

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

12 Pages

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
AUG 13 2002

~~County~~
~~City~~ of Westville
~~Town~~
~~Village~~

MISCELLANEOUS
& STATE RECORDS

Local Law No. # 3 of the year 2002

A local law JUNKYARD RESOLUTION LAW OF TOWN OF WESTVILLE
(Insert title)

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

~~County~~
~~City~~ of Westville as follows:
~~Town~~
~~Village~~

SEE ATTACHED

JUNKYARD REGULATION LAW OF TOWN OF WESTVILLE

Section I Title: The title of this law shall be Junkyard Regulation Law of Town of Westville.

Section II Purpose of Law: By the adoption of this Law, the Town of Westville 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 constitute a hazard to the 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 nuisance 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 III: The town of Westville Junkyard Regulations shall be as set fourth in the Articles set fourth below.

ARTICLE A DEFINITIONS

ENFORCEMENT OFFICER: Any person appointed by the Town Board to represent them in matters pertaining to this Local Law.

EXEMPT PROPERTY: The following shall be exempt from the provisions of this chapter:

- A. Antique, historical or classical motor vehicles or any motor vehicle having a unique status, giving it a special value because of its uniqueness. Any such vehicle in such state of disrepair as to be considered junk, as herein defined, shall have a period of twelve (12) months to show that substantial progress is being made in restoring such vehicle. The period of twelve (12) months shall commence upon the date the notice is given to remove said vehicle from the property where it is situated.
- B. Motor vehicles not designed to be operated upon public highways, including, but not limited to tractors and farm equipment, dirt bikes, racing cars, demolition derby cars being prepared for current season, dune buggies, snowmobiles, etc., which are in good operating condition.
- C. Any motor vehicle being parked or stored on premises occupied by a resident or owner, but temporarily out of use for a period not to exceed six months.
- D. Travel trailers, boat trailers, utility trailers and snowmobile trailers in good operating condition.

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

- A. Two or more junk motor vehicles
- B. One or more junk manufactured homes

- C. Two or more appliances including, but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions
- D. Two or more pieces of indoor furniture including but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chest of drawers.
- E. Any combination of the above or parts of the above that total two or more items.

JUNK MANUFACTURED 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 because of violations of the New York State Uniform Fire Prevention and Building Code. Includes but is not limited to manufactured homes, travel trailers and campers.

JUNK STORAGE AREA: The area 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, used motor vehicles, no longer intended or in condition for legal use on the public highway; or used parts of waste material from motor vehicles which, taken together, equal in bulk two or more such vehicles. A motor vehicle, unless it is exempt from this Law, is considered junked, when it meets any of the following conditions:

- A. It is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled
- B. It is not in any condition for legal use upon the public highway
- C. It is in such condition as to cost more to repair to operating condition, then its reasonable market value at the time before such repair

JUNKYARD: A place where there is outdoor storage or deposit of any of the following:

- A. Five (5) or more junk motor vehicles
- B. One (1) or more junk manufactured homes
- C. Five (5) or more junk appliances
- D. Five (5) or more pieces of junk furniture
- E. Any combination of the above that totals five (5) items

MOTOR VEHICLES: Passenger automobiles, trucks, tractor trucks, trailers, buses, motorcycles, tractors, recreation vehicles, bulldozers, machinery and equipment, drawn by power other than muscle power.

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

ARTICLE B: JUNK REGULATIONS

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

ARTICLE C: JUNKYARD AND JUNK STORAGE REGULATIONS

SECTION 1 LOCATION

No junk storage area or junkyard shall be located within:

- A. Thirty (30) feet of any adjoining property line.
- B. One thousand (1000) feet from any public park, church, educational facility, nursing home, public building or other place of public gathering.
- C. One hundred and fifty (150) feet from any stream, lake, pond, wetland, or other body of water.
- D. One hundred (100) feet from the right-of-way of any public highway

SECTION 2 FENCING

There must be erected and maintained an eight foot high fence enclosing the front of the junkyard and a locking gate to prohibit the entrance of children and others into the area of activity or business. Fencing requirements may be waived by a variance where topography or other natural conditions effectively prohibit the entrance of children and others.

