

Town of Lorraine
Junk Law Local Law No. 2 of the year 2008
November 25 2008

A local law to prohibit Junk, Clutter, Litter, and Debris in the Town of Lorraine, New York.

Be it enacted by the _____ Town Board _____ of the

Town of _____ Lorraine _____ as follows:

Section 1: Authority

This law is adopted pursuant to the authority granted the Town of Lorraine in Section 10 of the Municipal Home Rule Law and in Section 130 (6) and (15) of Town Law.

Section 2: Title

This law shall be known as the “Town of Lorraine Junk, Clutter, Litter and Debris Storage Law.”

Section 3: Purpose

By adoption of this law the Town of Lorraine declares its intent to regulate and control the storage or keeping of junk, clutter, litter, debris 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, clutter, litter, debris 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, clutter, litter, debris and particularly junked vehicles can constitute attractive nuisances to children and certain adults. The presence of junk, clutter, litter, debris and junkyards is unsightly and tends to detract from the value of surrounding properties unless properly screened from view.

Furthermore: in order to preserve and promote reasonable quality of environment and aesthetics and to prohibit actions and conduct which offends the sensibilities and tends to debase the community and reduce real estate values, the deposit, accumulation, or maintenance of junk, clutter, litter, debris or junkyard regardless of quantity is hereby prohibited anywhere within sight of persons lawfully traveling the public highways. The provisions of this section shall be applicable to existing conditions.

Section 4: Prior Existing Junkyard Law

The Local Law hereby repeals Local Law 1 of the year 2000 in its entirety.

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: The person or deputy appointed by the Town Board to administer and enforce in matters pertaining to this law, the provisions of this law or any of his duly appointed deputies.

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

- 1) Two or more junk vehicles.
- 2) One or more junk mobile homes.
- 3) Any abandoned or inoperable junk appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.

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 and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and over-night trailers; which is no longer suitable for human habitation.

Clutter, Litter and Debris: Ordinary household or store trash such as paper, barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick or mined or excavated stone and other building materials no longer intended or in condition for ordinary use; any and all tangible personal property no longer intended or in condition for ordinary and customary use, including junk vehicles, junk appliances, and junk mobile homes.

Junk Appliance: Any stove, washing machine, dryer, freezer, refrigerator or other household device or equipment abandoned, junked, discarded, or wholly or partially dismantled or which remains outside an enclosed building for more than seven days.

Junk Furniture: Any chair, couch, bed, loveseat, or household furnishings originally designed and/or manufactured for indoor use abandoned, junked, discarded, or wholly or partially dismantled or which remains outside an enclosed building for more than seven days. Excluded would be any furniture originally designed and manufactured for outdoor use.

Junk Vehicle: Any motor vehicle, whether automobile, bus, trailer, truck, tractor, motor home, motorcycle, mini-bicycle, or snowmobile, or any device originally intended for transportation of people or personal property, which meets any of the following conditions:

- 1) It is unregistered; or
- 2) It is either abandoned, wrecked, stored, discarded, dismantled or partly dismantled; or
- 3) It is not in any condition for legal use upon the public highway.

With respect to any motor vehicle not required to be licensed or a motor vehicle not used on public highways, the fact that such vehicle has remained unused for more than six months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk vehicle.

Junkyard: The outdoor storage or deposit of any of the following:

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

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

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

ARTICLE C: JUNK SITE REGULATIONS

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

ARTICLE D: JUNKYARD REGULATIONS

Section 1: Location

No Junkyard shall be located within one hundred (100) feet of/from

- A: any adjoining property line;
- B: any public park, church, educational facility, nursing home, public building or other place of public gathering;
- C: any stream, lake, pond, wetland or other body of water; or

No Junkyard shall be located within fifty (50) feet of/from:

- A: from the right-of-way of any public highway.

Section 2: Fencing

There must be erected and maintained an eight (8) foot high fence 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. Said enclosure or fence shall be constructed in accordance with any reasonable rules and regulations imposed by the Town Board and shall not be used for billboard purposes or for the display of advertisements of any kind.

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 6 NYCRR Part 215) or its successor regulations.

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 6 NYCRR Part 360) or its successor regulations.

