

LOCAL LAW NO. 5 OF 2011

A Local Law Regulating the Maintenance of Real Property and the Accumulation of Junk in the Town of Candor.

Section 1. Finding

A clean, wholesome, attractive environment is hereby declared to be of importance to the health, safety and general welfare of the inhabitants of the Town of Candor and to the orderly development and improvement of the Town. It is hereby found that the unrestrained accumulation of junk or other material and the failure to reasonably maintain real property constitutes a hazard to such environment, to such development and improvement and detrimentally affects the value of real property. Accordingly such accumulation and maintenance is hereby regulated as follows.

Section 2. Definitions

As used in this Local Law the following terms and phrases shall have the following meanings respectively:

"junk"- equipment intended for outdoor use, such as automobiles, trucks, farm implements, lawn mowers, campers, travel trailers, mobile homes, boats, motorcycles, snowmobiles, all terrain vehicles, or other such devices or any parts thereof which are in a state of disrepair or are otherwise dilapidated, broken, abandoned, or are not in condition to be used for their original purpose and also equipment or appointments designed for indoor use, such as stoves, refrigerators, washing machines, dryers, furniture, cabinets or other such items or any parts thereof which are left outdoors for more than thirty days at which time they are presumed to be abandoned. In the case of vehicles or equipment designed for use on public highways the phrase "dilapidated, broken, abandoned or not in condition to be used for their original purpose" shall be defined as incapacity to meet the requirements imposed by the State of New York for legal use on such highways (i.e. unregistered and/or unable to pass inspection).

"other material" - material that is not a vehicle, implement, appliance or furniture that would be construed as non-biodegradable rubbish or trash (such as plastics and metals); construction or demolition debris that is present for more than one year; biodegradable trash (such as brush, leaves or other organic material) that is present for more than sixty days

Examples given in the definition of "junk" and "other material" are not intended to be exhaustive and do not limit the list of items that might be construed as belonging to these classes of materials.

"maintain" - to keep the landscape in such a condition that it promotes an attractive appearance to the neighborhood

"person" - an individual, joint venture, partnership, association or corporation

"structure" - a three or four solid sided building with a roof

"commercial garage" - a business licensed by the State of New York for repairing motor vehicles or any part thereof

"wrecker" - a business registered by the State of New York operating a vehicle for towing or hauling other motor vehicles

"motor vehicle junk yard" - any place of storage or deposit of one or more vehicles intended for use on public highways where such vehicles are intended for reclaiming some or all of the material therein for future use or for the legal disposing of such vehicles in some manner

"established motor vehicle junk yard" - a licensed motor vehicle junk yard already in existence on the effective date of this Local Law

"new motor vehicle junk yard" - a motor vehicle junk yard proposed to be established after the effective date of this Local Law

Section 3. Prohibition

No person shall accumulate or allow to be accumulated junk or other materials or fail to reasonably maintain real property within the Town of Candor except as specifically allowed within this Local Law.

Section 4. Residential, Commercial and Farm Property

4.1 Exception

Except to the extent that a health, safety or fire hazard is found to exist, or if the storage of such items would constitute a nuisance, the accumulation of items defined as junk or other material shall not be in violation of this Local Law if such material is contained within a completely enclosed structure or in a structure that prevents the material from being seen from public highways or neighboring residences. In the case of biodegradable trash that the accumulation is not conspicuous from public highways or neighboring residences.

4.2 Storage of One Motor Vehicle

One unregistered motor vehicle may be openly stored on the owner's property provided that the vehicle meets the following conditions.

- a. has the outward appearance of being a whole vehicle (i.e. roof, doors, fenders, hood, trunk, window glass are intact)
- b. is stored in a normal upright position (may be on blocks with wheels removed)
- c. does not have obvious severe body damage from being wrecked

4.3 Special Motor Vehicle Storage on Residential Property

For More Than One Unregistered Motor Vehicle

- a. Unregistered motor vehicles may be temporarily stored upon obtaining a permit from the Town of Candor under the following conditions.
 - i. vehicle is operational but the owner and/or operator is in the Armed Services, at an educational institution or is in some other situation that prevents the vehicle from being used
 - ii. the vehicle is in need of repair before it can be driven and/or registered
 - iii. the vehicle is being restored as an antique or a classic vehicle
 - iv. the vehicle is being offered for sale by the owner
- b. permits for temporary storage for more than one unregistered motor vehicle will be issued by the Code Enforcement Officer upon submission of application on a Town of Candor form and payment of a fee as shall be as determined by resolution of the Town Board and the Town Clerk shall maintain a schedule of this and any other fee set by the Town Board

4.4 Farm and Recreational Use Motor Vehicles

Accumulation of motor vehicles designed for use on public highways that do not meet the State of New York requirements to be used on such highways but are actively used on private lands for agricultural or recreational purposes shall not be in violation of this Local Law so long as they are operational and are not obviously abandoned.

