

Local Law Filing

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

(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 do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
FEB 12 2007

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

MISCELLANEOUS
& STATE RECORDS

Local Law No. 1 of the year 20⁰⁶

A local law regulating the outdoor storage of junk vehicles and waste materials in the
(Insert Title)
Town of Farmersville.

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

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

SEE ATTACHED SHEETS

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

(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. 1 of 2006 of the (~~County~~)(~~City~~)(Town)(~~Village~~) of Farmersville was duly passed by the Town Board on 12/11 2006, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. 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 _____ 20____, 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 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, 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 20_____ 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 _____ 20____, 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 20_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, 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 _____, above.

Susan E. Holmes
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body Susan E. Holmes, Town Clerk

(Seal)

Date: 12/14/06

(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.

James J. McAuley
Signature
Town of Farmersville Attorney
Title

County
City of Farmersville
~~Town~~
Village

Date: December 14, 2006

A Local Law REGULATING THE OUTDOOR STORAGE OF JUNK VEHICLES AND WASTE MATERIALS IN THE TOWN OF FARMERSVILLE.

Pursuant to Section 136 of the General Municipal Law and section 10 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Farmersville, County of Cattaraugus, New York does enact the following Local Law:

SECTION 1. Legislative Intent

The accumulation, storage and abandonment of unusable motor vehicles and component parts thereof, and junk, garbage, 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 welfare, and safety of the residents of the Town of Farmerville, as well as aesthetically unattractive and detracts from the enjoyment or 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 New York State 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 outside, 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 outside on private or public property. This thirty (30) day 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.

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:

AGRICULTURAL MACHINERY: Machinery used for agricultural purposes, including farming, production of field crops, dairying, pasturage, horticulture, floriculture, agriculture, aquaculture, viticulture, production of maple sap, tree farms, mushroom farms, and animal and poultry husbandry. Such machinery includes that used for packing, treating, for storing agricultural products (i.e. a milk holding tank). Agricultural machinery does not include the machinery used for a commercial slaughterhouse, but does include machinery used for deer processing. Tractors are understood to be agricultural machinery.

ANTIQUE AGRICULTURAL MACHINERY: Agricultural machinery over twenty-five years of age prior to the current year, and not a reproduction thereof, 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.

JUNK AGRICULTURAL MACHINERY: Any agricultural machinery, which meets the following conditions:

- a) It is abandoned, wrecked, or partly dismantled; or
- b) It can no longer be used as the manufacturer intended.

JUNK AGRICULTURAL MACHINERY PARTS: Parts, whether useable or not, in whole or in part, or waste material, which are derived from agricultural machinery.

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.

GARBAGE: Discarded useless or rejected matter.

JUNK: One or more of the following items: junk appliance, junk furniture, junk mobile home, junk motor vehicles, parts of vehicles or litter and debris, junk agricultural machinery, junk trailers, junk other motorized machinery, and waste material.

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 chest of drawers, an like items.

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 on condition for ordinary and customary use.

MOBILE HOME: A single family dwelling that is built in an off-site manufacturing facility for installation or assembly at a building site, designed to be a permanent residence, and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974. "Mobile home" does not include a trailer.

JUNK MOBILE HOME: Any mobile home which meets the following conditions:

- a) The electrical service is disconnected or terminated;
- b) It is abandoned as a dwelling unit; and
- c) It is no longer able to be used as the manufacturer intended; or
- d) It is no longer fit for human habitation and has been condemned.

MOTOR VEHICLE: All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

JUNK MOTOR VEHICLES: Any motor vehicle, which meets the following conditions:

- a) It is unregistered;
- b) It is abandoned, wrecked, or partly dismantled;
- c) It is not in condition for legal use upon the public highway; and
- d) It can no longer be used as the manufacturer intended.

ANTIQUE MOTOR VEHICLE: A motor vehicle over twenty-five years of age prior to the current year, and not a reproduction thereof, 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.

OTHER MOTORIZED MACHINERY: All vehicles propelled or drawn by power other than muscular power originally intended for use outside of and off of public highways. This includes, but is not limited to, lawn mowers, lawn tractors, snowmobiles, and all terrain vehicles (A.T.V.s).

JUNK OTHER MOTORIZED MACHINERY: Any other motorized machinery, as defined in this section, which meets the following conditions:

- a) It is unregistered; and/or
- b) It is abandoned, wrecked or partly dismantled; and
- c) It can no longer be used as the manufacturer intended.

ANTIQUE OTHER MOTORIZED MACHINERY: Other motorized machinery, as defined elsewhere in this section, which is over twenty-five years of age prior to the current year, and not a reproduction thereof, which has been maintained in or restored to, or will be maintained in or restored to, a condition which is substantially in conformance with manufacturer's specifications.

