

**LOCAL LAW #3
OF 2021**

THE JUNK LAW /

JUNKYARD LAW

OF THE

TOWN OF FREEDOM

**LOCAL LAW #3 OF 2021, THE TOWN OF FREEDOM,
"THE JUNK LAW OF THE TOWN OF FREEDOM"**

SECTION 1

AUTHORITY: The Town Board of the Town of Freedom enacts the following local law pursuant to the authority granted to the Town by Section of the Municipal Rule Law and in Section 130 (6) of the Town Law.

SECTION 2

LEGISLATIVE INTENT: The Town Board of the Town of Freedom hereby declares that a clean, wholesome and attractive environment is of vital importance to the continued health, welfare, and safety of its citizens. By adoption of this law, the Town declares its intent to preserve and promote a reasonable quality of environment aesthetics and to prohibit actions and conduct that tend to depreciate not only the property on which the offending material is located, but also the property of other people in neighborhood and community generally.

- A.) Therefore, the accumulation, storage and abandonment of unusable motor vehicles and component parts, thereof, and junk, garbage, litter, trash, refuse, debris, abandoned to be detrimental to the public health, welfare, and safety of the residents of the Town of Freedom.
- B.) Therefore, the deposit and accumulation or maintenance of unusable motor vehicles and components parts, therefore, junk, garbage, litter, trash, refuse, debris, abandoned appliances and other waste materials is hereby prohibited within the Town of Freedom.

SECTION 3

APPLICABILITY: The provisions of this law shall apply to all territory within the Town of Freedom in addition to the addition to the provisions of any other local ordinance adopted by the Town. Where there is a conflict between the present law and a prior existing law, this law shall prevail.

SECTION 4

EXEMPTIONS: The Town specifically allows the following short-term temporary exemptions from compliance with the Junk Law:

- A.) Absences from real property due to service in the United States Armed Forces;
- B.) Extended hospital stays; and
- C.) Up to six (6) months from the date of death of the fee owner of the premises.
- D.) Other circumstances determined by the Court to merit a stay of enforcement.

SECTION 5

DEFINITIONS:

AGRICULTURAL MACHINERY: Machinery used for agricultural purpose, including farming production of field crops, dairying, pasturage, horticulture, floriculture, agriculture, aquaculture, viticulture, production of maple sap, tree farms, mushroom farms, and animal and poultry husbandry. Such machinery includes that used for packing, treating, or storage agricultural products (i.e. a milk holding tank). Agricultural machinery does not include the machinery used for a commercial slaughterhouse, but does include machinery used for deer processing. Tractors are understood to be agricultural machinery.

ANTIQUE AGRICULTURAL MACHINERY: Agricultural machinery over twenty-five years of age prior to the current year, and not a reproduction thereof, which has been maintained in or restored to, or will be maintained in, or restored to, a condition which is substantially in conformance with the manufacturer's specifications.

JUNK AGRICULTURAL MACHINERY PARTS: Parts, whether useable or not, in whole or in part, or waste material, which are derived from agricultural machinery.

ENFORCEMENT OFFICER: The code enforcement officer, or any police or peace officer of the State of New York, Deputy Sheriff or any person appointed by the Town Board to enforce provisions of the law.

GARBAGE: Discarded useless or rejected matter; Also, putrescible animal and vegetable waste resulting from growing processing, marketing and preparation of food items, including the container in which the material was packaged.

JUNK: Worn out or discarded material of little or no value, including, but not limited to the following items: junk appliance, junk furniture, junk mobile home, junk motor vehicles, part of vehicles or litter and debris, junk agricultural machinery, junk trailers, junk other motorized machinery, rubbish, clutter, garbage litter, debris, and waste material.

JUNK APPLIANCE: Any stove, washing machine, dryer freezer, refrigerator, air conditioner, television, or other household device, or equipment which is abandoned, junked, discarded, or wholly, or partly dismantled.