4.5 Farm Equipment

Equipment that is being actively used for agricultural purposes may be stored on farm property without restriction. Farm equipment that is no longer being used for agricultural purposes must be stored in such a manner that it is not conspicuous from public highways or from neighboring residences.

4.6 Commercial Vehicles and Equipment

Vehicles and equipment actively used in a business or are displayed for sale because they are no longer actively used may be stored on business property without restriction. Vehicles and equipment no longer actively used or not displayed for sale must be stored in such a manner that they are not conspicuous from public highways or neighboring residences. Vehicles and equipment which can be defined as junk must comply with the provisions of Section 4.1.

4.7 Automobile Sales

Vehicles displayed for sale by a person who is licensed by the State of New York as an Automotive Sales Dealer may be displayed without restriction except that vehicles which can be defined as junk must comply with the provisions of Section 4.1.

4.8 Equipment Sales

Equipment displayed for sale by a registered equipment sales business may be displayed without restriction except that equipment which can be defined as junk must comply with the provisions of Section 4.1.

Section 5 Commercial Garages and Wreckers

5.1 Commercial Garages

A person licensed by the State of New York as a motor vehicle repair shop shall be permitted to store motor vehicles on one sight within the Town of Candor subject to the following conditions.

1. the vehicles stored are not within the definition of junk vehicles
2. the vehicles are registered for use on public highways but are inoperative, not in condition for legal use on public highways or are in need of reconstruction and will be stored for a period not to exceed sixty days in order to accomplish needed repairs unless a repair settlement is pending in which case the storage period will be sixty days from the time the repair settlement is made but shall not exceed a total of four months
3. the vehicles are not registered for use on public highways and are being stored with the intent of being reconstructed so they can be registered and will be stored for a period not to exceed sixty days
4. the vehicles are being stored as antique or classic vehicles and will be stored for a period not to exceed one year
5. the vehicle is being used for parts to restore another vehicle and will be stored for a period not to exceed sixty days

6. any vehicles that are being stored under conditions a. thru e. for more than thirty days must be screened from view from public highways and, if requested by a neighboring resident, from the view of the requesting neighbor's property by means of non-transparent fencing or shrubbery. Such fencing or shrubbery shall not be required to exceed eight feet in height.

5.2 Wreckers

A person registered with the State of New York whose business is to tow or haul other vehicles may store such vehicles on one site within the Town of Candor for a period not to exceed thirty days.

Section 6 Establishment, Operation and Maintenance of a Motor Vehicle Junk Yard

6.1 Prohibition

No person shall establish or operate a motor vehicle junk yard within the town of Candor without having obtained a license for such under the requirements of this Local Law.

6.2 Requirements for an established motor vehicle junk yard

- a. A current license to operate a junk yard under the terms and conditions of Town of Candor Local Law No. 7 of the year 1990 must be in effect.
- b. Requirements of this Local Law apply other than those pertaining to the physical layout or fencing of the junk yard (ref 6.4a,b) which differ from Town of Candor Local Law No.7 of the year 1990 which are excepted and the previous requirements apply.

6.3 Requirements for the establishment of a new motor vehicle junk yard

- a. The application to establish a new junk yard shall be made on a Town of Candor form and submitted to the Town of Candor Planning Board which will investigate the proposed site and review the application to ensure compliance with all requirements. A State Environmental Quality Review (SEQR) process must be completed.
- b. Documentation must be presented with the application identifying and showing the consent for the junk yard of the owners of all real property located within twelve hundred feet of the proposed junk yard location boundaries and also consent of the owner of the property of the proposed junk yard location if different from the applicant.
- c. A new junk yard shall not be located within five hundred feet of a church, school, hospital, convalescent home, public building or place of public assembly.

Other considerations that may be taken into account in determining the acceptance of the location are:

- a. 1) the nature and development of surrounding property and whether there would be an unfavorable affect on the environment
- b. 2) the type of road servicing the junk yard or from which the junk yard may be seen
- c. 3) the natural or artificial barriers protecting the junk yard from view
- d. The Planning Board upon concurring the application requirements have been met and the site is acceptable shall schedule a public hearing within three months of the meeting at which the application was received.
- e. The Planning Board shall make recommendation to the Town Board within two months of the public hearing for approval or disapproval of the application with reasons for the recommendation.

- f. The Town Board shall review the recommendation of the Planning Board and shall within one month of receiving the recommendation determine whether to approve or disapprove the application.
- g. If the application is approved the Town Board shall direct the Town Clerk to issue a conditional six month license upon payment of the conditional license fee.
- h. Within the six month term of the conditional license the operator shall establish the junk yard to meet the requirements of Section 6.4 of this Local Law. If these are not fully complied with the Town Board may grant an extension of up to six months or may revoke the license and order the disposal of any accumulated junk cars. The period of time to accomplish such disposal shall be at the discretion of the Town Board and the license fee shall not be refunded.
- i. The fee for the conditional license shall be as determined by resolution of the Town Board and the Town Clerk shall maintain a schedule of this and any other fee set by the Town Board.

