

ORDINANCE NO. 1 OF 2007

**TOWN OF WEBB
JUNK AND REFUSE STORAGE ORDINANCE**

WHEREAS, the Town of Webb Codes Enforcement Office and the Town of Webb Planning Board have recommended the adoption of a junk and refuse storage ordinance.

NOW, THEREFORE, BE IT ENACTED by the Town Board of the Town of Webb as follows:

INTRODUCTION

Section 1. Title

This Ordinance shall be known as the “Town of Webb Junk and Refuse Storage Ordinance”.

Section 2. Purpose

By adoption of this Ordinance, the Town of Webb declares its intent to regulate and control the storage or keeping of junk. The Town Board hereby declares that a clean, wholesome, and attractive environment is of vital importance to the continued general welfare of its citizens, and that junk can constitute a hazard to property and persons and can be a public nuisance. Such materials may be highly flammable and sometimes explosive. Junk, and particularly junked vehicles, can constitute an attractive nuisance. The presence of junk is unsightly and tends to detract from the value of surrounding properties unless properly screened from view.

Section 3. Applicability

The provisions of this Ordinance shall be applicable to both existing and future conditions. Existing conditions shall be brought into compliance with the requirements of this

Ordinance within 120 days of the effective date of this Ordinance.

DEFINITIONS

Section 4.

For the purpose of this Ordinance, the following words and phrases shall have the meaning ascribed to them in this article.

Antique 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 or 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 to collectors or exhibitors and which has been maintained in or restored to a condition which is substantially in conformity with the manufacturer's specification and appearance.

Clutter, Litter, Debris. Ordinary household or store trash such as paper, barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber and other building materials no longer intended or in condition for ordinary use; and any and all tangible personal property no longer intended or in condition for ordinary and customary use.

Enforcement Officer. Town of Webb Code Enforcement Officer.

Garbage. Includes any accumulation of animal, fruit or vegetable matter that shall attend the preparation, use, cooking, or storage, of meat, fish, fowl, fruits or vegetables, and containers used for foodstuffs, and other household wastes.

Junk. Any of the following:

- a. One (1) junk motor vehicle.
- b. One (1) piece of junk equipment, including junk construction equipment.
- c. One (1) junk travel trailer or camper.
- d. One (1) junk boat or other watercraft.
- e. One (1) or more junk appliances, including but not limited to, washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.
- f. One (1) or more abandoned or irreparably damaged pieces of indoor furniture, including but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
- g. One (1) or more items constituting clutter, litter or debris as defined herein.

Junk Equipment. Any equipment which is: (a) either abandoned, wrecked, stored,

discarded, dismantled or partly dismantled, and (b) is not in working order, and (c) has remained unused for more than one year.

Junk Storage Area. The areas of any parcel of land used or intended to be used for the placement, storage or deposit of junk.

Junk Travel Trailer/Camper. Any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living and/or sleeping purposes, including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and over-night trailers; which is no longer suitable for human habitation.

Junk Motor Vehicle. An unregistered, old, secondhand motor vehicle, no longer intended or in condition for legal use; or used parts or waste materials from a motor vehicle which, taken together, equal in bulk, one such vehicle. The term motor vehicle shall include, but is not limited to, automobiles, trucks, construction or earth moving vehicles, snowmobiles, and all-terrain vehicles. A vehicle is considered junk when it meets all of the following conditions:

- a. It is unlicensed.
- b. It is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled.
- c. It is not in any condition for legal use upon the public highways.
- d. It is in such condition as to cost more to repair to operating condition than its reasonable market value at the time before such repair.

An antique motor vehicle or a classic motor vehicle, as defined herein, shall not be deemed to be a junk motor vehicle.

Junkyard. Any open lot or area for the dismantling, storage or sale of such items as parts, scrap or salvage of used or wrecked motor vehicles, machinery, tires, scrap metals, waste papers, rags, used or salvaged building materials, wooden pallets, household appliances, or other discarded materials. Junkyard includes the outdoor storage or deposit of any of the following:

- a. Two or more junk motor vehicles.
- b. Two or more pieces of junk equipment.
- c. Two or more junk travel trailers or campers.
- d. Two or more junk boats or watercraft.
- e. Two or more junk appliances.
- f. Two or more pieces of junk furniture.
- g. Any combination of the above that totals two items.
- h. Disassembled parts of any of the above, that when taken together, equal in bulk, two or more vehicles, pieces of equipment, travel trailers, campers, boats, watercraft, appliances or furniture.

Motor Vehicle. All vehicles propelled or drawn by power other than muscular power.

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

Planning Board. Planning Board of the Town of Webb.

Recyclables. Newspaper, magazines, cardboard, clean plastic containers, clean metal cans, metals, or other materials collected by waste haulers, not to include garbage.

Refuse. Garbage, recyclables, or both.

Residential Property Line. The lot line of any property upon which is situated any type of residential structure, year round or seasonal.

Town Board. Town Board of the Town of Webb.

REGULATIONS

Section 5. Junk Storage Regulations

Except as provided by Section 7 below, no junk as defined herein shall be visible from any public highway or neighboring property line.

