

REGULATION OF INOPERABLE, UNREGISTERED, AND JUNK VEHICLES

LOCAL LAW #2 OF 1995

SECTION 1: PURPOSE AND INTENT

A. For the purpose of promoting a clean, wholesome, and attractive environment, it has been determined to be of importance to the health, safety, and welfare of the inhabitants of the Village of Candor to safeguard their material rights against unwarranted invasion. Such an environment is deemed essential to the maintenance and continued development of the economy of the Village.

B. The unrestrained accumulation of inoperable motor vehicles is a hazard to such health, safety, and welfare of the citizens of the Village of Candor, necessitating the regulation, restraint, and elimination thereof. This Local Law is enacted in recognition of the fact that even a single inoperable, unregistered or junk vehicle, as defined in Section 3, abandoned or stored on private or public property:

- (1) Can constitute both a public and private nuisance.
- (2) Is a source of potential injury to children and others who find them an attractive nuisance.
- (3) Is often replete with broken glass, sharp torn metal edges and points, gasoline remaining in tanks of a highly combustible and explosive nature, and hurtful acids in batteries, to mention a few of the obvious sources of physical injury found in junk vehicles.
- (4) Constitutes a blight on the Village of Candor landscape.
- (5) Destroys the aesthetic qualities of the Village of Candor and is generally unsightly.
- (6) Tends to depreciate not only the property on which it is located, but also the property of other persons in the neighborhood and the Village generally.
- (7) Makes the Village of Candor a less safe and pleasant place in which to live and to do business.
- (8) Damages the welfare of the Village as a whole.
- (9) Tends to result in the uncontrolled growth of grass and weeds.
- (10) Tends to result in the uncontrolled collection of debris.
- (11) Tends to be a breeding ground for insects, rodents and similar harmful creatures.

SECTION 2: TITLE

This chapter may be known and cited as the "Village of Candor Inoperable, Unregistered or Junk Vehicle Local Law."

SECTION 3: DEFINITIONS

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural when used herein. The term "shall" is always mandatory.

ANTIQUUE MOTOR VEHICLE - A motor vehicle, but not a reproduction thereof, manufactured more than twenty-five (25) years prior to the current year, which has been maintained in or restored or will be maintained in and restored to a condition which is substantially in conformance with the manufacturer's specifications.

CLASSIC MOTOR VEHICLE - A motor vehicle, but not a reproduction thereof, manufactured more than ten (10) years prior to the current year and which, because of discontinued production and limited availability, is considered to be a model or make of significant value or restored or will be maintained in or restored to a condition which is substantially in conformity with the manufacturer's specifications and appearance.

COMMERCIAL GARAGE - Any business repairing motor vehicles or any part thereof.

ENFORCEMENT OFFICER - The person appointed by the Village Board, or his designated deputy, to perform the duties herein conferred on the enforcement officer.

GASOLINE STATION - A building or land that is used for the sale of motor fuel, oil, and motor vehicle accessories and which may include facilities for lubricating, washing or servicing motor vehicles, but not including painting or major repairs.

INOPERABLE UNREGISTERED OR JUNK VEHICLE - Any motor vehicle, whether automobile, bus, trailer, tractor, mobile home, motorcycle, motor bicycle, mini-bicycle, or snowmobile or any other contraption originally intended for travel on the public highways, which is abandoned, stored, left or located by its owner or any other person or is permitted or condoned to be abandoned, stored, left or located by its owner or any other person on public or private premises in the Village of Candor, outside of a junkyard which has a permit to operate in the Village of Candor, which vehicle

A. Is not registered by the State of New York for operation on public highways and which has not been registered during the preceding six (6) months;

B. Is not currently registered and not in a condition for legal use on the public highways. A vehicle which is in condition to pass the requirements for the New York State motor vehicle inspection sticker shall be deemed to be in condition for legal use on the public highways;

C. Is no longer intended to be used on the public highways, the condition of the vehicle and circumstances surrounding its storage or abandonment being admissible for purposes of determining such intent; or

D. Is being held or used for the purpose of resale of used parts therefrom or for the purpose of reclaiming for use some or all of the materials therein or for the purpose of disposing of the same.

JUNK YARD - Land or a building used for collecting, storage or sale of wastepaper, rags, scrap metal, or discarded material, storage, salvaging, or sale of vehicles or machinery parts.

