

**THE TOWN OF LANSING PROPERTY MAINTENANCE
AND OUTDOOR STORAGE LOCAL LAW**

LOCAL LAW NUMBER 3 OF 2014

**A LOCAL LAW TO REGULATE OUTDOOR STORAGE
AND JUNKYARDS IN THE TOWN OF LANSING**

By Resolution dated July 16, 2014, the Town Board of the Town of Lansing hereby adopts the following local law: accordingly, be it enacted by the Town Board of the Town of Lansing as follows:

ARTICLE I: INTRODUCTION; GENERAL PROHIBITIONS AND EXEMPTIONS

Section 1. Authority and Territorial Application - This Local Law is adopted pursuant to the authority granted the Town by § 10 of the Municipal Home Rule Law, § 130(15) of the Town Law, the New York State Property Maintenance Code, and other provisions of New York State law and regulations. This Local Law applies to the whole of the Town of Lansing, excluding lands located within the Village of Lansing.

Section 2. Title - This Local Law shall be known as the “Town of Lansing Property Maintenance and Outdoor Storage Local Law” (herein, the “Local Law”).

Section 3. Purpose - The purposes of this Local Law are to assist in the enforcement of the Property Maintenance Code of the New York State Uniform Fire Prevention and Building Code, to regulate Outdoor Storage generally, and to regulate the permitting, emplacement, an operation of Junkyards. By adoption of this Local Law the Town declares its intent to regulate and control the storage or keeping of outdoor materials and Junk, and to otherwise regulate the Outdoor Storage of materials, whether operated for commercial profit or otherwise. The Town 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 the Outdoor Storage of materials can constitute a hazard to property and Persons and can be a public nuisance. Such materials may be highly flammable and sometimes explosive. Further, Junk and materials stored outdoors can constitute attractive nuisances to children and certain adults and the presence of Junk, Junkyards, and materials stored outdoors can be or become unsightly and tend to detract from the value of surrounding properties.

Section 4. Prior Existing Junkyard Ordinance and Outdoor Storage Local Law - This Local Law shall repeal, replace, and supersede both: (i) the prior existing Junkyard Ordinance, being Schedule III of the Town Land Use Ordinance (Town of Lansing Ordinance No. 49), adopted February 4, 1998; and (ii) the prior existing Local Law of the Town known as Local Law No. 7 of 2004, being the “Town of Lansing Outdoor Business Inventory Storage Local Law,” as amended by Local Law #2 of 2008 (and both such local laws are hereby repealed, replaced, and superseded).

Section 5. Prohibited Acts - It shall be a violation of this Local Law for any owner or other occupant of real property in the Town, or for any Person having control of real property on the Town charged with the maintenance of the property, to deposit, abandon, maintain, keep or allow the accumulation on his or her real property, outside of any building, of any personal property, Junk, trash, rubbish, garbage, refuse, debris, discarded materials, bulk items, and/ or any other material which, if thrown

or deposited as herein prohibited, tends to create a danger to the public health, safety and welfare, or creates degradation through unsightliness which creates a public or private nuisance.

Section 6. Exemptions - Certain uses are exempt from the application of this Local Law, or certain of its provisions as applied to such use, and included are:

A. A licensed motor vehicle repair shop may store individual Motor Vehicles, up to a maximum of 10 such Motor Vehicles, upon its premises for an unlimited period of time, but not otherwise in excess of applicable law or regulations, whenever the area where any such Motor Vehicles are stored is fully enclosed by a fence that provides screening and would qualify as Junkyard Fencing; otherwise, no individual Junk Motor Vehicle may be stored for a period exceeding six months before it must be removed, moved to indoor storage, dismantled and the parts stored other than as Outdoor Storage, or a Junkyard Permit is applied for.

