

(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.

~~County~~

~~City~~

Town

~~Village~~

Local Law No. 1 of the year 19 98

A local law entitled "Town of Jay Junk Yard and Junk Storage Local Law"

(Insert Title)

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

~~County~~

~~City~~

Town

~~Village~~

of Jay as follows:

See Annexed Text

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

(Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1998 the ~~(County)(City)(Town)(Village)~~ of Jay Town Board on Aug. 13, 1998, in accordance with the applicable provisions of law.
 (Name of Legislative Body)

(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____ the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after approval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
 (Elective Chief Executive Officer*)

(Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(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.
 (Elective Chief Executive Officer*)

(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____ the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(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.
 (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 chairman 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.

Local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__
City of _____ having been submitted to referendum pursuant to
provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote
majority of the qualified electors of such city voting thereon at the (special)(general) election held on
_____ 19 __, became operative.

County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__
the County of _____, State of New York, having been submitted to
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 of a majority of the qualified electors of the towns
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
the manner indicated in paragraph 1, above.

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

Town Clerk

Date: 8 1/3/98

(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 ESSEX

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.

Signature

Daniel T. Manning
Town Attorney

Title

~~ESSEX~~

~~ESSEX~~ of Jay

Town
~~Village~~

Date: 8 1/3/98

TOWN OF JAY JUNKYARD AND JUNK STORAGE LOCAL LAW

Local Law #1 - 1998 :

A Local Law providing for the licensing and regulation of automobile junkyards, junkyards and junk in the Town of Jay, Essex County, New York.

Be it enacted by the Town Board of the Town of Jay, Essex County, New York, as follows:

SECTION I: - TITLE: This Local Law shall be known and cited as the "Town of Jay Junkyard and Junk Storage Local Law".

SECTION II: - ENACTMENT: This Local Law is adopted pursuant to the authority granted the Town of Jay pursuant to Section 10 of the Municipal Home Rule Law of the State of New York and Section 130(15) of the Town Law of the State of New York.

SECTION III. - PURPOSE: By adoption of this Local Law, the Town of Jay declares its intent to regulate and control the storage or keeping of junk and vehicles, 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 junk materials may be highly flammable and sometimes explosive. Junk, and more particularly junk vehicles, can constitute attractive nuisances to children and adults. The presence of junk and junkyards is unsightly and tends to detract from the value of surrounding properties unless properly screened from view.

The Town of Jay further declares its intent to protect the rural character of the Town while encouraging growth and development; to insure that junk and junkyards have a pleasing and orderly appearance; insure that waste which accumulates at junkyards and elsewhere which provides habitat for rodents and stray animals is removed; insure that junkyards are maintained and operated free of hazards including, but not limited to, battery acids; and insure that areas surrounding junkyards do not impair pedestrian safety and pedestrian access is maintained at all times.

This Law is intended to protect and promote the public welfare. It is enacted for the purpose of promoting the health, safety, morals or general welfare of the community, including the protection and preservation of the property of the Town and of its inhabitants, and of peace and good order, the benefit of trade and all other matter related thereto.

SECTION IV - PRIOR EXISTING JUNKYARD LAW: This Local Law shall replace and supercede any prior existing Junkyard or Junk Local Law or Ordinance of the Town of Jay.

SECTION V - DEFINITIONS:

As used in this Law, the following terms shall have the meanings indicated:

Abandoned - No motor vehicle, mobile home, automobile, automobile trailer, white goods, abandoned appliances, abandoned furniture, televisions, tires, discarded oil, gasoline or other petroleum products or any other item defined herein shall remain outside, upon any property, within the Town when such vehicle or items have been so dismantled or parts removed therefrom or otherwise abandoned so that such vehicle or item may be incapable of operation or use, for a period of more than ninety (90) continuous days. The term abandoned shall mean more than ninety (90) continuous days.

Appliances - This term shall mean household equipment operated by gas or electricity and shall include, but is not limited to, toasters, mixers, televisions, stereos and radios.

Applicant - This term shall mean the person applying for a junkyard license pursuant to this law.

