

## **Junk Storage Law**

LOCAL LAW # \_\_\_\_\_ OF THE YEAR 2015

Be it enacted by the Village Board of Trustees of the Village of Wellsville as follows:

### **ARTICLE A: TITLE, PURPOSE, AUTHORITY**

#### **Section 1. Title**

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

#### **Section 2. Purpose**

By adoption of this law the Village of Wellsville 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 of Trustees hereby declares that a clean, wholesome, and attractive environment is of vital importance to the continued general welfare of its citizens, neighborhoods, community and to further the goals of the comprehensive plan; and, that junk and junkyards can constitute a hazard to property and persons and be a public nuisance.

#### **Section 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 4-412(1) of 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. Two (2) or more junk vehicles as further described herein.
2. One (1) or more abandoned mobile homes or trailers, or one or more abandoned all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law).
3. One (1) or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
4. One (1) or more abandoned or irreparably damaged pieces of indoor furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chest of drawers.
5. One (1) or more inoperable pieces of equipment.
6. Collection and storage of any second hand or used material which, taken together, equal in bulk volume five hundred (500) cubic feet or more.
7. Any combination of the above or parts of the above.

## JUNKYARD-

The outdoor storage or deposit of any of the following:

1. Two (2) or more junk vehicles as further described herein.
2. One (1) or more abandoned mobile homes or trailers, or one or more abandoned all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law).
3. One (1) or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
4. One (1) or more abandoned or irreparably damaged pieces of indoor furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chest of drawers.
5. One (1) or more inoperable pieces of equipment.
6. Collection and storage of any second hand or used material which, taken together, equal in bulk volume five hundred (500) cubic feet or more.
7. Any combination of the above or parts of the above.

Nothing herein contained shall be deemed to prevent farmers, loggers, or contractors from storing and/or maintaining on their own premises, motor vehicles, machinery and equipment now used by them in their business. Nothing herein contained shall be deemed to prevent the conduct of a New York State licensed new and/or used car business or a New York State licensed Repair/Inspection business and the parking of vehicles in the process of or waiting for repairs.

## JUNK STORAGE AREA -

The area of any parcel of land used or intended to be used for the placement or storage of junkyard items.

## JUNK VEHICLES -

Any motor vehicle, whether automobile, bus, trailer, truck, tractor, mobile home, motorcycle, motor bicycle, mini bicycle or snowmobile or any other contraption originally intended for travel on the public highways, which is abandoned, stored, left or located by its owner or any other person or is permitted or condoned to be abandoned, stored, left or located by its owner or any other person on public or private premises in the Village of Wellsville, outside of a junkyard which has a permit to operate in the Village of Wellsville, which vehicle:

1. Is not registered by the State of New York for operation on public highways and which has not been registered during the preceding six (6) months;
2. Is not currently registered and not in a condition for legal use on the public highways. A vehicle which is in condition to pass the requirements for the New York State motor vehicle inspection sticker shall be deemed in condition for legal use on public highways;
3. Is no longer intended to be used on the public highways, the condition of the vehicle and circumstances surrounding its storage or abandonment being admissible for purposes of determining such intent; or
4. Is being held or used for the purpose of resale of used parts therefrom or for the purpose of reclaiming for use some or all of the materials therein or for the purpose of disposing of the same.

Enforcement Officer -

Any person appointed by the Village Board of Trustees 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 so as to be visible from public roads or from neighboring properties.

Exception: Those items placed at the curb for collection with a Village of Wellsville heavy trash pickup permit for the current week.

