

SECTION 1 - TITLE

This local law shall be known as "Amending Sections 2A, 2F, 3B and 3C of Local Law #1 of 1994 entitled Local Law Providing for Licensing and Regulating Automobile Graveyards and Junkyards".

SECTION 2 - LEGISLATIVE INTENT

A. In the Town of Brookfield, damaged, worn out, scrapped or discarded materials or objects such as automobiles and other vehicles including boats, campers, trailers, mobile homes, ATV's, RV's, motorcycles, snowmobiles, bicycles and busses, building materials, machinery, metal, wastepaper, rags, glassware, tin ware and plastics, have been, or in the future may be stored, stocked or used in a dangerous or unsanitary manner on lands, yards, junkyards or other places within the town;

B. The places in which damaged, worn out, scrapped or discarded materials or objects are stored, have been, or in the future may be stored, tend to become overgrown with weeds, littered with rubbish and debris and infested with rats, mice, insects, reptiles and other vermin;

C. Such conditions tend to attract children and other people and endanger their lives and health, safety and welfare, spread disease, invite plundering, attract vagrants, create fire hazards and other health and safety hazards, create, extend and aggravate blight, interfere with use and enjoyment of and reduce the value of private property and interfere with the comfort and well-being of the public;

D. Thieves and receivers of stolen property frequently attempt to dispose of stolen property by representing it to be legitimately acquired junk, scrap or debris;

E. Adequate protection of public health, safety and welfare of the inhabitants, visitors and guests in the Town of Brookfield requires that the business of handling and dealing in junk be regulated and controlled.

F. Therefore, it is the intent of the Town Board of the Town of Brookfield that a clean, wholesome, attractive community and environment is declared to be of importance to the health, safety and welfare of the inhabitants and the safeguarding of the material rights against unwarrantable invasion, and, in addition, such an environment is

deemed essential to the maintenance and continued development of the economy of the town and the general welfare of the inhabitants. It is further declared that the unrestrained accumulation of junk, vehicles including automobiles, boats, campers, trailers, mobile homes, ATV's, RV's, motorcycles, snowmobiles, bicycles and busses, building materials, machinery, metal, wastepaper, rags, glassware, tin ware and plastic, among other is a hazard to such health, safety and welfare of the inhabitants of the Town of Brookfield, necessitating the regulation, restraint and elimination thereof. At the same time, it is recognized that the maintenance of junkyards in a suitable location, as hereinafter, defined, can serve a useful purpose and may need to be accommodated when not in conflict with the express purpose of this action.

SECTION 3 - DEFINITIONS

A. Inoperative Motor Vehicle - an older or second hand vehicle no longer intended or in condition for legal use on a public highway. Lack of current New York State inspection sticker shall constitute prima facie evidence that such motor vehicle is inoperative. Any combination of 2 or more items listed in Section 3B would designate a definition of a junkyard.

B. Junk - old iron, steel, brass, copper, tin, inoperative appliances, tires, lead, or other base metals; old cordage, ropes, rags, fibers or fabrics; old rubber; old bottles or glass; bones; wastepaper and other waste or discarded material which might be prepared to be used again in the same or alternate form; salvage materials; including old wood products; old machinery, equipment and parts, whether dismantled or not; and inoperable motor/other vehicles including automobiles, boats, campers, trailers, mobile homes, ATV's, RV's, motorcycles, snowmobiles, bicycles, and busses no longer used as such, whether for the purpose of resale of used parts or components therefrom, for the purpose of reclaiming for use some or all of the materials therein whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose; but "junk" shall not include materials or objects held and used by a manufacturing process.