White Goods - This term shall mean large household and commercial appliances including, but not limited to, refrigerators, stoves, air conditions, washing machines, ice cream machines, dryers, wood stoves, freezers, dishwashers, and televisions.

Furniture - 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 and like items.

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 or uninhabitable mobile homes or mobile home frames.
3. Four (4) or more junk appliances or four (4) or more junk white goods.
4. Four (4) or more pieces of junk furniture
5. Three (3) or more pieces of junk farm or contractor's equipment - exempting such equipment owned by farmers and contractors, used normally in their business and stored on their own property. Persons seeking such exemption must derive a substantial portion of their annual income from said business and must not be storing this junk for the purpose of dismantling and selling parts.
6. Four (4) or more junk all-terrain vehicles, snowmobiles, motorcycles, boats or other like recreational vehicles.
7. The collection or storage of any second hand or used material which, taken together, equals two thousand (2,000) cubic feet or more in bulk volume.
8. Any combination of the above that totals five (5) junk items.

This term shall also include any place of storage for materials from motor vehicles, snowmobiles, mobile homes, all-terrain vehicles, farm or commercial vehicles, bicycles, which, taken together, equal in bulk two or more such vehicles. This term shall also include places which store junk metal and wood, appliances, white goods, junk as defined herein, mobile homes and secondhand or used materials of any type which, taken together, equal two thousand cubic feet or more in bulk volume.

Junk Mobile Home - A structure, transportable in one or more sections, built on a permanent chassis designed to be used as a dwelling unit, which is no longer inhabitable under the New York State Uniform Fire Prevention and Building Code. This includes, but is not limited to, mobile homes, travel trailers and campers.

Motor Vehicles - This term shall mean passenger auto, truck, tractor-truck, trailer, bus, motorcycle, all-terrain vehicles, snowmobiles, mobile homes, propelled or drawn by power other than muscular power originally intended for use on public highways.

Junk Vehicles - Two (2) or more unregistered, old, secondhand motor vehicles no longer intended or in connection for legal use on the public highways, or used parts or waste materials from said motor vehicles which, taken together, equal in bulk two (2) or more such vehicles. A vehicle is considered junk when it meets all 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 such condition as to cost more to repair to operating condition, then its reasonable market value at the time before such repair.

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. Any combination of the above or parts of the above that total two (2) or more items.
6. The collection or storage of any secondhand or used material which taken together equals five hundred (500) cubic feet or more in bulk volume.
7. One (1) uninhabited mobile home frame or uninhabitable mobile home.

Junk Storage Area - The areas of any parcel of land used, or intended to be used, for the placement or storage of junkyard or junk items as herein defined.

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

Person - Any person, firm, partnership, association, corporation, company or organization of any kind.

SECTION VI - JUNK REGULATIONS: No JUNK as that term is defined at Section V herein shall be located so as to be visible from public roads, trails, boat or canoe routes or from neighboring properties. In the event that junk is visible from these areas, the junk must be removed within ninety (90) days.

SECTION VII - INDIVIDUAL JUNK VEHICLES: No individual junk vehicle may be located so as to be visible from public roads, trails, boat or canoe routes, or from neighboring properties. In the event that a junk vehicle is visible from these areas, the junk vehicle must be removed within ninety (90) days.

SECTION VIII - REQUIREMENTS FOR OPERATING A JUNKYARD/JUNKYARD REGULATIONS:

1. **Distances to Other Structures** - No new junkyard shall be located within Five hundred feet (500') of any residential building (except belonging to the owner of the junkyard), public park, church, educational facility, nursing home, public building or other place of public gathering, or any stream, lake, pond, wetland or other body of water.
2. **Fire Hazards** - The junkyard shall be operated to minimize fire hazards. Adequate means of fire protection shall be kept on the premises at all times.
3. **Burning** - No materials shall be burned in any junkyard except in compliance with the New York State Solid Waste Disposal Law (See NYCRR Part 215).
4. **Burying** - No junkyard items shall be buried in a junkyard except in compliance with New York State Solid Waste Disposal Law (See NYCRR Part 360).
5. **Screening/Trespass** -
 - A. An eight (8) foot high, structurally sound and esthetically pleasing, wooden fence sufficient to totally screen the junkyard from view and adequate to prohibit trespass and the entrance of children and others into the area of the junkyard and to contain the materials dealt with by the operator of the junkyard shall be erected. All the materials dealt with by the operator of the junkyard shall be kept within such fence at all times. Whenever the junkyard is not open for business, or temporarily not supervised, this fence and all gates thereto shall be secured or locked to prevent entry. Where a junkyard would be visible from a public highway or from neighboring properties, the fence shall be of wood or other materials sufficient to screen the junkyard from view.
 - B. As an alternative, the Town Board may permit such screening by adequate plantings of evergreens, shrubs or natural vegetation. The Town Board may also waive the requirements of fencing, where topography or other natural conditions effectively prohibit trespass and the entry of children and others.