B. A licensed towing company or impoundment yard may store individual Motor Vehicles, including Junk Motor Vehicles, upon its premises for an unlimited period of time, but not otherwise in excess of law, whenever the impoundment yard where any such Motor Vehicles are stored is fully enclosed by a fence that provides screening and would qualify as a Junkyard Fencing; otherwise, no individual Junk Motor Vehicle may be stored for a period exceeding six months before it must be removed, moved to indoor storage, dismantled and the parts stored other than as Outdoor Storage, or a Junkyard Permit is applied for.

C. This Local Law shall not apply to Agricultural Operations and agricultural storage areas whenever such Outdoor Storage Areas or Junkyards are: (i) not visible from public roadways or inhabited neighboring structures; (ii) part of regular and ongoing Agricultural Operations as defined by and construed in accordance with the New York State Agriculture and Markets Law; and (iii) the Outdoor Storage Area or Junkyard is used and operated as part of the Agricultural Operation and is a traditionally recognized, reasonable, or best farming practice.

D. The temporary storage of goods or materials in anticipation of, or during, any building, construction, or repair project, so long as the Outdoor Storage of such goods or materials does not exceed 1 year in duration.

E. Any business, use, or operation that holds a current and valid Exemption Certificate granted under and pursuant to this Local Law.

ARTICLE II: DEFINITIONS

For the purposes of this Local Law, the following words and phrases shall have the following meanings ascribed to them:

Agricultural Operations: A farm, farm woodland, woodland product operation, apiary, horse stabling or boarding business, or other agriculturally-based business or operation that meets the definition of "land used in agricultural production" as such term is used and defined in the New York State Agriculture and Markets Law, Article 25-AA.

Certification: A notarized or sworn statement made under penalty of perjury as kept in a required Junkyard Log Book pertaining to the components of, parts within, condition and disposal of Junk Motor Vehicle(s) by Junkyards and Junkyard Operators, or a notarized or sworn statement made under penalty of perjury concerning annual compliance with this Local Law and Junkyard Permit conditions.

Enforcement Officer: The Town of Lansing Code Enforcement Officer, and any other Person appointed by the Town Board to act in relation to this Local Law.

Junk: The Outdoor Storage or deposit of any of the following shall constitute Junk:

- 1) More than 1 Junk Motor Vehicle.
- 2) One or more Junk Mobile Homes.
- 3) More than 1 abandoned or inoperable appliance or device, including by way of example, but not limited to, washers, dryers, dishwashers, televisions, stoves, refrigerators, freezers, air conditioners, and barbeque grills.
- 4) More than 1 abandoned or irreparably damaged pieces of indoor furniture, including by way of example, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and dressers.
- 5) More than 1 boat, snowmobile, all-terrain vehicle, lawn mower, or other such device, where such device is in a state of disrepair or is otherwise dilapidated, broken, or abandoned.
- 6) The dumping, accumulation, collection, or storage of garbage, trash, refuse, waste, debris, or secondhand or used materials of whatever composition, where such accumulation, collection, or storage creates a significant unsightly, unsafe, or unhygienic condition.

Junk Mobile Home: A structure, transportable in one or more sections, built on a permanent chassis and designed to be used as a dwelling unit, that is currently not inhabited or which is no longer habitable under the New York State Uniform Fire Prevention and Building Code. This includes, but is not limited to, manufactured housing parts and units, mobile homes, travel trailers, and campers.

Junk Motor Vehicle: An unregistered, old, or secondhand Motor Vehicle, no longer intended or in condition for legal use on the public highways. This includes vehicles used for parts, and parts or waste materials from Motor Vehicles which, taken together, equal in bulk more than 1 such vehicle. A Motor Vehicle is considered Junked when it meets any of the following conditions:

- 1) It is unlicensed, unregistered, or not inspected.
- 2) It is abandoned, wrecked, stored, discarded, dismantled, dilapidated, or partly dismantled.
- 3) It may not be legally operated upon a public highway.

Notwithstanding the foregoing definitions, a Motor Vehicle shall not be deemed “Junk” when: (i) such vehicle is being repaired or restored and such work is performed within a structure or similarly enclosed area designed and approved for such purposes; (ii) such vehicle is lawfully being offered for sale on any parcel; or (iii) the underlying allowed land use of the land or parcel in question is lawful, in compliance with zoning and related requirements, and such business or use normally stores such vehicles for lawful business purposes, such as but not being limited to, towing yards, repair shops, vehicular mechanical businesses, and impoundment yards.