SECTION 3 OPERATING STANDARDS

- A. Fire lanes offering adequate access to buildings and storage areas shall be provided and maintained as required under the New York State Uniform Fire and Building Code.
- B. All junk shall be piled or arranged in neat rows to permit easy, clear passage through the area.
- C. The licensee shall personally manage the activity for which the permit is granted.
- D. No junkyard shall be used as a dump area nor as a place for burning and disposal of trash. No junkyard shall receive any form of putrescible waste. No storage of any solid waste other than junk shall be allowed. No burying of solid waste shall be allowed.
- E. The Code Officer of the Town of Westville or any of its representatives, shall be granted access to any junkyard at all reasonable hours to inspect for compliance herewith.
- F. All junkyards within the Town of Westville are subject to the NYS and DEC regulations.

SECTION 4

SCREENING

Where a junkyard is or would be visible from a public highway or from neighboring properties, the fence in Section 2 shall be wood or other material sufficient to totally screen the junkyard from view. Such screening may be permitted by adequate planting of evergreen trees or shrubbery.

SECTION 5

BURNING

No material shall be burned in the junkyard except in compliance with the New York State Solid Waste Disposal Law.

SECTION 6

BURYING

No junkyard item shall be buried in the junkyard except in compliance with the New York State Solid Waste Disposal Law.

ARTICLE D: JUNKYARD PERMIT

SECTION 1

PERMIT REQUIRED

- A. No person shall establish or maintain a junkyard within the Town of Westville unless a permit has first been issued for such junkyard pursuant to this Local Law.
- B. No person owning, having any right to, or having any interest in any real property within the Town of Westville shall use, license, rent, lease or otherwise permit the use of property of any part thereof for a junkyard unless a permit has been first been issued for such junkyard pursuant to this Local Law.
- C. All permits shall be issued for a period of one year, after which time they shall be renewable on date of issuance of each subsequent year thereafter.
 - 1. Licenses may be renewed upon payment of the annual license fee and, where applicable, submission of copies of valid state registration, by Jan. 1 of each year. Within thirty (30) days, the Code Enforcement Officer shall conduct an inspection of the junkyard premises. If the junkyard is in compliance with the regulations of this chapter and all other applicable local and state laws, the Code Officer may renew the license, without a hearing.
 - 2. If, at the time of the annual inspection, the Code Enforcement Officer determines that the junkyard is in any manner not in compliance with all the provisions of this chapter and applicable state and chapter, including possession of a valid state registration, the Code Enforcement Officer shall issue a notice of violation and serve it upon the licensee by first class mail to the address on the application. The notice of violation shall state each violation and shall constitute an order to remedy for each violation within 30 days. The licensee shall cure each and every violation within the said 30day period. For good cause the Code Enforcement Officer may extend this time period. If upon reinspection, the junkyard is in compliance with all provisions of this chapter, the license shall be renewed in accordance with paragraph one (1) of this section.

3. If the licensee does not cure violations listed in the Order to Remedy, within the time given, the Town Board shall hold a public hearing, to determine whether the license should be revoked. The hearing shall be held by the Town Board no more than thirty (30) days from the date by which the violations were to be cured. Notice of the hearing shall be given to the licensee by certified mail to the address given on the application and shall be published once in the newspaper having circulation in the Town of Westville, which mailing and publication shall not be less than seven (7) days before the date of the hearing. At the hearing, the licensee shall have the opportunity to be heard and respond to the notice of violation.
4. After the public hearing, the Town Board of Westville shall within thirty (30) days, determine whether or not the license should be revoked, renewed, or renewed with conditions, and give notice to the licensee of its findings by mail. The Town Board may give additional time to cure violations and provide for revocation of the license upon failure to cure within the specified time period.
5. If a license is not renewed, or if the Town Board revokes any license, or if a license is deemed revoked by failure to cure violations within the period set by the Town Board, all junkyard operations shall cease within thirty (30) days of the applicable expiration or revocation date.

