

## **LOCAL LAW NO: 2002-1**

### **133-1 TITLE:**

This Local Law shall be known as the "Property Maintenance Law of the Village of Tannersville".

### **133-2 LEGISLATIVE FINDINGS AND PURPOSE:**

The Village Board of the Village of Tannersville hereby finds that the outdoor storage, accumulation, deposit or placement of: abandoned, junked, discarded, wholly or partially dismantled or unlicensed or unregistered motor vehicles, rubbish, debris, or solid waste upon private property threatens the health, safety and welfare of Village residents. Outdoor storage, accumulation, deposit or placement of such items creates a significant fire hazard, endangers the environment and ground water, leads to infestation by insects, vermin or rodents, depreciates property values, and has a deteriorating and blighting effect upon the neighborhood and community.

The Village Board hereby determines that the outdoor storage, accumulation, deposit or placement of abandoned, junked, discarded, wholly or partially dismantled or unlicensed or unregistered motor vehicles, rubbish, debris, or solid waste upon private property constitutes a public nuisance.

### **133-3 DEFINITIONS:**

"Motor Vehicle": As used in this chapter, the term "motor vehicle" includes all vehicles as defined by NYS Vehicle and Traffic Law 125.

"Rubbish": As used in this chapter, the term "rubbish" includes all discarded or worthless nonputrescible solid wastes consisting of both combustible and noncombustible wastes, including but not limited to paper and paper products, rags, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, metals, plastics, tires, bedding, cloth, crockery, furniture, appliances and similar items.

"Debris": As used in this chapter, the term "debris" includes all materials resulting from the construction, excavation, renovation, equipping, remodeling, repair or demolition of structures, property or roads as well as materials consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm related clean up. Such materials include but are not limited to: bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non asbestos insulation, roofing shingles, asphaltic pavement, glass, window frames, electrical wiring and components, plastics, carpeting, foam padding, linoleum, metals, or any combination thereof which are incidental to construction, excavation, renovation, equipping, remodeling, repair or demolition.

"Solid Waste": As used in this chapter, the term "solid waste" includes all putrescible and nonputrescible materials and substances discarded or rejected as having served their original intended use or as being spent, useless, worthless or in excess to the owner at the

time of such discard or rejection, including but not limited to household and comical garbage, industrial waste, rubbish, debris, litter, and ashes.

"Garbage": As used in this chapter, the term "garbage" includes all putrescible animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including container in which packaged.

All other terms as used in this chapter shall have their common and ordinary meaning.

**133-4 OUTDOOR DEPOSIT OR STORAGE OF WASTE:**

No person, as owner, occupant, lessee or agent, or in any capacity shall store, deposit, place, maintain or cause or permit to be stored deposited, placed or maintained outdoors any abandoned, junked discarded, wholly or partially dismantled, unlicensed or unregistered motor vehicle or any solid waste, rubbish or debris upon any private property with the Village. This section shall not apply to any solid waste, rubbish or debris temporarily stored or placed in a container for collection or disposal.

Violation of this section shall be punishable by a fine of not less than \$50.00 or more than \$100.00 for each day the violation has existed and/or up to fifteen days in jail.

**133-5 INSPECTION:**

Whenever it shall appear that the provisions of this chapter are violated, the Building Inspector and Code Enforcement Officer or any such other officer or employee authorized by the Village to have jurisdiction thereof, shall make an inspection of the property involved and shall prepare a written report of the conditions found, which report shall be filed with the Village Board.

**133-6 NOTICE OF VIOLATION:**

If conditions existing on the inspected property violate the provisions of this chapter, the Building Inspector and Code Enforcement Office or other designated officer or employee shall serve or cause to be served a written notice of such violation, either personally or by certified mail, upon the owner or owner's agent as well as upon the lessee or occupant of said premises.

