

Junkyard Law - 2007 Revision

Section I. Purpose

The Town of Wheatfield desires to set out fair and comprehensive rules and regulations governing the creation, maintenance, and screening of junkyards. 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 Town; prevent depreciation of the property in which a junkyard is located and the property of other persons in the neighborhood and the community; and to further the goals of the Comprehensive Plan. To this end, new junkyards will not be allowed as an approved use within any zoning district (Junkyards will not be listed as an approved use under any Town zoning district).

Junkyards in existence prior to this ordinance being adopted, shall be allowed to continue without expansion (referred to in this Law as being "grandfathered") unless they are found to constitute a health or safety nuisance, in which the owner(s) shall have six months to correct the nuisance or close the facility. This "grandfather" clause does not apply to any existing illegally established junkyard. To continue as a "grandfathered" use, existing junkyards will be required to obtain a yearly renewable Permit to Operate a Junkyard from the Town. This Permit must be applied for within 90 days of the passage of this Law. It is the intent of this Law to prohibit a "grandfathered" junkyard to expand outside of its existing property boundaries (at the time of passage of this Law). Modifications to the site will only be allowed through the SUP process, which may allow changes to the location and quantities of materials stored on the existing site. If a facility ceases operation for more than a 6month calendar period, the Permit to Operate a Junkyard will expire. Ceasing the operation of an existing junkyard for more than a 1 year period will result in ineligibility to reapply for a permit.

Section II. Definitions

Junkyard - means an establishment, location or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard or salvage yard, and the term shall include garbage dump and sanitary fields. The term "junkyard" shall include, any salvage yard, scrap yard, or related use, including any use involving the storage or disassembly of wrecked or non functioning automobiles, trucks, or other vehicles; storage, baling or otherwise dealing in scrap

metal, commercial/residential appliances, used plumbing fixtures and used brick, wood, or other building materials. Any person or entity that maintains, keeps, stores, or owns five or more junked motor vehicles or when 600 square feet or more of junk materials are kept or stored at any given place or on any property. Such uses shall be considered junkyards whether or not all or part of such operations are conducted in conjunction with, addition to, or accessory to, other uses of the premises. Materials enclosed in closed buildings, solid waste containers or rolling stock are excluded.

Junked Motor Vehicle - any motor vehicle, or used parts or waste materials from motor vehicles which, taken together, equal in bulk one or more such vehicle, which is:

- unlicensed or unregistered; or
- abandoned, wrecked, stored, discarded, dismantled; or
- 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.

Antique Motor Vehicle - a motor vehicle, but not a reproduction thereof, manufactured more than twenty-five years prior to the current year, which has been maintained in or restored to, or will be maintained in or restored to, a condition which is substantially in conformance with the manufacturer's specifications.

Classic Motor Vehicle - a motor vehicle, but not a reproduction thereof, manufactured more than ten years prior to the current year and which because of discontinued production and limited availability, is considered to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored to a condition which is substantially in conformity with the manufacturer's specifications and appearance.

Section III. Exclusions

The following conditions are hereby excluded from the definition of a junkyard:

- (a) Unlicensed vehicles in operating condition stored by or for the owner while the owner is (a) a full-time student of the immediate family attending a school, college, or university; and (b) a member of the United States Armed Forces.
- (b) Seasonal vehicles or machinery during their off-season if kept in a location not visible from any road, street or highway, when practicable; otherwise a seasonal use permit must be applied for and received.
- (c) Farm machinery, including tractors, where such machinery is actively used. Farm machinery kept for parts shall be kept in a location not visible from any road, street or highway.
- (d) An antique or classic motor vehicle (one) which is being restored.
- (e) Contractor's Storage Yard: An area used for the storage of equipment and/or materials used for providing construction-related contracting services, including but not limited to flooring, heating, plumbing, roofing, landscaping and excavation. These yards shall not include inoperable or wrecked motor vehicles remaining on the premises for more than forty-eight (48) hours, Yards containing such vehicles shall be considered an outside salvage or reclamation use and subject to violation. Unless said vehicle has a valid state registration, current safety inspection certificate and documentary records of pending repairs or other disposition.
- (f) Approved and licensed automobile impound yards (meeting the requirements of all approvals and licenses).

Section IV. Regulations

The Planning Board, in its reasonable discretion, and as a condition to the issuance of a Permit to Operate a Junkyard, may require the applicant to conform to certain conditions, which may include, but need not be limited to the following:

- (a) Be situated on one contiguous parcel that is undivided by any public road right-of-way.
- (b) Have a minimum setback to the fence from front property lines, excluding a road right-of-way, of at least 40 feet, and from the side and rear property lines, excluding a road right-of-way, of at least 10 feet.
- (c) Not be located closer than 500 feet to either a preexisting residence, church, school, day care center, nursing home, skilled health care facility, hospital, public buildings, or public recreation facilities. If this cannot be achieved for an existing facility, the Town may require mitigations to minimize the impacts to these uses.

