

LOCAL LAW NO. 2-2002
TOWN OF GILBOA

A LOCAL LAW PROVIDING FOR THE REGULATION, CONTROL
AND LICENSING OF JUNKYARDS IN THE TOWN OF GILBOA

BE IT ENACTED by the Town Board of the Town of Gilboa, Schoharie
County, New York as follows:

Section 1. Title.

This local law shall be known and may be cited as the Town of Gilboa Junkyard Law.

Section 2. Legislative Intent.

The purpose of this local law, regulating and controlling the junkyard business, is to maintain the public health and safety, to preserve property values and to enhance the general public prosperity and welfare of the town.

Section 3. Definitions.

Wherever used in this law:

- a) The term "person" shall mean an individual, a voluntary association, partnership or a corporation.
- b) The term "junkyard" shall mean any place of outdoor storage or deposit, whether in connection with another business or not, of any of the following:
 - 1) Two (2) or more unregistered, old, or secondhand motor vehicles, no longer intended for or in condition for use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric, or other materials, for the purpose of disposing of the same or any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles. including tires, which, taken together, equal in bulk five or more such vehicles.
 - 2) One (1) or more old, secondhand, or junk mobile homes, are held whether for the purpose of resale of used parts therefrom, or for the purpose of rebuilding, or reclaiming for some other use some or all of the materials therein, whether metal, glass, fabric or other materials, for the purpose of disposing of same or

any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from mobile homes which, taken together, equal in bulk two (2) such mobile homes.

- 3) One (1) or more junk appliances, including but not limited to washers, dryers, air conditioners, stoves, dishwashers, refrigerators, freezers, televisions, water heaters or other household items are held whether for the purpose of resale of used parts therefrom, or for the purpose of rebuilding, or reclaiming for some other use some or all of the materials therein, whether metal, glass, fabric, or otherwise, for the purpose of disposing of same or any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from such appliances which, taken together, equal in number five (5) such appliances.
- c) The term "junkyard item" shall mean junk motor vehicle, old, secondhand, or junk mobile home, or junk appliances as hereinafter defined.
- d) The term "junk motor vehicle" shall mean any motor vehicle whether automobile, bus, trailer, truck, truck-tractor, motor home, motorcycle, moped, or snowmobile, or any other device originally intended for travel on the public highways which meets all of the following conditions:
 - 1) It is unlicensed.
 - 2) It is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled.
 - 3) It is not in condition for legal use upon the public highway.
- e) The term "old, secondhand or junk mobile home" shall mean 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.
 - 2) It is either stored, abandoned, wrecked, discarded, dismantled, or partly dismantled.

- f) The term "junk appliance" shall mean any appliance including but not limited to washers, dryers, air conditioners, stoves, dishwashers, refrigerators, freezers, televisions, and water heaters or other household items which are either old, junk, secondhand, or no longer in working order, and are stored, discarded, abandoned, dismantled, or partly dismantled.

Section 4. Requirement for operation or maintenance of a junkyard.

No person shall operate, establish or maintain a junkyard in the Town of Gilboa until he has obtained a license to operate a junkyard business as hereinafter provided.

Section 5. Form of application for license.

Application for a license to operate a junkyard, or renewal thereof, shall be in a written form, which shall be furnished by the Town Clerk to the applicant upon request. Such form shall contain the name and address of the applicant and the address where the junkyard is located; whether the applicant is the owner of the premises where the junkyard is located, and if not, the name and address of the owner; whether the applicant has ever been convicted of a felony or misdemeanor, and such other facts or evidence as may be required to establish that he is a person fit and capable of properly conducting the activity or business for which the license is sought; a description and map of the area included in the junkyard and the location of the fence required hereunder; a statement that the applicant agrees to operate the junkyard in accordance with the provisions of this Local Law and that upon failure to do so the license may be revoked; and the signature of the applicant.

Section 6. License Fee.

The annual license fee shall be set at the annual organizational meeting of the Town Board and paid at the time of the application and annually thereafter in the event of renewal. If the application is not granted, the fee shall be returned to the applicant less the cost of advertising if a hearing is held on such application, and any other reasonable costs incidental to the hearing and clearly attributable thereto. If the license is granted following a hearing, the issuance of such license shall be conditional upon the payment by the applicant (in addition to the license fee) of all costs that may be assessed.

Section 7. Issuance and renewal of license.

- a) A person presently engaged in the operation or maintenance of a junkyard in the Town of Gilboa must apply to the Town Clerk for a license within sixty (60) days from the passage of this Local Law. Upon receipt of an application form properly

filled out, accompanied by the license fee, the Town Clerk shall issue to such person a temporary license good until June 1 of the next calendar year, during which time the applicant must make such alterations and modifications to his place of business as may be necessary to make it comply with the provisions of Section 9 hereof. If, by June 1 of the next calendar year, such person has not complied with all the necessary requirements hereunder, he shall forthwith cease and desist operating such junkyard and shall remove from such place any motor vehicles, mobile homes, appliances, or any other materials of the nature described herein.

