LOCAL LAW FILING

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OCT 24 2024

DEPARTMENT OF STATE

County
City
Town of **Starkey**
Village

Local Law No. 3 of the year **2024**

A local law **"Repealing the Town of Starkey Junk Storage Law and Adopting a New Junk Storage Law"**

(Insert Title)

Be it enacted by the **Town Board** (Name of Legislative Body)

County
City
Town of **Starkey**
Village

as follows:

Section 1. Local Law 1 of 1992, entitled, "A Local Law Regulating Junk Storage in Junk Yards", along with the Town of Starkey Junk Storage Law enacted by Local Law 1 of 1992, along with the previous junkyard law of the Town of Starkey adopted 11/66 and the Dumping Ordinance adopted 4/69 and amended 9/87 are all hereby repealed in their entirety.

Section 2. A new Junk Storage Law is hereby adopted to read as follows:

TOWN OF STARKEY JUNK STORAGE LAW

ARTICLE A. INTRODUCTION

Section 1. Authority

This law is adopted pursuant to the authority granted the Town of Starkey in Section 10 of the Municipal Home Rule Law and in Section 130 (6) and (15) of Town Law.

Section 2. Title

This local law shall be known as the "Town of Starkey Junk Storage Law".

Section 3. Purpose of the Junk Storage Law

By adoption of this law the Town of Starkey declares its intent to regulate and control the storage or keeping of junk, and to regulate junkyards whether operated for commercial refit or otherwise. The Town of Starkey 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 and junkyards 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 attractive nuisances to children and certain adults. The presence of junk and junkyards is unsightly and tends to detract from the value of surrounding properties unless properly screened from view.

ARTICLE B: DEFINITIONS

For the purpose of this law, the following words and phrases shall have the meaning as described to them in this article.

Enforcement Officer: The Town of Starkey Code Enforcement or any Deputy Code Enforcement Officer.

Junk: Any manufactured good, appliance, fixture, furniture, machinery, motor vehicle, recreational vehicle, boat, trailer or similar object which is abandoned, demolished, discarded, dismantled or so worn, or deteriorated or in such a condition as to be generally unusable in its existing state. This definition shall include, but shall not be limited to, scrap metal, scrap material, waste bottles, cans, paper, rubble, boxes, crates, rags, used construction materials, motor vehicle parts -and used tires.

The outdoor storage or deposit of any of the following shall constitute junk.

1. Two (2) or more junk motor vehicles in an Agricultural Zone; one (1) or more junk motor vehicles in all other zones.

2. One (1) or more junk mobile homes.

3. One (1) or more junk boats.

4. Scrap metal or rubbish which covers over 100 square feet of area and is more than 3 feet in height.

5. Two (2) or more abandoned or inoperable appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.

6. Two (2) or more abandoned or irreparably damaged pieces of furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers (dresser).

7. Any combination of items covered in (5) and (6), or parts thereof, which total two (2) or more items.

8. Ten (10) or more illegal or worn-out tires, except for farm or other permitted use.

Junk Mobile Home: A structure, transportable in one or more sections, built on a permanent chassis and designed to be used as a dwelling unit, which is currently not inhabited and is no longer habitable under the New York State Uniform Fire Prevention and Building Code; includes but is not limited to mobile homes, travel trailers and campers.

Junkyard/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 Vehicles: One (1) or more unregistered motor vehicles, no longer intended or in condition for legal use on the public highways, or used parts, or waste materials from motor vehicles which taken together, equal in bulk to one (1) vehicle. A vehicle is considered junked when it meets all the following conditions:

1. It is unlicensed.

2. It is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled

3. It is not in any condition for legal use upon the public highways.

4. It is in such condition as to cost more to make operational (road legal), than its reasonable market value at the time before such repair.

Motor Vehicle: All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

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

ARTICLE C: JUNK REGULATIONS

No junk shall be located so as to be visible from a public highway or from adjoining properties.

ARTICLE D: JUNKYARD REGULATIONS

Section 1. Location

No junk storage area shall be located within:

a. One hundred (100) feet of any adjoining property line(s) and 300 feet from an "R" district boundary.

b. Five hundred (500) feet of any public park, church, educational facility, nursing home, public building or other place of public gathering.

c. Five hundred (500) feet of any stream, lake, pond, wetland or other body of water.

d. Fifty (50) feet from the right of way of any public highway.

Section 2. Fencing

There must be erected and maintained a six-foot-high fence enclosing the entire junkyard and a locking gate, adequate to prohibit the entrance of children and others into the area of the activity or business and contain within such fence the materials dealt with by the operator of the junkyard. Fencing requirements may be waived where topography or other natural conditions effectively prohibit the entrance of children and others.

Section 3. Screening

Where a junkyard is or would be visible from a public highway or from neighboring properties the fence provided in Section 2 above shall be of wood or other materials sufficient to totally screen the junkyard from view. Planting of evergreen trees or shrubbery is not to be considered adequate screening.