- (d) Not store "materials" higher than 15 feet in height in the first 100 feet from a property line. The height allowance can be raised an additional 10 feet for each additional 100 feet that the materials are from a property line. For example, a pile of materials can be 25 feet in height if located 200 feet from any property line.
- (e) Be screened as provided herein, so as to not be visible from any residence (except a residence used in conjunction with the junkyard) or from the main-traveled way of any public road, at any season of the year, and
- (f) At a minimum, the junkyard in general, shall be entirely surrounded by an opaque fence (including gates) at least eight feet in height, or by either a woven or welded wire (14 gauge minimum) or chain link fence a minimum of six feet in height (installed with opaque screening material) and with vegetation (excluding wild growth) that provides a continuous all-seasons opaque screen at least eight feet in height within five years of planting or setting such vegetation. If areas of the junkyard are shown to not need this type of fencing or screening, the Planning Board can waive this requirement. The fence shall remain in good repair. The fence and vegetation shall surround the minimum area necessary for the junkyard to not be visible from surrounding uses or the travelling public. Vegetation not less than four feet in height at the time of planting shall be planted on the outbound side of the fence, contiguous to, and not more than twelve feet from the fence. Vegetation that serves as screening shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow, without gaps or open spaces, will exist to a height of at least eight feet along the length of the fence surrounding the junkyard. The vegetation shall be maintained as a continuous, unbroken hedgerow for so long as the property is used as a junkyard. Existing vegetation may be approved if it adequately meets the purposes of this article.
- (g) If a fence is utilized: inside, adjacent to and continuous with the fence or enclosure, on a strip of land at least ten feet in width shall be kept free of all dry grass, junk, plant growth, or other combustible material so as to provide a fire lane or break around the entire area where business activity is conducted.
- (h) All operations, equipment, junk and/or inoperable motor vehicles shall be kept within the confines of the fence at all times unless in motion by transport to or from the site.
- (i) All junkyards shall be maintained to protect the public from health nuisances and safety hazards.
- (j) Drainage from the site shall be properly managed as to not adversely impact downstream properties.

All junkyards existing which wish to change , or modify in any way as to number of cars, appliances, amount of junk materials, or area used (on the existing site) as a junkyard, shall be subject to all requirements of this chapter, and approved in writing by the Town Planning Board.

Established Junkyards

For the purpose of this local law, junkyards which on the effective date of this ordinance were legally operated and maintained under all applicable state, federal and local laws and ordinances, may continue in existence, unchanged in character and size. However, within 90 days from the passage of this local law, the owner shall furnish the Planning Board a legible sketch of the property, which shall include dimensions for the property and the approximate location of all building and material on the property, together with any applicable permit fee. together with the permit fee. If the Planning Board after review, finds the application in conformance with the requirements/purposes of this law, the Planning Board shall issue a permit valid for one year, at which time the owner can apply for a renewal permit. The purpose of the yearly permit renewal, is to ensure that the facility is being operated in conformance with all required standards in Section IV of this law. It is also the purpose of this renewal process to bring existing facilities into conformance with the required standards. For non-conforming junkyards, at the time of adoption of this ordinance, it is the intent of the Town to bring these facilities into conformance with all these regulations over a five (5) year period. Each year, the applicant will be required to show progress towards this requirement.

In the case of any pre-existing junkyard which has been grandfathered but is found to be a health or safety nuisance, Town of Wheatfield reserves the right to enforce all health, safety, and environmental laws, within six (6) months of the effective date of this article or from the time the health, safety hazard, or public nuisance is determined.

Section V. Permit Applications

Junkyards as defined in this section will be allowed by a Permit to Operate a Junkyard. These Permits will be reviewed and granted by the Planning Board. The application shall include information on the following: material storage types, location and heights; activity areas (what is done and where); and all existing permit and approval information concerning the site.

Section VI. General Provisions

Any junkyard that remains unregistered after the adoption of this law for a period of more than six months shall be deemed to be abandoned.

Section VII. Enforcement/Penalties

Should the enforcement officer find that an alleged junkyard exists without the necessary permit, the enforcement officer is hereby authorized pursuant to Criminal Procedure Law Section 150.20(3) to issue an appearance ticket to any person whom the enforcement officer has reason to believe has violated this law, and shall cause such person to appear before the Town Justice.

Any person who shall violate any of the provisions of this law shall be guilty of a violation and subject to the following: (1) a fine not to exceed \$350.00 or imprisonment for a period not to exceed fifteen days, or both; or (2) a penalty of \$350.00 to be recovered by the municipality in a civil action.

Every such person shall be deemed guilty of a separate violation for each week such violation, disturbance, 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.

Section VIII. 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.

This local law shall become effective upon the date it is filed in the Office of the New York State Secretary of State.