Junkyard: The areas of any parcel of land or water used or intended to be used for the placement, storage, or deposit of Junk. This definition includes both permitted and unlawful Junkyards.

Junkyard Fencing: A continuous 8 foot high fence enclosing an entire defined area, with: (i) a locking gate adequate to prohibit the entrance of children and others into the area; and (ii) painted or otherwise finished with and having a natural or neutral color that does not detract visually from the surrounding ambient environment; and (ii) where the area is visible from a public highway or other roadway or any neighboring inhabited structures, such fence shall be made of wood or other materials as to completely screen from view the enclosed area.

Junkyard Operator: Any Person who owns or operates a Junkyard, including each Junkyard Permit holder.

Junkyard Permit: A permit issued under this Local Law, and zoning provisions of the Town (if applicable), that permits the storage or accumulation of materials of such type and quantity as to constitute Junk or a Junkyard.

Outdoor Storage: The storage or emplacement of any good or item outdoors upon any residential or other parcel of land within the Town.

Outdoor Storage Area: The areas of any parcel of land or water used or intended to be used for the placement, storage, or deposit of non-Junk business inventory or any other residential, business-related, or other goods or materials that do not constitute Junk.

Motor Vehicle: All vehicles propelled or drawn by power other than muscular power, originally intended for use on public highways.

Person: Any individual, firm, partnership, association, corporation, company, organization, or entity of any kind.

Personal Service: A method of transmittal and delivery of documents or notices in a procedural manner as would constitute notice and fulfillment of the requirements of due process as outlined in the New York State Civil Practice Law and Rules.

Property Maintenance Code: The Property Maintenance Code of the State of New York, being part of the Uniform Codes administered by the New York Codes Division and certified New York State Code Officers, among others.

Town: The Town of Lansing, Tompkins County, New York.

Town Board: The Town Board of the Town of Lansing, Tompkins County, New York.

ARTICLE III: EXEMPTION CERTIFICATES

Section 1. Inspection and Issuance -

A. Any Person may request that the Enforcement Officer inspect their premises and Outdoor Storage Area(s) for the purpose of determining whether an Exemption Certificate may be issued. An Exemption Certificate may be issued with or without conditions and is valid only after being duly signed by the Enforcement Officer. Examples of businesses or uses that are expected to be eligible for an Exemption Certificate include those that normally and routinely have and require the Outdoor Storage of materials, such as, but not limited to, lumber yards, certain retail facilities, excavation and landscaping businesses, equipment and vehicle repair or fabrication shops, and construction companies.

B. If issued, each Exemption Certificate shall be signed by the owner of the land to which such exemption applies, and such signature shall constitute an acknowledgment that: (i) the land and storage areas are subject to inspection by the Enforcement Officer at any reasonable time, with or without advance notice; (ii) any non-compliance with or violation of the terms of such Exemption Certificate or this Local Law may result in the immediate revocation or amendment of such Exemption Certificate; and (iii) upon any revocation or amendment of the Exemption Certificate, the premises will promptly be brought into compliance with such amended Exemption Certificate and/ or this Local Law, including by and through the removal of offending objects and materials, the clean-up of the premises, and the restoration of the premises to natural or pre-exemption conditions, or otherwise to the reasonable satisfaction of the Enforcement Officer.

Section 2. Criteria - An Exemption Certificate may only be issued where:

A. The Outdoor Storage Area inventories and materials are of a type and character that are: (i) traditionally stored outdoors; (ii) not reasonably anticipated to have any potential adverse environmental impacts; and (iii) not reasonably anticipated to materially and adversely impact the views from any inhabited neighboring structures or any abutting highways or roads. In making any determination as to such impacts, the Enforcement Officer may consider existing ambient conditions and surrounding land uses.