Section 4. Burning

No materials shall be burned in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see New York Code Rules and Regulations Part 215).

Section 5. Burying

No junkyard items shall be buried in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see New York Code Rules and Regulations Part 360).

Section 6. Approved Junkyard Items

No junkyard items shall be stored in any junkyard/junk storage area other than those items specified on a junkyard permit approved by the Town of Starkey Planning Board pursuant to this law.

Section 7. Vehicle Dismantling Area

All removal or taking apart of any part and/or parts of vehicles containing hazardous or potentially hazardous substances, (such as, but not limited to oil, gasoline, acid, and antifreeze) must be conducted over a non-permeable floor which:

a. Will prevent spilling, draining, or leaking onto the ground,

b. Will comply with any and all codes, laws, and regulations.

The design of the floor shall be approved by the Code Enforcement Officer. The area shall also provide for the safe collection, storage and timely removal of all hazardous or potentially hazardous substances.

Section 8. Vehicle Storage

The storage of vehicles and parts shall be done in such a manner that no hazardous or potentially hazardous substances can spill, drain, or leak onto the ground. There shall be no stacking of vehicles.

Section 9. Vehicle and Traffic Law

The operator of the junkyard and others connected with its operation must comply with New York State Vehicle and Traffic Law Section 415 concerning itinerant vehicle collectors, dealers, repairmen and others.

Section 10. Termination Cleanup

If the junkyard business is discontinued, all junk material must be removed from the site within 180 days.

ARTICLE E: JUNKYARD PERMIT

Section 1. Permit Required

a. No person shall establish or maintain a junkyard within the Town of Starkey unless a permit has first been issued for such junkyard pursuant to this law.

b. No person owning, having any right to, or any interest in any real property within the Town of Starkey shall license, rent, lease, or otherwise permit the use of such real property, or any part thereof, for a junkyard unless a permit has first been issued for such junkyard pursuant to this law.

c. All permits shall be issued for a period of one (1) year, after which time a renewal shall be required.

Section 2. Temporary Permit for Prior Existing Junkyard

Any person maintaining a junkyard prior to the effective date of this law within the Town of Starkey shall apply for a permit within sixty (60) days of the adoption of this local law. If the junk storage area does not meet the requirements of Article D herein, a temporary permit shall be granted for a period not to exceed one (1) year, during which the junk storage area shall be arranged to comply with said requirements. If at the end of such period, the junk storage area has not been arranged to comply with said requirements, such person shall cease and desist from maintaining a junkyard and all junk shall be removed from the premises.

ARTICLE F: APPLICATION PROCEDURE

Section 1. Application

The applicant for a junkyard permit shall obtain application forms from the Code Enforcement Officer. The completed forms along with one copy of the proposed site plan, and appropriate fees, shall be returned to the Code Enforcement Officer. The Code Enforcement Officer shall submit the application materials to the Town of Starkey Planning Board.

Section 2. Site Plan Contents

The site plan shall be drawn to scale or indicating all dimensions and show:

a. all existing and proposed structures, including fences;

b. all property lines including the names of owners of adjacent property;

c. all streams, lakes, wetlands, floodplains, and other wafer bodies;

d. all wells and sanitary facilities;

e. all roads and easements;

f. all existing and proposed junkyard/junk storage areas;

g. all existing and proposed accessways, and parking and loading areas.

Section 3. Environmental Impact Statement

An Environmental Assessment Form (EAF) shall be completed and submitted with all applications pursuant to the state Environmental Quality Review Act, 6 New York Code Rules and Regulations Part 617. If the EAF indicates that the proposed activity may have significant environmental consequences, The Town of Starkey Planning Board shall require that a Draft Environmental Impact Statement (DEIS) be submitted with the

application. The application shall not be considered complete until the DEIS has been accepted by the Town of Starkey Planning Board.

Section 4. Application Fee

An application fee, as determined by separate resolution of the Town Board, shall accompany all applications (see fee schedule).

Section 5. Public Hearing

The Town of Starkey Planning Board shall fix a time within forty-five (45) days of the date a complete application is received for a public hearing. Notice of the hearing shall be made in the official newspaper at least five (5) days prior to the date thereof. At the hearing the Town of Starkey Planning Board shall hear the applicant and all other person(s) wishing to be heard on the application for a junkyard permit.

Section, 6. Town of Starkey Planning Board Action

Within forty-five (45) days of said hearing, the Town of Starkey Planning Board shall render a decision to grant, grant subject to conditions, or to deny the application for a junkyard permit. The forty-five (45) day period may be extended by mutual consent of the applicant and the Board. All findings of the Board shall be entered into the official minutes of the Town of Starkey Planning Board. The decision of the Board shall immediately be filed. The applicant shall be notified of the decision and the reason for such decision by certified mail within five (5) days of the decision of the Board. Upon approval of the site plan and application, and payment of the fees and reimbursable costs due to the Town of Starkey, the Board shall endorse it approval upon a copy of the final site plan and applications.

