

TOWN OF JOHNSBURG
JUNK STORAGE LAW

September 1, 2007

ARTICLE A INTRODUCTION

Section 1 Authority

This law is adopted pursuant to the authority granted the Town in Section 10 of the Municipal Home Rule Law.

Section 2 Title

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

Section 3 Purpose

The purpose of this law is, through the regulation of junkyards, to promote a clean, wholesome, and attractive environment; protect the community from potential hazards to property and persons; protect water resources; preserve the aesthetic qualities of the municipality; prevent depreciation of the property on which a junkyard is located and the property of other persons in the neighborhood and the community; and to further the goals of the Town of Johnsbury Comprehensive Plan.

Section 4 Prior Existing Junkyard Law

This law shall replace and supersede Article IV, Section 2, Part H. "Junk Yards" and Part I. "Automobile Storage," of the Town of Johnsbury Zoning Ordinance adopted February 25, 1964.

Section 5 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(s) appointed by the governing Board to enforce the provisions of this law.

Junk. Includes any of the following.

- a. One (1) junk vehicle
- b. One (1) piece of junk equipment, including junk farm or construction equipment
- c. Two (2) or more appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.
- d. 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.
- e. Any combination of the above that totals two (2) items.

Junk Appliance. Any household appliance, including but not limited to, a stove, washing machine, dryer, dishwasher, freezer refrigerator, air conditioner, water heater, or television, which is stored outside of any residence or structure.

Junk Equipment. Any equipment which meets all the following conditions: (a) It is either abandoned, wrecked, stored, discarded, dismantled or partly dismantled; (b) It is not in working order; (c) It has remained unused for more than one year.

Junk Furniture. Abandoned, discarded, or irreparably damaged furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.

Junk Mobile Home. Any manufactured housing unit designed with a chassis, and constructed to be towed or otherwise transported whole or in part to a site, and which is designed to permit occupancy for dwelling, sleeping, or storage purposes and which meets all of the following conditions:

- (1) it is unoccupied and in its present condition does not meet the requirements of the New York State Uniform Fire Prevention and Building Code for residential occupancy; and
- (2) it is either stored, abandoned, wrecked, discarded, dismantled, or partly dismantled.

Junk Storage Area. The areas of any real property used or intended to be used for the placement, storage or deposit of one or more of the following: junk appliances, junk furniture, junk mobile homes, and junk motor vehicles.

Junk Motor Vehicle. Any motor vehicle whether automobile, bus, trailer truck, tractor, motor home, motorcycle, all terrain vehicle, mini-bicycle, or snowmobile or any other device originally intended for travel on public highways which meets all the following conditions: (a) it is unlicensed or unregistered; (b) it is abandoned, wrecked, stored, discarded, dismantled, or partly dismantled; and (c) it is not in condition for legal use upon the public highways.

The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways. With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

Junkyard. Includes any of the following.

- a. The outdoor storage of two (2) or more junk vehicles.
- b. The outdoor storage of one (1) or more abandoned mobile homes or travel trailers.
- c. The outdoor storage of two (2) or more pieces of junk equipment, including junk farm or construction equipment.
- d. Any open lot or area for the dismantling, storage or sale of such items as parts, scrap, or salvage of machinery, scrap metals, waste papers, rags, or used or salvaged building materials.

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

Prior existing junkyard. A junkyard that was in existence prior to the adoption of this local law.

ARTICLE B JUNK REGULATIONS

Section 1 Keeping of Junk

No junk as defined herein shall be located so as to be visible from any public road or from any neighboring residential property. For purposes of this section, a residential property shall mean any parcel of land upon which is located a residential structure.

ARTICLE C JUNKYARD LICENSE

Section 1 License Required

No person shall establish or maintain a junkyard within the Town Johnsbury 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 Johnsbury shall license, rent, lease, or otherwise license the use of such real property of any part thereof for a junkyard unless a license has first been issued for such junkyard pursuant to this law. All licenses shall be issued for a period of one year, after which time renewal shall be required.

Section 2 Temporary License for Prior Existing Junkyard

Any person maintaining a junkyard prior to the effective date of this law within the Town Johnsbury shall apply for a license within 60 days of the adoption of this law. If the junk storage area does not meet the requirements of this law, a temporary license shall be granted for a period not to exceed one 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 D APPLICATION PROCEDURE

Section 1 Application

The applicant for a junkyard license shall obtain application forms from the Town Enforcement Officer. The completed forms along with six copies of the proposed site plan, and the appropriate fees, shall be returned to the Enforcement Officer. The Enforcement Officer 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. existing and proposed structures, including fences;
- b. property lines including the names of owners of adjacent property;
- c. streams, lakes, wetlands, floodplains, and other water bodies;
- d. wells and sanitary facilities;
- e. roads and easements;
- f. existing and proposed junk storage areas;
- g. existing and proposed accessways, and parking and loading areas;
- h. list of the types of junk that are proposed to be stored in the storage area.

Section 3 Environmental Assessment Form

An Environmental Assessment Form (EAF), either the short EAF form or full EAF form as appropriate, shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act, 6 NYCRR Part 617.

Section 4 Application Fee

The annual fee for a junkyard license shall be established by resolution of the Town Board. Said fee shall accompany all applications, and all yearly license renewals.

Section 5 Referral to Planning Board

The application shall be referred to the Town of Johnsburg Planning Board. The Planning Board shall submit an advisory opinion on the application to the Town Board within 45 days of its receipt.