Said notice shall contain substantially the following: the name of the owner, lessee or occupant of the premises; the address or location of the premises; the identification of the premises as the same appears on the current assessment roll; a statement of the conditions on the property deemed upon inspection to be in violation of this chapter; demand that the motor vehicle, solid waste, rubbish or debris determined to be in violation of this chapter be removed from the property on or before 10 days after the service or mailing of such notice; a statement that a failure or refusal to comply with the provisions of this chapter and the notice given pursuant thereto within the time specified may result in a duly authorized officer, agent or employee of the Village entering upon the property and removing such motor vehicle, solid waste, rubbish or debris and causing the same to be disposed of or otherwise destroyed; and that

the cost and expense of such removal and disposal or destruction shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law

Said notice shall also contain the date, time, and location at which the Village Board will conduct a public hearing to determine whether the conditions upon the subject property constitute a public nuisance. Said notice shall state that the property owner, his/her agent, lessee or occupant is entitled to be heard at such hearing and present evidence or testimony. The date of such public hearing must be at least 10 days after service or mailing of the Notice of Violation. Notice of the public hearing shall be published in a paper of general circulation in the Village at least five days prior to the date of the public hearing.

Nothing contained herein shall require notice as a prerequisite to the issuance of a summons or appearance ticket for a violation of any of the provisions of this chapter.

**133-7 2ND INSPECTION AND REPORT:**

On or before the date of the public hearing and prior to commencement of the public hearing, the Building Inspector and Code Enforcement Officer or other duly authorized officer or employee shall conduct a second inspection of the property and file a written report of the conditions deemed in violation of this chapter found thereon with the Village Board. Such inspection shall be conducted as close to the date of the public hearing as practicable.

**133-8 DECLARATION OF PUBLIC NUISANCE AND REMEDIATION:**

At the close of the public hearing, the Village Board may determine that the conditions upon the subject property which violate this chapter constitute a public nuisance. Upon a determination by the Village Board that conditions upon the property constitute a public nuisance, the Village Board is empowered to authorize officers, agents or employees of the Village to enter onto the property to remove any vehicle, solid waste, rubbish or debris stored, deposited, placed or maintained in violation of this chapter and dispose of or otherwise destroy same. Any costs and expenses incurred by the Village when acting pursuant to this chapter to abate a public nuisance shall be assessed against the property involved and shall constitute a lien thereon to be collected as provided by law.

**133-9 EMERGENCY ACTIONS:**

Nothing in this chapter shall prohibit a municipality from entering onto private property to remove any solid waste, motor vehicle, appliance, rubbish or debris whenever there exists an imminent threat to the life or safety of persons. Municipal authority pursuant to this section may only be exercised where there is a dire necessity to protect life and safety. Any municipal action taken pursuant to this section must be reasonably calculated to alleviate or prevent the crisis condition and must be limited to those actions necessary to eliminate the emergency situation.

A property owner shall be given notice and an opportunity to be heard prior to any costs and expenses incurred pursuant to this section being placed on the property's tax bill.

**133-10 JUDICIAL RELIEF:**

Nothing contained in this chapter shall prevent the Village from seeking judicial or equitable relief to abate violations of this chapter.

**133-11 GRACE PERIOD FOR COMPLIANCE:**

Any person, owner, occupant, lessee or agent who on the date of the effective date of this Local Law is in violation of any provision of this Local Law shall have six months from the effective date of this Local Law to remove such pre existing articles or material enumerated in section 133-4 from their property or premises. Thereafter such persons or entities shall be subject to the same enforcement provisions as if the violation first occurred on the day following the expiration of six months from the effective date of this law. Nothing contained herein shall exempt a person or entity or create a "Grace period" from the provisions of section 133-9 "Emergency Actions" from the effective date of this Law. Nor shall any person or entity be permitted to dump or create any new violation of section 133-4 after the effective date of this Law.

**133-12 SEVERABILITY:**

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

**133-13 VARIANCES:**

Upon application to the Village Board of Trustees, a variance to the provisions of this Law may be granted as to the storage of pre existing unregistered vehicles upon certain properties on a finding by the Village Board of Trustees that an undue economic hardship would result to the owner of a business or resident. Such business owner or resident, upon proof of economic hardship and upon proof to the Village Board that the applicant can store such vehicles in a manner that the vehicles would not be visible from a public street or unduly impact upon their neighbors, may be granted a variance to this Law upon such conditions as the Village Board determines in its sole discretion are just. Any violation of a condition of variance shall be treated as a violation of this Local Law.

**133-14 EFFECTIVE DATE:**

This Local Law shall be effective upon filing with the Secretary of State.