6. **Hazardous Waste** - Junkyards must comply with all applicable State and Federal Laws and Regulations pertaining to the storage, handling disposal of hazardous or toxic waste.
7. **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 of Jay pursuant to this Local Law.

SECTION IX - JUNKYARD LICENSE REQUIRED:

No person shall establish or maintain a junkyard as that term is defined herein within the Town of Jay unless a license 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 Jay shall license, rent, lease or otherwise permit the use of such real property or any part thereof for a junkyard unless a license has first been issued for such junkyard pursuant to this law.

SECTION X - APPLICATION FOR JUNKYARD LICENSE:

- A. Each person applying for a junkyard license shall complete an application supplied by the Town of Jay and contain the following information:
 - 1) Identify the Applicant.
 - a) If an individual, that the applicant is at least eighteen (18) years of age and the residential and business address is included.
 - b) If other than an individual, the office address of the association, partnership or corporation, a copy of the certificate of incorporation, partnership, DBA or association and the names and addresses of all directors, officers, partners or principals.
 - 2) Whether any of the individuals listed in 1 a-b above have been convicted of a felony or misdemeanor and such other facts or evidence as is deemed necessary to establish that such individuals are fit and capable of properly conducting the activity or business for which the license is sought.
 - 3) A detailed description of the business activities to be conducted and the nature of the materials involved in the intended business activity.
 - 4) The number of employees intended to be employed.
 - 5) The name and address of the owner or owners of the land
 - 6) The nature of the rights of occupancy of the applicant to the use of such land.
 - 7) Names of adjoining property owners within Five Hundred Feet (500') of the proposed location.

- B. The applicant shall submit and file with the Town of Jay, at the time of making the junkyard license application, a map or plan of the real property to be used for such junkyard activity or business, to include the following:
- 1) The area of real property to be used for junkyard purposes.
 - 2) The location of any buildings upon the proposed junkyard premises.
 - 3) The location of any streets or highways abutting or passing through such junkyard premises.
 - 4) The location of any water, sewer or gas mains or laterals available thereto.
 - 5) The location of any below-ground or above-ground tanks.
 - 6) The general drainage pattern of the proposed junkyard premises.
 - 7) All existing and proposed structures, including fences.
 - 8) All property lines including the names of owners of adjacent properties.
 - 9) Location of all wells and sanitary facilities.
 - 10) Locations of all streams, lakes, wetlands, flood plains and other bodies of water.
 - 11) All existing and proposed access ways and parking and loading areas.
 - 12) All existing and proposed junk storage areas.
- C. The applicant shall agree that if granted the junkyard license applied for, the applicant will conduct the activity or business according to the ordinance and any additional conditions which may be imposed on the license, as provided, and that upon the applicant's failure to do so, such junkyard license may be revoked.
- D. The Town Board will review all junkyard licenses for consideration.

SECTION XI - TEMPORARY LICENSE/CEASE AND DESIST ACTIVITY:

- A. Within sixty (60) days of the effective date of this law, a person presently engaged in a junkyard activity or business must apply for a junkyard license. Any existing junkyard activity which does not fully meet the licensing requirements in this law may be granted a temporary junkyard license for one year six months (18 months) after the effective date of this law. At the end of the one year six months (18 months), an existing junkyard business which has been issued a temporary junkyard license must fully comply with all junkyard licensing requirements and obtain a junkyard license. Otherwise, such junkyard activity shall be terminated and the person operating such activity shall immediately cease

and desist from operating and shall remove from such place any vehicle, parts or other materials which constitute junkyard activity or business.