- B. Such Outdoor Storage Area and the underlying use of the land are both permitted within the applicable land use classification.
- C. The specific Outdoor Storage items and materials are listed on the face of the Exemption Certificate, and it is otherwise unreasonable to require such items and materials to be stored within a covered structure or indoors. Outdoor Storage is allowed only for the items and materials listed upon the Exemption Certificate.
- D. An amended or updated Exemption Certificate may be issued by the Enforcement Officer at any time, whether upon request of the Exemption Certificate holder, such as to add to the list of allowed items for Outdoor Storage, or upon the initiative of the Enforcement Officer, such as to address violations of this Local Law.

Section 3. Duration, Inspection, and Revocation -

- A. An Exemption Certificate is valid for only 3 years and, if Outdoor Storage is desired or otherwise continues a new Exemption Certificate must be obtained. Prior to the renewal or reissuance of any Exemption Certificate, the Enforcement Officer shall inspect the premises to assure compliance with any permits, approvals, Exemption Certificate conditions, and the requirements of this Local Law.
- B. The Enforcement Officer shall periodically inspect each premise subject to an Exemption Certificate to assure compliance with this Local Law and any conditions stated upon any Exemption Certificate. If any issue of non-compliance arises, including any refusal by any Person to allow such inspection, then the Enforcement Officer shall deem the same a violation of this Local Law and may take any action permitted by this Local Law or otherwise permitted by law. If the Exemption Certificate holder is found guilty of or admits to any act(s) in violation of this Local Law or the terms or conditions stated upon any issued Exemption Certificate, then, and in addition to any other remedies, fines, or penalties provided for under this Local Law, the Enforcement Officer may revoke or amend the Exemption Certificate. After any such revocation or amendment of any Exemption Certificate, the Owner, or any other Person operating such Outdoor Storage facility, operation, or area, shall remove all materials and objects that are no longer in compliance with the terms of such Exemption Certificate or this Local Law within 90 days of such certificate amendment or revocation.

ARTICLE IV: OUTDOOR STORAGE REGULATIONS

Section 1. Location - No Outdoor Storage Area shall be located within:

- A. 10 feet of any adjoining property line;
- B. 200 feet of any public park, church, educational facility, nursing home, public building or other place of public gathering;
- C. 100 feet of any stream, lake, pond, wetland or other body of water; or
- D. 25 feet from the right-of-way of any public highway.

Section 2. Permissible Outdoor Storage - Outdoor Storage upon any parcel or property shall only be permitted when it is not conducted in violation of the Property Maintenance Code or when it is conducted pursuant to a Junkyard Permit.

Section 3. Screening -

A. For all residential uses, and for all uses in all residentially zoned and lakeshore zoned areas, all Outdoor Storage shall, to the extent practical, be located: (i) in areas where natural or artificial screening is provided; and (ii) behind buildings and structures and land features as cause the stored items and materials to not be significantly visible from public areas and neighboring inhabited structures.

B. For all commercial, institutional, business, and industrial uses, and for all uses in all business, commercial, and industrially zoned areas, all Outdoor Storage shall be: (i) screened by natural or artificial barriers, including fencing if necessary; and (ii) located, to the extent practical for the business or commercial endeavor operating upon the land, behind buildings and structures and land features as to cause the stored items and materials to not be significantly visible from public areas and neighboring inhabited structures.

ARTICLE V: JUNKYARD REGULATIONS

Section 1. Location - No Junkyard area shall be located within:

- A. 10 feet of any adjoining property line;
- B. 500 feet of any public park, church, educational facility, nursing home, public building or other place of public gathering;
- C. 500 feet of any stream, lake, pond, wetland or other body of water; or
- D. 25 feet from the right-of-way of any public highway.

Section 2. Fencing - Junkyard Fencing shall be erected and maintained and all equipment, tools, and materials stored or used by the Junkyard operation, and all Outdoor Storage and Junk, shall be located within the confines of, and concealed by and behind, such Junkyard Fencing. Fencing requirements may be waived or partially waived or altered during the permitting process where topography or other natural conditions effectively screen the Junkyard and prohibit entrance by children and others.

