

ORDINANCE NO. 394

AN ORDINANCE AMENDING THE TOWN OF
OCEAN VIEW CODE RELATING TO PROPERTY MAINTENANCE
AS SET OUT IN CHAPTER 169

WHEREAS, pursuant to Section 2.313 of the Ocean View Charter, the Town Council of the Town of Ocean View has all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute. This grant of powers includes the power to adopt ordinances for the protection and preservation of town property, rights and privileges; for the preservation of peace and good order; for securing protection and promotion of health, safety, comfort, convenience, welfare and happiness of the residents of the Town; and

WHEREAS, the Town Council has, from time to time, ordained that certain conduct is adverse to the protection and preservation of town property, rights and privileges; and

WHEREAS, the Town Council has, from time to time, ordained penalties for violations of the various provisions of the Ocean View Code; and

WHEREAS, the Town Council desires to amend certain sections of the Code of the Town of Ocean View (the "Code") related to property maintenance with the Town;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF OCEAN VIEW:

Section 1. Amend § 169-5 A.(4) and (8) of Chapter 169, Property Maintenance, of the Code by adding thereto those matters underlined and deleting therefrom those matters ~~stricken through~~ as follows:

§ 169-5 Nuisances enumerated.

A. The following are declared to be common and public nuisances and subject to abatement as provided in this article:

(1) Any accumulation of decomposed animal or vegetable matter, garbage, cans of any material, containers, ashes, offal, filth, waste or other putrid or unwholesome refuse, matter or substance or substances which, by itself or in conjunction with any other substance or substances, is detrimental to public health, safety or comfort; provided, however, that any properly maintained compost pile, occupying less than 20 square feet of ground area, located in the rear half of any lot and not closer than 10 feet to the property line, shall be exempt from this article.

(2) Any accumulation of trash, litter, refuse, hay, grass, straw, other yard wastes, wastepaper, waste lumber and building material, or any other waste material or rubbish of any character.

(3) Any common growth of weeds, underbrush or other growth, trash, debris, litter or rubbish capable of harboring obnoxious insects of any kind such as ticks, mosquitoes and flies, or any vermin-carrying rodents, or skunks, where the density of population is normally considered as a built-up area.

(4) Any brush, bushes, trees, limbs, shrubbery, flowers or other vegetative growth projecting over any sidewalk or street area, whether the same is growth for food, fuel, shade or ornamentation; provided that the branches or limbs of trees may project over any sidewalk at an elevation of not less than 10 feet above the level of the sidewalk or street area at an elevation of not less than ~~12~~ 16 feet above the level of the ~~sidewalk~~ street surface.

(5) Any accumulation of earth, rock, stone or other debris on any sidewalk parking strip or street.

(6) Any damaged, discarded, abandoned or unused appliance, furniture, fixture, equipment, tires, dishes, utensils, glassware, containers, propane tanks or other similar items of personalty on any private property not completely enclosed within a roofed building or on any sidewalk, parking strip or street abutting such property.

(7) Any damaged, discarded or abandoned motorized machinery, motor vehicle, trailer, boat, sailboard, jet ski or other means of aquatic conveyance that is inoperable, dismantled, wrecked or from which major components have been removed, is in such a state of disrepair as to be incapable of being used or operated in the manner for which it was designed and is situated on private property.

(8) Any violations of § 169-6 (A) or (B).

Section 2. Amend § 169-6 of Chapter 169, Property Maintenance, of the Code by replacing it with the text underlined as follows:

§ 169-6. Building Maintenance.

A. All buildings and structures, and all parts thereof, shall be maintained in a safe, sanitary, and nonhazardous manner. All means of egress, devices, safeguards, and equipment shall be kept in good working order. The exterior of all premises and the condition of all buildings, structures and components thereon shall be maintained, to prevent deterioration. The appearance thereof shall reflect a level of maintenance in keeping with the standards of the neighborhood and with all applicable ordinances of the Town of Ocean View. Any properties not meeting the standards of this chapter shall constitute a nuisance and a violation of this chapter.

B. Yards and lots or courts shall be kept free of accumulation of trash, garbage waste, rubbish, refuse, junk, and other noxious or offensive materials or substances which may cause a fire hazard or may act as a breeding place for vermin or insects. Storage of miscellaneous items must be within enclosed structures or screened.