JUNK FURNITURE: Abandoned, discarded or irreparable damaged pieces of indoor furniture including, but not limited to, sofas, lounge chairs, mattresses. Bed frames, desk, tables, chairs, and chest of drawers, and like items.

MOBILE HOME: A single family dwelling that is built in an off-site manufacturing facility for installation or assembly at a building site, designed to be a permanent residence, and built prior to the enactment of Federal Manufactured Housing Construction and Safety Standards Act of 1974. "Mobile home" does not include a trailer.

JUNK MOBLIE HOME: Any mobile home which meets the following conditions:

- a. The electrical service is disconnected or terminated; and
- b. It is abandoned as a dwelling unit; and
- c. It is no longer able to be used as the manufacturer intended; or
- d. It can no longer fir for human habitation and has been condemned.

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

JUNK MOTOR VEHICLE: Any motor vehicle, which meets the following conditions:

- a. It is unregistered;
- b. It is abandoned, wrecking, or partly dismantled;
- c. It is not in condition for legal use upon the public highway; and
- d. It can no longer be used as the manufacturer intended.

ANTIQUE MOTOR VEHICLE: A motor vehicle over twenty-five years of age prior to the current year, and not a reproduction thereof, which has been maintained in or restored to, or will be maintained in, or restored to, a condition which is substantially in conformation with the manufacturer's specifications.

OTHER MOTORIZED MACHINERY: All vehicles propelled or drawn by power other than muscular power originally intended for use outside of and off of public highway. This includes, but is not limited to, lawn mowers, lawn tractors, snow mobiles, and all terrain vehicles (A.T.V.s).

JUNK OTHER MOTORIZED MACHINERY: Any other motorized machinery, as defined in this section, which meets the following conditions:

- a. Its is unregistered; and/or
- b. Its is abandoned, wrecking or partly dismantled; and
- c. It can no longer be used as the manufacturer intended.

ANTIQUE OTHER MOTORIZED MACHINERY: Other motorized machinery, as defined elsewhere in this section, which is over twenty-five years of age prior to the current year, and not a reproduction thereof, which has been maintained in or restored to, or will be maintained in, or restored to, a condition which is substantially in conformance with manufacturers' specifications.

OUTDOOR STORAGE: The placing, maintaining, keeping of junk, clutter litter, rubbish, debris and waste material in a place other than a structure with a roof and fully enclosed on all sides.

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, tires, cigarettes, lumber, brick, stone and other building materials no longer intended or in condition for use ordinary use; and any and all tangible personal property no longer intended for ordinary and customary use.

TRAILER: A vehicle so constructed as to be suitable for attachment to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, and capable of being used for temporary living, sleeping or eating accommodation of persons, notwithstanding that such vehicle is jacked up. A self-propelled recreational vehicle shall also be construed to be a trailer. A trailer is not a mobile home or a manufactured home. This definition includes motor homes, R.V.'s truck campers, camping trailers, and overnight trailers.

JUNK TRAILER: Any trailer which meets the following conditions

- a. The electrical service is disconnected or terminated;
- b. It is abandoned as a dwelling unit; and
- c. It is no longer able to be used as the manufacturer intended; or
- d. It is no longer fit for human habitation and has been condemned.

WASTE: An unusable or unwanted substance of material, such as waste product, garbage, and trash, which is regarding or discarded as worthless or useless.

JUNKYARD: The outdoor storage or deposit of any of the following, whether in connection with another business or not:

- I.) Three (3) or more junk motor vehicle.
- II.) One (1) or more junk mobile homes.
- III.) Three (3) or more junk appliances.
- IV.) Six (6) or more pieces of junk furniture.
- V.) Any combination of the above that totals six (6) or more items.
- VI.) Ten (10) or more automotive tires.

SECTION 6

JUNKYARD PERMIT

Other State Programs Relevant to Junkyards

Many other sections of the State statutes and regulations impact junkyards and junk dealers. Examples from the Environment Conservation Law, Vehicle and Traffic Law, and General Business Law are below.