Section 3. Screening - Junkyard Fencing is required for screening and, where appropriate, this fencing requirement may be waived during the permitting process where total, or so-called "black-out," screening is accomplished by the planting of evergreen trees or shrubbery.

Section 4. Permissible Materials in Storage - No Junk items shall be stored in any Junkyard unless such items are specifically listed in the Junkyard Permit issued for such Junkyard. Nor may a number of listed items be stored in excess of the maximum number of items allowed per the Junkyard Permit,

if applicable. If no limit is stated in the Junkyard Permit, then no such numerical limitation shall apply.

Section 5. Burning - No materials shall be burned in any Junkyard except in compliance with the New York State Solid Waste Disposal Law (See NYCRR Part 215).

Section 6. Burying - No Junkyard items shall be buried in a Junkyard except in compliance with the New York State Solid Waste Disposal Law (See NYCRR Part 360).

Section 7. Junkyard Prohibition - Notwithstanding any other local or ordinance of the Town, no Junkyards are allowed or permitted anywhere within the Town unless a Junkyard Permit or a temporary Junkyard Permit have been duly obtained under this Local Law.

Section 8. Personal Management - Every Junkyard Operator shall be personally responsible for the management of, and activities in, the Junkyard, including compliance with this Local Law and any permit conditions.

Section 9. Rules for Junk Motor Vehicles and Items Containing Regulated Substances - All Junk, Motor Vehicles, Junk Motor Vehicles, and any other machines, devices, or objects that contain any gas, oil, solvents, and other toxic, carcinogenic, or hazardous substances and liquids, including but not limited to anti-freeze, brake fluid, refrigerants, and the like (hereafter "Regulated Substances"), must: (i) have such fluids and Regulated Substances fully drained and removed; (ii) have the related lines and reservoirs where such Regulated Substances were stored or deployed rinsed and drained; and (iii) all Regulated Substances, removed or drained Regulated Substances, and all rinsing compounds and materials collected from the rinsing process, shall be lawfully disposed of as required by law, including compliance with the requirements of the New York State Environmental Conservation Law and Department of Environmental Conservation.

Section 10. Junkyard Log Books - Every Junkyard Operator shall keep a Log Book, the form of which must be approved by the Enforcement Officer. The Log Book shall contain the following information for each Junk Motor Vehicle brought into the yard:

- A. The make, model, color, and year of such Motor Vehicle.
- B. The Motor Vehicle identification number, or similar serial number or other identifying information.
- C. The arrival and disposal date(s).
- D. A Certification that the Motor Vehicle arrived with or without an engine, a fuel tank, a battery, brake lines, and a radiator (a "Regulated Part"). If the Motor Vehicle had any Regulated Parts the Certification must state that any such Regulated Part was drained, rinsed, and the contents and products thereof disposed of in a proper manner as required by law.
- E. All entries in the Log Book shall be made in ink or typed, and such Log Book shall be available for review by the Enforcement Officer upon request.

- F. An annual Certification shall be delivered to the Enforcement Officer by the Junkyard Operator verifying annual compliance with the requirements of this Local Law, including that all Regulated Substances were properly removed, all proper rinsing occurred, and lawful disposal of such Regulated Substances properly occurred. No Junkyard Permit may be renewed unless such Certifications are filed and up to date prior to the submission of any application for any Junkyard Permit renewal.
- G. An application for a new Junkyard Permit shall require that the applicant or proposed Junkyard Operator provide Certifications similar to those required by subsections D and F, immediately above, for any Motor Vehicles, Junk Motor Vehicles, or other objects or things proposed to be stored at the site or already on site that contain or once contained any Regulated Substances.

