

TOWN OF GERMANTOWN
JUNK LAW

ARTICLE A. INTRODUCTION

Section 1. Authority & Applicability

Section 2. Title

Section 3. Purpose

Section 4. Definitions

ARTICLE B. PROHIBITED ACTS

ARTICLE C. JUNK EXCLUSIONS

ARTICLE D. ADMINISTRATION AND ENFORCEMENT

Section 1. Enforcement Officer

Section 2. Complaints

Section 3. Notice to Comply

Section 4. Enforcement and Summary Abatement

Section 5. Operating a Commercial Junkyard

Section 6. Penalties and Remedies

Section 7. Abandoned Vehicles

ARTICLE E. MISCELLANEOUS PROVISIONS

Section 1. Severability

Section 2. Prior Existing Junk Law

Section 3. Effective Date

ARTICLE A: INTRODUCTION

Section 1. Authority & Applicability

“Be it enacted by the Germantown Town Board of the Town of Germantown as follows”: The provisions of this law shall apply in addition to the provisions of any other local law or ordinance adopted by the Town of Germantown. Where there is a conflict the more restrictive provision shall apply.

Section 2. Title

This local law is adopted pursuant to the authority granted the Town of Germantown in Section 10 of the Municipal Home Rule Law and in [Section 130(6) of the Town Law]. This local law shall be known as “A Local Law Regulating Junk in the Town of Germantown.”

Section 3. Purpose

The Town Board hereby declares that a clean, wholesome, attractive and environmentally sound community is of vital importance to the continued general welfare of citizens of the Town of Germantown, and that regulation of the deposit, accumulation, or maintenance of junk regardless of quantity is hereby prohibited anywhere within sight of persons lawfully traveling the public highways or within sight of neighboring property. By adoption of this law the municipality declares its intent to preserve and promote a reasonable quality of environment and aesthetics and to prohibit actions and conduct that tend to depreciate not only the property on which it is located but also the property of other persons in the neighborhood and the community generally and to further the goals of the comprehensive plan.

Section 4. Definitions:

Enforcement Officers: The person(s) appointed by the Town Board to enforce the provisions of this law.

Garbage: All putrescible animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including container in which packaged.

Rubbish, Clutter, Litter and Debris: Ordinary household or commercial trash such as paper and paper products, barrels, cartons, boxes, cardboard, cans, glass, metals, machinery, plastics, rubber, crates, furniture, rugs, clothing, rags, mattresses, blankets, cigarettes, tires, lumber, brick, stone 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.

Junk: The outdoor storage or deposit of any worn out or discarded material of little or no value including, but not limited to a junk appliance, junk furniture, junk mobile home, junk motor vehicle, junk boat or garbage, rubbish and debris shall constitute junk.

Junk Appliance: One or more abandoned, junked, discarded, inoperable, wholly or partially dismantled or otherwise left exposed to the elements or no longer intended or in condition for ordinary use appliance, including but not limited to, any stove, washing machine, dryer, dishwasher, freezer refrigerator, computer equipment, air conditioner, hot water heater, water purification units, or television, which is stored outside of any residence or structure.

Junk Furniture: One or more abandoned or irreparably damaged pieces of indoor or outdoor furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.

Lawn Equipment: One or more items of abandoned, discarded or obviously unusable lawn or garden equipment.

Junk Mobile Home: Any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living or sleeping purposes. A junk mobile home is in a condition which presents a substantial danger or hazard to public health, safety, or welfare, which is unused by the owner, which is uninhabited because of deterioration or decay, which condition constitutes a fire hazard, or subjects adjoining property to danger or damage by storm, soil erosion, or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter.

Recreational Vehicle: One (1) or more boats, water craft, recreational vehicles, four-wheelers, mini bikes, snowmobiles, not able to be used or removed under its own power.

Junk Motor Vehicle: One (1) or more inoperable or unlicensed, uninsured, uninspected motor vehicles or the used parts or waste materials from motor vehicles which, taken together, equal in bulk one (1) such vehicle, shall not be parked, kept or stored on any premises, except as provided for in statute or other regulation. No vehicle at any time shall be in a state of major disassembly,

disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless contained inside an approved spray booth. With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

Exceptions:

- (1) Unlicensed vehicles in operating condition stored by or for the owner while the owner is (a) a full time student of the immediate family attending a school, college, or university; and (b) a member of the United States Armed Forces.
- (2) Seasonal vehicles or machinery during their off-season if kept in a location not visible from any road, street or highway or neighbor's view.
- (3) Operational farm machinery, including tractors, where such machinery is actively used. Farm machinery kept for parts shall be kept in a location not visible from any road, street or highway.
- (4) The open parking and storage of operational school buses, delivery trucks, service trucks, and automobiles in transit by a licensed auto hauler.
- (5) A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly fully enclosed area.
- (6) Vehicles regularly operated and used onsite in the day-to-day activities of a commercial enterprise shall not be construed as junk.
- (7) Licensed Automobile Repair Shops: The open outdoor storage of up to six (6) motor vehicles, otherwise prohibited by this local law, for the average amount of time it may take for making of such repairs as are necessary to place this vehicle in condition for legal operation for use on the public highway or for such use as it was originally intended. No vehicle at any time shall be in open storage in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. The repair shop shall abide by all prohibited acts detailed in Article B.

