

Village of Earlville
JUNK STORAGE LAW OF 2005

Adopted: September 13, 2005

A local law regulating the placement and storage of junk.
The Village Board of the Village of Earlville hereby enacts the following:

ARTICLE A: TITLE, PURPOSE, AUTHORITY

1. Title

This local law shall be known as the "Village of Earlville Junk Storage Law".

2. Purpose:

By adoption of this law the Village of Earlville declares its intent to regulate and control the storage or keeping of junk, and to regulate junkyards whether operated for commercial profit or otherwise. The Village 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 be a public nuisance. Such material may be highly flammable, toxic, and sometimes explosive. Junk and particularly junked vehicles can constitute attractive nuisances to children and certain adults.

3. Authority:

This law is adopted pursuant to the authority granted the Village in Section 10 of the Municipal Home Rule Law and in Section 130 (15) of the Town Law. (Section 4-412 { 1 } of the Village Law.)

ARTICLE B: DEFINITIONS

For the purpose of this law, the following words and phrases shall have the meaning ascribed to them in this article.

JUNK: the outdoor storage or deposit of any of the following shall constitute junk:

1. One (1) or more junked vehicles
2. One (1) or more abandoned or nonpermitted mobile homes or recreational vehicles
3. One (1) or more appliances, including, but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, televisions, radios, stereos, ovens, vacuum cleaners, computers, typewriters
4. Two (2) or more inoperable farm implements
5. One (1) or more items of household furniture, including, but not limited to: couches, chairs, tables, lamps, dressers, mirrors, vanities, cabinets, countertops, bed frames, mattresses, box springs
6. Construction debris, general household trash, tires, used metal, insulation, returnable deposit bottles and cans.

JUNKYARD: The outdoor storage or deposit of any of the following:

1. Five (5) or more junk vehicles
2. Two (2) or more abandoned or non-permitted mobile homes or recreational vehicles
3. Five (5) or more appliances including but not limited to: washers, dryers, dishwashers, stoves, refrigerators, freezers, televisions
4. Five (5) or more inoperable farm implements
5. Any combination of the above that totals five (5) items
6. Any amount of scrap or salvaged metal exceeding one (1) cubic yard.

JUNK VEHICLES:

Any motor vehicle, specifically, but not limited to: automobile, bus, trailer, truck, tractor, motor home, motorcycle, motorbicycle, minibicycle, or snowmobile, or any other device originally intended for travel on the public highways which is unlicensed, wrecked, inoperable, dismantled or partly dismantled or is not in condition for legal use upon the public highway. With respect to any motor vehicle not required to be licensed by the Department of Motor Vehicles or 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.

ENFORCEMENT OFFICER: Any person appointed by the Village Board to represent them in particular matters pertaining to this Local Law.

PERSON: Any person, firm, partnership, association, corporation, company or organization of any kind.

ARTICLE C: JUNK REGULATIONS

No junk, as defined herein, shall be located on any real property within the Village of Earlville, except in permitted junkyards.

ARTICLE D: JUNKYARD REGULATIONS

All junkyards, as defined herein, shall be in compliance with the following requirements:

1. No junkyard shall be located within one hundred (100) feet of any adjoining property line, any residential building (except that belonging to the junkyard owner), public park, church, educational facility, nursing home, public building or other place of public gathering, or any stream, lake, pond, wetland, or other body of water.
2. The junkyard shall be set back at least fifty (50) feet from the right-of-way of any public highway.
3. There must be erected and maintained an eight (8) foot high fence adequate to prohibit the entrance of children and others into the area of the activity of business and to contain within such fence the materials dealt with by the operator of the junkyard. All the materials dealt with by the operator of the junkyard shall be kept within such fence at all times. Whenever the junkyard is not open for business, or temporarily not supervised, this fence, and any gate thereto, shall be secured or locked to prevent entry. The Board may waive the requirement of fencing where topography of other natural conditions effectively prohibit the entrance of children and others.
4. Where a junkyard is or would be visible from a public highway or from neighboring properties, the fence shall be of wood or other materials sufficient to totally screen the junkyard from view. As an alternative, the Board may by waiver or variance, permit such screening by adequate planting of evergreen trees or shrubbery.
5. The junkyard shall not be used as a dump area by the public and there will be no burning of automobiles or other materials except in connection with the periodic crushing and removal of automobiles or other materials from such yards in compliance with the New York State Fire Code (see Section 307 Open Burning).

