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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County ~~City~~ of Andover
Town ~~Village~~

Local Law No. 1 of the year 19 89

A local law regulating the outdoor storage of junk vehicles and waste materials in the Town of Andover.
(Insert title)

Be it enacted by the Town Board of the of the
(Name of Legislative Body)

County ~~City~~ of Andover as follows:
Town ~~Village~~

Pursuant to Section 136 of the Town Law of the State of New York, the Town Board of the Town of Andover, Allegany County, New York, does ordain and enact as follows:

SECTION 1: LEGISLATIVE INTENT.

The accumulation, storage and abandonment of unusuable motor vehicles and component parts thereof, and litter, trash, refuse, debris, abandoned appliances and other waste materials on private and public property within the Town of Andover is hereby declared to be detrimental to the public health and welfare of the residents of the Town of Andover, aesthetically unattractive, and detracts from the enjoyment of the environment by the said residents, tends to depreciate neighborhood property values and is an infringement on the enjoyment of their properties and homes by neighboring residents. The purpose of this local law is to prohibit the placement, storage or abandonment of vehicles which, because of mechanical defects, are inoperable and unsightly. In order to accord owners of vehicles which are damaged or inoperable, a reasonable time to restore them to operating condition or to arrange for other disposition of them and in recognition of the fact that certain types of businesses necessitate the temporary parking of inoperable vehicles out of doors, the prohibition does not apply to the vehicle has been situated on the property for in excess

SECTION 2: TERRITORY AFFECTED.

This local law shall be applicable to all territory within the Town of Andover outside the incorporated Village of Andover.

SECTION 3: DEFINITIONS.

As used in this local law, the following terms shall have the meaning indicated:

(A) Vehicle:

Any means of transport or conveyance having wheels originally designed and manufactured (1) to be moved or propelled by any power other than muscular power; or (2) to be drawn or towed. A vehicle shall include but not be limited to automobiles, trucks, trailers, motorcycles, motorbikes, and buses.

(B) Junk Vehicles: Any vehicle which

(1)(i) for any reason is incapable, without repair, of being moved or propelled by application of internal power, power (such as automobile, bus, truck, motor-cycle, etc.) or is incapable without repair of being drawn or towed, if it is a vehicle (such as a trailer) originally designed to be towed or drawn from behind an internally powered vehicle, and

(ii) as adjudged by the standards of an ordinary able man is unsightly in appearance because of the existence of one or more conditions such as, but not limited to, the following: deterioration by rust of the body;

deterioration of the exterior finish of the vehicle;

broken windows; absence of component parts of the

vehicle (such as fenders, panels, doors, bumpers, head-

lights, hood, trunk door, tires, wheels, grille, roof,

tailgate); physical damage (such as dents, cracks,

scrapes, holes) to component parts of the vehicle;

absence of interior components (such as seats, dash-

board, interior door moldings, etc.), OR

(2) is incapable of being moved or propelled, drawn or

towed without repair as provided in Paragraph (B)(1)

(i) above, and has remained situate on any real property for a period in excess of eight (8) months.

(C) Junk:

The term junk shall include, but shall not be limited to, the following: parts of machinery or motor vehicles; stoves, refrigerators, washing machines, clothes dryers, any other appliances stored in the open and not in operating order; tires which do not meet New York State requirements for highway use and which serve no practical or current use; and remnants of wood, metal or any other materials.

(D) Person:

One or more individuals, a partnership, corporation, association or any other legal entity.

SECTION 4: STORAGE OF JUNK VEHICLES PROHIBITED.

No person shall within the Town of Andover, deposit, place, store or abandon on any real property, or permit, cause or consent to be deposited, placed, stored or abandoned on real property owned or occupied as a tenant by such person, a junk vehicle for a period of longer than thirty (30) days after receipt by such person of the notice prescribed by Section 9 unless such vehicle is completely enclosed in a garage or other similar structure. This section shall not apply to the storage, placement, deposit or abandonment of junk vehicles in junkyards as defined in, and duly operating in accordance with, Section 5, below.

SECTION 5: JUNKYARD OPERATION.

(A) Permit Required:

No person shall engage or conduct on real property within the Town of Andover either for himself or on behalf of any other person, directly or indirectly, as an agent, employee or otherwise, any activity either for profit or otherwise which involves the collection, storage, burning, dumping, dismantling, salvaging, sorting or otherwise handling or arranging for sale, storage or disposal or otherwise of junk or junk vehicles as defined in Section 3 above, without first obtaining a license therefor as herein provided.

Any person intending to or operating a junk yard as hereinbefore defined shall be considered as engaged in the operation of a junk yard and shall be required to obtain a license pursuant to the terms of this local law.