ARTICLE VI: JUNKYARD PERMIT

Section 1. Permit Required -

- A. No Person shall operate, establish, or maintain a Junkyard within the Town unless a Junkyard Permit has first been issued for such Junkyard pursuant to this Local Law. No Person owning or having any rights in and to real property located within the Town shall license, rent, lease, or otherwise permit the use of such real property or any part thereof for a Junkyard unless a permit has first been issued for such Junkyard pursuant to this Local Law.
- B. No Junkyard Permit shall be issued unless applicable zoning requirements have first been met, including, but not limited to, any zoning, special permit, or any site plan review requirements or approvals.
- C. All Junkyard Permits shall be issued for a period of three years, and after the expiration thereof, a renewal of such Junkyard Permit shall be required.
- D. Any Junkyard Operator owning, operating, or maintaining a Junkyard prior to the effective date of this Local Law shall apply for a Junkyard Permit within 60 days of the adoption of this Local Law. If the Junkyard does not meet the requirements of this Local Law, then a temporary junkyard permit shall be issued for a period not to exceed 1 year; during which time the Junkyard shall be arranged or improved as to come into compliance with the requirements of this Local Law. If, at the end of such year, the Junkyard is not in compliance with this Local Law, the Junkyard Operator shall cease and desist from maintaining or operating a Junkyard, all Junk shall be removed from the premises, and the premises shall come into compliance with the requirements of this Local Law and the Property Maintenance Code.

Section 3. Application Process - The applicant for a Junkyard Permit shall obtain application forms from the Enforcement Officer. The completed forms, along with the proposed site plan and the permit application fee, shall be returned to the Enforcement Officer. The Enforcement Officer shall review and submit the application materials to the Town Board. The Town Board may refer the matter to the Town Planning Board to make a recommendation to the Town Board concerning the approval, approval with conditions, or denial of the application. All provisions of this Local Law shall serve as a guide relative to the application, the application review, and any Junkyard Permit issuance or renewal, including any listed Junkyard Permit conditions.

Section 2. Site Plan Contents - The site plan shall be drawn to scale and indicate all dimensions and show:

- A. All existing and proposed structures, including fences and existing or proposed Junkyard Fencing upon the property;
- B. All property lines, including the names of owners of adjacent properties;
- C. All streams, lakes, wetlands, floodplains, and other water bodies on or within 500 feet of the property;
- D. All wells and sanitary facilities on or within 500 feet of the property;
- E. All roads and easements on or within 500 feet of the property;
- F. All existing and proposed Junk, Outdoor Storage, and other storage areas on the property;
- G. All existing and proposed accessways, all parking areas, and all loading areas.

If site plan review is required under any other law or ordinance and such site plan contains the above information, such site plan may be submitted with the Junkyard Permit application and such submission shall be deemed substantial compliance with this requirement.

Section 3. Environmental Review Requirements - A Full "Long Form" Environmental Assessment Form ("FEAF") shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act and its implementing regulations found at 6 NYCRR Part 617. An application for a Junkyard Permit shall be deemed a Type I Action. If the environmental review of the FEAF indicates that the proposed activity may produce potentially significant environmental impacts or consequences, the Town Board shall require that a Draft Environmental Impact Statement be submitted by the applicant. No Junkyard Permit may be issued until the SEQRA review process has been concluded.

Section 4. Application Fee - A non-refundable fee for a Junkyard Permit shall accompany all applications in an amount as the Town Board may, from time to time, establish by resolution.

Section 5. Public Hearing - The Town Board shall fix a time and place for a public hearing upon the application within 45 days of the later of either: (i) the date a complete application is received; or (ii) the date a complete application is received and any required zoning or other approvals have been obtained, such as but not limited to a variance, a site plan review, or a special permit. Notice of the hearing shall be made in the Town's official newspaper at least 5 days prior to the date of such hearing.

Section 6. Aesthetic Considerations - In conducting a Junkyard Permit application review, and when considering granting or denying a Junkyard Permit, the Town shall take the following aesthetic factors into consideration:

- A. The type of roads servicing the Junkyard, or from which the Junkyard can be seen.

- B. The natural or artificial barriers existing or proposed to protect the Junkyard from view.
- C. The proximity of the site to established residential or recreational areas and main access routes thereto.