OPEN STORAGE - Storage, other than in a completely enclosed structure, such as a garage, which structure shall be constructed of wood, masonry, or metal, or other than completely covered by a canvas or plastic tarp.

PERSON - Includes an individual, firm, partnership, association, corporation, company or organization.

REPAIR SETTLEMENT - Determination by whatever means, including settlement of a claim, arbitration or legal action, that any person other than the owner of a vehicle is liable to pay or will pay for the repair of damage to a vehicle resulting from any vehicular accident.

VILLAGE - Includes all areas within the Village of Candor, both publicly and privately owned.

WRECKER - Any business operating a vehicle for towing or hauling other motor vehicles.

SECTION 4. OPEN STORAGE PROHIBITED

Open storage of one (1) or more inoperable, unregistered or junk vehicles shall not be permitted on private property within the Village of Candor, except as permitted in junk yards and by this chapter, and no unlicensed motor vehicle shall be parked or stored or allowed to be parked or stored by the owner thereof or by any other person on public property.

SECTION 5. APPEARANCE TICKET; RESPONSE; INSPECTION

A. In the event of noncompliance with the provisions of this chapter, the enforcement officer may issue an appearance ticket, returnable to the Village of Candor Justice, or if there be none, to a Justice of the Town of Candor, at a date and time as specified on the appearance ticket. The appearance ticket shall specify the alleged violation, date and time and a description of the vehicle(s) involved, a copy of which shall be forwarded to the Village or Town Justice and shall be accompanied by an information form detailing the violation and attempts made by the enforcement officer to achieve compliance. Such appearance ticket may be served in person or by registered or certified mail, return receipt requested, on the owner of the inoperable, unregistered or junk vehicle or on the owner or tenant of any property on which the vehicle is openly stored.

B. A written answer to such appearance ticket shall be made within five (5) days of service of the appearance ticket, which answer shall be served upon the Village of Candor and the Village of Candor Justice Court, or if there be none, upon the Town of Candor Justice Court, in person or by registered or certified mail, return receipt requested, in lieu of a personal appearance on a return date at the time and court specified in the appearance ticket.

C. If it is contended that said vehicle is not an inoperable, unregistered or junk vehicle, as herein defined, then a written answer shall so state. Upon raising such a defense, the person so contending shall allow a representative of the Village to inspect such vehicle in the person's presence or in the presence of the person's representative within five (5) days of service of the answer.

SECTION 6. HEARING; ORDERS

A. Upon the return date or any adjourned date, a hearing shall be held upon the alleged violation. In any such hearing where the Defendant claims that the vehicle or vehicles alleged to be in violation of the Local Law are Antique or Classic Vehicles, the burden of establishing such vehicle or vehicles to be within that category shall be upon the defendant.

B. Upon finding of a violation of the Local Law, in addition to any penalties it may impose pursuant to Section 13 of this Local Law, the Court may enter an order for any or all of the following forms of relief:

(1) Directing the person(s) against whom the judgment is rendered, regardless of the ownership of the vehicle if the property owner or tenant is served, to terminate the open storage of such vehicle

within ten (10) days of the date judgment is rendered.

(2) Declaring the vehicle a public nuisance.

(3) Granting the representatives of the Village of Candor the right to enter and remove such vehicle from any premises within the Village where such vehicle may be found and to dispose of such vehicle. Neither the Village of Candor nor any person acting on behalf of the Village of Candor shall be liable to any person for the disposal of or destruction of such vehicles. In the event that the Village shall realize any money from the disposal of such vehicle, the money shall remain the property of the owner and shall be returned to the owner without interest, less all costs pertinent to the enforcement of this section.

SECTION 7. PERMIT FOR COMPLIANCE

A. Upon written application, the Village of Candor enforcement officer may issue a permit for the open storage of an inoperable, unregistered or junk vehicle, as defined by this chapter, pending the making of such repairs as are necessary to place said vehicle in a condition for legal operation for use on a public highway. The applicant must agree, in writing, that if said repairs have not been made by the end of the permit period, he, the applicant, will terminate open storage of the vehicle within the Village of Candor. This application must be accompanied by a fee of twenty-five Dollars (\$25.00). Permits shall be issued for a period not to exceed six (6) months and shall be nonrenewable.