C. Junkyard - includes, but is not limited to include an automobile or vehicle salvage yard; an automobile or vehicle reduction yard; a motor vehicle junkyard; an automobile or vehicle wrecking establishment; an automobile or vehicle graveyard; a scrap metal processing yard or facility; a vehicle dismantling yard or facility; a mechanical disassembly yard or facility; or any premises, establishment, place of business, or lot, lands or structure, covered or uncovered if

outdoors, whether in connection with another legitimate business or not, which is used for the collecting, storing, keeping, buying, selling, exchanging, dismantling, handling, compacting, baling, shredding, processing or salvaging of junk or salvage. Storage of two (2) or more inoperative motor vehicles in other than a fully enclosed building shall constitute a junkyard. Any combination of 2 or more items listed in Section 3B would designate a definition of a junkyard.

D. Junkyard Area - that portion of any piece of property used in the operation of a junkyard.

E. Motor Vehicle - all passenger automobiles, trucks, tractor trucks, trailers, buses, motorcycles, tractors, bulldozers, machinery and equipment, drawn by power or muscle power, originally intended for use on public highways, racetracks, dirt roads, mines, airports, quarries, construction sites or farms.

F. Person - any individual, firm, association, partnership, corporation, company or organization of any kind.

SECTION 4 - LICENSE AND CERTIFICATE OF APPROVAL REQUIRED

No person, whether personally, by agents or employees, singularly or along with some other business or enterprise, shall operate, establish or maintain a junkyard until he has obtained a license to operate such junkyard and has obtained a certificate of approval for the location of such junkyard.

No landowner shall permit, allow, tolerate or consent to the operation of a junkyard on his/her property until such landowner or junkyard operator has obtained a license to operate such junkyard and has obtained a certificate of approval for the location pursuant to the terms of this Local Law.

SECTION 5 - APPLICATION FOR LICENSE AND CERTIFICATE OF APPROVAL

Application for license under this local law shall be made in writing to the Town Board and filed with the Town Clerk. The application shall be signed by applicant, if an individual, by all partners, if a partnership, by the president or chief officer, if a corporation or other organization, and shall be made upon forms provided by the Town Clerk. The applicant shall also pay any required fees hereinafter prescribed when submitting the

application. Such application shall provide the following information or material:

A. The name, residence, address and telephone number of each individual owner, partner, or if a corporation or other organization, each officer and director.

B. The trade name and address and telephone number of the business on behalf of which the application is made.

C. The name, residence, address and telephone number of each person employed or intended to be employed in the business as of the time of the application is filed.

D. The exact address and location of the place where the business is, or is proposed to be carried on, plus a survey and proposed site plan of the premises to be used, giving the precise location of all fencing, buildings, water, sewer and gas mains or laterals, and the general drainage pattern of the land. Such survey shall also show the precise portion of the property that may be devoted to the operation of a junkyard. In the event that additional premises are used for junk storage and if such premises were not included in the previous application, the applicant is required to file a supplementary application including all of the information as herein required and in the same form and subject to the same conditions as the original application. If such supplementary application is duly approved, a supplementary license will be issued.

E. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, or any violation of Article 6 of the General Business Law.

F. The location of all premises where said applicant stores junk, permanently or temporarily, in the Town of Brookfield.

G. The names and address of the owner or owners of the real property and the nature of the right under which applicant possess said property.

H. Whether applicant has obtained a valid junk dealer's license

under Article 6 of the New York State General Business **Law**.

I. Whether the application is for a temporary or permanent license.

J. Such other information as the Town Board, Town Clerk, or Town Supervisor may from time to time reasonably require to effectuate the purposes of this local law and to fairly and reasonably determine whether applicant has complied with the provisions of this Local Law.

SECTION 6 - HEARING ON APPLICATIONS

A hearing on the application shall be held by the Town Board within the town not less than four (4) nor more than eight (8) weeks from the date of the receipt of the application by the Town Board. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having a circulation within the town, which publication shall be not less than seven (7) days before the date of the hearing.

SECTION 7 - LICENSING STANDARDS

At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junkyard. In considering such application, it shall be taken into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junkyard, to any record of convictions for any type of larceny or receiving of stolen goods and to any other matter within the purpose of this section. The Town Board may approve the application only upon the determination that the applicant has complied with all zoning, fire and building code and/or site plan requirements of the Town of Brookfield.

