

**Town of Ossian**

**A Local Law Regulating Junkyards  
and the Storage of Junk**

**Local Law No. 2-2021**

**Adopted: February 9, 2021  
By the Town Board of  
the Town of Ossian**

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### **A Local Law Regulating Junkyards and the Storage of Junk**

BE IT ENACTED by the Town Board of the Town of Ossian, Livingston County, New York, as follows:

#### **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 local law shall be known as, "A LOCAL LAW REGULATING JUNK YARDS AND THE STORAGE OF JUNK IN THE TOWN OF OSSIAN, LIVINGSTON COUNTY, NEW YORK."

##### **SECTION 3. PURPOSE OF THE JUNK STORAGE LAW**

By adoption of this law, the Town of Ossian declares its intent to regulate and control the storage of 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 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.

#### **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.** The duly appointed Code Enforcement Officer of the Town of Ossian.

**Junk.** Junk is defined as the following:

- 1) Wastepaper, or rags, or metal, or glass, or wood products, machinery, or bagged material or appliances (including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions), or equipment, or pieces of indoor furniture (including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers), or vehicles, or parts thereof, or any combination of the above, with the following exceptions:
  - a) items collected or stored in a building(s) on the premises, which building's access is secured against intrusion;
  - b) items such as firewood that are normally stored outside by the general populace of the town and are solely for domestic use or consumption in the principal dwelling on the premises;
  - c) items specifically allowed by the zoning law to be kept on the premises of an operating business concern in a business or industrial district, or on an operating farm in an agricultural district;
  - d) new or used building materials for the construction, renovation or repair of a building on the premises during the time that a building permit is in effect or such earlier time as a certificate of occupancy or certificate of compliance is issued.
- 2) Any unhoused motor vehicle that is either unlicensed, unregistered or uninspected, or any combination thereof with the following exceptions:
  - a) each such vehicle stored at a licensed motor vehicle repair shop, but only if the vehicle is intended to be repaired thereat, and that is so repaired in a period of sixty (60) calendar days or less after first being placed on the premises; or
  - b) each motor vehicle held for current wholesale or retail sale by a duly licensed motor vehicle auctioneer or seller.
  - c) One unhoused motor vehicle that is either unlicensed, unregistered or uninspected, or any combination thereof, is allowed on any premises, but only if the following requirements are met:

- i) Such vehicle shall be covered with a cover manufactured for this purpose.
- ii) The area around the vehicle shall be kept mowed and free of debris.
- iii) Such vehicle shall not be parked in the front yard.

**Junkyard.** A place where waste, discarded or salvaged materials are exchanged, stored, baled, cleaned, packed, disassembled or handled, or where automobile wrecking takes place, or upon which junk is otherwise situated, but not including pawnshops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing.

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

## **ARTICLE C: JUNKYARD REGULATIONS**

### **SECTION 1. SIZE**

Minimum lot size: 10 acres.

### **SECTION 2. LOCATION**

No junk storage area shall be located within:

- 1) 500 feet of any adjoining property line;
- 2) 500 feet of any public park, church, educational facility, public building or other place of public gathering;
- 3) 500 feet of any stream, lake, pond, wetland or other body of water, or such greater distance as any other law, rule or regulation requires; or
- 4) 500 feet from the right-of-way of any public highway.

### **SECTION 3. FENCING**

There must be erected and maintained a twelve (12) foot high opaque fence enclosing the entire junkyard and a secured 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, as long as all other terms of this law are otherwise complied with. Where deemed necessary, the Town may require additional buffering materials as needed, such as 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, Rules and Regulations.

**SECTION 5. BURYING**

No junkyard items shall be buried in a junkyard except in compliance with the New York State Solid Waste Disposal Law, Rules and Regulations.