(B) Application:

No permit shall be granted unless a written application shall be presented to the Town Board setting forth the following details:

- (1) Name, age, address, description of type of business to be conducted, together with a map showing the size and location of the property, the ownership and use of the adjoining property, the location of any buildings thereon, the size of the proposed junk yard and the topographical contour of the land.
- (2) A description and plan of the fencing to be erected around the junk yard.
- (3) Following the receipt of the application, the Town Board shall determine the affected area and the applicant shall thereafter, on forms provided by the Town Board, serve notice of public hearing on said application on all owners within said affected area. Said notice shall be served within ten (10) days of public hearing as determined by the Town Board, and the applicant shall, at least five (5) days prior to the public hearing, file with the Town Board proof of service of such notices. In determining the

(4) After the hearing as set forth above, the Town Board shall within ten (10) days either grant or refuse the application for the license.

(C) Permit Fee:

There shall be an annual permit fee of \$25 due on December 31 of each year for each junk yard. There shall be no hearing required for renewals of licenses previously issued.

Each license shall be issued to an individual person and shall be personal and may not be sold. The application for a new license by the purchaser or successor in interest to the property where a junk yard is maintained and licensed shall be considered as a renewal of previously issued license and no hearing shall be required.

SECTION 6: FENCING.

All junk yards shall be required to be enclosed by woven steel or board fence at least five (5) feet high, with a gate that can be locked. The fence must eliminate the view of the junk yard and be 25 feet from the roadway, and a fire lane must be provided between the fence and the beginning of the junk pile.

SECTION 7: DATE OF CONSTRUCTION AND COMPLETION, RENEWALS AND EXTENSIONS.

Any permit issued pursuant to this local law is issued with the understanding that construction of the fence shall start within thirty (30) days of the date of the permit, and shall be completed within sixty (60) days of the date of the permit. Any permit so issued shall be subject to revocation unless this provision is complied with.

There shall be no renewals of permits or extensions of the time as limited by the provisions of this section of the local law.

SECTION 8: DEPOSIT OF LITTER AND WASTE MATERIALS PROHIBITED.

No person shall, within the Town of Andover, deposit, store, accumulate or abandon upon any real property, nor cause consent or permit to be deposited, stored, accumulated or abandoned upon any real property owned or occupied as a tenant, by such person outside of an enclosed structure or a securely covered garbage or trash container, any junk, rubbish, garbage, litter, refuse, or waste matter or material of any kind, or parts and components of vehicles, for a period longer than five (5) days after receipt by such person of the notice prescribed by Section 9.

SECTION 9: NOTICE.

After the Enforcement Officer has determined that a junk vehicle, or that litter or waste materials, is stored, deposited, placed or abandoned on a parcel of property in violation of the

SECTION 10: PRESUMPTION.

There shall be a presumption that a person who has received the notice prescribed by Section 5 has stored, deposited or placed, or abandoned, or caused, consented or permitted the deposit, storage, abandonment, or placement of the junk vehicles or litter and waste described in the said notice.

SECTION 11: ENFORCEMENT OFFICER.

This local law may be enforced by the Building Inspector of the Town of Andover and by any police officer or constable of the Town of Andover Police Department.

SECTION 12: MANNER OF ENFORCEMENT.

- (A) A violator of this local law shall be guilty of a violation and shall be punishable by a fine not exceeding \$100 per day or by imprisonment for not more than fifteen (15) days or both. Each day that the violation shall continue shall constitute a separate offense.
- (B) In addition to the enforcement in a criminal proceeding by fine or imprisonment, ~~this local law may be enforced~~ by instituting a special proceeding as authorized by Article 4 of the Civil Practice Law and Rule to compel compliance with the provisions of this local law or to restrain by injunction any violation thereof or to obtain any other appropriate relief.
- (C) A civil penalty of \$100 per day is hereby imposed for each day's violation of this local law which penalty may be collected in any judgment rendered in a proceeding under Paragraph (b) or in a separate civil action.

SECTION 13: EXCEPTIONS.

- (A) All junk yards in existence at the time this local law is enacted shall have a period of six (6) months to comply with the fencing requirements as provided for in this local law, and after compliance with such fencing requirement, they will be issued a permit, without a hearing. If owner of junk yards now in existence do not comply with this provision, they shall be considered in violation.
- (B) No owner or occupant of any property shall be considered to be in violation of this local law if their abandoned vehicles or junk are hidden from view by land contours or visual screens such as fences, trees or bushes.

SECTION 14: SEPARABILITY OF PROVISIONS.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be finally adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence,

phrase, paragraph, or part thereof directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of any such section would have been adopted had any such provision not been included.

SECTION 15: EFFECTIVE DATE.

This local law shall take effect upon filing with the Secretary of State and State Comptroller as required by the Municipal Home Rule Law.