ARTICLE E: JUNKYARD PERMIT

1. Permit Required:

No person shall establish or maintain a junkyard, as defined herein, without first obtaining a junkyard permit from the Village of Earlville Codes Enforcement Officer. All permits shall be issued for a period of one (1) year, after which time renewal shall be required.

2. Existing Junkyards, Temporary Permit

Any person presently maintaining a junkyard, as defined herein, on real property within the Village of Earlville must apply for a permit within sixty (60) days of the adoption of this local law. If the place where such activity is conducted does not meet the requirements of Article D herein, a temporary permit may be granted for a period not to exceed one (1) year, during which time the place shall be arranged to comply with said requirements, such person shall cease and desist from maintaining a junkyard and all junk shall be removed.

ARTICLE F: APPLICATION PROCEDURE

1. Application Form

The applicant for a junkyard permit shall obtain application forms from the Village Office. The completed forms along with one copy of the proposed site plan, and the appropriate fees, shall be submitted to the Village Office. The Clerk shall submit the application materials to the Village Board.

An environmental Assessment Form (EAF) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act, NYCRR 617. If the EAF indicates that the proposed activity may have significant environmental consequences, the Village 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 Village Board.

2. Application Fee

A non-refundable application fee of Two Hundred Fifty dollars (\$250.00) shall accompany all applications.

3. Public Hearing

The Village Board shall fix a time within sixty (60) days of the date a complete application is received for a public hearing. Notice of the hearing shall be made in the official newspaper no more than 20 nor less than 5 days prior to the date thereof. At the hearing the Village Board shall hear the applicant and all other persons wishing to be heard on the application for a junkyard permit.

4. Approval or Disapproval

Within forty-five (45) days of said hearing the Village of Earlville Board shall render a decision to approve, approve with 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 Village Board. If the application is disapproved, the reasons for such disapproval shall be entered into the Board minutes. 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.

5. Issuance of Permit

If the application is approved by the Village Board, a Junkyard permit shall be issued by the Enforcement Officer. If the application is approved with conditions by the Village Board, the Enforcement Officer shall issue a Junkyard Permit upon notification by the Board that said conditions have been met.

ARTICLE G: GENERAL CONSIDERATIONS

In granting or denying a permit, the Village Board shall take the following aesthetic and locational factors into consideration:

1. Aesthetic Considerations
 - a) Natural or artificial barriers protecting the junkyard from view.
 - b) Proximity of the site to established residential or recreational areas.
 - c) Availability of other suitable sites for the junkyard.
2. Locational Considerations
 - a) Type of road servicing the junkyard.
 - b) The nature and development of surrounding property, such as the proximity of public gathering.
 - c) 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.
 - d) Local drainage patterns.
 - e) Long range comprehensive plans for the Village.
 - f) The proximity of streams, lakes, wetlands, flood plains, groundwater supplies and public water supplies.

ARTICLE H: ADMINISTRATION AND ENFORCEMENT

1. Waivers

Where the Village Board finds that due to special circumstances of a particular case, a waiver of certain requirements as stated in Article D herein is justified, then a waiver may be granted. No waiver shall be granted, however, unless the Village 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.
 - d) The waiver is the minimum necessary to accomplish the purpose.
2. Enforcement Officer
 - a) The enforcement officer shall upon request of the Village 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 Village, and shall report to the Village Board on the conditions of such junkyard.
 - b) The enforcement officer shall make periodic inspections of the Village 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 enforcement officer.
 - c) The enforcement officer shall not enter the premises of any private property without consent of the owner.

3. Revocation of Permit

The Village Board may revoke a Junkyard Permit upon reasonable cause should the applicant fail to comply with any provision of this law. Before the permit may be revoked, a public hearing shall be held by the Village Board. Notice of the hearing shall be made in the official newspaper no more than 20 nor less than 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 reason for such revocation shall be stated in the Village Board minutes. The permit holder shall be immediately notified of the revocation by certified mail.

4. Penalties

Any person who violates, is prosecuted and convicted of any of the provisions of this local law shall be subject to a fine of not more than five hundred dollars (\$500) and/or fifteen (15) days in jail.

5. Failure to Comply

In addition to the above provided penalties, the Village Board may also maintain an action or proceeding in the name of the Village 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: PREVIOUS LAWS

This law, when enacted and filed with the Secretary of New York State, supercedes any and all existing local laws regarding junk and junkyards.

ARTICLE J: 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 judgement 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 judgement shall have been rendered.

ARTICLE K: EFFECTIVE DATE

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