A.) Automobile Recyclers

In addition to establishing SEQRA regulations, the Department of Environmental Conservation (DEC) regulates aspects of the automotive recycling industry to ensure protection of the environment. The subject of regulation includes disposal of waste fluids, control of the storm water runoff, tank registration, refrigeration reclamation, waste tire storage, waste battery storage, open burning, solid waste disposal, and storage of used oil. DEC has published a guide on its website entitled, "Environmental Compliance and Pollution Prevention Guide for Automobile Recyclers."

<http://www.dec.ny.gov/chemical/28650.html>

Where serious environmental problems are suspected, a municipality should contact the regional office of the Department of Environmental Conservation.

Disposal of waste tires is an important solid waste issue facing automobile recyclers. According to the Department of Environmental Conservation (DEC), "[W]aste tires pose a significant environmental threat to public health and the environment. Waste tire piles provide a breeding ground for mosquitoes, which may carry disease, and also present a serious fire hazard."

B.) Dismantler's Permit

Regardless of whether a municipality has a junkyard law, persons owning and operating a junkyard may need to obtain a dismantler's permit from the New York State Department of Motor Vehicles, Division of Vehicle Safety Service under Vehicle and Traffic Law §415-a. This permit is required where the permittee will be a vehicle dismantler, defined in the statute as "any person who is engaged in the business of acquiring motor vehicles or trailers for the purpose of dismantling the same for parts or reselling such vehicles as scrap," or will be undertaking any of the other activities relating to the salvage of vehicles which are regulated. Since many junkyard business owners engage in those activities, they will also need to apply for a dismantler's permit from the State.

A local government has limited involvement in the dismantler's permit process. The applicant for a dismantler's permit must first provide a copy of a license, issued by the municipality, evidencing that the business conforms to all local laws and ordinances, as well as conforming to GML §136 when it applies in the municipality. Alternatively, the applicant may provide a statement from the local governing body that the business may operate at its location and that no local law license or permit is required. The statement must be on municipal letterhead and must contain the printed name, signature and title of the official preparing it.

The New York State Department of Motor Vehicles is charged with administering and enforcing dismantler's permits, and if notified will send an inspector to the site of a possible unpermitted operation. Acting as a dismantler without a permit from the State is a violation of Vehicle & Traffic Law § 415-a (1), and carries criminal penalties.

C.) Junk Dealer's License

Article 6 of the New York State General Business Law requires that a person who is engaging in the business of buying or selling old metal obtain a junk dealer license from the chief elected official of the municipality. An exception is made for people who have obtained a scrap processing license under Article 6-C of the General Business Law. The junk dealer's license expires on June 30th of each year and cost five dollars to renew. No person who has been convicted of larceny or knowingly receiving stolen property may receive such a license.

D.) PERMIT REQUIRED – No person shall establish or maintain a junkyard or permit the storage of junk unless a permit has first been issued for such junkyard pursuant to this law. No person shall license, lease, or knowingly allow the use of real property for a junkyard unless a permit shall have been issued for such junkyard pursuant to this local law.

E.) JUNKYARD APPLICATION CONTENTS – Each person applying for a junkyard license shall complete an application supplied by the municipality and contain the following information:

- 1) A map of the site where the junkyard is proposed, including address and real property tax number drawn at a scale of not more than one-inch equals 100 feet;
- 2) Property lines including the names of owners of adjacent property;
- 3) Streams, lakes, wet lands, flood plains, and other water bodies, including those available for fire protection purposes;
- 4) The topography of the site and any plans for grading the property to be shown at a contour interval of not more than 5 feet;
- 5) The location of all wells and sanitary facilities on the property or within 100 feet of the boundary of the property;
- 6) Drainage patterns on the site;
- 7) Existing and proposed structures, including fences;
- 8) Roads and easements adjacent to, on or through said property;
- 9) Existing and proposed junk storage areas, indicating the type of junk or material which will be stored in each area; and
- 10) Existing and proposed access ways, aisles, parking and landing areas.
- 11) The name, residences, address and telephone number of each individual owner, partner, or if a corporation or other organization, each officer and director.