Section 6: Approved Junkyard Items

No junkyard items shall be stored in any Junkyard 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 the Town of Lorraine 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 Lorraine shall Junkyard Permit, rent, lease, or otherwise permit the use of such real property of 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 (1) year unless sooner revoked by the Enforcement Officer, 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 Lorraine shall apply for a permit within sixty (60) days of the effective date of this law. If the Junkyard 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 Junkyard shall be arranged to comply with said requirements. If at the end of such period the Junkyard has not been arranged to comply with said requirements, such person shall cease and desist from maintaining a junkyard and all junk, clutter, litter, and debris shall be removed from the premises and disposed of in accordance with all applicable federal, state, and local laws, ordinances, and regulations.

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 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 Junkyards;
- G: A detailed narrative description of what activities, processes and handling and storage of junk are proposed for the junkyard, including hours of operation, methods and processing of junk, and manner of operations.
- H: Name and address of applicant, landowner (if different) and persons responsible for all drawings and plans and written authorization from landowner, if different from applicant.
- I: All existing and proposed buildings and other structures.
- J: A list of all governmental agencies having regulatory approval or review and all sources of governmental funding.
- K: Construction schedule of all improvements.
- L: Deposit for Administration Expenses associated with reviewing the application and ensuring applicant will pay any cost associated with enforcing any conditions of approvals grant.
- M: Decommissioning plan and proposed security for decommissioning.
- N: Application signature and date with statement that all representations made in the application are made under penalty of perjury.
- O: Fencing and screening plan with details as to location, materials, size and maintenance.
- P: Storm water management plan with grading plan showing existing and proposed elevations at one-foot contours.
- Q: 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 (see 6 NYCRR Part 617). The application will not be deemed complete until the lead agency in a coordinated review or the Town Board in an uncoordinated review has either issued a Negative Declaration or its findings after accepting a Final Impact Statement.

Section 4: Application Fee

An application fee of \$500.00 shall accompany all applications. Each renewal thereof shall be in the amount of \$250.00 annually.

Section 5: Public Hearing

The Town Board shall fix a time within sixty-two (62) days of the date a complete application is received for a public hearing. Notice of the hearing shall be made in a newspaper in general circulation in the town at least five (5) working 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 sixty-two (62) 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 sixty-two (62) day period may be extended by mutual consent of the applicant and the Town Board. All findings of the Town Board shall be entered into the official minutes of the town. The decision of the Town 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 mail within five (5) days of the decision of the Town Board. Upon approval of the site plan and application, and payment of the fees and reimbursable costs due the town, the Supervisor 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 Town 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: 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 2: Local Considerations

In granting or denying a permit, the Town Board shall take the following local 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: Enforcement Officer

- A: The enforcement officer shall make inspections of the premises of any junk yard for which application for a permit has been made, or any other existing junk, clutter, litter or debris within the town and file a written report of violations with the town clerk. The enforcement officer shall prepare a written notice and shall serve such notice upon the owner of occupant personally or by certified mail.
- B: The enforcement officer shall make periodic inspections of the town to ensure all existing junkyards have permits and that the requirements of this law are met.

Section 2: 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 Town Board. Notice of the hearing shall be made in the official newspaper at least five (5) working 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 Town Board shall hear the permit holder and all other persons wishing to be heard on revocation of the junkyard permit. Should the Town Board decide to revoke a permit, the reasons for such revocation shall be stated in the Town Board minutes. The permit holder shall be immediately notified of the revocation by certified mail.

B: Any Junkyard Permit issued as herein provided may be revoked by the Enforcement Officer for good cause after a hearing. "Good cause" shall include any violation of any Town ordinance, local law, rule or regulation, dealing with health, fire hazard or building standards. "Good cause" shall also include the maintenance of any such building, structure or yard in such manner as to constitute a public nuisance. "Good cause" shall also include the making of a false statement by the applicant in his, their or its application for a Junkyard Permit.

Section 3: Restrictions

A: No person shall conduct or maintain any building, structure or yard in any other place than the one designated in the Junkyard Permit therefore, nor shall he continue to carry on business after such Junkyard Permit has been revoked or expired.

B: No person conducting or maintaining any building, structure or yard as provided under this law shall purchase any article from any child under twenty one years of age, nor from any person apparently intoxicated.

