

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

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(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
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& STATE RECORDS

~~County~~
~~City~~ of FARMERSVILLE
~~Town~~
~~Village~~

Local Law No. 1 of the year 2003

A local law REGULATING THE OUTDOOR STORAGE OF JUNK VEHICLES AND
(Insert Title)
WASTE MATERIALS IN THE TOWN OF FARMERSVILLE.

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of FARMERSVILLE as follows:
~~Town~~
~~Village~~

Pursuant to Section 136 of the Town Law of the State of New York, the Town Board of the Town of Farmersville, County of Cattaraugus, New York does ordain and enact as follows:

SECTION 1. Legislative Intent

The accumulation, storage and abandonment of unusable motor vehicles and component parts thereof, and litter, trash, refuse, debris, abandoned appliances and other waste materials on private and public property within the Town of Farmersville is hereby declared to be detrimental to the public health and welfare of the residents of the Town of Farmersville, aesthetically unattractive and detracts from the enjoyment of the environment by the said residents, tends to depreciate neighborhood property values and is an infringement on the enjoyment of their properties and homes by neighboring residents. One purpose of this local law is to prohibit the placement, storage or abandonment of vehicles which, are no longer intended or in condition for legal use on the public highways. In order to accord owners of vehicles that are registered with the Department of Motor Vehicles and which are damaged or inoperable, a reasonable time to restore them into operating condition or to arrange for other disposition of them and in recognition of the fact that certain types of businesses necessitate the temporary parking of inoperable vehicles out of doors, the prohibition does not apply until the vehicle has been situate on the property in excess of thirty (30) days.

The further purpose of this law is to prohibit the placement or accumulation of junk, garbage, litter or waste materials of any kind out of doors on private or public property. A five (5) day grace period is considered to be a reasonable time to allow for the removal and disposition of junk, garbage, litter or waste materials of any kind.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Section 2: Territory Affected

This local law shall be applicable to all territory within the Town of Farmersville.

Section 3: Definitions

As used in this local law, the following terms have the meaning indicated:

ANTIQUÉ 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 in, a condition which is substantially in conformance with the manufacturer's specifications.

CLUTTER, LITTER AND DEBRIS: Ordinary household or commercial trash such as paper, barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick, stone or other building materials no longer intended or in condition for ordinary use; and any and all tangible personal property no longer or in condition for ordinary and customary use.

ENFORCEMENT OFFICER: The Code Enforcement Officer, or any police or peace officer of the State of New York, Deputy Sheriff or any person appointed by the Town Board to enforce provisions of this law.

JUNK: One or more of the following items: junk appliance, junk furniture, junk mobile home, junk vehicles, parts of vehicles or clutter, litter and debris.

JUNK APPLIANCE: Any stove, washing machine, dryer, freezer, refrigerator, air conditioner, television or other household device or equipment which is abandoned, junked, discarded or wholly or partly dismantled.

JUNK FURNITURE: Abandoned, discarded or irreparable damaged pieces of indoor furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers and like items.

JUNK MOBILE HOME: Any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and overnight trailers; which meets two out of three conditions for six months or more;

The electrical service is disconnected or terminated;
It is abandoned as a dwelling unit;
It is no longer habitable for residential occupancy

JUNK 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 meets all of the following conditions;

It is unregistered;
It is abandoned, wrecked or partly dismantled;
It is not in condition for legal use upon the public highway.

With respect to any motor vehicle not required to be licensed or motor vehicle

GARBAGE: Discarded useless or rejected matter.

WASTE: An unusable or unwanted substance of material, such as waste product. Garbage, trash. Regarded or discarded as worthless or useless: waste trimmings.

SECTION 4: Storage of Junk Vehicles Prohibited and Exclusions

No person shall within the Town of Farmersville, deposit, place, store or abandon on any real property, or permit, cause, or consent to be deposited, placed, stored or abandoned on any real property owned or occupied as a tenant by such person, a junk vehicle for a period of longer than thirty (30) days after receipt by such person of the notice prescribed by Section 9 unless such vehicle is completely enclosed in a garage or other similar structure. This section shall not apply to the storage, placement, deposit or abandonment of junk vehicles in junkyards as defined herein, and duly operating in accordance with Section 5 below.