- 12) The trade name, address and telephone number of the business
- 13) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, or any violation of Article 6 of the General Business Law.
- 14) The name and address of the owner of real property and the nature of the right under which the applicant possess the property.
- 15) Whether the applicant has obtained a valid junk dealers license under Article 6 of the New York State General Business Law.

F.) ENVIRONMENTAL COMPLIANCE – An environmental assessment form (EAF) shall be completed and submitted with all applications. For unlisted actions, the Board may require either a short- or long-form EAF. For Type I actions the applicant shall supply a long-form EAF. If the Board determines that the proposed activity may have a potentially significant adverse impact on the environment, the Board shall prepare or cause to be prepared a draft environmental impact statement. The application shall not be determined complete for review until the Board has either issued a negative declaration or accepted a DEIS as satisfactory with respect to scope, content and adequacy.

G.) PUBLIC HEARING – The governing Board shall conduct a Public Hearing within 62 days from the date that a complete application is received. Notice of the hearing shall be made in a newspaper in general circulation in the municipality at least 5 days prior to the date of the hearing.

H.) BOARD ACTION – Within 62 days of the close of said hearing the governing body shall render a decision on the application of a permit based on general considerations and the ability to meet the junkyard regulations. The 62-day period may be extended by mutual consent of the applicant and the Board. The Board shall have the authority to impose reasonable conditions and restrictions as are directly related to incidental to the proposed junkyard permit.

The Board shall make finds related to the standards and proposed set forth in this law, and shall enter such findings into the official minutes. The decision of the Board shall be filled in the office of the municipal clerk within 5 business days of the date it was rendered and the applicant shall be notified of the decision and the reason for such decision by mail within 5 business days of the decision of the Board. If denied, the Board shall include reasons for such denial.

I.) ISSUANCE OF PERMITS – Upon approval of the junkyard plan and application, and payment of the fees and reimbursable costs due the municipality, the Board shall endorse its approval upon a copy of the final junkyard plan and application.

J.) WAIVERS – The governing body may waive certain requirements of the law if one or more of the following circumstances are met:

- 1.) Granting the waiver would be in keeping with the intent and spirit of this law, and is in the best interests of the community; or
 - 2.) Denying the waiver would result in undo hardship to the applicant provided that such hardship has been self-imposed.
- The governing body shall state the grounds for any waiver granted in the minutes of its decision. The waiver granted shall be minimum necessary to accomplish the purpose.

K.) EXCLUSIONS – The following conditions are hereby excluded from the definition of a junkyard:

- 1.) Unlicensed vehicle 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 of machinery during their off-season if kept location not visible from any road, street or highway, when practicable, otherwise a seasonal use permit must be applied for and received.
- 3.) Farm machinery, including tractors, where such machinery is actively used. Farm machinery shall be kept in a location not visible from any road, street or highway.
- 4.) An antique or classic motor vehicle which is being restored under the conditions of a restoration permit.

Antique Motor Vehicle – a motor vehicle, but not a reproduction thereof, manufactured more than 25 years prior to the current year, which has been maintained in or restored to, or will be maintained in or restored to, a condition which is substantially in conformance with manufacturer’s specifications.

Classic Motor Vehicle – a motor vehicle, but not a reproduction thereof, manufactured more than 10 years prior to the current year and which because of discontinued production and limited availability, is considered to be a model or make a 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 specifications and appearance.

L.) RESTORATION PERMITS – Upon written application and a fee to be established by resolution of the governing board, the municipal clerk shall issue a permit for the open storage of one motor vehicle or one or more antique or classic vehicle otherwise prohibited by this local law, pending the 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. Such permit shall be valid only for the vehicle and location identified. Application for a restoration permit shall include the following:

- 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 motor vehicle is stored. If the owner of the motor 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.
- 3) The make, model, year of manufacture, serial number, and color of the motor vehicle.
- 4) The most recent year of the registration, state registered in, plate number and registration number.
- 5) The expiration date of the most recent inspection and serial number of the inspection sticker.
- 6) Identification of who will make the repairs and the location where those repairs will be made.
- 7) Certification that the owner tends to restore said vehicle within 180 days (6 months) from the date of the application. They can renew up to 2x's for an additional application.

