

TOWN OF BUTLER

Junk/Junkyard Law  
#1 of 1998

ARTICLE A: INTRODUCTION

Section 1. Authority

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

Section 2. Title

This local law shall be known as the "Town of Butler Junk/Junkyard Storage Law".

Section 3. Purpose of the Junk/Junkyard Storage Law

By adoption of this law the Town of Butler declares its intent to regulate and control 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 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 (refrigerators, freezers, etc.) 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. This law is also to protect the public from noxious smoke, gases, odors and noise and to aid in the enforcement of the N.Y.S. Penal Law with respect to the disposal of stolen goods.

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:*

Any person appointed by the Town of Butler to represent them in particular matters pertaining to this local law.

*Junk:*

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

- 1) Three (3) or more junk vehicles.
- 2) One (1) or more junk motor 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 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 three (3) or more items.

*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:*

Three (3) or more unregistered, old, secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, or used parts or waste materials from motor vehicles which, taken together, equal in bulk three (3) or more such vehicles. A vehicle is considered junked when it meets all of the following conditions:

## ARTICLE D: JUNKYARD REGULATIONS

### Section 1. Location

No junk storage area 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 junk storage area 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 designated Enforcement Officer and shall not be used for billboard purposes nor 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 (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 (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 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 Butler 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 Butler 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.
- C. All permits shall be issued for a period of (1) year, after which time a renewal shall be required.

Permits shall run from January 1 to December 31, next succeeding the date of issuance thereof, unless sooner revoked by the Enforcement Officer or Town Board.

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 Butler 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 D herein, 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.

ARTICLE F: APPLICATION PROCEDURE

Section 1. Application

The applicant for a junkyard permit shall obtain 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 junk storage areas;
- G. all existing and proposed accessways, 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, 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 Board.

## Section 4. Application Fee

An application fee of \$100.00 shall accompany all applications. Each renewal thereof shall be in the amount of \$25.00.

## Section 5. Public Hearing

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 working (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 permit.

## Section 6. 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 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 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 due the Town, 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 Town Board, a Junkyard Permit shall be issued by the Clerk.
- B. If the application is approved with conditions by the 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 Consideration

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. Location 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 building, 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. Variance

Where the Town Board finds that due to special circumstances of the particular case, a variance of certain requirements as stated in Article D herein is justified, then a variance may be granted. No variance shall be granted, however, unless the Board finds, and records in its minutes that:

- A. Granting the variance 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 variance would result in undue hardship to the applicant, provided that such hardship has not been self-imposed.
- D. The variance is the minimum necessary to accomplish the purpose.

### Section 2. Enforcement Officer

- A. The enforcement officer shall upon request of the Board make inspections of the premises of any junkyard 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.
- 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 permit issuance or renewal.

### Section 3. Revocation of Permit.

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 Board. Notice of the hearing shall be made in the official newspaper at least five working (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 of the Junkyard Permit. Should the board decide to revoke a permit, the reasons for such revocation shall be stated in the Board minutes. The permit holder shall be immediately notified of the revocation by certified mail.

Any license issued as herein provide may be revoked by the Enforcement Officer or Town Board 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 applicant in his, their or its application for license.

#### Section 4. Restrictions

- A. No person shall conduct or maintain any building, structure or yard in any other place than the one designated in the license therefor, nor shall he continue to carry on business after such license 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 sixteen (16) years of age, nor from any person apparently intoxicated nor from any person between 6:00 p.m. and 7:00 a.m.
- C. No license shall be granted as hereinabove provided to any person who shall have been so convicted within two (2) years of the date of application of a violation of this chapter 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 so 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 manner as to unduly disturb the peace and quiet of the neighborhood in such manner as to create a public nuisance or create conditions detrimental to life or health or seriously 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 the ordinances and local laws of the town and in accordance with the reasonable rules, regulations and directions of the Health Department and the Fire Department. All accumulations of waste such as rubber, cloth, hair goods from demolished machinery and vehicles and all of the unsaleable material known as "junk" shall not be allowed to accumulate and become a breeding place for rats and vermin, but shall be disposed of in accordance with law. All business of conducting and maintaining any building, structure or yard or any buying or selling under this law shall be confined to the licensed premises and any public roadways adjacent to such premises shall be kept free of junk, debris and other materials at all time. No iron or other metal shall be broken before 8:00 a.m. or after 6:00 p.m.



Section 5. Penalties

- A. Any person who shall violate any of the provisions of this local law shall be guilty of any offense and subject to a fine not less than one hundred dollars (\$100.00) or more than two hundred fifty dollars (\$250.00). 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 license may be suspended or revoked.
- C. In addition to the above provided penalties, the 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 article of this local law.

ARTICLE I: 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 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 J: EFFECTIVE DATE

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