

LOCAL LAW NO. 2-1998

**JUNK STORAGE LAW
TOWN OF PERTH
FULTON COUNTY, NEW YORK**

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF PERTH:

ARTICLE A. INTRODUCTION

Section 1. Authority

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

Section 2. Title

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

Section 3. Purpose of the Junk Storage Law

By adoption of this law, the Town of Perth declares its intent to regulate and control the storage or keeping of junk, and to regulate junkyards whether operated for commercial profit or otherwise. The Town 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.

Section 4. Prior Existing Junkyard Law

The local law shall replace and supersede any prior existing Junkyard Law of the Town of Perth.

ARTICLE B. DEFINITIONS

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

Enforcement Officer: Any person appointed by the Town Board to represent it in particular matters pertaining to this local law.

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

- 1) Two or more junk motor vehicles.
- 2) One or more junk mobile homes.
- 3) Two or more abandoned or inoperable appliances including, but not limited to, washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.
- 4) Two or more abandoned or irreparably damaged pieces of indoor furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
- 5) Any combination of the above or parts of the above that total two or more items.

- 6) All waste material of any nature including but not limited to, paper, plastic, newspapers, cans, bottles, glass, rags, old lumber, machinery, tires, scrap metal, fabrics, pallets, garbage, and old barrels.

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. This includes but is not limited to mobile homes, travel trailers, and campers.

Junk Storage Area:

The areas of any parcel of land or water used or intended to be used for the placement, storage or deposit of junk.

Junk Vehicles:

Two or more unregistered, old, secondhand 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 two or more such vehicles. A vehicle is considered junked when it meets all of 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 repair to operating condition than its reasonable market value at the time before such repair.

Junkyard:

The outdoor storage or deposit of any of the following:

- 1) Five or more junk vehicles.
- 2) Two or more junk mobile homes.
- 3) Five or more junk appliances.
- 4) Five or more pieces of junk furniture.
- 5) Any combination of the above that totals five items.

Motor Vehicle:

All vehicles propelled or drawn by power other than muscular power originally intended for use of public highways.

Person:

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

ARTICLE C: JUNK REGULATIONS

No junk shall be located so as to be visible from public roads.

ARTICLE D: JUNKYARD REGULATIONS

Section 1. Location

No junk storage area shall be located within:

- A. 75 feet of any adjoining property line;

- B. 1,200 feet of any public park, church, educational facility, child care center, nursing home, public building or other place of public gathering;
- C. 75 feet of any stream, lake, pond, wetland, or other body of water, unless inconsistent with any public health or environmental conservation laws, rules, or regulations; or
- D. 75 feet from the right-of-way of any public highway.

Section 2. Fencing

There must be erected and maintained a fence with a height of eight to fifteen feet (subject to the discretion of the Code Enforcement Officer), 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 to 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. Such screening may be permitted by adequate planting of evergreen trees or shrubbery.

Section 4. Burning

No materials shall be burned in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see NYCRR 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 NYCRR Part 360).

Section 6. Approved Junkyard Items

No junkyard items shall be stored in any junk storage area other than those items specified on a Junkyard Permit approved by the Town Board pursuant to this law.

ARTICLE E: JUNKYARD PERMIT

Section 1. Permit Required

- A. No person shall establish or maintain a junkyard within Town of Perth 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 Perth 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 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 Perth 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 time 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 Town Clerk. The completed forms, along with one copy of the deed to the premises for which the permit is

sought, one copy of the proposed site plan, and the appropriate fees, shall be returned to the Clerk. The Clerk shall submit the application materials to the Town 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 water bodies;
- D. all wells and sanitary facilities;
- E. all roads and easements;
- F. all existing and proposed 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 provisions of the State Environmental Quality Review Act, 6 NYCRR Part 617. If the EAF indicates that the proposed activity may have significant environmental consequences, the Town 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 Board.

Section 4. Application Fee

An application fee of \$200.00 shall accompany all new applications and applications for renewal.

Section 5. Public Hearing

The Town 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 Board shall hear the applicant and all other persons wishing to be heard on the application for a junkyard permit.

Section 6. Town Board Action

Within forty-five (45) days of said hearing, the Town Board shall render a decision to approve, approve subject to conditions, or disapprove 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. The decision of the Board shall immediately be filed in the office of the Town Clerk and the applicant shall be notified of the decision and the reasons 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 the Town, the Board shall endorse its approval upon a copy of the final site plan and application.

Section 7. Issuance of Permit

- A. If the application is approved by the Town Board, a Junkyard Permit shall be issued by the Clerk.
- B. If the application is approved with conditions by the Board, the Clerk shall issue a Junkyard Permit upon notification by the Enforcement Officer that said conditions have been complied with.

ARTICLE G: GENERAL CONSIDERATIONS

Section 1. Legal Considerations

In granting or denying a permit, the Town Board shall take the following legal factors into consideration:

- A. The applicant's ability to comply with the fencing contained in the General Municipal Law;
- B. The applicant's ability to comply with any applicable local requirements;
- C. Any record of convictions for larceny or receiving stolen that the applicant may have; and
- D. Any other information the Board considers relevant to the issuance of the permit.

Section 2. Aesthetic Considerations

In granting or denying a permit, the Town 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 established residential or recreational areas or main access routes thereto.

Section 3. Locational Considerations

In granting or denying a permit, the Town Board shall take the following locational 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, flood plains, groundwater supplies, and public water supplies.
- D. Local drainage patterns.
- E. Long range comprehensive plans for the town.
- F. Proximity of the site to established residential or recreational areas.
- G. Availability of other suitable sites for the junkyard.

ARTICLE H. ADMINISTRATION AND ENFORCEMENT

Section 1. Waivers

Where the Town 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 Board finds and records in its minutes that:

- A. Granting the waiver would be keeping with the intent and spirit of this law, and is in the best interests 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 any junkyard for which application for a permit has been made, or any other existing junkyard within the town, and shall report to the Board on the conditions of such junkyard.
- B. The enforcement officer shall make periodic inspections of the town 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 the premises of 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

- A. The Town 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 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 reasons for

such revocation shall be stated in the Board minutes. The permit holder shall be immediately notified of the revocation by certified mail.

- B. Notwithstanding the foregoing, the Town Board shall revoke a Junkyard Permit when, after the public hearing conducted as aforesaid, it shall find that the junkyard has become a public nuisance within the meaning of the law, or that the applicant has been convicted of a larceny or receiving stolen property.

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 (\$250.00). Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.
- B. In addition to the above provided penalties, the 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 restrain by injunction the violation of any article of this local law, or to recover any fine which is not timely paid.

ARTICLE I: SEVERABILITY

If any clause, sentence, paragraph, section, or article of this local 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.

ARTICLE J: EFFECTIVE DATE

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

Adopted July 7, 1998