The motor vehicle shall be adequately supported and shall not create a safety hazard while repairs are being made. Any violation will result in the immediate revocation of the restoration permit, and the vehicle shall be subject to the provisions of this junk law. Permits are valid for 180 days and may be renewed for a specific vehicle 2 times for a period of 180 days. A copy of the restoration permit shall be affixed to the interior of the windshield in order that the permit information is visible from the street.

M.) JUNKYARD LOCATION – Within the permit to obtain a junkyard license from the town the boundaries must be designated and the yard must be a minimum of 1 (one) acre. No junk storage area shall be located within 500 feet [or greater] from the following: any adjoining property line; any public park, church, educational facility, nursing home, public building or other place of public gathering; or the right-of-way of communities that wish to control the accumulation of household waste and debris. The only exemption to these set-back provisions is that a junkyard may be within no less than 50 feet of an adjoining property line if the junkyard has a fence that meets the height and design requirements stated in this law. A Licensed junkyard may not be located on a tax parcel less than 5 (five) acres.

N.) FENCING & SCREENING- The applicant shall erect and maintain a fence that is 8 feet high, enclosed the entire junkyard, contains a locking gate that is adequate to prohibit

the entrance of children and other into the area of the activity of business, and contains within the fence all junk applications, junk furniture, junk mobile home, junk motor vehicles and materials originating from such items.

Where a junkyard is or would be visible from a public highway or from neighboring properties, the fence would be made of wood or other materials sufficient to totally screen the junkyard from view of roadways or neighboring properties.

O.) FIRE SAFETY- Inside, adjacent to and continuous with the fence or enclosure, one strip of land at least ten feet in width shall be kept free of all dry grass, junk, plant growth, or other combustible material so as to provide a fire lane or break around the entire area where business activity is conducted.

P.) APPROVED JUNKYARD ITEMS- The governing board shall specify in the junkyard permit which types of junk may be stored or deposited in the junk storage area. No items shall be stored in any junk storage area other than those items specified on a junkyard permit approved by the governing body pursuant to this law.

No person shall knowingly store, dump, litter, dispose of, or otherwise place more than 10 waste tires on private property. The term 'waste tire' shall mean whole tires or portions of tires. If the property is operating a legal automotive repair shop, they are allotted 300 tires. Operating farms are exempt from the regulation of used tires if the farm operation is using the tires for the storage of feed in a bunker silo or for any other acceptable agriculture practice (i.e. – holding down plastic on crop fields for weed control).

Q.) BURNING AND BURYING- No materials shall be burned or buried in a junkyard except in compliance with Article 27 of the Environmental Conservation Law of the State of New York and its implementing regulations promulgated by the New York State Department of Environmental Conservation (Part 360 of the Official Compilation of Codes, Rules and Regulations of the State of New York or "6 NYCRR Part 360") and any other applicable law or ordinance of the municipality.

R.) ENFORCEMENT OFFICER- This law may be enforced by the building inspector, the zoning enforcement officer, or by any police officer of the municipality. Said person shall have the authority to enforce the provisions of this chapter and to inspect premises within the municipality as necessary for said enforcement. The enforcement officer shall make periodic inspections of the municipality to ensure that all existing junkyards have permits and that the requirements of this law are met.

S.) REVOCATION PERMIT- The governing board may revoke a junkyard permit upon reasonable cause should the applicant fail to comply with any provisions of this law or any condition of the permit. Before a permit may be revoked, a public hearing shall be held by the governing board. Notice of the hearing shall be made in the official newspaper at least

five days prior to the date thereof. The permit holder shall be notified of the hearing by written notice prior to the hearing.

Written notice may be served by personal service or through certified mail return receipt requested to the last known address of the property owner or junkyard operator if different than the property owner. Service of such notice shall be made 60 days before scheduled hearing. When service is made by certified mail return receipt requested, service shall be deemed complete upon delivery of the notice.