Section 3. Amend Chapter 169, Property Maintenance, of the Code by renumbering Sections 169-6, 169-7, 169-9, 169-9 and 169-10 by adding thereto those matters underlined and deleting therefrom those matters ~~stricken through~~ as follows:

§ 169-67. Deposit of waste materials on premises outside all districts.

No refuse, rubbish, trash or other waste materials shall be deposited by any person on land or improved premises outside all districts, except that such refuse, rubbish, trash or other waste material shall be placed in a metal or heavy-duty plastic container having a lid or in a plastic bag, said bag to be securely tied sufficient to prevent the same from being scattered or carried away by nature upon adjoining land or improved premises. The owner or possessor of such land or improved premises, any officer of a corporation being the owner or possessor of such land or improved premises in all districts and any agent having the management thereof whose employee or agent violates the provisions of this section shall be deemed to be in violation of the provisions of this chapter

§ 169- 78. Notification of violation.

- A. Upon a finding by the Town Administrative Official or designee that a property owner or tenant is storing, using or maintaining detrimental objects or materials on premises, the Town of Ocean View shall send by certified mail with return receipt requested and postage prepaid a notice to the owner of record of the property as shown on the tax records of the Town to take whatever steps are necessary to alleviate the nuisance within 10 days following receipt of such notice.
- B. Such notice shall contain the following information:
 - (1) The nature of the complaint.
 - (2) Location of the violation.
 - (3) A statement that the nuisance must be removed within 10 days following the date of receipt of the notice.
 - (4) A statement of penalties for noncompliance with such notice

§ 169- 8 9. Removal by Town.

- A. If, within 10 days after notice thereof by certified mail with return receipt requested and postage prepaid from the Town of Ocean View to the owner, or possessor of land or improved premises where there is existence of a nuisance, as herein enumerated, nuisances in violation of this chapter are not removed, the Town of Ocean View may cause such nuisances to be removed.

- B. In the event that such notice is returned to the Town of Ocean View because of the inability to make delivery thereof, and provided that the same was properly addressed to the owner of record of the property as shown on the tax assessment records of the Town, the Town of Ocean View is hereby authorized to cause such nuisance to be abated and to cause the costs of such abatement to be collected from the owner or occupant of the property.

§ 169- 9 10. Violations and penalties.

Any person, persons, partnerships, corporations, or other entity who shall in any way violate the provisions of this article shall, upon conviction thereof, forfeit and pay to the Town of Ocean View a fine not exceeding the sum of \$250 for the first offense. Each subsequent offense is subject to a fine not exceeding the sum of \$500.

§ 169- ~~10~~11. Procedure.

- A. Any expenses incurred by the Town of Ocean View for removal under this section shall be paid by the owner, or possessor or occupier of the land or improved premises within 10 days after due notice by the Town of Ocean View. If said amount is not paid within such time, such amount, together with a penalty of 10% of such expense and interest on such expense of 18% per annum, shall be assessed against the land or improved premises and shall, until paid, constitute a lien against such land or improved premises in favor of the Town of Ocean View upon the filing, by the Town of Ocean View in the office of the Recorder of Deeds for Sussex County, of a certificate of lien setting forth the amount of such expense, including penalty and interest. **[Amended 5-17-2011 by Ord. No. 277]**
- B. In addition to any other remedy, the Town of Ocean View may maintain a civil action for the recovery of such expense of removal and the penalty and interest against the owner or possessor and shall be awarded reasonable attorney's fees.
- C. No civil liability shall attach to any act of any contractor or own employee engaged in carrying out the provisions of this section.
- D. The Town of Ocean View, in addition to other remedies provided by law, may apply to the Court of the Chancery for injunctive relief against the owner or possessor of such land or improved premises to prevent, enjoin or abate any continuing violation of the provisions of this section.

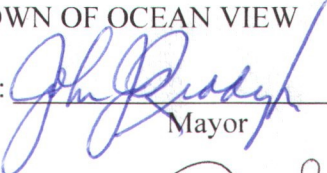
Section 4. This ordinance shall become effective upon its adoption by a majority of all members elected to the Town Council.

Synopsis


This ordinance amends Chapter 169 to include additional and revise established nuisances and to include requirements for building and yard maintenance. It also renumbers existing code sections to account for the addition of a new Section 169-6 addressing building maintenance.

TOWN OF OCEAN VIEW

By: _____


Mayor

Attest: _____


Town Clerk

First Reading: 9.12.2023

Second Reading: 10.10.2023

Adopted: 10.10.2023