

# A LOCAL LAW REGARDING JUNK YARDS

adopted 01/10/66

BE IT HEREBY ENACTED BY THE BOARD OF TRUSTEES, VILLAGE OF WELLSVILLE, AS FOLLOWS:

## Section 15A.1 LEGISLATIVE INTENT

A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants and the safe-guarding of their 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 village and the general welfare of its citizens. It is further declared that the unrestrained accumulation of junk motor vehicles is a hazard to such health, safety, and welfare of citizens of the village necessitating the regulation, restraint and elimination thereof. At the same time, it is recognized that the maintenance of junk yards as hereinafter defined, is a useful and necessary business and ought to be encouraged when not in conflict with the express purposes of this ordinance.

## Section 15A.2 APPLICATION

This ordinance shall affect all property inside the Village of Wellsville.

## Section 15A.3 DEFINITION

For the purposes of this ordinance:

JUNK YARD: Shall mean any place of storage or deposit, whether in connection with another business or not, where two (2) or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts 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; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles, which, taken together, equal in bulk two (2) or more such vehicles provided, however, the term "junk yard"

shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

MOTOR VEHICLE: Shall mean all vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

#### Section 15A.4 REQUIREMENT FOR OPERATION OR MAINTENANCE

No person shall operate, establish, or maintain a junk yard until he:

A. Has obtained a license to operate a junk yard business, and

B. Has obtained a certificate of approval for the location of such junk yard.

#### Section 15A.5 APPLICATION FOR LICENSE AND CERTIFICATE OF APPROVAL

Application for the license and the certificate of approved location shall be made in writing to the Village Board of the Village of Wellsville, where it is proposed to locate the junk yard. The application shall contain a description of the land to be included within the junk yard.

#### Section 15A.6 HEARING

A hearing on the application shall be held within the Village of Wellsville, not less than two (2) or more than four (4) weeks from the date of the receipt of the application by the Village Board of the Village of Wellsville. 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 Village of Wellsville, which publication shall be not less than seven (7) days before the date of the hearing.

#### Section 15A.7 LICENSE REQUIREMENT

At the time and place set for hearing, the Village 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 junk yard. In considering such application, it shall

take 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 junk yard, to any record of convictions for any type of larceny or receiving of stolen goods, and to any other matter within the purposes of this ordinance.

#### Section 15A-8 LOCATION REQUIREMENTS

At the time and place set for hearing, the Village 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 junk yard. In passing upon same, it shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, 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 any other causes.

#### Section 15A-9 AESTHETIC CONSIDERATIONS

At the hearing regarding the location of the junk yard, the Village 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 Village Board may consider collectively the type of road servicing the junk yard or from which the junk yard may be seen, the natural or artificial barriers protecting the junk yard from view, the proximity of the proposed junk yard to established residential and recreational area or main access route thereto, as well as the reasonable availability of other suitable sites for the junk yard.

#### Section 15A.10 GRANT OR DENIAL OF APPLICATION; APPEAL

After hearing the Village Board, shall, within two (2) weeks, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant

by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect until the following April 1. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing, provided all provisions of this chapter are complied with during the license period, the junk yard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Village Board may be reviewed under the Article seventy-eight of the Civil Practice Law and Rules.

#### Section 15A.11 LICENSE FEES

The annual license fee shall be twenty-five dollars (\$25) to be paid at the time the application is made and annually thereafter in the event of renewal. In event the application is not granted, the fee shall be returned to the applicant. The Village of Wellsville, in addition to the license fee, may assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto and may make the license conditional upon payment of the same.

#### Section 15A.12 FENCING

Before use, a new junk yard shall be completely surrounded with a fence at least eight (8) feet in height which substantially screens and with a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than fifty (50) feet from a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of business. All wrecking or other work on such motor vehicles and parts and all burning of same within the vicinity of the junk yard shall be accompanied within the enclosure.

Where the topography, natural growth of timber,

or other considerations accomplish the purposes of this chapter in whole or in part, the fencing requirements hereunder may be reduced by the Village Board, upon granting the license, provided, however, that such natural barrier conforms with the purposes of this chapter

Section 15A.13 ESTABLISHED JUNK YARDS

For the purposes of this ordinance the location of junk yards already established shall be considered approved by the Village Board of the Village of Wellsville where located and the owner thereof deemed suitable for the issuance of a license. Within sixty (60) days from the passage of this ordinance, however, the owner shall furnish the Village Board the information as to location which is required in an application, together with the license fee, and the Village Board shall issue him a license valid until the next April 1, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this ordinance including the fencing requirements set forth in Section 15A.12 of this ordinance.

Section 15A.14 LIMITATION ON LOCATION OF JUNK YARDS

Notwithstanding any of the foregoing provisions of this ordinance, no junk yard, hereafter established shall be licensed to operate if such yard or any part thereof shall be within five hundred (500) feet of a church, school, hospital, public building, or place of public assembly.

Section 15A.15 VIOLATION or

A. The owner, licensee of any such place of business 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 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 every violation of any provision of this ordinance the person violating the same shall be subject to a fine of not more than one hundred dollars (\$100) or imprisoned, not exceeding thirty (30) days, or by both such fine and imprisonment.

C. Conviction for any above mentioned violation shall constitute and effect an immediate forfeiture of the license.

D. Any person violating this ordinance shall be subject to a civil penalty enforceable and collectable by the Village for each day that such violation shall continue.

E. In addition to the above mentioned penalties and punishment, the Village Board may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such ordinance.

15A.16

EFFECTIVE DATE

This ordinance shall take effect ten (10) days after publication and posting or immediately upon personal service as provided by Section 95 of the Village Law.