## ARTICLE D: JUNKYARD REGULATIONS

### Section 1. Location

No junk storage shall be located within:

- A. One hundred (100) feet of any adjoining property line;
- B. Five hundred (500) feet of any public park, church, educational facility, hospital, nursing home, public building or other place of public gathering (applicable only to motor vehicle junkyards per NYS General Municipal Law 136, Section 14);
- C. Two hundred (200) feet of any public park, church, educational facility, hospital, nursing home, public building or other place of public gathering (applicable to any junkyards other than motor vehicle junkyards);
- D. Two hundred (200) feet of any stream, lake, pond, wetland or other body of water; or
- E. Seventy-five (75) feet from the right-of-way of any public highway,

### Section 2. Screening

A. Existing Junkyards Where a junkyard is visible from a public highway or from neighboring properties, an eight (8) foot high fence completely surrounding same shall be erected of wood or other materials as approved by the Village Board of Trustees sufficient to substantially screen the junkyard from view with a suitable gate which shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent shall be within. As an alternative, the Village Board of Trustees may permit such screening in whole or in part by adequate planting of evergreen trees or shrubbery.

B. New Junkyards Before use, a new junkyard shall be completely surrounded with a fence at least eight (8) feet in height which substantially screens and with a suitable gate which shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent shall be within. Where the junkyard is not visible from a public highway or from neighboring properties, and where the topography, natural growth of timber or other considerations accomplish the purposes of this Local Law in whole or in part, the fencing requirements hereunder may be reduced by the Village

Board of Trustees, provided, however, that such natural barrier accomplishes and is consistent with the purposes and objectives of this Local Law.

### Section 3. Burning

No materials shall be burned on a junkyard site except in compliance with the New York State Outdoor Burning Law (see 6 NYCRR 215).

### Section 4. Burying

No junkyard items shall be buried in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see 6 NYCRR 360).

### Section 5. 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 Village Board of Trustees pursuant to this Local Law.

## ARTICLE E: JUNKYARD PERMIT

### Section 1. Permit Required

No person shall establish or maintain a junkyard, as defined herein, without first obtaining a junkyard permit from the Village of Wellsville. All permits shall be issued for a period of one (1) year, after which time renewal shall be required. All existing permits shall expire on April 1 annually.

### Section 2. Existing Junkyards, Temporary permit

Any person presently maintaining a junkyard, as defined herein, on real property within the Village of Wellsville 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. If at the end of such period the place has not been arranged so as to comply with said requirements, such person shall cease and desist from maintaining a junkyard and all junk shall be removed by the landowner within sixty (60) days. If after sixty (60) days the junk is not removed, the Village reserves the right to have the junk removed and disposed of and all costs of such removal and disposal shall be borne by the landowner.

## ARTICLE F: APPLICATION PROCEDURE

### Section 1. Application Form

The applicant for a junkyard permit or permit renewal shall obtain application forms from the Village Clerk. The completed forms, along with one copy of the proposed or existing site plan, and the appropriate fees, shall be returned to the Clerk. The Village Clerk shall submit the application materials to the Village Board of Trustees for its review.

### Section 2. Environmental Assessment

An Environmental Assessment Form (EAF) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act (see 6 NYCRR 617). If the EAF indicates that the proposed activity may have significant environmental consequences, the Village Board of Trustees 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 of Trustees. No EAF will be required for permit renewal unless the renewal increases the size or changes the character of the junkyard.

### Section 3. Application Fee

A non-refundable application fee of one hundred dollars (\$100.00) shall accompany all applications for initial permits or renewal affecting the size or character of the junkyard. Routine annual renewal applications shall be accompanied by a one hundred dollar (\$100.00) non-refundable fee. These fees may be changed by resolution of the Village Board of Trustees from time to time, without necessity of amending this law.

### Section 4. Public Hearing

The Village Board of Trustees shall hold a public hearing within forty-five (45) days of the date a complete application is received by the Village Board of Trustees. Notice of the hearing shall be made in the official newspaper at least five (5) days prior to the date thereof. At the hearing, the Village Board of Trustees shall hear the applicant and all other persons wishing to be heard on the application for a junk-yard permit. A permit shall be renewable annually without a public hearing upon payment the annual fees unless the renewal increases the size or changes the character of the junkyard

### Section 5. Approval or Disapproval

Within forty-five (45) days of said hearing, the Village Board of Trustees shall render a decision to approve, approve with conditions, or to 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 of Trustees. If the application is disapproved, the reasons for such disapproval shall be entered into the Village Board of Trustees minutes. The applicant shall be notified of the decisions and the reasons for such decision by certified mail within five (5) days of the decision of the Village Board of Trustees.

