

**AN ORDINANCE LICENSING AND REGULATING
DEALERS IN SECOND HAND, JUNK
AND AUTO PARTS
ACTIVITIES AND BUSINESSES**

BE IT RESOLVED AND ORDAINED by the Town Board of the Town of Fort Ann, Washington County, New York, as follows:

Section 1 – Legislative Intent.

By the adoption of this ordinance the Town Board of the Town of Fort Ann declares its intent in so doing to be to regulate, control and license the activities or businesses known as auto “graveyards,” junk yards, second-hand parts collection areas, the processing of used metals for resale and the dumping, storage and disposal of waste, second-hand or used materials of whatever composition. Said Town Board hereby declares that such activities or businesses can constitute a hazard to property and persons and a public nuisance. Such materials may be highly inflammable and sometimes explosive. Gasoline tanks on old autos often contain in some quantity combustible gasoline; the engine and other parts of such autos are frequently covered with grease and oil which is also inflammable. The tires, plastic seats, tops and other elements of such autos are also inflammable. Batteries and other elements of such autos can contain acids and other matter potentially harmful to humans. These autos frequently contain sharp metal or glass edges or points upon which a human could receive serious cuts and abrasions. These autos can constitute attractive nuisances to children and certain adults. The presence of such junk yards is unsightly and tends to detract from value of surrounding land and property unless such areas are properly maintained and operated.

Section 2 – Definitions. As used in this ordinance:

- (a) The term “person” shall mean an individual, an association, a partnership, a corporation.
- (b) The term “auto” shall mean passenger auto, truck, tractor-truck, trailer, bus, motorcycle or other vehicle, however propelled, as well as tractors, bulldozers, machinery and equipment.

Section 3 – License Required.

No person shall engage in or conduct on real property within the Town of Fort Ann either for himself or for and on behalf of any other person directly or indirectly as agent, employee or otherwise any activity or business either for profit or otherwise, at wholesale or retail, which involves the collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging for sale, resale, storage or disposal or otherwise of bodies, engines, or parts of autos, 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 therefore as hereinafter provided.

Section 4 – Application for License.

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 or 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 of occupancy of the applicant to the use of such land.

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 hereunder indicated thereon as well as the 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.

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.

A person presently engaged in or conducting an activity or business such as described herein, on real property within the Town of Fort Ann must apply for a license therefore within thirty (30) days of the adoption 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 which 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 in engaging in or conducting the same and shall remove from such place any autos, parts or other materials of the nature described herein.

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.

Section 5 – The License.

The fee for the license is hereby fixed in the sum of \$25.00 which sum covers not only the cost of issuing the license itself but also the cost of making the necessary inspections of the premises to ascertain compliance with the regulations hereinafter prescribed.

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 issued.

Such license shall be effective from the date of its issuance until the 31st day of December of the year of such issuance after which a new application for license must be made yearly if licensee desires to continue such activity or business.

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.

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 autos, parts and materials left as above provided in the case of an applicant for a temporary license who fails to qualify for a license.

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 \$5.00, such Junk Dealer's License fee actually paid 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 a six foot (6') wire fence of close mesh or one made of wood or of other material, 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 a residential area or public street or highway such fence shall be twenty-five (25') from the boundary line thereof. All materials dealt in by the licensee shall be kept within such

fence at all times.

- (d) The autos, parts and materials dealt in by the licensee shall be disassembled or dismantled by means other than by burning. They shall be piled or arranged in neat rows so as to permit easy, clear passage through the area.
- (e) There shall be maintained at each such place of activity or business for which a license is issued at least one (1) fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each such fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.
- (f) 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.
- (g) 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.
- (h) The Town Clerk or the Town Board or any of its representatives shall be granted access to the area of the activity 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) The owner or 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 therefore. 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 \$100.00 or imprisonment 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 Town in the amount of \$100.00 for each such offense. Such penalty shall be collectable by and in the name of the Town for each day that such violation shall continue.
- (e) In addition to the above-provided 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 effect, 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 – Effective Date.

This ordinance shall take effect ten days after publication and posting or immediately upon personal service as provided by Section 133 of the Town Law.

Dated: June 6, 1966.

BY ORDER OF THE
TOWN BOARD OF THE
TOWN OF FORT ANN

Lura Manning, Town Clerk

