

TOWN OF CARROLLTON
JUNK YARD ORDINANCE

The Town Board of the Town of Carrollton, Cattaraugus County, State of New York, pursuant to the authority conferred by the Laws of the State of New York, in order to promote the health, safety, morale and general welfare of the inhabitants thereof enact the following ordinance regulating junk dealers, junk yards, automobile grave yards, dealers and collectors of second-hand materials in that portion of the Town of Carrollton outside of any incorporated village:

Section 1. SHORT TITLE

This ordinance shall be known as the "Town of Carrollton Junk Yard Ordinance."

Section 2. DEFINITIONS

As used in this ordinance:

(a) "Person" shall include a corporation, trust, partnership or association as well as a natural person.

(b) "Automobile" shall mean and include a passenger automobile, motor truck, tractor-truck, trailer, omnibus, motorcycle or other vehicle, however propelled, as well as tractors, bulldozers, machinery and equipment including farm machinery, whether self-propelled or otherwise.

(c) "Junk Yard" shall mean any lot, parcel of land or structure, or any part thereof, used primarily for the collection, storage and/or sale of waste paper, rags, used pipe, tanks, drums, structural steel, scrap metal or discarded material; or for the collection, dismantling, storage, and/or salvaging of machinery of vehicles not in running condition and for the sale of parts thereof. Such term shall include automobile wrecking or dismantling yards, housewrecking yards and used lumber yards. Any parcel of land on which there are located two or more unregistered automobiles (as herein defined) not in running condition, shall be deemed a junk yard for the purpose of this ordinance.

Section 3. LICENSE REQUIRED

(a) No person shall engage in or conduct on any real property within the Town of Carrollton, outside the incorporated village therein either for himself or for another, directly or indirectly, as agent, employee or otherwise, any activity or business either profit or otherwise, at wholesale or retail, which involves the collection, storage, burning, dumping, dismantling, disassemblying, salvaging, sorting, or otherwise handling or arranging for sale, resale, storage or disposal or otherwise, of bodies, engines or parts of automobiles (as herein defined) or of any other second hand or used property of whatever material it is composed or any waste material whether composed of wood, paper, cloth, cardboard, plastics, metals, stone, cement or otherwise without first obtaining a license therefor as hereinafter provided.

(b) No person shall operate a junk yard or permit a junk yard to exist on property owned or controlled by him unless the same is duly licensed under this ordinance.

(c) Notwithstanding any of the foregoing provisions of this section, the following uses or activities shall not be subject to being licensed under this ordinance, provided that (with the exception of a used car lot or of a farm machinery display), or for the sale, purchase, or storage of used automobiles (as herein defined) to be re-used for the purpose and in the assembled form in which originally manufactured.

Section 4. APPLICATION FOR LICENSE

(a) Each applicant for a license hereunder shall execute under oath an application therefor to be supplied to him by the Town Clerk, which shall contain the following information: That the applicant is over twenty-one (21) years of age, that he is a citizen of the United States, whether he has ever been convicted of a felony or misdemeanor and such other facts of evidence as is deemed necessary to establish that he is a person fit and capable of properly conducting the activity or business for which the license is sought; a description of the exact type of business he intends to conduct, the nature of the materials he intends to handle; the number of employees he intends to engage; and the name and address of the owner or owners of the land and the nature of the right or occupancy of the applicant to use such land.

(b) At the time of making the application, the applicant shall submit to and file with the Town Clerk a map or plan of the real property upon which he intends to conduct the activity or business for which he is making application for a license hereunder with the area of such real property which it is proposed to use for such purpose, the location of the fence required thereunder indicated thereon as well as location of any buildings on such land and the location of any streets or highways abutting or passing through such land and the location of any water, sewer or gas mains or laterals available thereto as well as the general drainage pattern of such land.

(c) In the application the applicant shall agree that if granted the license applied for, he will conduct the activity or business pursuant to the regulations hereinafter set forth and that upon his failure to do so such license may be revoked forthwith.

(d) A person presently engaged in or conducting an activity or business such as described herein, on real property within the Town of Carrollton must apply for a license therefore within 30 days after the effective date of this ordinance. If the place where he conducts such activity or business presently complies with the requirements, a person must meet to secure a license in the first instance, he shall be issued a license therefore, if he meets the other requirements contained herein. If the place where he conducts such activity or business does not presently comply with the requirements, a person must meet to secure a license in the first instance, he may be granted a temporary license for one (1) year, during such year he must arrange the place where he conducts such activity or business so that it does then comply with the requirements a person must meet to secure a license in the first instance. If at the end of such year such person has not so arranged his place of such activity or business he shall forthwith cease and desist engaging in or conducting the same and shall

remove from such place any automobiles, parts or other materials of the nature described therein. Where the junk yard is not involved in commercial salvage and/or sales operations, and represents a non-commercial collection of junk, the owner shall have 90 days within which to make application for a license hereunder and otherwise comply with the provisions hereof.