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

1. 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; (b) a member of the United States Armed Forces; or (c) suffering from an injury or illness requiring hospitalization or confinement to a bed; New York Certified Vehicle Repair Shops; Seasonal vehicles or machinery during their off season if kept in a location not visible from any road, street or highway;
2. 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;
3. Antique motor vehicle, which is being restored under conditions of a restoration permit.
4. Town owned property at 8969 Lake Ave. in Farmersville.

Section 4-B Restoration Permit

Upon written application and a fee of \$10.00, the town clerk shall issue a permit for the open storage of one antique vehicle otherwise prohibited by this local law, pending the making of such repairs as are necessary to place this vehicle in condition for legal operation for use on a public highway or for such use as it was originally intended. Such permit shall be valid only for the vehicle and location identified. Application for a restoration permit shall include the following:

1. The name, address and telephone number of the applicant. The applicant shall be the owner of the vehicle;
2. The name, address and telephone number of the owner or tenant of the property where the inoperable, unregistered or junk vehicle is stored, if the owner of the motor vehicle is not the owner of the property where the vehicle is stored, written permission from the owner or tenant of the property must accompany the application;
3. The make, model, year of manufacture, serial/VIN and color;
4. The most recent year of registration, state registered in, plate and registration number;
5. The expiration date of the most recent inspection and serial number of the inspection sticker;
6. Identification of who will make the repairs and location where those repairs will be made;
7. Certification that the owner intends to restore said motor vehicle within 180 days from the approval date of application.
8. The motor vehicle shall be adequately supported and shall not create a safety hazard while repairs are being made. Any violation will result in immediate revocation of permit. Permits for the specific vehicle must be renewed every thirty (30) days at a fee of \$10.00 per renewal. A copy of the permit shall be affixed to the interior windshield.

Section 4 C

Hobbyist or sports enthusiasts must obey Section 11 of Enforcement.

Section 4 D Vehicle for Sale

No more than one vehicle can be for sale at any one time unless it is a business with a NYS Resale License.

The vehicle shall be owned by one of the inhabitants of the property where the vehicle is being offered for sale; EXCEPTION: a business with NYS Resale License, a copy to be held in Clerk's office, no fee required.

The vehicle shall be setback from the road so as not to create a visibility hazard.

Section 5:A Junkyard Operation

No person shall engage or conduct on property within the Town of Farmersville either for himself or on behalf of any person, directly or indirectly, as an agent, employee or otherwise, any activity either for profit or otherwise which involves the collection, storage, burning, dumping, dismantling, salvaging, sorting or otherwise handling or arranging for sale, storage or disposal or otherwise of junk or junk vehicles as defined in Section 3 above, without first obtaining a license therefore as herein provided.

Any person intending to or operating a junkyard as hereinbefore defined shall be considered as engaged in the operation of a junkyard and shall be required to obtain a license pursuant to the terms of this local law

B. Application

No permit shall be granted unless written application shall be presented to the Town Board setting forth the following details: Name, address, description of type of business to be conducted, together with a map showing the size and location of the property, the ownership and use of thereon, the size of the proposed junkyard and topographical contour of the land. All information must be presented to the Town Board by a licensed professional (architect or engineer).

A description and plan of the fencing to be erected around the junkyard;

Following receipt of the application, the Town Board shall determine the affected area and the applicant shall thereafter, on forms provided by the Town Board, serve notice of public hearing on said application on all owners within said affected area. Said notice shall be served within 10 days of public hearing as determined by the Town Board proof of service of notices. In determining the affected area, the Town Board will take into consideration the use of surrounding property and general character of the neighborhood;

After the hearing as set forth above, the Town Board shall within 10 days either grant or deny the application for the license;

There shall be an annual permit fee of \$100.00 annually. Said fee shall be due on January 1 of each year for each junkyard. There shall be no

hearing required for renewals or licenses previously issued. Annual payments not made by February 1 are subject to being revoked and also subject to Section 12 penalties. Each license shall be issued to an individual person and shall not be sold. The application for a new license by the purchaser or successor in interest to the property where a junkyard is maintained and licensed shall be considered as a renewal of previously issued license and no hearing shall be required.