Section 6. Junkyard Regulations

All junkyards, as defined herein, shall comply with the Town of Webb Zoning Ordinance. If the Zoning Ordinance does not permit a junkyard within the zoning district where the accumulation of junk is located, said junk shall be removed and disposed of in a legal manner.

Section 7. Exceptions to Junk Storage and Junkyard Regulations

A. The Planning Board may grant an exception to Sections 5 and 6 of this Article in the case of a junk storage area used in conjunction with a commercial or industrial use where the storage of junk or debris is clearly secondary to the primary nature of the business, and where said storage does not create a significant adverse impact upon neighboring properties or the community in general.

B. In rendering their decision, the Planning Board shall take into account:

1. The proximity and character of surrounding properties.
2. Visibility from public roads.
3. Any possible adverse environmental impacts including water pollution, odor, noise, and aesthetics.
4. Any other factors it deems in the general welfare of the community.

C. The Planning Board may impose any conditions it deems necessary to protect neighboring properties and to promote the general welfare, including but not limited to:

1. Requiring a security fence surrounding the junk storage area of a type and construction approved by the Planning Board.
2. Requiring vegetative screening.
3. Prohibiting the storage of certain types of junk or debris.
4. Requiring a fifteen (15) foot wide fire lane between any junk and any fence or screening that shall be kept open and free of any materials.

Section 8. Dumpsters and Other Garbage Containers

A. All garbage, refuse and other wastes stored out of doors shall be stored in dumpsters or solid closed containers.

B. Appropriate measures shall be taken to prevent raccoons, dogs, bears, and birds from getting into any dumpster or closed container.

C. Dumpsters and containers shall be emptied and/or cleaned as needed in order to minimize odor impacts to surrounding properties. The presence of persistent odors, generally deemed to be objectionable, shall be grounds for concluding that this provision is not being satisfied.

D. Any property owner or lessee of any property who uses or wishes to use a dumpster to collect or accumulate garbage must comply with the terms and conditions of Section 10 of Local Law No. 3 of 2001.

Section 9. Appeals

A. Any person aggrieved by this Ordinance may appeal to the Planning Board for an interpretation or a waiver from the provisions of this Ordinance.

B. In making its determination on waivers, the Planning Board shall take into consideration the benefit to the applicant if the waiver is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the waiver; (2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a waiver; (3) whether the requested waiver is substantial; (4) whether the proposed waiver will have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Planning Board, but shall not necessarily preclude the granting of the waiver.

C. The Planning Board shall grant the minimum waiver that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

ADMINISTRATION AND ENFORCEMENT

Section 10. Enforcement Procedure

A. Enforcement Officer. This Ordinance shall be enforced by the Town of Webb Code Enforcement Officer.

B. Notification and Correction: Any non-compliance with this Ordinance shall be so recorded by the Enforcement Officer and official notice to this effect shall be given to the owner of record thereof. The owner shall initiate measures to correct such non-compliance within thirty (30) days from the date of notification. If within this thirty (30) day period, application is not

made to initiate a process for correction, or if once initiated the process for correction is not pursued to the satisfaction of the Town, the Town may institute proceedings to compel compliance.

C. Stop-Work Order. Whenever the Enforcement Officer has reasonable grounds to believe that work on any building or structure, or use of any land or structure, is occurring in violation of the provisions of this Ordinance, or that such work or use is not in compliance with the provisions of the application, plans or specifications, or Permit for such construction or use, he shall notify the owner of the property, or the owner's agent, to suspend all work or use on the property. Such persons shall immediately stop work and suspend activities until the stop-work order has been rescinded. A stop-work order shall be in writing and shall state the conditions under which activities may be resumed. A stop-work order shall be served upon a person to whom it is directed either by delivering it personally or by posting the same upon a conspicuous portion of the property where the work or activity is being performed and sending a copy of the stop-work order to the owner or owner's agent by certified mail.

Section 11. Violations and Remedies

A. Any violation of this Ordinance is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six (6) months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine of not less than seven hundred dollars (\$700.00) nor more than one thousand dollars

(\$1,000.00) or imprisonment for a period of not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon the courts and judicial officers, generally violations of this Ordinance shall be deemed misdemeanors and for such purpose only, all provisions of this Ordinance relating to misdemeanors shall apply to such violations. Each period of one week (seven consecutive calendar days) of continued violation shall constitute a separate additional violation.

B. The Town Board, in addition to other remedies, may institute any appropriate action or proceedings to prevent violation of this Ordinance, or to restrain, correct or abate such violation. Upon failure or refusal of the Town Board to institute any such appropriate action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the Town so to proceed, any three (3) taxpayers of the Town, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as the Town Board is authorized to do.

C. The Town Board is hereby authorized to remove any junk from its location and dispose of same, and the expense thereof shall be charged to the property so affected by including such expense in the next annual tax levy against the property. Such removal may be done only following public notice and a public hearing at which time all parties may be heard. Public notice of the hearing shall be made in a newspaper in general circulation in the town/village at least five (5) days prior to the hearing.

Section 12. Severability

The invalidity of any provision of this Ordinance shall not invalidate any other provision thereof.

Section 13. Effective Date

This Ordinance shall take effect immediately upon compliance with Section 133 of the Town Law.

Dated: August 14, 2007