SECTION 8 - LOCATION STANDARDS

At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junkyard. In passing upon the same, it shall take into account, after proof of legal ownership or

right to such use of property for the license period by the applicant, the zoning district in which the property is located, the nature and development of surrounding property, such as the proximity of churches, public buildings or other places of public gathering, and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.

SECTION 9 - AESTHETIC STANDARDS

At the hearing regarding the location of the junkyard, the Town Board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection, the Town Board may consider collectively the type of road servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of the proposed access routes thereto, as well as the reasonable availability of other suitable sites for the junkyard.

SECTION 10 - DETERMINATION OF TOWN BOARD: APPEAL

After the hearing, the Town Board shall, within two (2) weeks, make a finding as to whether or not the application should be granted, giving notice of its finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approval of location, shall be forthwith issued to remain in effect until December 31st of the year in which the license is first issued. Approval shall be personal to the applicant at the specific location applied for and not assignable. Licenses shall be renewed thereafter upon payment of the proper annual license fee without hearing, provided that all provisions of this local law are complied with during the license period, that the junkyard does not become a public nuisance under the common law and that the applicant is not convicted of any type of larceny or receiving of stolen goods. The determination of the Town Board may be reviewed under Article 78 of the Civil Practice Law and Rules.

SECTION 11 - DURATION; RENEWAL

Such license, except a temporary license, shall be effective from the date of its issuance until the 31st day of December of the year of such issuance, upon which date such license shall expire. An applicant for a renewal license shall file with the Town Clerk a written application upon forms provided by said Town Clerk along with fees as hereinafter subscribed. Such license, issued pursuant to this local law, shall be plainly displayed on the business premises.

SECTION 12 - LICENSE FEES

The basic fee shall be fifty (\$50) dollars per year and shall entitle the applicant to contiguous 5000 square feet of junkyard area. An additional fee of five (\$5) dollars per year shall be charged each year for each additional 5000 square feet of storage area. Notwithstanding anything herein to the contrary no applicant shall be charged in excess of two hundred fifty (\$250) dollars per license per year under this provision. In addition to the license fee, any new applicant shall pay to the town the cost of advertising such application and such other reasonable costs incident to the hearing as re clearly attributable thereto, and such costs shall be paid to the Town Clerk prior to publication of the notice of hearing .

SECTION 13 - LICENSE NOT TRANSFERABLE; EFFECT

No license issued under this local law shall be transferred or assigned or used by any person other than the one to whom it was issued, and no junk dealer's license shall be used at any location other than the one described in the application upon which it was issued.

SECTION 14 - REGULATIONS

A. Each junkyard shall be completely enclosed within a fence with entrance only through a suitable gate which shall be closed and locked except when the junkyard is staffed and open for business. The gate shall not be wider than reasonable necessary for the conduct of the licensed business. The fence facing any public highway, street or road, and for the first 200 feet back from the point where such fence turns

substantially away from the street, road or highway, shall be opaque and constructed of wood or similar approved material and be at least eight (8) feet in height. Such fence shall be erected not nearer than thirty (30) feet from the closest edge of the highway and not nearer than fifty (50) feet from any existing dwelling on neighboring property and not nearer than twenty-five (25) feet from each property line. Where the topography, natural growth of timber or other considerations accomplish the purposes of local law in the whole or in part, the fencing requirements hereunder may be reduced by the Town Board upon granting the license; provided, however, that such natural barrier conforms to the purposes of this local law.

B. Inside, adjacent to and continuous with such above-referenced fence, applicant shall maintain a strip of land at least ten (10) feet in width which shall be kept free of all dry grass, junk, plant growth, or other combustible material so as to provide a fire break around the entire area where business activity is conducted.

C. All motor vehicles and parts thereof and all junk as hereinabove defined, stored either permanently or temporarily by applicant, shall be kept within the enclosure of the junkyard except for reasonable transportation of same, which shall then be conducted only during reasonable business hours.