(e) All applications for a license or temporary license immediately upon filing with the Town Clerk shall be referred to the Town Board of the Town of Carrollton for its recommendation as to whether a license should be granted and such Town Board, within 30 days after its receipt of such application, shall make its recommendation in writing, and if its recommendation be unfavorable, the reasons therefor. The Town Clerk, upon receipt of the proper fee, shall issue the license to which the applicant is entitled, unless upon the basis of such recommendation and of all other facts within his knowledge, he shall find that the applicant has not complied with the provisions of this ordinance entitling him to a license, that he has been convicted of a felony or misdemeanor which renders him undesirable to carry on the business or operation to be licensed, or that the applicant is an undesirable person or is unable to conduct the business for which the license is issued. Any applicant who has been refused a license by the Town Clerk may apply to the Town Board therefor and the same may be granted or refused by said Board.

(f) If the person conducting such activity or business is not the sole owner thereof he shall state such fact at the time he applies for his temporary license and the Town Clerk at the time of issuing such temporary license shall send the owners or each of them a notice of the issuance of such temporary license to such person together with a copy of this ordinance.

(g) No license issued under this ordinance shall authorize any person to conduct a business required to be licensed hereunder at more than one location, but nothing herein contained shall prevent the issuance of more than one license to any one person.

Section 5. THE LICENSE

(a) The fee for the license is hereby fixed in the sum of \$5.00 per acre or any part thereof, which sum covers not only the cost of issuing the license itself but also the cost of making necessary inspections of the premises to ascertain compliance with the regulations hereinafter prescribed. Where a license is issued after June 30th in any year, the fee for such a license shall be at one-half the foregoing rate.

(b) Such license shall be placed and at all times displayed in a conspicuous place at the licensee's place of activity or business for which it is used.

(c) Such license shall be effective from the date of its issuance until the 31st of March of the year of such issuance. Licenses are renewable upon approval of Town Board.

(d) Such license is personal with the licensee. It does not go with the title of the land nor may it be sold, assigned, transferred or disposed of.

(e) Such license may be revoked by the Town Board after a public hearing

thereon at which the licensee shall have an opportunity to be heard. Upon revocation of a license the Town Board may require the removal of automobiles, parts and materials left as above provided in the case of an applicant for a temporary license who fails to qualify for a license.

(f) In the event that an applicant for a license as provided herein shall have previously been duly issued a valid and effective Junk Dealer's License by the supervisor of this town, pursuant to the provisions of Article 6 of the New York State General Business Law, then such applicant shall be entitled to and allowed a credit against the above, provided license fee in the amount of the fee actually paid therefor by such applicant, otherwise, this ordinance shall be fully binding upon and applicable to the holder of any such Junk Dealer's License.

Section 6. REGULATIONS

(a) The Licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.

(b) The licensee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others.

(c) The licensee must erect and maintain in good and orderly condition, a tight-fitted fence of at least 8 foot height adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt in by the licensee, and if such area abuts upon residential area or public street or highway such fence shall not be constructed beyond the boundary line thereof. All materials dealt in by the licensee shall be kept within such fence at all times. Where the topography, natural growth of timber or other considerations accomplish the purposes of this section in whole or in part, the fencing requirements hereunder may be reduced by the legislative body, upon granting the license, provided, however, that such natural barrier conforms with the purposes of this section.

(d) The automobiles, parts and materials dealt in by the licensee shall be disassembled or dismantled by means other than by burning.

(e) When the area is not supervised by the licensee or his employees, the fence shall be locked at a secure gate in a secure manner.

(f) The area of the licensee's activity or business shall not be used as a dump area nor as a place for the burning and disposal of junk or trash.

(g) Law enforcement officers, the Town Clerk, the Town Board or any of its representatives shall be granted access to the area of the activities or business of the licensee at all reasonable hours to inspect the same for compliance herewith.

Section 7. VIOLATION OF ORDINANCE AN OFFENSE: PENALTIES THEREFOR

(a) Any person who commits or permits any acts in violation of any of the

provisions of this ordinance shall be deemed to have committed an offense against such ordinance and shall be subject to the penalties hereinafter specified. Each week such violation shall continue to be permitted to exist with no reasonable effort to correct, shall constitute a separate violation.

(b) For every violation of any provision of this ordinance th person violating the same shall be subject to a fine of not more than \$100.00 or imprisonment not exceeding 30 days, or by both such fine and imprisonment.

(c) Conviction for any above-mentioned violation could constitute and effect an immediate forfeiture of the license.

(d) In addition to the above mentioned 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 ordinance.

Section 8. REPEAL

All ordinances or regulations heretofore adopted in conflict with this ordinance are hereby repealed.

Section 9. SAVING CLAUSE

If any clause, sentence, paragraph, section or part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 10. APPLICATION

This ordinance shall be effective and operative only in that portion of the Town of Carrollton outside of the incorporated village therein and, unless the context otherwise requires, any reference to said Town as the geographical area within which this ordinance shall be effective shall mean such portion of said town only.

Section 11. EFFECTIVE DATE

This ordinance shall take effect on January 1st, 1974