6.4 Operation and maintenance of a motor vehicle junk yard

- a. The junk yard must be screened from view from any bounding public highway, any adjacent dwelling or any adjacent business establishment by fencing which is neat in appearance and maintained in good repair, by a building, by shrubbery or by natural topography. Fencing must be located at least seventy-five feet from the center of any bounding highway and at least twenty-five feet from the nearest property boundary
- b. Inside and adjacent to any screening and adjacent to the boundary of the junk there must be maintained at least a fifteen foot wide fire lane which shall be kept open and free of any materials.
- c. All junk cars, parts and materials must be stored and all handling and wrecking operations must be conducted within the junk yard except as entry and exit are required in the ordinary course of business.
- d. Operations which produce noise loud enough to disturb neighboring residents shall not be conducted prior to 8:00 am or after 9:00 pm.
- e. In the event the operator of a motor vehicle junk yard should decide to cease operations and not renew the junk yard license the operator shall have disposed of all motor vehicles and parts thereof prior to the license renewal date.
- f. The license granted to operate a junk yard including a renewal license, shall not be issued to anyone other than the applicant and may not be transferred from the applicant to any other operator without the consent of the Town Board.

Section 7 License Term, Fee and Renewal; Other Expenses

7.1 License Term

- a. The term of a license to operate a motor vehicle junk yard shall be a period of one year beginning on January 1 and ending December 31.

7.2 License Fee

- a. The annual license fee to operate a motor vehicle junk yard shall be as determined by resolution of the Town Board and the Town Clerk shall maintain a schedule of this and any other fee set by the Town Board.

- b. The fee for the conditional license shall be as determined by resolution of the Town Board and the Town Clerk shall maintain a schedule of this and any other fee set by the Town Board.

7.3 License Renewal

- a. The license to operate a motor vehicle junk yard is issued on a yearly basis and is renewable so long as the operation continues to conform to the requirements of this Local Law.
- b. Renewal license application shall be made to the Town Clerk and the annual fee paid on or before the first business day of each year.
- c. A renewal license shall be issued by the Town Clerk upon determining that there are no outstanding violations of the requirements of this Local Law for which an agreed plan between the operator and the Town Board to correct such violations is not in place.
- d. A renewal license shall not be issued if it is determined that the operator has not corrected violations of the requirements of this Local Law in accordance with a plan established to do so.
- e. If a renewal license is not issued the junk yard shall be deemed illegal and the operator shall be subject to the penalties established in this Local Law.

7.4 Other Expenses

For establishing a new motor vehicle junk yard the applicant shall pay the expense of advertising [or the required public hearing and [or any other expense attributable to the hearing.

Section 8 Inspections

- a. The Town of Candor Code Enforcement Officer (CEO) shall make at least an annual inspection of an established motor vehicle junk yard and any junk yards established under this Local Law. Should a violation of the requirements of this Local Law be determined the CEO shall issue a notice of violation to the operator. A plan to correct this violation may then be worked out between the CEO and the operator specifying the course of action and the time schedule for completion. The plan shall be submitted to the Town Board for evaluation and approval with or without modification. Failure to accomplish the plan shall subject the operator to the penalties established in this Local Law.
- b. The CEO shall inspect a newly established motor vehicle junk yard at the end of six months following the issuance of the conditional license. The CEO shall give written notice to the operator of any condition that does not meet the requirements of this Local Law. The CEO shall report the results of the inspection to the Town Board which will then make a determination according to the provisions of Section 6.3.h of this Local Law.

Section 9 Penalties

- a. Any person who shall violate any part of this Local Law shall be guilty of an offense and upon conviction shall be punishable by a fine not exceeding two hundred dollars or by imprisonment not exceeding fifteen days or both. Each day of failure to comply with the provisions of this Local Law shall constitute a separate offense. In addition the Town Board may enforce this Local Law by injunction.
- b. Failure to remove junk or other material as so directed by a court of law or by the Town Board may result in such material being caused to be removed from the premises and the cost of such removal to be charged to the owner by adding the charge to the town tax liability of the property.

Section 10 Enforcement Officer

- a. The Town of Candor Code Enforcement Officer's (CEO) duties shall include observing violations and investigating complaints of violations of this Local Law. The CEO shall inspect motor vehicle junk yards on at least an annual basis for compliance to the requirements of this Local Law.
- b. The CEO shall have the power to issue an appearance ticket pursuant to Section 150.20 of the Criminal Procedure Law, to serve a summons, to serve and issue any orders or process in the administration of the provisions of this Local Law. In addition, any police officer or inspector authorized by the municipality to assist in enforcement of this Local Law may serve any process, including an appearance ticket, a uniform appearance ticket and simplified information relating to any proceeding either criminal or civil in nature undertaken in the enforcement of the provisions of this Local Law.

Section 11 Separability

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provision shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 12 Effective Date

This Local Law shall become effective January 1, 2012 or immediately following its filing with the Secretary of State and, except as provided in Section 6.2, supersedes previous local laws pertaining to automobile junk yards within the Town of Candor.