- b) A person not presently engaged in the operation or maintenance of a junkyard shall, prior to engaging in such activity, obtain a license as provided in this law. Upon receipt of the application form properly filled out, accompanied by the license fee, the Town Clerk shall submit the application to the Town Board which shall direct that a public hearing be held on the application as provided in Section 8. Following the hearing the Clerk shall give written notice to the applicant of the Town Board's decision.
- c) A person desiring to renew a license shall, not less than thirty (30) days prior to the expiration date of such license, apply to the Town Clerk for a renewal of the license on a form to be provided by the Town Clerk, and shall at the same time pay to the Town Clerk the license fee. Such application shall be processed in the same manner as an application for a new license as provided in Subsection (b) of this section, except that a public hearing on the renewal license shall be at the Town Board's discretion.

Section 8. Hearing.

A hearing held by the Town Board in connection with the application, as provided in Section 7, shall be published once in a newspaper having a circulation within the town, which publication shall not be less than seven (7) days before such date. At the expense of the applicant, the applicant shall notify in writing by certified mail, return receipt requested, all property owners adjoining the proposed junkyard or within two hundred (200) feet thereof, that the applicant is applying for a license to operate a junkyard, the date of the public hearing and the nature of the junkyard proposed to be operated; the applicant shall submit at the public hearing, a copy of the letter mailed with the proofs of mailing and return receipts. At such hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license, or renewal of a license, to operate, establish or maintain the junkyard. In considering such application, the Board shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the junkyard; to any record of

convictions for any type of larceny or receiving stolen goods; proof of legal ownership or right to use the property for the license period by the applicant; the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes; and the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of the citizens of the town, by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection the Town Board may consider collectively the type of road servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of the junkyard to residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junkyard.

Section 9. Fencing and concealment of junkyard from view.

- a) A junkyard shall be surrounded with a neat-appearing fence which screens the items and materials contained in such junkyard from view. Such fence shall be of uniform color, texture, type, or style and constructed as follows:
 - 1) The fence shall be a minimum of eight (8) feet in height. The Town Board may require a higher fence if it deems it necessary to adequately screen the junkyard items from view from adjacent residences and public highways.
 - 2) The fence shall be constructed using fence posts of wood, concrete, or plastic. All fence posts shall be set in the ground a minimum depth of two (2) feet and spaced at a maximum distance not to exceed eight (8) feet.
 - 3) Fencing material shall be wood, corrugated metal or plastic of brown or green earth tone hues, and of such character that it can not be seen through.
 - 4) Such fence shall not be erected in the highway right of way.
 - 5) One sign no larger than four (4) feet wide by eight (8) feet tall containing the name of the business and any other pertinent information concerning the operation of the business may be placed upon the fence. The sign shall be painted in white or black letters and may be on a white, black, or a green or brown earth tone color signboard. No other advertising signs or posters shall be placed on such fence other than those required by law.

- b) The Town Board may reduce or eliminate the fencing requirement herein where the junkyard is not visible from any public highway or neighboring property by reason of distance therefrom or the topography of the land, or where the natural growth of timber (as distinguished from bushes or shrubs) screens the junkyard from view in all seasons. All junkyard items and parts thereof stored or deposited by the licensee shall be kept within the enclosure of the junkyard except as removal shall be necessary for the transportation of same in the reasonable course of business. All wrecking or other work on such junkyard items and parts and all burning of same shall be accomplished within the enclosure.
- c) The Town Board or any of its representatives, shall be granted access to the area of the junkyard at all reasonable hours to inspect the same for compliance with this Local Law.

Section 10. Penalties.

- a) The licensee who commits or permits any acts in violation of any of the provisions of this Local Law shall be deemed to have committed an offense against such law and shall be liable for any such violation and the penalty therefore. Each week such violation shall continue or be permitted to exist shall constitute a separate violation.
- b) For every violation of any provision of this Local Law the person violating the same shall be subject to a fine of not more than two hundred fifty and no/100 (\$250.00) dollars or imprisonment not exceeding fifteen (15) days, or both fine and imprisonment.
- c) Conviction for any violation shall result in an immediate forfeiture of the license and all junkyard items shall be removed from the property within one hundred twenty (120) days by the licensee.
- d) In addition to the above provided 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 the violation of this Local Law.

Section 11. License personal.

- a) Each license shall be personal with the licensee and may not be sold, assigned, transferred or disposed of. In the event of a transfer of ownership of a licensed

business, whether such transfer is voluntary or involuntary, the new owner must obtain a license before commencing or continuing business, in accordance with the provisions of Subsection (b) of Section 7 of this law.

- b) Each licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.

Section 12. Saving clause.

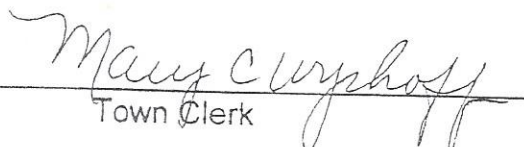
If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect or impair or invalidate the remainder thereof, but shall be confined to its operation to the clause, sentence, paragraph, section or part thereof directly involved in the litigation in which such judgment shall have been rendered.

Section 13. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.

Enacted: 3/4, 2002, by the Town Board of the Town of Gilboa.

(SEAL)


Town Clerk