B. The application, on forms furnished by the Village of Candor, shall state:

(1) The name, address and telephone number of the applicant. The applicant shall be the owner of the vehicle.

(2) The name, address and telephone number of the owner or tenant of the property where the vehicle is stored. If the owner of the vehicle is not the owner or tenant of the property where the vehicle is stored, written permission from the owner or tenant of the property must accompany this application to allow storage of the vehicle during the permit period.

(3) The make, model, year of manufacture, serial number, type (pick-up truck, four-door sedan, etc.) and color.

(4) The most recent year of registration, state registered in, plate number and registration number.

(5) The expiration date of the most recent state inspection and serial number of the inspection sticker.

(6) A full description of the repairs to be made on the vehicle so that it will comply with this chapter.

(7) What person will make the repairs.

(8) The place where the vehicle is presently stored.

(9) The place where the repairs will be made.

(10) That the owner intends to bring said vehicle into compliance within six (6) months.

C. If the applicant is the owner or tenant in possession of the property where the vehicle to be restored is stored, as part of the application he shall give the Village and its designees a license to enter such premises for the purpose of inspection and removal of the vehicle from the premises following the expiration of the permit if, at such time.

said vehicle is an inoperable, unregistered, or junk vehicle, as herein defined.

D. If the applicant is not the owner or tenant in possession of such premises, the application shall include a license from the owner or tenant in possession of said premises to permit such inspection and removal.

E. Such license shall also state that the Village of Candor shall have the right to make such inspection and removal from any other premises owned by the applicant or the licensor to which such vehicle may be moved within the Village of Candor. Such license shall state that it is irrevocable for a period of ninety (90) days from the expiration of the permit.

F. A separate permit shall be required for each separate vehicle to be restored. In no event shall more than two (2) compliance permits be issued for a given property at any one time.

G. Inspection after the permit period has expired shall be at a time specified in a Notice of Inspection or not less than three (3) days' notice, either personally or by mail. The applicant may participate in the inspection.

SECTION 8. PERMIT FOR RESTORATION OF ANTIQUE OR CLASSIC VEHICLES

A. Upon written application, the Village of Candor enforcement officer may issue a permit for the restoration of an antique or classic vehicle, as defined by this chapter. The permit shall be issued for a period not to exceed twelve (12) months and may be extended once only for an additional period of three (3) months upon a satisfactory showing that the vehicle restoration will be completed within the additional three month extension period. The fee for the permit shall be twenty-five dollars (\$25.00), and the fee for an extension shall be ten dollars (\$10.00).

B. The application for a restoration permit shall be on forms furnished by the Village of Candor and shall state:

- (1) The name, address and telephone number of the applicant. The applicant shall be the owner of the vehicle.
- (2) The name, address and telephone number of the owner or tenant of the property where the inoperable, unregistered or junk vehicle is stored. If the owner of the vehicle is not the owner or tenant of the property where the vehicle is stored, written permission from the owner or tenant of the property must accompany this application to allow storage of the vehicle during the permit period
- (3) The make, model, year of manufacture, serial number, type (pick-up truck, four-door sedan, etc.) and color.
- (4) The most recent year of registration, state registered, plate number and registration number.
- (5) The expiration date of the most recent state inspection and serial number of the inspection sticker.
- (6) What person will make the repairs.
- (7) The place where the vehicle is presently stored.
- (8) The place where repairs will be made.
- (9) Certification that the owner intends to restore said vehicle within twelve (12) months from the date of the application.

C. In the case of an application to restore a classic motor vehicle, the applicant must establish by satisfactory evident that his vehicle complies with the definition in Section 3.

SECTION 9. TEMPORARY STORAGE AREAS

Inoperable or unregistered or junk vehicles may be stored in areas designated by the Village Board of the Village of Candor as temporary holding areas for such vehicles by the Village of Candor or by persons under contract or agreement with the Village of Candor for the disposal of said vehicles.

SECTION 10. STORAGE BY WRECKERS AND COMMERCIAL GARAGES

A. Providing that such operations are permitted by all applicable zoning laws and regulations, including rights under any nonconforming uses and including any limitations, restrictions or conditions established according to Law by the Village Board, the Board of Appeals, the Planning Board or any court of competent jurisdiction, and are not in violation of any applicable private restrictive covenant or agreement filed or recorded in the Tioga County Clerk's Office:

(1) Any wrecker may store inoperable, unregistered or junk vehicles on one (1) site, but not on more than one (1) site, within the Village, provided that said vehicles are not stored within the Village for more than fifteen (15) days.