Section 6 Public Hearing

The Town Board shall fix a time within 45 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 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 7 Town Board Action

Within 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 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 Enforcement Officer and the applicant shall be notified of the decision and the reasons for such decision by mail within five 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 8 Issuance of License

If the application is approved by the Town Board, a junkyard license shall be issued by the Enforcement Officer. If the application is approved with conditions by the Board, the Enforcement Officer shall issue a junkyard license when conditions are met.

Section 9 Waivers

Where the Town Board finds that due to special circumstances of the particular case, a waiver of certain requirements of this law are 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 10 Renewals

Licenses shall be renewed upon payment of the annual license fee without hearing, provided that all provisions of this chapter are complied with during the license period, that the junkyard does not

become a public nuisance under the common law, and that the applicant is not convicted of any type of larceny or the receiving of stolen goods.

ARTICLE D) ZONING PERMIT

Section 1 Town Zoning

All junkyards established after the date of adoption of this law (which are not a prior existing junkyard) shall comply with all provisions of the Town of Johnsbury Zoning Law, including obtaining a Zoning Permit.

Section 2 Adirondack Park Agency Approval

Pursuant to Section 1010 of the Town of Johnsbury Zoning Law, Adirondack Park Agency approval is required for any junkyard requiring a town Zoning Permit. (Junkyards are classified as Class A Regional Projects.)

Section 3 Zoning Permit and License

Any proposed junkyard requiring a Zoning Permit shall obtain both a Zoning Permit and a junkyard license as provided herein before becoming established.

ARTICLE E GENERAL CONSIDERATIONS

Section 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.

Section 2 Location Considerations

In granting or denying a license, the Town Board shall take the following location 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 F JUNKYARD REGULATIONS

Section 1 Location

No junk storage area shall be located within:

- a. 500 feet of any public park, church, educational facility, nursing home, public building or other place of public gathering.
- b. 50 feet of any adjoining property line.
- c. 100 feet of any stream, lake, pond, wetland or other body of water.
- d. 50 feet from the right-of-way of any public highway.

Section 2 Fencing

- A. 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. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts shall be accomplished within the enclosure.
- B. 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 license approved by the Town Board pursuant to this law.

ARTICLE G ADMINISTRATION AND ENFORCEMENT

Section 1 Enforcement Officer

The Enforcement Officer shall upon request of the Town 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 Town Board on the conditions of such junkyard. The Enforcement Officer shall make periodic inspections of the Town to ensure that all existing junkyards have licenses and that the requirements of this law are 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 license issuance or renewal.

Section 2 Revocation 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 days prior to the date thereof. The license holder shall be notified of the hearing by certified mail at least five 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. Should any junkyard license be revoked, the operator shall cease and desist from operating a junkyard. All junk shall be removed from the premises within 60 days. If after 60 days the junk is not removed, the Town reserves the right to have the junk removed and disposed of and all costs of such removal and disposal shall be borne by the land owner.

Section 3 Fines and penalties

A. Criminal sanctions

1. A violation of this law may be enforced by criminal sanctions as follows:

First offense:	Fine not exceeding \$350 or six months imprisonment or both
Second offense:	Fine not less than \$350 or more than \$700, or up to six months imprisonment or both
Third offense, or subsequent offense (if committed within five years of first offense)	Fine not less than \$700 or more than \$1,000, or up to six months imprisonment or both

2. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

3. The Enforcement Officer or agent may commence criminal proceedings in the justice court by issuing an appearance ticket to any alleged violator and/or by filing an information and supporting deposition pursuant to the New York Criminal Procedure Law. Alternative, the Enforcement Officer or agent or the Town Board may request the District Attorney to prosecute the violation or to appoint the Town Attorney as a special district attorney for that purpose.

4. Such fines may be compromised or released as part of any disposition.

B. Civil penalties.

1. As an alternative to criminal sanctions, the Town may institute proceedings for civil penalties in the amounts stated herein for each such violation:

First offense:	Civil penalty not exceeding \$350
Second offense:	Civil penalty not less than \$350 or more than \$700
Third offense, or subsequent offense (if committed within five years of first offense)	Civil penalty not less than \$700 or more than \$1,000

2. Each week's continued violation shall constitute a separate additional violation, for which separate and additional civil penalties may be imposed and recovered.

3. Such penalties may be compromised or released as part of any disposition.

Section 4 Alternative or Additional Actions and Remedies

- A. In the case of any violation or threatened violation, the Town may institute any appropriate action or proceeding against the landowner and/or other responsible person(s) to prevent such unlawful action, to restrain, correct or abate such violation, and to compel compliance with the provisions of this law and any permit, approval or variance issued pursuant to its provisions. The relief specified herein may be sought in addition to an action or proceeding for criminal sanctions or civil penalties.
- B. The Town Board may negotiate appropriate corrective, remediation, abatement, and restoration measures by entering into an enforceable settlement agreement or consent order with any violator and/or owner. Such agreements or orders may require the violator and/or owner too pay a monetary penalty which (a) covers exemplary or punitive damages, and (b) reimburses actual costs incurred by the Town in connection with its enforcement action such as attorneys' fees, disbursements and costs of emergency and other corrective and restoration measures. If the monetary payments are not made, they may constitute the basis of a lien charge attachable to the premises as a special assessment or charge assessable and collectable on the tax bill associated with the subject premises.

ARTICLE H MISCELLANEOUS PROVISIONS

Section 1 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.

Section 2 Effective Date

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