Junk Storage Area: The areas of any real property used or intended to be used for the placement, storage or deposit of junk as defined herein.

Junkyard: The outdoor storage or deposit of any junk as defined whether in connection with another business or not for the sale of junk as a commercial enterprise.

Motor Vehicle: All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways, including but not limited to automobile, bus, trailer, truck, tractor, motor home, motorcycle, watercraft, farm equipment and mini-bicycle. This term shall also include an all-terrain vehicle or snowmobile.

Outdoor Storage: The placing, maintaining or keeping of junk, rubbish, clutter, litter or debris in a place other than a structure with a roof and fully enclosed on all sides.

Owner of Motor Vehicle: A person, other than a lien holder, having possession or title to a motor vehicle. The term includes a person entitled to the use and possession of a motor vehicle subject

to a security interest in another person and also includes any lessee or bailee of a motor vehicle having the exclusive use thereof, under a lease or otherwise, for a period of greater than thirty (30) days.

Person: An individual, partnership, association, corporation, or entity of any other kind.

Aggrieved Person: A person who is authorized to make a complaint who has sustained an injury-in-fact which arises from ownership of real property which is in close proximity to the subject property whereon an alleged violation exists or in the absence of such proximity, the existence of an actual and specific injury different or greater than the general public.

ARTICLE B: PROHIBITED ACTS

The deposit, accumulation, or storage of any predefined junk, garbage, rubbish, clutter, litter, or debris regardless of quantity, is hereby prohibited within sight of persons traveling the public highways or within sight of neighboring property. The provisions of this law shall also be applicable to conditions existing at the time of enactment.

It shall be unlawful for any person to use a bus, uninhabited mobile home, truck, truck trailer, horse trailer, semi-trailer, tank truck, or similar vehicles or units for the storage of any predefined junk, garbage, rubbish, clutter, litter, or debris on any premises. Exceptions shall be made for the temporary use of such vehicles or units for construction purposes for periods of less than ninety (90) days or when actively used in connection with active farming or agricultural operations.

ARTICLE C: JUNK STORAGE EXCLUSIONS

Article B shall not apply to the storage or placement on the premises of the following material:

- (1) Wood intended for consumption in a wood burning stove, furnace or fireplace located in a building on the premises.
- (2) Lawn or yard or garden ornaments and implements.
- (3) Usable lawn and patio furniture.
- (4) Operable farm, garden and yard machinery and apparatus used on the premises.
- (5) Standing fences.
- (6) Hoses and sprinklers used for watering lawns or gardens.
- (7) Storage or placement and accumulation of materials in connection with a commercial operation duly conducted on the premises where such storage, placement and accumulation is expressly permitted by the laws of the municipality.
- (8) Construction materials and equipment used for the construction or renovation of a building on the premises for which a building permit has been issued.
- (9) Compost piles of leaves, manure, and vegetable waste for homeowner seasonal gardening purposes.

ARTICLE D: ADMINISTRATION AND ENFORCEMENT

Section 1. Enforcement Officers

This law may be enforced by the building inspector, the zoning enforcement officer, or by any police officer of the municipality. Said persons shall have the authority to enforce the provisions of this law.

Section 2. Complaints

Any aggrieved person may file a complaint with the enforcement officers that a violation of this law may have taken place. That enforcement officer shall properly record and investigate any such complaint. The enforcement officers will investigate any alleged violation that he or she has reason to believe has occurred or is occurring.

Section 3. Notice to Comply

Following an investigation of the property after a complaint concerning the storage of junk, garbage, rubbish, clutter, litter, or debris is received or from a periodic inspection by the enforcing officer, the enforcement officer will prepare a written "Notice to Comply" (see Appendix A). The written Notice to Comply will be served and will contain the following information:

- (1) The name of the owner or occupant to whom the notice shall be addressed;
- (2) The location of the premises involved in the violation;
- (3) A statement of the facts which it is alleged violates this law;
- (4) A demand that the junk be removed or placed so as to be in compliance with the law within a specified number of days after the service or mailing of the notice;
- (5) A statement that a failure to comply with the demand may result in prosecution; and
- (6) A copy of the law.

Section 4. Enforcement and Summary Abatement

The enforcement officer or any police officer of the municipality is hereby authorized pursuant to Criminal Procedure Law §150.20(3) to issue an appearance ticket to any person whom the enforcement officer has reason to believe has violated this law, and shall cause such person to appear before the municipal justice.