(2) Any commercial garage may store inoperable, unregistered or junk vehicles on one (1) site, but not on more than one (1) site, within the Village, pending and during repair of such vehicles, provided that said vehicles are not stored within the Village for more than sixty (60) days, unless a permit for an extension is issued by the enforcement officer.

B. Where a repair settlement is pending, in good faith, the foregoing time periods shall not start to run until either a repair settlement has been made or the inoperable, unregistered or junk vehicle has been stored within the Village of Candor for four (4) months.

C. For good cause shown, the enforcement officer may extend by permit any time period for such period of time as he determines is reasonably necessary to permit repair of an inoperable, unregistered or junk vehicle. The enforcement officer may refuse to permit such extended storage if he determines that the applicant has not attempted to complete repairs within the regular time period, is not in good faith or is in violation of this chapter in any way. A fee of twenty-five dollars (\$25.00) shall be paid for each permit, and the applicant shall agree that the vehicle will be repaired or disposed of at the end of such extension or any subsequent extension.

D. Records

(1) Wreckers and commercial garages shall keep records showing the make, engine number, license plate number, if any, vehicle owner, vehicle owner's address, purpose for storage, any prior storage within the twelve (12) months by them or, if known, by anyone else within the Village, and the starting and ending dates of storage for each inoperable, unregistered or junk vehicle. Such records shall be shown to the Village officials upon request during business hours. Such records shall be prima facie evidence of the statements therein contained, but shall be rebuttable.

(2) In the absence of such records or other sufficient proof that said vehicle has not been stored in violation of this chapter, the operator of such business shall terminate storage of the vehicle with the Village within five (5) days of receipt in person or within eight (8) days of mailing of a notice to terminate such storage, unless:

(a) He obtains a permit for extended storage for repair under this section; or

(b) He has established by sufficient proof that the storage period has not expired.

E. Anything in this chapter notwithstanding, any disabled vehicle may be stored on the premises of any gasoline station for up to seven (7) days.

SECTION 11. FARM VEHICLES

Any vehicle being actively used in farming operations shall be exempted from the provisions of this chapter, provided that:

- A. The vehicles are being used on private property and are being held for continuing operation on private property and are not being held primarily for non-operating purposes.
- B. The vehicles, if not in a condition for legal operation on public highways, are in a condition so that they can be operated and so that such operation on private property will not be unduly dangerous to the operator, passengers, or others.
- C. The vehicles are in such condition that there is no sharp metal, broken glass, or other condition which would endanger children who might be attracted to play around the vehicles.

SECTION 12. (RESERVED)

SECTION 13. PENALTIES FOR OFFENSES

A violation of this chapter shall be punishable by a fine of up to two hundred fifty dollars (\$250.00) per violation or by imprisonment for up to fifteen (15) days, or by both. A violation of this chapter shall also subject the violator to a civil penalty of the greater of one hundred dollars (\$100.00) per separate violation or the Village's cost of inspection, service of notices, removal, towing and permanently disposing of such vehicles, less any criminal monetary fine which may have been imposed. Each inoperable, unregistered or junk vehicle stored in violation of this chapter shall constitute a separate violation. Each week that such violation shall continue or be carried on shall constitute an additional separate violation.

SECTION 14. RULES AND REGULATIONS

The Village of Candor enforcement officer may make reasonable rulings and may issue reasonable regulations in furtherance of and consistent with the intent of this chapter.

SECTION 15. SEVERABILITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances and the Board of Trustees of the Village of Candor hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 16. REPEALER

All other Ordinances, Local Laws of the Village of Candor, and/or parts thereof inconsistent with this Local Law are hereby repealed.

SECTION 17. EFFECTIVE DATE

This Local Law shall become effective January 1, 1996.

CERTIFICATE

STATE OF NEW YORK :
VILLAGE OF CANDOR : SS
VILLAGE CLERK'S OFFICE :

I hereby certify that the local law annexed hereto, designated as Local Law No. 2 of 1995 of the Village of Candor, was duly passed by the Board of Trustees on December 5, 1995, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

(Original Signed by Vicki Millage-Brouty, Village Clerk)

Dated: December 7, 1995