Section 6: Fencing

All junkyards shall be required to be enclosed by woven steel or board fence at least eight (8) feet high, with a gate that can be locked. The fence must eliminate the view of the junkyard and be 25 feet from the roadway, and a fire lane must be provided between the fence and the beginning of the junk. The Board may waive the fencing requirement if the proposed site is hidden from public view by natural land contours or trees, at least eight (8) feet in height.

Section 7: Date of Construction and Completion, Renewals and Extensions

All requirements must be met prior to issuance of permit. Any permit so issued shall be subject to revocation unless this provision is complied with. There shall be no renewals of permits or extensions of the time to facilities not in compliance with this section of the local law.

Section 8: Deposit of Litter and Waste Material Prohibited

No person shall, within the Town of Farmersville, deposit, store, accumulate or abandon upon any real property, Town property or highway within the Town, nor cause consent or permit to be deposited, stored, accumulate or abandon upon any real property owned or occupied as a tenant, by such person outside of an enclosed structure or a securely covered garbage or trash container, any junk, rubbish, garbage, litter, refuse or waste matter or material of any kind, or parts and components of vehicles, for a period longer than 5 days after receipt by such person of the notice prescribed by Section 99.

Section 9: Notice (To Comply)

Once it has been determined that a violation of this local law exists, written notice shall be sent to the occupant or owner of the property, or to the owner of the vehicle, or to both such persons, directing the removal of the property violating this law within 15 days after receipt of notice. The Notice shall be served by personal service or by certified mail, return receipt requested, addressed to the last known address of the property or vehicle owner or occupant. If said certified mail is refused

or returned, service shall be made by mailing a copy of the notice by first class mail to the address of the property owner in a post office or official depository under the exclusive care and custody of the United States Postal Service within the State of New York. Service shall be deemed complete upon depositing the notice in an official depository of the United States Postal Service within the State of New York.

Section 9-B Extension

Upon written application of the owner or occupant showing reasonable cause, the Town Board may grant an extension of up to 30 days for the owner or occupant to comply.

Section 10: Enforcement Officer

This local law may be enforced by the Code Enforcement Officer of the Town of Farmersville, any Constable of the Town of Farmersville, or by any peace, police officer or deputy sheriff with jurisdiction in the Town of Farmersville.

Section 11: Enforcement

If the owner or occupant shall fail to comply with the requirements of this local law, the enforcement officer as identified in Section 10 or the Town Board may institute enforcement procedures as follows:

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. The town reserves the right to seek a court order to have the junk removed and disposed of. The expense thereof shall be charged to the property so affected including such expense in the next annual tax levy against the property.

EXCEPTIONS: All junkyards in existence at the time this local law is enacted shall have a period of six months to comply with the fencing requirements as contained herein. After compliance, they shall be issued a permit without a hearing. If the owner of junkyards now in existence fails to comply, they shall be considered in violation.

No owner or occupant of any property shall be considered in violation of this local law if their abandoned vehicle or junk is hidden from view by land contours or visual screens such as fences, trees or bushes which are at least 8 feet in height.

Section 12: Penalties

Any person who shall violate any of the provisions of this law shall be guilty of a violation and subject to the following:

A fine of a minimum \$100.00 and not to exceed \$500.00 per occurrence or imprisonment for a period not to exceed 15 days, or both; AND, the same penalty to be recovered by the Town in a civil action. Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omission, neglect or refusal shall continue. 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 provision of this law.

Section 13: Effective Date

This local law shall take effect upon filing with the Secretary of State and State Comptroller as required by the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2003 of the ~~(County)(City)~~(Town)(Village) of Farmersville was duly passed by the Town Board on January 13, 2003, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19..... of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19....., became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19..... of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph.....¹....., above.

Susan Holmes

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: January 13, 2003

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF CATTARAUGUS

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Donald J. Swaney

Signature
TOWN ATTORNEY

Title

~~County~~
~~City~~ of Farmersville
Town
~~Village~~

Date: January 14, 2003