

JUNK LAW

Note: A local junk law has more authority than junk regulations enacted as part of a zoning ordinance. Because the law is enacted under the provisions of the Municipal Home Rule Act and Section 136 of General Municipal Law it is the strongest law available to deal with junk.

Introduction

A. Authority

This law is adopted pursuant to the authority granted the Town in the Section 10 of the Municipal Home Rule Law and Section 136 of the General Municipal Law (pertaining to the regulation of junk).

B. Purpose of the Junk Law

By adoption of this law the Town of Lincklaen declares its intent to regulate and control the storage or keeping of junk, and to regulate junk 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.

C. Prior Existing Junk Law

This local law shall replace and supersede any prior existing junk law in existence in the Town of Lincklaen.

D. Definitions

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

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

Junk: (Exception: inoperable farm machinery used for parts shall not be junk.) The outdoor storage or deposit of any of the following shall constitute junk:

1. Two (2) or more junk motor vehicles;
2. One (1) or more junk mobile homes;
3. Two (2) or more abandoned or inoperable appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions;
4. Two (2) 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. No more than a combination of two (2) items in line 3-4

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. 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 (2) or more unregistered, old, secondhand motor vehicles, no longer intended or in condition for legal use on the public highway, or used parts or waste materials from motor vehicles which, taken together, equal in bulk two (2) or ore such vehicles. A vehicle is considered junked when it meets all of the following conditions:

- It is unlicensed;
- It is either abandoned, wrecked, discarded, dismantled, or partly dismantled;
- It is not in any condition for legal use upon the public highway;
- 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:

- Five (5) or more junk motor vehicles;
- Two (2) or more junk mobile homes;
- Five (5) or more junk appliances;
- Five (5) or more pieces of junk furniture; or
- Any combination of the above that totals (5) items

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

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

E. Junkyard Regulations

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

F. Junkyard Regulations

1. Location

No junk storage area shall be located within:

- 100 feet of any adjoining property;
- 500 feet of any public park, church, educational facility, nursing home, public building or other place of public gathering;
- 100 feet of any stream, lake, pond, wetland, or other body of water; or
- 100 feet from the right-of-way of any public highway

2. Fencing

There must be erected and maintained an eight-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 of other natural conditions effectively prohibit the entrance of children and others.

3. Screening

Where a junkyard is or would be visible from a public highway or from neighboring properties the fence provided in the section 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

4. Burning

No materials shall be burned in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see New York Code of Rules and Regulations, Part 215).

5. Burying

No junkyard items shall be buried in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see New York Code of Rules and Regulations, Part 360).

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.

G. Junkyard Permit

1. Permit Required

No Person shall establish or maintain a junkyard within the Town of Lincklaen unless a permit has first been issued for such junkyard pursuant to this law.

No person owning, having any right to, or any interest in any real property within the Town of Lincklaen shall license, 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.

All permits shall be issued for a period of one year, after which time a renewal shall be required. Annual renewal fee is \$25.00.

2. Temporary Permit for Prior Existing Junkyard

Any person maintaining a junkyard prior to the effective date of the law within the Town of Lincklaen 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 F. above. 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.

H. Application Procedure

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.

2. Site Plan Contents

The site plan shall be drawn to scale and shall indicate 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, floodplain, 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 accessways, and parking and loading areas.

3. Environmental Review Compliance

A full or long Environmental Assessment Form (EAF) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act, Part 617 of the New York Code of Rules and Regulations. If the EAF indicates that the proposed activity may have significant environmental consequences, the Town Board shall require that an application shall not be considered until the EIS has been accepted by the Town Board.

4. Application Fee

An application fee of \$100 shall accompany all applications.

5. Public Hearing

The Town Board shall fix a time within four (4) weeks of the date of receipt of a complete application for a public hearing. Notice of the hearing shall be made in the official newspaper seven (7) days prior to date thereof. Notice of the hearing shall be given to the applicant by mail.

At the public hearing the Town Board shall hear the applicant and all other persons wanting to be heard on the application. In considering such application, the Town Board shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junk yard, to any record of convictions for any type of larceny or receiving of stolen foods, and any other matter within the purposes of this section.

6. Town Board Action

Within four (4) weeks of the hearing the Town Board shall render a decision to approve, approve subject to conditions, or disapprove the application for a junkyard permit. The four (4) week period may be extended by mutual consent of the applicant and the Town 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 (mailings, public notice for hearing etc.) due the Town, the Board shall endorse its approval upon a copy of the final site plan and application. One copy of the approved site plan shall remain on file with the Town.

7. Issuance of Permit

If the application is approved by the Town Board, a junkyard permit shall be issued by the Town Clerk. If the application is approved with conditions by the Board, the Clerk shall issue a junkyard permit when notified by the Code Enforcement Officer that said conditions have been complied with.

I. General Considerations**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.

2. 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 of smoke, or 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.

J. Administration and Enforcement

1. Waivers

Where the Town Board finds that due to special circumstances of the particular case, a waiver of certain requirements as stated in Section F. 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 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 had not been self-imposed.
- d. The waiver is the minimum necessary to accomplish the purpose.

2. Enforcement Officer

The Enforcement Officer shall upon request of the 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, and shall report to the Board on the conditions of such junkyard.

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 being met. Any observed violations shall be reported to the Board.

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.