Section 7. Issuance of Permit

a. If the permit is granted by the Planning Board, a Junkyard Permit shall be issued by the Code Enforcement Officer for a fee, as determined by separate resolution of the Town Board.

b. If the permit is granted with conditions by the Planning Board, the permit will be issued by the Code Enforcement Officer once the conditions have been met.

c. Permit may be renewed annually after inspection and approval by the Code Enforcement Officer and with a renewal fee, as determined by separate resolution of the Town Board.

ARTICLE G: GENERAL CONSIDERATIONS

Section 1. Aesthetic

In granting or denying a permit, the Town of Starkey Planning Board shall take the following aesthetic factors into consideration:

a. Type of road servicing the junkyard or from which the junkyard can be seen.

b. Natural or artificial barriers protecting the junkyard from view.

c. Proximity of the site to establish residential or recreational areas or main access routes thereto.

Section 2. Locational

In granting or denying a permit, the Town of Starkey Planning Board shall take the following location factors into consideration:

a. The nature and development of surrounding property, such as the proximity of public parks, churches, educational facilities, nursing homes, public buildings, or places of public gathering.

b. Whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy noise, odors or smoke, or of other causes.

c. The proximity of streams, lakes, wetlands, floodplains, groundwater supplies, and public water supplies.

d. Local drainage patterns.

e. Long range comprehensive plans for the Town.

f. Proximity of the site to establish residential or recreational areas.

g. Availability of other suitable sites for the junkyard.

ARTICLE H: ADMINISTRATION AND ENFORCEMENT

Section 1. Waivers

Where the Town of Starkey Planning Board finds that due to special circumstances of the particular case, a waiver of certain requirements as stated in Article D herein is justified, then a waiver may be granted. No waiver shall be granted, however, unless the Planning Board finds, and records in its minutes that:

a. Granting the waiver would be to keep with the intent and spirit of this law and is in the best interest of the community.

b. There are special circumstances involved in the particular case.

c. Denying the waiver would result in undue hardship to the applicant, provided that such hardship has not been self-imposed.

d. The waiver is the minimum necessary to accomplish the purpose.

Section 2. Enforcement Officer

a. The enforcement officer shall upon request of the Board make inspections of the premises of any junkyard for which application for a permit has been made, or any other existing junkyard within the Town of Starkey and shall report to the Board on the conditions of such junkyard.

b. The enforcement officer shall make periodic inspections of the Town of Starkey to ensure that all existing junkyards have permits and that the requirements of this law are met. Any observed violations shall be reported to the Board.

c. The enforcement officer shall not enter upon any private property without the consent of the owner. It shall be the responsibility of the applicant to arrange for all required inspections of the premises prior to permit issuance or renewal.

Section 3. Revocation of Permit

The Town of Starkey Planning Board may revoke a Junkyard permit upon reasonable cause should the applicant fail to comply with any provision of this law. Before a permit may be revoked, a public hearing shall be held by the Planning Board. Notice of the hearing shall be made in the official newspaper at least five (5) days prior to the date thereof. The permit holder shall be notified of the hearing by certified mail at least five (5) days prior to the hearing. At the hearing the Board shall hear the permit holder and all other persons wishing to be heard on the revocation of the Junkyard Permit Should the Board decide to revoke a permit, the reason for such revocation shall be stated in the Board minutes. The permit holder shall be immediately notified of the revocation by certified mail.

Section 4. Penalties

a. Any person who shall violate any of the provisions of this local law shall be guilty of an offense and subject to a fine of not more than two hundred fifty dollars· ($250) to be recovered by the Town of Starkey in a criminal action. Every such person shall be deemed guilty of a separate offense for each 7-day period for which such violation, disobedience, omission, neglect or refusal continues.

b. In addition to the above provided penalties, the Town of Starkey may bring a civil action in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any article of this local law.

Section 5. Variances

Any property owner affected by this local law may apply to the Zoning Board of Appeals and make use of the existing variance procedures under the Zoning Law of the Town of Starkey to seek relief from the restrictions of this local law.

Section 3. SEVERABILITY.

If any clause, sentence, paragraph, section or part of this local law 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 ordered.

Section 4. EFFECTIVE DATE.

This local law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.),

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2024 of the **Town of Starkey** was duly passed by the Starkey Town Board on October 10, 2024, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer[1].)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____, 20__ in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the on 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____, 20__. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____, 20__, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____, 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20__, in accordance with the applicable provisions of law.~~

[1] Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county- wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or Village, or the supervisor of a Town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2005 of the City of _____ of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 20__, became operative.~~

~~6. (County local law concerning adoption of Charter.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of _____, State of New York, having been submitted to the electors at the General Election of November __, 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the Towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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.

Candace J. Lazard
Clerk of the Town

(Seal)

Date: 10/10/2024