Section 7. Locational Considerations - In conducting a Junkyard Permit application review, and when considering granting or denying a Junkyard Permit, the Town shall take the following locational factors into consideration:

- A. The nature and character of development of surrounding properties, 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 allows for the mitigation any potential or actual impacts upon public health or safety, such as potential impacts from noise, odors, smoke, or other causes.
- C. The proximity of streams, lakes, wetlands, flood plains, groundwater supplies, and public water supplies.
- D. The local drainage patterns.
- E. The long range comprehensive plans or zoning of the Town.
- F. The proximity of the site to established residential or recreational areas.
- G. The availability of other viable and suitable sites for the Junkyard.

Section 8. Town Board Action - Within 45 days of the close of the public hearing the Town Board shall render a decision to approve, approve subject to conditions, or disapprove the application for a Junkyard Permit. The 45-day period may be extended by mutual consent of the applicant and the Town. All findings of the Town Board shall be entered into the official minutes of the Town and promptly filed in the Office of the Town Clerk. The applicant shall be notified of the decision and the reasons for such decision by certified mail within 5 days of the decision of the Town Board. After an approval, and upon compliance with any conditions stated in such approval and the payment of any fees and reimbursable costs due the Town, the Town Board shall endorse its approval upon a copy of the final site plan and application.

Section 9. Issuance of Permit - If the application is approved by the Town Board, a Junkyard Permit shall be issued by the Enforcement Officer after endorsement by the Town Board of the final site plan and application. If the approval was subject to conditions that cannot reasonably be fulfilled prior to the issuance of the Junkyard Permit, then the Enforcement Officer shall list the conditions upon the face of the Junkyard Permit, and compliance at all times with such conditions shall be required for such Junkyard Permit to remain valid or not subject to revocation.

ARTICLE VII: ADMINISTRATION AND ENFORCEMENT

Section 1. Waivers - Where the Town Board finds that, due to the special circumstances of a particular case, a waiver of certain requirements of this Local Law are justified, then a waiver may be granted. No waiver shall be granted, however, unless the Town Board finds and records in its minutes that:

- A. Granting the waiver would be keeping with the intent and spirit of this Local 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 degree of variation from the requirements of this Local Law as is necessary to accomplish the purpose(s) of remediating such hardship(s).

Section 2. Enforcement Officer - The Enforcement Officer shall, upon request of the Town Board, make inspections of the premises for which application for a Junkyard Permit has been made, and may inspect any other existing Junkyard or Outdoor Storage Area within the Town to assure compliance with this Local Law and the Property Maintenance Code. It shall be the responsibility of the applicant and any Junkyard Operator to arrange for all required inspections of the premises prior to the issuance or renewal of any Junkyard Permit. Despite having the authority to so inspect any lands within the Town, the Enforcement Officer shall not enter private property without the consent of the owner or such owner's agent, tenant, or other authorized Person, without a court order or administrative warrant permitting such entry or inspection.

Section 3. Revocation of Permit - The Town may revoke a Junkyard Permit upon reasonable cause should the applicant fail to comply with any provisions of this Local Law. Before a Junkyard Permit may be revoked, a public hearing shall be held by the Town Board. Notice of the hearing shall be made in the Town's official newspaper at least 5 days prior to the date thereof, and the Junkyard Permit holder and Junkyard Operator shall be notified of the hearing by Personal Service at least 20 days prior to the hearing. At the hearing the Board shall hear the permit holder and all other Person wishing to be heard, and a determination upon whether to revoke the Junkyard Permit shall be made by the Town Board within 45 days of the close of such public hearing. If the Town Board decides to revoke the Junkyard Permit, the reasons for such revocation shall be stated in the Town Board's minutes. The Junkyard Permit holder and Junkyard Operator shall be promptly notified of the decision of the Town Board by certified mail.

