantled, wrecked, junked, non-operating or discarded vehicle on any street or highway within the Village.

§ 187-19. Notice of violation.

A. Upon a determination by the Village Code Enforcement Officer or their designee that a premises is in violation of Section 187-17 herein, the Village Code Enforcement Officer or their designee shall cause a written notice of violation to be given to the person, partnership, corporation or other entity, being the owner or in control of or charged with the control or management of the premises.

B. Notice shall be given by personal service upon the person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of the premises or by return receipt requested United States mail addressed to the owner of said premises at the address listed upon the latest Village of Sherburne real property tax roll for said premises. If notice cannot be effectuated by personal service or return receipt mail, the Village Code Enforcement Officer or their designee shall make application to the Judge of the Village of Sherburne Court for an order directing the manner of giving notice most likely to notify the person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of the premises of the violation.

§ 187-20. Contents of notice.

The notice of violation shall contain:

A. A statement that the premises was inspected on a specified date and found to be in violation of Section 187-17 of this chapter.

B. A recitation of Section 187-17 of this chapter.

C. A specific date on which the premises will be re-inspected for compliance with Section 187-17 herein. The specific date shall not be less than ten days computed from the date of mailing said notice.

D. A statement that failing compliance by the specified date, the Village, without further notice to the addressee, shall cause the vehicle to be removed and that any and all related cost thereof will be billed to the addressee for payment within 30 days of receipt and that failure to timely pay the cost thereof could result in the Board of Trustees of the Village of Sherburne directing the Village Attorney to bring a proceeding in a court of competent jurisdiction for its collection.

E. A statement that unless the addressee, the person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of the premises notifies the Village Code Enforcement Officer or their designee on or before the said specified date in the notice of violation for compliance that the addressee or the said person, partnership, corporation or other entity does not consent to the entering upon the premises by Village personnel and equipment or the Village's independent contractor for the purpose of removing the vehicle, it shall be presumed that the addressee does consent and gives permission to the entering upon the premises by the Village or its independent contractor and the payment of the costs of the addressee of the vehicle to be removed.

F. A statement of the estimated cost to be charged for removal of the vehicle by the Village and a statement that if performed by an independent contractor the costs may vary from the Village estimate.

G. A statement that failure to comply by the specified date or authorized extension thereof and failure to consent to entering upon the premises for the purpose removing the vehicle by the Village or its independent contractor may result in the issuance of an appearance ticket or other legal process to appear in the Village of Sherburne Court and, upon conviction, may subject the addressee to a penalty, the maximum of which is imprisonment for a term of 15 days or a fine not more than \$250, or both such imprisonment and fine.

§ 187-21. Time limit for disposal after notice; exceptions.

No person in charge or control of any property within the Village, whether as owner, occupant, tenant or otherwise, shall allow any dismantled, partially dismantled, wrecked, junked, non-operating or discarded vehicle to remain on such property longer than seven days after notice given to such person to remove and dispose of such vehicle by the Village Code Enforcement Officer or their designee; except that this chapter shall not apply with regard to a vehicle in an enclosed building or a vehicle on the premises of a business enterprise operated in a lawful place and manner when the keeping of such vehicle is necessary to the operation of such business enterprise.

§ 187-22. Authorization to remove and dispose of vehicles.

The Village Code Enforcement Officer or their designee is hereby authorized to remove and dispose of or have removed and disposed of any such vehicle left at any place within the Village which reasonably appears to be in violation of this chapter, after notice being given as provided in Section 187-19.

§ 187-23. Costs to remove and dispose of vehicles.

The following costs are hereby established to be imposed when the Village or its independent contractor removes a vehicle from noncomplying premises in accordance with Section 187-20-A herein and shall be as set by the Board of Trustees:

- A. First occurrence within a three-year period: \$100, plus any and all related actual cost.
- B. Second occurrence within a three-year period: \$200, plus any and all related actual cost.
- C. Third or more occurrences within a three-year period: \$300, plus any and all related actual cost.

§ 187-24. Payment of costs.

- A. A statement of costs incurred for removing the vehicle in accordance with Section 187-20-A and a demand for payment of same upon completion of work shall be mailed to the addressee, person, partnership, corporation or other entity being the owner or in control of or charged with the control or management of the premises by United States Postal return receipt requested mail. Such statement of costs shall require payment to the Treasurer not later than 30 days from receipt.
- B. In the event the said costs are not timely paid, the Board of Trustees of the Village of Sherburne may direct the Village Attorney to bring a proceeding in a court of competent jurisdiction for its collection and thereafter to proceed to enforce such judgment by lawful process.

§ 187-25. Penalties for offenses.

Any person, partnership, corporation or other entity violating any of the provisions of this chapter shall, upon conviction, be guilty of a violation and shall be liable, upon conviction, to a fine of not more than \$250 or imprisonment not exceeding 15 days, or both fine and imprisonment.