**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 D: JUNKYARD PERMIT**

**SECTION 1. PERMIT REQUIRED**

- 1) No person shall establish or maintain a junkyard or store junk on any premises within the Town of Ossian unless a permit has first been issued for such junkyard pursuant to this law.
- 2) No person owning, having any right to, or any interest in any real property within the Town of Ossian shall license, rent, lease, or otherwise permit the use of such real property or any part thereof for a junkyard unless a permit has first been issued for such junkyard pursuant to this law.
- 3) All permits shall be issued for a period of one (1) year, after which time a renewal shall be required.

## **ARTICLE E: APPLICATION PROCEDURE**

### **SECTION 1. APPLICATION**

The applicant for a junkyard permit shall obtain application forms from the Town Clerk. The completed forms, along with one (1) copy of the proposed site plan and appropriate fees, shall be returned to the Town Clerk. The Clerk shall submit the application materials to the Town Board. The Town Board shall be the agency responsible for reviewing and approving applications for junkyards.

### **SECTION 2. SITE PLAN CONTENTS**

The site plan shall be drawn to scale, indicating all dimensions, and show:

- 1) all existing and proposed structures, including fences;
- 2) all property lines, including the names of owners of adjacent property;
- 3) all streams, lakes, wetlands, floodplains, and other bodies of water;
- 4) all wells and sanitary facilities;
- 5) all roads and easements;
- 6) all existing and proposed junk storage areas;
- 7) all existing and proposed accessways, and parking and loading areas;

### **SECTION 3. ENVIRONMENTAL IMPACT STATEMENT**

A Long Form Environmental Assessment Form (EAF) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act, as well as this Town's Environmental Quality Review Local Law. 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 AND COSTS**

A non-refundable application fee of Five Hundred Dollars (\$500.00) shall accompany all original applications. In addition, all fees of engineers and other professionals retained by the Town concerning said renewal application shall be paid in full by the applicant at such time(s) and under such terms as the Town Board requires.

**SECTION 5. PLANNING BOARD ACTION**

The application and site plan shall be forwarded to the Planning Board for study and recommendations. The Planning Board will report its recommendations in writing to the Town Board within thirty (30) days after receipt of the application and site plan.

**SECTION 6. ENFORCEMENT OFFICER REPORT**

The Enforcement Officer shall inspect the application plans and premises and report in writing to the Town Board within thirty (30) days after receipt thereof.

**SECTION 7. PUBLIC HEARING**

The Town Board shall fix a time within sixty-two (62) days of the date a complete application is received for a public hearing. At the Town's expense, notice of the hearing shall be made in the official town newspaper at least ten (10) days prior to the date thereof.

Also, within said ten (10) days, the applicant, at his cost by certified or registered mail, must notify all adjacent property owners within 500 feet of all boundaries of the land of the date, time, place and purpose of said hearing. Due proof of such mailing must be submitted to the Town Board at or before said hearing. 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 8. TOWN BOARD ACTION**

Within sixty-two (62) 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 sixty-two (62) day 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 written 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 decisions by certified mail within five (5) business 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.

If determined appropriate by the Town Board, a performance bond or other suitable financial guaranty can be required to assure compliance with the conditions of the permit, as well as reclamation of the land to its prior condition when the junk yard terminates.

## **SECTION 9. ISSUANCE OF PERMIT**

- A. If the application is approved by the Town and all fees and reimbursable costs due the Town have been paid to the Town by the applicant, 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 F: GENERAL CONSIDERATIONS**

The Town Board shall have the responsibility to apply conditions to the permit which are necessary to protect the general health, safety and general welfare of the community and to protect the character of the neighborhood from potential impacts of the permitted use.

Such conditions include, but are not limited to, the following.

### **SECTION 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.

**SECTION 2.      LOCATIONAL CONSIDERATIONS**

In granting or denying a permit, the Town Board shall take the following location factors into consideration.

- A. Nature and development of surrounding property.
- B. Whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive noise, odors or smoke, or other causes.
- C. The proximity of streams, lakes, wetlands, floodplains, ground water supplies, and other 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 sites for the junkyard.