- B. An applicant for a temporary junkyard license shall indicate upon the temporary junkyard license application the full names and legal addresses of all owners and part owners of such junkyard activities of business. The temporary junkyard license application shall be provided by the Town board and must be submitted to the Junkyard review committee for review and consideration.
- C. After issuance of a temporary junkyard license, the Enforcement Officer shall send a notice to all owners/part owners listed on the temporary license application, including a copy of the temporary junkyard license issued and a copy of the law.

SECTION XII - LICENSE FEE/DISPLAY OF LICENSE/TERM/TRANSFERABILITY/REVOICATION:

- A. An application fee of \$25.00 shall accompany all applications and renewals.
- B. A junkyard license shall be placed and at all times displayed in a conspicuous place upon the licensed premises.
- C. A junkyard license shall be issued for a period of one (1) year after which time a renewal shall be required.
- D. A junkyard license is personal to the licensee. It does not go with the title to the land or may it be sold, assigned, transferred or otherwise disposed of.
- E. A junkyard license may be revoked by the Town of Jay for violating any provisions of the law after the licensee has reasonable notice and an opportunity to be heard by the Town Board. Upon revocation of a license, the Town Board may require the termination of such activities at the junkyard and removal of all such vehicles, parts, junk and other materials as herein defined.

SECTION XIII - 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.

SECTION XIV - PUBLIC HEARING FOR NEW JUNKYARDS:

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 license

SECTION XV - 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 license. The forty five (45) day period may be extended by mutual consent of the application 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 by five (5) days of the decision. Upon approval of the site plan and application, the 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 XVI - ISSUANCE OF LICENSE:

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

SECTION XVII - GENERAL CONSIDERATION:

1. Aesthetic Considerations

In granting or denying a license, 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 license, 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. Availability of other suitable sites for the junkyard.

SECTION XVIII - WAIVERS:

Where the Town Board finds that due to special circumstances of the particular case, a waiver of certain requirements as stated 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 XIX - ENFORCEMENT OFFICER:**

- A. The enforcement officer shall upon request of the Board make inspections of the premises of any junkyard for which application for a license 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 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 XX - REVOCAION OF LICENSE:

The Town Board may revoke a Junkyard license upon reasonable cause should the applicant fail to comply with any provision of this law. Before a license 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 license 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 license holder and all other persons wishing to be heard on the revocation of the Junkyard License. Should the Board decide to revoke a license, the reasons for such revocation shall be stated in the Board minutes. The license holder shall be immediately notified of the revocation by certified mail.

SECTION XXI - VIOLATIONS OF LOCAL LAW AND OFFENSE: PENALTIES THEREFOR:

- A. The owner, licensee or person in control of any such place of business or junkyard or activity who commits or permits any violation of the any of the provisions of this Law shall be guilty of a violation as defined by Section 55.10 of the Penal Law of the State of New York and shall be liable to a fine of not more than Two Hundred Fifty Dollars (\$250.00) or imprisonment for not more than fifteen (15) days, or both, and each week such violation continues to exist shall constitute a separate offense.
- B. Any person convicted for any violation of this law shall be subject to revocation of any license herein granted without reimbursement of fees paid therefor.
- C. In lieu of or in addition to any other penalty provided for herein, any person violating this law shall be subject to a civil penalty enforceable and collectible by the town in the amount of two hundred fifty dollars (\$250.00) for each such offense. Such penalty shall be collectible by and in the name of the town for each week that such violation shall continue.
- D. In addition to the above mentioned penalties, and punishment, 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 to restrain by injunction any violation of this law.
- E. The Code Enforcement Officer/Building Inspector and Fire Commissioners or other enforcement officers as designated by the Town Board shall be and hereby are authorized to issue and serve appearance tickets with respect to any violation of this law and the Town reserves the authority to designate additional or substitute enforcement officers at its discretion.

SECTION XXII - 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 judgment shall have been rendered.

SECTION XXIII - EFFECTIVE DATE:

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