TRAILER: A vehicle so constructed as to be suitable for attachment to a motor vehicle for the purpose of being drawn or propelled by the motor vehicle, and capable of being used for temporary living, sleeping or eating accommodation of persons, notwithstanding

that such vehicle is jacked up. A self-propelled recreational vehicle shall also be construed to be a trailer. A trailer is not a mobile home or a manufactured home. This definition includes motor homes, R.V.'s, truck campers, camping trailers, and overnight trailers.

JUNK TRAILER: Any trailer which meets the following conditions

- a) The electrical service is disconnected or terminated;
- b) It is abandoned as a dwelling unit; and
- c) It is no longer able to be used as the manufacturer intended; or
- d) It is no longer fit for human habitation and has been condemned.

WASTE: An unusable or unwanted substance of material, such as waste product, garbage, and trash, which is regarded or discarded as worthless or useless.

Section 4 Prohibitions and Exclusions

No person shall 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, junk agricultural machinery, junk agricultural machinery parts, junk mobile homes, junk motor vehicles, junk motor vehicle parts, junk other motorized machinery and/or junk trailers for a period of more than thirty (30) days after receipt by such person of the notice prescribed by Section 6 unless such vehicle is completely enclosed in a garage or other similar structure.

Exclusions: The following conditions are hereby excluded from the definition of a junk motor vehicle, junk agricultural machinery, and junk other motorized vehicle:

- A) Agricultural machinery, including tractors, where such machinery is actively used. Agricultural machinery kept for parts shall be kept in a location not visible from any road, street or highway.
- B) Antique motor vehicle, antique agricultural machinery, or antique other motorized machinery, which is being restored. Restoration shall be done in a location not visible from any road, street, or highway. Restoration may last a reasonable period, no more than two years.
- C) Motor vehicle, agricultural machinery, or other motorized machinery for sale. No more than two (2) motor vehicles, or two (2) agricultural machines, or two (2) other motorized vehicles can be for sale at any one time. The vehicle shall be set back from the road so as not to create a visibility hazard.

Section 5 Deposit of Litter and Waste Material Prohibited

No person shall 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 a vehicle, for more than thirty (30) days after receipt by such person of the notice prescribed by Section 6.

Section 6 Notice (To Comply)

When it has been determined that a violation of this local law exists, written notice shall be served on the occupant or owner of the property, or on the owner of the vehicle, or on both such persons, directing the removal of the property violating this law within thirty (30) days after service of notice.

The notice shall be served by one of the following methods:

- A) Personal Service: Personal service upon a natural person shall be made by delivering the written notice to the person being served. The server shall be a person of 18 years or older, who is authorized by the town. The server shall sign an affidavit attesting to the date, time, and description of person being served (including, but not limited to, approximate age, approximate height, weight, sex, race, hair color, glasses, color of eyes, and other identifying features), address or a description where the service occurred, manner of service, and what papers were served. The service must be made by an authorized person and in an authorized manner. Service is complete upon the handing of the notice to the person. Service of the notice may be made upon a person of suitable age or discretion at the property of the person to be served.
- B) Certified Mail: Service 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 deposition of the notice in an official depository of the United States Postal Service within the State of New York.

Section 7 Extension

Upon written application of the owner or occupant showing reasonable cause, the Town Board may grant an extension of up to thirty (30) days for the owner or occupant to comply. Reasonable cause exists when the property owner can demonstrate good faith due diligence efforts in commencing the removal of the junk to the satisfaction of the Town Board. An extension granted by the Town Board may relieve the owner or occupant of the penalties prescribed in Section 10, at the discretion of the Town Board.

Section 8 Enforcement Officer

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

Section 9 Violations

If the owner or occupant shall fail to comply may the requirements of this local law, the enforcement officer, as identified in Section 8, or the Town Board may institute enforcement procedures as follows:

- A) The enforcement officer is hereby authorized to issue an appearance ticket to such persons or persons pursuant to Section 150.20 of the Criminal Procedure Law requiring their appearance in the Justice Court to answer the charge of a violation of this law.
- B) The Town Board may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this local law. The requested relief in such action may include an order permitting the Town to remove and dispose of the material causing the violation. The expense thereof, including court costs and reasonable attorneys fees, shall be a charge against the affected property and if unpaid, shall be include in the next annual tax levy against the property.

Section 10 Penalties

A person convicted of a violation of this local law shall be guilty of a violation punishable by a fine of a minimum of \$100.00 and a maximum of \$500.00 per violation. Each day that the violation continues constitutes a separate violation. Unpaid penalties shall be included in the next annual tax levy against the affected property.

Section 11 Severability

Should any part of this Local Law by adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be restricted in its operation and effect to the part specifically determined to be invalid.

Section 12 Effective Date

This local law shall take effect upon filing thereof with the Secretary of State.