Upon the failure of an owner, tenant or occupant to take appropriate action after receiving a Notice to Comply, a violation of the Town of Germantown, the Town Board may hold a hearing to determine whether the violation constitutes a public nuisance requiring abatement by the municipality. The hearing shall be held upon notice posted conspicuously on the subject property. The notice shall also be sent to the last known address of the property owner, as it appears on the current assessment records of the municipality, by certified mail, return receipt requested or served on the owner by personal service. Posting and service of such notice shall not be less than 15 calendar days, exclusive of the date of service, prior to the date of the public hearing. The notice shall:

- (1) identify the premises as the same appears on the current assessment role;
- (2) contain a statement of the conditions on the property deemed upon inspection to constitute a public nuisance;
- (3) contain a demand that the condition or conditions constituting the public nuisance be immediately abated or removed before the date of the hearing specified in the notice;
- (4) contain a statement that a failure or refusal to comply within the period specified may result in a duly authorized officer, agent or employee of the municipality entering upon the property and abating or removing the public nuisance; and
- (5) contain a statement that the cost and expense of such abatement or removal shall be the responsibility of the owner, tenant or occupant, and, without limitation on the municipality's potential remedies to recoup its expenses, such cost and expense shall be

assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

Where the Town Board finds, based on substantial evidence in the public hearing record, that the violation or violations amount to a public nuisance requiring abatement by the municipality, the Town Board may cause the abatement or removal of the public nuisance. The abatement or removal may be performed by the municipality or by its designee, or agent, including a private contractor lawfully engaged and authorized by the municipality. The Town Board shall ascertain the cost of removal, and assess such expense against the record owner of the property. The expense so assessed shall constitute a lien in charge on real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other town/village/city charges. The foregoing shall not be construed as a limitation on the municipality's potential remedies to recover its costs.

The removal of any nuisance by the agents of the Town of Germantown shall not operate to excuse such owner, tenant or occupant from properly maintaining the premises as required by this law. Such owner, tenant or occupant shall, in addition to the remedies provided herein, be subject any other penalties provided for by this law.

Section 5. Operating a Commercial Junkyard

If the zoning enforcement officer or any police officer of the Town of Germantown shall find that an alleged commercial junkyard exists, the enforcement officer is hereby authorized pursuant to Criminal Procedure Law Section 150.20 (3) to issue an appearance ticket to any person whom the enforcement officer has reason to believe has violated this law, and shall cause such person to appear before the Town of Germantown Justice.

Section 6. Penalties and Remedies

Any person who shall violate any of the provisions of this law and does not rectify the situation after receiving notification shall be guilty of a violation and subject to the following:

- (1) a fine not to exceed \$500.00 for first offense;
- (2) a fine not to exceed \$1,000.00 or imprisonment for a period not to exceed fifteen days, or both for all subsequent violations; and/or
- (3) a penalty of \$500.00 to be recovered by the municipality in a civil action.

Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omission, neglect or refusal shall continue. The Germantown Town Board may also maintain an action or proceeding in the name of the Town of Germantown in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this law.

Section 7. Abandoned Vehicles

On notification by a property owner that a motor vehicle has been abandoned on his/her property by other than the owner, the owner's spouse, parents, children or entity in which the owner has an ownership interest, the enforcement officer may follow the procedures established in Vehicle and Traffic Law §1224 to achieve the removal of the abandoned vehicles.

ARTICLE E: MISCELLANEOUS PROVISIONS

Section 1. Severability:

If any clause, sentence, paragraph, section or article of this 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 article thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 2. Repealer

Any local laws or ordinances previously enacted by the Town of Germantown relating to junk is hereby repealed, except any provision contained in the Town Zoning and Subdivision Law relating thereto shall remain and shall precedence over any inconsistent language found herein.

Section 3. Effective Date:

This local law shall become effective in accordance with the Municipal Home Rule Law.

Appendix A: Sample Notice to Comply

Notice to Comply with Junk Storage Law

(name)_____

(address)_____

(city, state, zip code)_____

Dear _____,

According to records of the Town of Germantown Assessor, you are the owner of property located at _____(violation address).

On _____ (inspection date) , I observed an apparent violation of the Junkyard and Junk Storage Law on your property, specifically:

_____ (description of violation).

That activity is a violation of Article _____, Section _____ of the Junkyard and Junk Storage Law, a copy of which is attached for your information. I hereby request that you either eliminate the violation or file plans with this office for corrective measures by _____(date).

If you believe that you are not in violation of the Junk Storage Law/Junkyard Law, please contact this office to review the situation. If you intend to bring your property into compliance with the law, but you cannot meet the stated deadline, please contact this office and we will attempt to work with you on a short extension.

If you do not take the requested action or make other arrangements with this office by _____, we will begin formal enforcement action against you. You will NOT receive an additional warning before we begin formal enforcement action. THIS IS THE ONLY LETTER YOU WILL RECEIVE. Your next communication from us will involve formal enforcement action.

If you wish to discuss any aspect of your case, you can call me at _____ (phone number).

Because I am often in the field, the best time to reach me is between _____(time and days available).

Sincerely,

(name and title)

(date)