**SECTION 3.      OTHER CONSIDERATIONS**

- A. Proposed building, or hours of operation, or use shall not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.
- B. All steps possible have been taken to minimize any adverse effects of the proposed building or use on the immediate vicinity through building design, site design, landscaping and screening.
- C. Proposed building or use will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring properties

## **ARTICLE G: ADMINISTRATION AND ENFORCEMENT**

### **SECTION 1. WAIVERS**

Where the Town Board finds that due to special circumstances of the particular case, a waiver of certain requirements as stated in Article C 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 has not been self-imposed; and
- D. the waiver 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 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.
- 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. Once a permit is issued, as a condition of all permits, the junkyard owner or operator shall have deemed to have consented to allow the Enforcement Officer to enter onto the premises and inspect the junkyard at all times, with or without notice, the frequency thereof to be no more than twice (2 times) per month unless a violation is noted.

### **SECTION 3.**

#### **REVOCACTION 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, or any conditions previously imposed. 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 (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 Town Board minutes. The permit holder shall be immediately notified of the revocation by certified mail.

### **SECTION 4.**

#### **ENFORCEMENT, PENALTIES AND REMEDIES**

- A. The Enforcement Officer shall report all violations of this Local Law to the Town Board.
- B. For each violation, the Enforcement Officer shall issue a written Order to Remedy Violation. It shall be served on the owners and persons in possession of the property either by personal service or certified mail, return receipt requested, addressed to each person's last known address.

The Order to Remedy Violation shall include:

- 1) The address and tax map number of the property affected;
- 2) The names and addresses according to the latest county tax rolls of each owner of the premises, as well as the names and addresses, to the extent known, of the persons other than the owners, if any, occupying the premises;
- 3) The sections of this Local Law that are being violated, and the alleged facts on which these violations are based;
- 4) The reasonable time within which all such violations must be cured;
- 5) The penalties to the violators and remedies available to the Town if the Order to Remedy is not obeyed;

- 6) The violators' right to appeal to the Town Board. To so appeal, the violators must file a Request to Appeal with the Town Clerk within fourteen (14) days of service of said Order to Remedy on the violators. If the Order was served by personal service, the fourteen (14) days shall start the next day. If served by certified mail, five (5) additional days shall be added, making it nineteen (19) days after the mail is received by the US Postal Service. The Request must state in detail all factual and legal reasons, if any, why the Order should not be enforced and must be dated and signed by the person(s) making such request. The Request shall be heard at the next regular meeting of the Town Board unless said Board decides to entertain same at an earlier special meeting. Enforcement shall be stayed from time of filing the Request to Appeal until the date the matter is heard. In the sound discretion of the Town Board, said Board may continue the stay until it renders a written decision.
- C. If the violations are not cured in the time so ordered, the Enforcement Officer shall then take such action as directed by the Town Board.
  - D. Each person and/or entity that violates said law and fails to completely cure all violations described in the time set forth in the Order to Remedy Violation shall be subject to the following:
    - 1) A civil penalty of \$200 per day payable to the Town of Ossian for each day the violation continues after the time set forth in the Order to Remedy up to the time the violation(s) is(are) completely cured.
    - 2) Each such person shall be guilty of a criminal offense and shall be subject to a mandatory fine of Two Hundred Fifty Dollars (\$250.00) and up to fifteen (15) days in jail for each offense. Each successive week of violation thereafter shall be deemed a separate violation subject to the same penalties.
  - E. If the violators fail to remedy the violation in the time prescribed in the aforesaid Order, the Town may, but does not have to, enter into the premises and cure the violations, all at the sole expense of the violators.
  - F. All costs and expenses of the Town, including attorney's fees and all costs of litigation to enforce this law and enforce any money and/or other judgments obtained thereby, as well as all professional expenses incurred shall be borne by and are the joint and several obligation of all violators.

- G. The Enforcement Officer, at the direction of the Town Board, may apply to the Supreme Court of the State of New York to cure the violation(s) and enforce the aforesaid remedies as well as all other remedies allowed by law.

**ARTICLE H: 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 I: EFFECTIVE DATE**

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

**ARTICLE J**

This local law shall replace the prior existing junk/junkyard law of the Town of Ossian.