D. No motor vehicles or other junk shall be piled to any height above eight (8) feet.

E. The junkyard, together with all things therein, shall at all times be maintained in a sanitary condition, and arranged in neat rows so as to permit easy, clean passage and inspection of the premises.

F. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitos.

G. No garbage, or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, nor shall any refuse or garbage of any kind be kept on the premises unless such is junk as defined herein and is in use in the licensed business.

H. No junk or other material shall be burned on the premises.

I. No junkyard shall be allowed to become a nuisance, nor shall any junkyard be operated in such a manner as to become injurious to the health, safety or welfare of the community or of any residents.

J. No drums, barrels, tanks or other vessels containing any kind of liquid shall be stored outdoors at any time, except those tanks used regularly in the conduct of the applicant's business and in compliance with all applicable regulations.

K. Licensee shall permit inspection of the business premises by any member or any representative of the Town Board, Town Supervisor, Codes Enforcement Officer or their agents or employees.

L. There shall be maintained at each place of activity or business for which a license is issued at least one (1) fire extinguisher of approved design and capacity for each 40,000 square feet of area. Such fire extinguisher shall be mounted or placed in a conspicuous place and clearly marked.

M. Suitable, sanitary facilities shall be available for use by patrons, visitors and employees of such business. A port-a -john or other similar device and proof of a valid enforceable maintenance contract for such device, shall be presumed suitable under this provision.

SECTION 15 - EXISTING JUNKYARDS

For the purposes of this section of this Local Law only, the location of junkyards already established shall be considered approved by the Town Board where located and the owner thereof deemed suitable for the issuance of a license. Within sixty (60) days from the date this local law shall take effect, however, the owner shall furnish the Town Board the information as to location which is required in an application, together with the license fee, and the government board shall issue him a license valid for six (6) months under this Local Law, at which time such owner may apply for renewal as herein provided. A licensee may apply for one (1) additional six (6) month period to come into compliance if considerable progress toward compliance can be shown after a five (5)

month period. Such license shall be renewed only upon satisfactory proof that all provisions of this local law, including the fencing requirements, have been fully complied with, except that the setback and boundary line dimension provisions may, in the discretion of the Town Board, be waived or modified based upon a finding that no neighboring property or the public at large is harmed or prejudiced by such waiver or modification.

SECTION 16 - INSPECTIONS

A. The Codes Enforcement Officer or his duly authorized representative shall inspect the junkyards of all junk dealers licensed under this local law at least once a year to determine whether such yards are being operated in accordance with the provisions of this local law and other applicable provisions of law.

B. No person shall refuse entry to the Codes Enforcement Officer or other Town Officer attempting to enter any premises for the purpose of inspection. Such entry shall be permitted not only to areas open to the public but also to all other areas, provided that no employee shall be required to accompany any officer in any area that the employee deems to be dangerous, if the employee tells the inspector or officer that the area is, in the employee's opinion, dangerous.

SECTION 17 - PENALTIES FOR OFFENSES

A. The owner or licensee of any such place of business who commits or permits any acts in violation of any of the provisions of this local law shall be deemed to have committed an offense against such local law, and also shall be liable for any such violation or the penalty therefor. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.

B. For each violation of any provision of this local law, the person violating the same shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.

C. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with

or to restrain by injunction the violation of such local law.

D. Any person violating this local law shall be subject to a civil penalty enforceable and collectible by the town in the amount of five hundred dollars (\$500.00) for each such offense. Such penalty shall be collectible by and in the name of the town for each day that such violation shall continue.

E. Conviction for any above-mentioned violation shall constitute and effect an immediate forfeiture of the license, unless waived by the Town Board.

F. If any junk is stored or placed in any part of the operator's property other than that designated for such purpose on that person's application, without first supplementing such application, and paying the required fees, the junkyard license shall be revoked.

SECTION 18 - SEPARABILITY

In the event any portion of this local law is declared to be unenforceable by a court of competent jurisdiction, all of the remainder shall continue in full force and effect.

SECTION 19 - EFFECTIVE DATE

This law shall take effect when filed **with** the Secretary of the State.