D. Permits are non-transferable. A new owner must apply as a new applicant to the Planning Board of Westville.

ARTICLE E: APPLICATION PROCEDURE

SECTION 1 APPLICATION

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

SECTION 2 SITE PLAN CONTENTS

The site plan shall be drawn to scale 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, flood plains, and other water bodies.
- D. All well and sanitary facilities.
- E. All roads and easements.

- F. All existing and proposed junk storage areas.
- G. All existing and proposed access ways, 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, 6NYCRR Part 617. If the EAF indicates that the proposed activity may have significant environmental consequences, the Planning Board shall require a Draft Environmental Impact Statement be submitted with the application. The application shall not be considered complete until the DEIS has been accepted by the Westville Planning Board.

SECTION 4 APPLICATION FEES

An application fee of an initial one hundred dollars (\$100.00) with a twenty five dollar (\$25.00) annual renewal fee every year thereafter, shall accompany all applications.

SECTION 5 PUBLIC HEARING

The Planning Board shall fix a time within forty five days (45) 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 Planning Board shall hear the applicant and all other persons wishing to be heard on the application for a junkyard permit.

SECTION 6 PLANNING BOARD ACTION

Within forty five (45) days of said hearing, the Planning Board shall render a decision to approve, or 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 immediately be filed in the Office of the Town Clerk and the applicant shall be notified of the decision and the reason for the 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, 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 Planning Board, a junkyard permit shall be issued by the Code Officer.
- B. If the application is approved with conditions by the Planning Board, the Code Officer shall issue a junkyard permit upon notification that said conditions have been complied with.

ARTICLE F

GENERAL CONSIDERATIONS

SECTION 1

AETHESTIC CONSIDERATIONS

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

SECTION 2

LOCATIONAL CONSIDERATIONS

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

- A. The nature of the development of the surrounding property, such as the proximity of public works, churches, educational facilities, nursing homes, public buildings, or places of public gathering.
- B. Whether or not the proposed location can be reasonable 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 established residential or recreational areas.
- G. Availability of other suitable sites for a junk yard.

ARTICLE G

ADMINISTRATION AND ENFORCEMENT

SECTION 1

WAIVERS

Where the Planning Board finds that due to special circumstances of the particular case, a waiver of certain requirements as stated in Article C 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 in keeping with the intent and the 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 Planning 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 Westville, and shall report to the Board on the conditions of the 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 the permit issuance or renewal.

SECTION 3 REVOCATION OF PERMIT

The 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 for the junkyard permit. Should the Board decide to revoke the 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

Any person who shall violate any of the provisions of this Local Law shall be guilty of an offense and subject to fine not more than two hundred and fifty dollars (\$250.00) or by a penalty of two hundred and fifty dollars (\$250.00) to be recovered by the Board in a civil action. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

ARTICLE H SEVERABILITY

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

ARTICLE I EFFECTIVE DATE

This Law shall be effective 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-Junkyard Law of 19.2002 of the (County)(City)(Town)(Village) of Westville was duly passed by the Town Board on July 8, 2002 in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19._____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19.____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19.____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19._____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19.____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19.____. 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 _____ 19.____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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 19._____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19.____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19.____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19.____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* 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 19____ of the City 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 _____ 19____, 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 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, 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 _____, above.

Linda M. Jackson

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 7/8/02

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Franklin

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto

Richard H. Edwards
Signature Richard H. Edwards

Attorney for the Town of Westville

Title

~~COUNTY~~

~~CITY~~ of Westville

~~TOWN~~

~~VILLAGE~~

Date: 7/8/02