C: No Junkyard Permit may be granted as herein above provided to any person who shall have been convicted within two (2) years of the date of application of a violation of this Local Law or if a firm or corporation of which a member or officer shall have been so convicted; or any person who has been convicted of a felony or knowingly received stolen goods or if a firm or corporation of which any member or officer has or have been convicted of a felony or knowingly received stolen goods.

D: No person shall conduct or maintain any building, structure or yard or carry on any business in such a manner as to unduly disturb the peace and quiet of the neighborhood or health or adversely impair the use and comfortable enjoyment of property in the vicinity. All premises used for any business under this law shall at all times, be kept in a cleanly, wholesome condition and in full compliance with all federal, state, local laws, ordinances, and regulations. All accumulations of wastes such as rubber, cloth, demolished machinery and vehicles and all of the un-saleable material known as "junk" shall not be allowed to accumulate and become a potential breeding area for rats and vermin, but shall be disposed of in accordance with the law.

E All business of conducting and maintaining any building structure or yard or any buying or selling under this law shall be confined to the Junkyard Permit premises and any public roadways adjacent to such premises shall be kept free of junk, litter, clutter and debris and other materials at all times.

F: Permitte must conduct all operation of the Junkyard in compliance with all conditions imposed by the Town Board in approving the permit.

Section 4: Penalties

- A: Any person who shall violate any of the provisions of this law shall be guilty of an offense and subject to a fine of not less than two hundred fifty dollars (\$250) or more than five hundred dollars (\$500). 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 penalty imposed the Junkyard Permit may be suspended or revoked.
- C: In addition to the above penalties, the Town Board may also maintain an action or a 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 provision of this law.

ARTICLE I: ENFORCEMENT

Section 1: Complaints

Whenever a violation of this law occurs, any person may file a complaint with the enforcement officer. The enforcement officer shall properly record and immediately investigate such complaint.

Section 2: Enforcement Procedure

The enforcement officer shall inspect the property cited in the complaint and file a written report of violation with the town clerk. The enforcement officer shall prepare a written notice and shall serve such notice upon the owner or occupant personally or by certified mail to tax billing address. The notice shall contain the following:

- 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 junk, clutter, litter and debris be removed or placed so as to be in compliance with this law within ten days of the service or mailing of the notice.
- 5) A statement that a failure to comply with the demand may result in prosecution.
- 6) A copy of this law.

Section 3: Extension

Upon application of the owner or occupant showing reasonable cause, the Town Board may grant an extension of up to 120 days for the owner or occupant to comply with the demands.

Section 4: Enforcement

If, after the expiration of ten days from the date of mailing, the notice provided in Section 2 above, or after the completion of any extension period allowed in Section 3 above, the owner or occupant shall fail to comply with the requirements of this law, the enforcement officer may institute enforcement procedures as follows:

- 1) Pursuant to Criminal Procedure Law Section 150.20 (3), the enforcement officer is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and shall cause such person to appear before the Town Justice.
- 2) The Town Board is hereby authorized to have removed such junk, clutter, litter and debris from its location and dispose of same, and the expense thereof shall be charged to the property so affected by including such expense in the next annual tax levy against the property. Such removal may be done only following public notice, service of notice to the violator, and a fact finding hearing at which time all parties may be heard. Public notice of the hearing shall be made in a newspaper in general circulation in the town at least five (5) days prior to the hearing.
- 3) Notice shall also be served by:
 - A) Personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested interest or contingent interest in the property as shown by the records of the tax collector or of the county clerk; or if no such person can be reasonably found by mailing such owner by certified mail a copy of such notice directed to his last known address as shown by above records, or
 - B) Personal service of a copy of such notice upon any adult person residing in or occupying such premises if such person can be reasonably found, or
 - C) Affixing a copy of such notice upon the premises.

Section 5: Penalties

Any person who shall violate any of the provisions of this law shall be guilty of an offense and subject to a fine of not more than five hundred dollars (\$500) or by a penalty of not less than two hundred fifty dollars (\$250). Every such person shall be deemed guilty of a separate offense for each week of such violation, disobedience, omission, neglect or refusal shall continue. The Town 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 provision of this law.

ARTICLE J: 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.

ARTICLE K: EFFECTIVE DATE

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