Section 4. Penalties -

- A. Any Person who shall violate any of the provisions of this Local Law shall be: (i) guilty of a criminal offense and subject to a fine of not more than \$250.00; or (ii) liable for a civil violation and subject to a civil penalty of not more than \$250.00 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate criminal offense or civil violation for each week such violation, disobedience, omission, neglect or refusal shall continue.

- B. In addition, 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 restrain by injunction the violation of this Local Law. In any such proceeding the Town shall not be required to: (i) prove the lack of an adequate remedy at law; or (ii) to post a bond or other undertaking as a condition or requirement for any preliminary, interim, or permanent restraining order or injunction.
- C. For purposes of this Local Law, the Town Justice Court of the Town is hereby vested and imbued with jurisdiction to: (i) issue administrative or other warrants in compliance and accord with the New York Criminal Procedure Law and administrative codes of the State of New York; and (ii) to hear and adjudicate allegations relating to the criminal or civil violation of this Local Law and to thereafter, if appropriate, impose any fine or penalty.
- D. The rights and remedies of the Town are independent of each other and cumulative. The grant of any right or remedy in this Local Law is in addition to, and not in limitation of or substitution for, any other right or remedy of the Town, whether sounding in law, equity, or admiralty. Further, the election by the Town of any one right or remedy does not forestall or prevent the simultaneous or future election of any other right or remedy.

ARTICLE VIII: CONSTRUCTION

Section 1. 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 hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 2. Construction - All nouns and pronouns shall be construed in the singular, plural, masculine, feminine, or neutered context when the provisions hereof so demand or admit. Capitalized words shall have their defined meanings and all words, capitalized or otherwise, shall have standard meanings as applied within the context of the clause in which such terms appear. Subject headings are for convenience and shall not be construed or applied to limit or restrict the subject matter and terms appearing under such subject heading. Whenever any reference is made to any section of law or regulations, such reference shall be interpreted to include such law or regulation as later amended, renumbered, or re-codified, and a mere typographical citation error shall not be given effect.

Section 3. Limitation upon Town Liability - The Town, and its officers and agents, shall not be liable or responsible for any injuries to Persons or damages to property due to the Town's actions, or failures to act, under or pursuant to this Local Law unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a willful or intentional act of the Town or its officers and agents. This provision shall be construed and applied to the maximum extent permitted by law, and does not create any theory or claim of liability where none exists at law or in equity.

Section 4. Fees & Expenses - Any fees referenced in this Local Law may be implemented and periodically updated by the Town Board by resolution. Without limiting the requirements of this Local Law, fee schedules may be developed for Permit applications, issuance, or renewals, amended

Permits, inspections, and other actions of the Enforcement Officer as described in, required by, or contemplated under this Local Law. All such fees shall be reasonably determined in accord with law and periodically reviewed by the Town Board to assure reasonableness and legality. Whenever the Town or the Enforcement Officer incur any expenses in relation to any application, review, or permit issuance process, such as but not limited to, postage, publication, photocopying, or consulting (including legal and engineering consulting), the reasonable cost of such expenses shall be reimbursed to the Town by the applicant when permitted by law, including pursuant to the federal, state, and local laws and regulations pertaining to environmental and stormwater review.

Section 5. Article 78 - Whenever any judgment, determination, or right of decision is herein granted to the Enforcement Officer the Enforcement Officer shall be deemed to be exercising reasonable discretion in such determination. Any Person aggrieved by any determination or finding of the Enforcement Officer may appeal such determination to the Town's Zoning Appeals Board ("ZBA") in accord with the requirements of Town Law § 267-a. Any Person aggrieved by any decision or determination of the Town or the ZBA may have said decision or determination reviewed by the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules. This provision shall not: (i) expand the jurisdiction, scope, or applicability of said Article 78; or (ii) create a right of standing where such right does not otherwise exist. The Town does not hereby waive any claims, rights, or defenses it may have regarding questions of law or fact pertaining to the judicial and legal concepts of ripeness, standing, timeliness, governmental immunities, or of any other matter.

Section 6. Effective Date - This Local Law shall be effective immediately and shall be filed with the Town Clerk and the New York State Secretary of State.