T.) OPERATING A JUNKYARD WITHOUT A PERMIT- If the enforcement officer shall find that an alleged junkyard exists without the necessary permit, 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 Justice.

U.) PENALTIES AND REMEDIES- Any person who shall violate any of the provisions of this law shall be guilty of a violation and subject to the following: (1) a fine not to exceed \$350.00 or imprisonment for a period not to exceed fifteen days, or both or (2) a penalty of \$350.00 to be recovered by the municipality in a civil action.

Every such person shall be deemed guilty of separate violation for each week such violation, disobedience, omission, neglect or refusal shall continue.

SECTION 7

PROHIBITIONS: It shall be unlawful for any person to place, store, deposit, abandon, maintain or cause to permit to be stored, deposited, placed, abandoned, or maintained on any real property owned, or occupied as a tenant by such person, junk agricultural machinery, junk agriculture machinery parts, junk mobile homes, junk vehicles, junk motor vehicle parts, junk otherwise motorized machinery, junk trailers, junk rubbish, clutter, litter, debris, waste material, and/or garbage upon any real property, upon real private property within the town for more than ninety (90) days for three (3) months.

It shall be unlawful for any person to use a bus, uninhibited mobile home, truck, truck trailer, horse trailer, semi-trailer, tank truck, or similar units for storage of junk, clutter, debris, and/or garbage on any property within the township.

All owners, occupants, lessees and tenants maintaining properties are not excused from maintaining their property in accord with this law.

SECTION 8

EXCLUSIONS: The following are excluded from this law:

- A.) Wood intended for consumption in a woodburning stove, furnace or fireplace located on the premises.**
- B.) Lawn, yard, or garden ornaments, and implements.**
- C.) Lawn and patio furniture**
- D.) Operable agricultural machinery, garden machinery, yard machinery and apparatuses used on the premises.**
- E.) Standing fences.**
- F.) Hoses and sprinklers used for watering lawns, gardens or crops.**
- G.) Storage or placements of accumulation of materials in connection with commercial or agricultural operation duly conducted on the premises or such storage, placement, accumulation as expressly permitted by laws of the township or as needed for agricultural purposes.**
- H.) Temporary use of uninhabited mobile home, tuck trailers, horse trailers, semi-trailers, tank trucks for construction purposes or for the storage of agricultural materials.**
- I.) Construction materials and equipment used for the construction or renovation of a building on the premises for which a valid or current building permit has been issued.**
- J.) It is to be noted that the enforcement of this law is specifically limited to what junk, litter, rubbish and debris, junk agricultural machinery is within the view sight of persons lawfully traveling on the public highways or within sight of neighboring property and said offending item is within sight of the public highways or the neighboring property for a period greater than ninety (90) days.**

SECTION 9

ENFORCEMENT

- 1. ENFORCEMENT OFFICER:** This local law may be enforced by the Building Code Enforcement Officer of the Town of Freedom, a duly appointed Constable of the Town of Freedom, or a duly appointed Peace Officer with jurisdiction within the Town of Freedom. Said person shall enforce the provisions of this law any alleged violations that he has reason to believe has occurred or is occurring.
- 2. COMPLAINTS:** Any person may file a complaint with the Building Enforcement Officer, Constable or Peace Officer that a violation of this law may have taken place. The individual investigating shall properly record and thoroughly investigate any such complaint. The individual

enforcing the law may also investigate any alleged violation that he has reason to believe has occurred or is occurring.

A) Where complaints are unfounded and a pattern of reported unfounded complaints is shown, the complainant may be referred to the District Attorney and prosecuted for harassment.

3. **PROCEDURE:** If the owner or occupant shall fail to comply with the requirements of this local law, the individual enforcing the law as identified in Section A, or the Town Board, may institute enforcement procedures as follow:

A) The Enforcement Officer is hereby authorized to issue an appearance ticket to such person or persons pursuant to Section 150.20 of the Criminal Procedure Law (No. 3) requiring the charged individual or corporation's appearance in the Justice Court to answer a charge of the violation of this law.