### Section 6. Issuance of Permit

If the application is approved by the Village Board of Trustees, a Junkyard Permit shall be issued by the Village Clerk. Approval shall be personal to the applicant and not assignable. If the application is approved with conditions by the Village Board of Trustees, the Village Clerk shall issue a Junkyard Permit upon notification by the Enforcement Officer that said conditions have been complied with.

## ARTICLE G: GENERAL CONSIDERATIONS

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

### Section 1. Aesthetic Considerations

- a. Type of road serving the junkyard or from which the junkyard can be seen.
- b. Natural or artificial barriers protecting the junkyard from view.

### Section 2. Locational Considerations

- a. The nature and development of surrounding property, such as the proximity of public parks, churches, educational facilities, nursing homes, public buildings, or places of public gathering.
- b. Whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy noise, odors of smoke, or of other causes.

- c. The proximity of streams, lakes, wetlands, flood plains, groundwater supplies, and public water supplies.
- d. Local drainage patterns.
- e. Long range comprehensive plans for the Village.
- f. Proximity of the site to established residential or recreational areas.
- g. Availability of other suitable sites for the junkyard.

## ARTICLE H: ADMINISTRATION AND ENFORCEMENT

### Section 1. Requirements for Operation

- a. The permit holder must personally own the land or be responsible for the management of the activity or business for which the permit is granted.
- b. Such permit shall be displayed conspicuously at all times at the permit holder's place of activity or business for which it is issued.
- c. The permit holder must assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent trespass thereon. All junkyard operations shall be accomplished within the junk storage area.
- d. The Enforcement Officer, or the Village Board of Trustees, or any of its representatives shall be granted access to the area of business of the applicant at all reasonable hours to inspect the same for compliance herewith.

### Section 2. Enforcement Officer

- a. The Enforcement Officer shall make inspections of the premises of any junkyard for which application for permit has been made and shall inspect at least annually, any other existing junkyard within the Village. and shall report to the Village Board of Trustees 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.
- 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.

### Section 3. Revocation of Permit

The Village Board of Trustees may revoke a Junkyard Permit upon reasonable cause should the applicant fail to comply with any provision of this law. Before a permit may be revoked, a public hearing shall be held by the Village Board of Trustees. 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 Village Board of Trustees shall hear the permit holder and all other persons wishing to be heard on the revocation of the junkyard permit. If the Village Board of Trustees decide to revoke a permit, the reasons for such revocation shall be stated in the Village Board of Trustees minutes. The permit holder shall be immediately notified of the revocation by certified mail. Upon revocation, all operations shall stop and the owner will have sixty (60) days to remove all junk. If after sixty (60) days the junk is not

removed, the Village reserves the right to have the junk removed and disposed of and all costs of such removal and disposal shall be borne by the landowner.

#### Section 4. Penalties

Any person who shall violate any of the provisions of this Local Law shall be guilty of an offense and subject to a fine of not less than fifty dollars (\$50.00) and not more than two hundred fifty dollars (\$250.00) or by penalty of not less than fifty dollars (\$50.00) and not more than two hundred and fifty dollars (\$250.00) to be recovered by the Village in a civil action. Every such person shall be deemed guilty of a separate offense for each day such violation, disobedience, omission, neglect or refusal shall continue. These penalties may be changed by resolution of the Village Board of Trustees from time to time, without necessity of amending this law.

#### Section 5. Failure to Comply

In addition to above provided penalties, the Village Board of Trustees 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 shall repeal and revoke any previous ordinance or local law of the Village of Wellsville regulating Junk and/or 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 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.