1. The Notice to Comply should contain the following information:

- a. The name of the owner or occupant to whom the notice shall be addressed.
- b. The location of the premises involved in the violation.
- c. A statement of the facts, of which it is alleged, violated this.
- d. A demand that the offending material be removed so as to be in compliance with law within thirty (30) days after the service for mailing out of the notice.
- e. A statement that a failure to comply with the demand may result in prosecution.
- f. A copy of the law.

4. **TIME SPAN FROM THE FILLING OF THE TICKET:** Upon filing of the written notice to comply, the individual has thirty (30) days to come within compliance of the law.

A. An Individual receiving Notice to Comply, which is initially considered a warning, shall have thirty (30) days to cure the alleged violation.

B. Following the expiration of the thirty (30) warning period, the individual shall be supplied with a court date which will then

require the individual's appearance in the Town of Freedom Justice Court.

- C. An Individual may request, in Justice Court, an opportunity to apply for an extension from the Court. The Court may grant an extension, upon the owner or occupant showing reasonable cause, up to ninety (90) days for the owner or occupant to comply.
1. Reasonable cause exists when the property owner can demonstrate good faith, due diligent effects in commencing the removal of the offending material to the satisfaction of the Court.
 2. In granting an extension, the Court may determine that one (1) of the exemptions under Section 4 applies and grant a longer extension. Where extensions are granted by the Court for matters other than one of the exemptions under this local law, such extensions may not be granted more than three times, 270 days.
 3. Failure to clean up the premises in the period of the extension granted by the Court creates an issue of strict liability where the premises owner or occupant shall be fined.

5.PUBLIC NUISANCE: Where the Town Board finds that a violation, or series of violations, amounts to a public nuisance requiring abatement by the town, the town has two (2) options:

1. The town may maintain an action or proceeding in court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this local law. The requested relief in such action may include an order permitting the town to remove and dispose of the material causing the violation. The expense, thereof, including court cost and reasonable attorney fees, shall be charge against the affected property, and, if unpaid, shall be included in the next annual tax levy against the property. The charges shall than be collected in the same manner, at all same time, as the town taxes paid.
2. The town may hold a public hearing in this matter. Public notice is to be posted conspicuously on the subject property. The notice shall be sent to the last known address of the property owner, as it appears in the current assessment records of the municipality, by certified mail, return receipt requested or served on the owner by personal service. The date for the public hearing shall be posted on the served notice, and the service shall not be less than fifteen

(15) calendar days, inclusive of the date of service prior to the date of the public hearing. The notice shall:

- 1. Identify the premises as it appears on the current assessment role.**
- 2. Contains a statement of the conditions of the property deemed upon inspections to constitute a public nuisance.**
- 3. Contain a demand that the condition or conditions constituting the public nuisance be immediate abated or removed before the date of the hearing specified in this notice.**
- 4. A statement that 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 contain a statement that the costs and expenses of such abatement or removal shall be the responsibility of the owner, tenant or occupant, and, without limitations of the town's potential remedies to recoup its expenses, such cost and expenses shall be charges against the affected property and, if unpaid, shall be included in the next annual tax levy upon the property. The cost eventually collected in the same manner and at the same time as the other town charges.**

SECTION 10

PENALTIES: A person convicted of a violation of this local law shall be guilty of a violation punishable by a fine with a minimum charge of \$250.00 per violation and a maximum charge of \$500.00 per violation. Each day that the violation continues, constitutes a separate violation. Unpaid penalties shall be included in the next annual tax levy against the subject property. A person convicted of a violation of this local law may also be eligible to be punished with a one (1) day stay in County Jail for a violation of this offense. Any person convicted of violation of this local law is deemed to be maintaining a public nuisance.

SECTION 11

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 judgement 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 judgement shall have been rendered.

SECTION 12

EFFECTIVE DATE: This local law shall take effect upon filing thereof with the Secretary of State.