

Local Law Filing

(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 a new matter.

Town of Dansville - Local Law No. _____ of the year 2019

A local law regulating junkyards in the Town of Dansville.

Be it enacted by the Town Board of the Town of Dansville as follows:

Section I. Purpose

The Town of Dansville desires to set out fair and comprehensive rules and regulations governing the creation, maintenance, and screening of junkyards. The purpose of this law is, through the regulation of junkyards, to promote a clean, wholesome, and attractive environment, protect the community from potential hazards to property and persons, protect water resources, preserve the aesthetic qualities of the Town, and prevent depreciation of the property in which a junkyard is located and the property of other persons in the neighborhood and the community.

Section II. Definitions

(a) *Junkyard* - means an establishment, location or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard or salvage yard, and the term shall include garbage dump and sanitary fields. The term "junkyard" shall include any salvage yard, scrap yard, or related use, including any use involving the storage or disassembly of wrecked or non-functioning automobiles, trucks, or other vehicles, storage, baling or otherwise dealing in scrap metal, and/or commercial/residential appliances, used plumbing fixtures and used brick, wood, or other building materials. Any person or entity that maintains, keeps, stores, or owns five or more junked motor vehicles or when 600 square feet or more of junk materials are kept or stored at any given place or on any property shall be deemed a junk yard subject to the law. Such uses shall be considered junkyards whether or not all or part of such operations are conducted in conjunction with, addition to, or accessory to, other uses of the premises. Materials enclosed in closed buildings, solid waste containers or rolling stock are excluded. Nothing in this local law shall be construed to prohibit the enforcement of federal, state or local laws against persons maintaining fewer than five vehicles.

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

(b) *Junked Motor Vehicle* – any motor vehicle, or used parts or waste materials from motor vehicles which, taken together, equal in bulk one or more such vehicle, which is:

- unlicensed or unregistered; or
- abandoned, wrecked, stored, discarded, dismantled; or
- not in condition for legal use upon the public highways.

The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways.

With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be moved under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

(c) *Antique Motor Vehicle* – a motor vehicle, but not a reproduction thereof, manufactured more than twenty-five years prior to the current year, which has been maintained in or restored to, or will be maintained in or restored to, a condition which is substantially in conformance with the manufacturer's specifications.

(d) *Classic Motor Vehicle* – a motor vehicle, but not a reproduction thereof, manufactured more than ten years prior to the current year and which because of discontinued production and limited availability, is considered to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored to a condition which is substantially in conformity with the manufacturer's specifications and appearance.

Section III. Exclusions

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

- (a) Unlicensed vehicles in operating condition stored by or for the owner while the owner is (a) a full-time student of the immediate family attending a school, college, or university; or (b) a member of the United States Armed Forces.
- (b) Seasonal vehicles or machinery during their off-season if kept in a location not visible from any road, street or highway, when practicable; otherwise a seasonal use permit must be applied for and received.
- (c) Farm machinery, including tractors, where such machinery is actively used. Farm machinery kept for parts shall be kept in a location not visible from any road, street or highway.
- (d) An antique or classic motor vehicle which is being restored.
- (e) Contractor's Storage Yard: An area used for the storage of equipment and/or materials used for providing construction-related contracting services, including but not limited to flooring,

heating, plumbing, roofing, landscaping and excavation. These yards shall not include inoperable or wrecked motor vehicles remaining on the premises for more than forty-eight (48) hours. Yards containing such vehicles shall be considered an outside salvage or reclamation use and subject to violation, unless said vehicle has a valid state registration, current safety inspection certificate and documentary records of pending repairs or other disposition.

(f) Approved and licensed automobile impound yards (meeting the requirements of all approvals and licenses).

Section IV. Regulations

The Planning Board, in its reasonable discretion, and as a condition to the issuance of a Permit to Operate a Junkyard, may require the applicant to conform to certain conditions, which may include, but need not be limited to the following:

- (a) Be situated on one contiguous parcel that is undivided by any public road right-of-way.
- (b) Have a minimum setback to the fence from front property lines, excluding a road right-of-way, of at least 100 feet, and from the side and rear property lines, excluding a road right-of-way, of at least 10 feet.
- (c) Not be located closer than 500 feet to either a preexisting residence, church, school, day care center, nursing home, skilled health care facility, hospital, public buildings, or public recreation facilities. If this cannot be achieved for an existing facility, the Town may require mitigations to minimize the impacts to these uses.
- (d) Not store materials higher than 15 feet in height in the first 100 feet from a property line. The height allowance can be raised an additional 10 feet for each additional 100 feet that the materials are from a property line. For example, a pile of materials can be 25 feet in height if located 200 feet from any property line. There will be no stacking of motor vehicles.
- (e) Be screened as provided herein, so as to not be visible from any residence (except a residence used in conjunction with the junkyard) or from the main-traveled way of any public road, at any season of the year, and
- (f) At a minimum, the junkyard in general, shall be entirely surrounded by an opaque fence (including gates) at least seven feet in height, or by either a woven or welded wire (14 gauge minimum) or chain link fence a minimum of seven feet in height (installed with opaque screening material) and with vegetation (excluding wild growth) that provides a continuous all-seasons opaque screen at least seven feet in height within five years of planting or setting such vegetation. If areas of the junkyard are shown to not need this type of fencing or screening, the Planning Board can waive this requirement. The fence shall remain in good repair. The fence and vegetation shall surround the minimum area necessary for the junkyard to not be visible from surrounding uses or the traveling public. Vegetation not less than four feet in height at the time of planting shall be planted on the outbound side of the fence, contiguous to, and not more than twelve feet from the fence. Vegetation that serves as screening shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow,

without gaps or open spaces, will exist to a height of at least seven feet along the length of the fence surrounding the junkyard. The vegetation shall be maintained as a continuous, unbroken hedgerow for so long as the property is used as a junkyard. Existing vegetation may be approved if it adequately meets the purposes of this article.

(g) If a fence is utilized inside, adjacent to and continuous with the fence or enclosure, a strip of land at least ten feet in width shall be kept free of all dry grass, junk, plant growth, or other combustible material so as to provide a fire lane or break around the entire area where business activity is conducted.

(h) All operations, equipment, junk and/or inoperable motor vehicles shall be kept within the confines of the fence at all times unless in motion by transport to or from the site.

(i) All junkyards shall be maintained to protect the public from health nuisances and safety hazards.

(j) Drainage from the site shall be properly managed as to not adversely impact downstream properties.

(k) There should be no more than twenty vehicles allowed for each acre of land.

(l) There should be adequate access lanes to allow fire and emergency vehicle to properly function.

Established Junkyards

Junkyards in existence prior to this local law being adopted, shall be allowed to continue without expansion (referred to in this Law as being "grandfathered") unless they are found to constitute a health or safety nuisance, in which the owner(s) shall have six months to correct the nuisance or close the facility. This "grandfather" clause does not apply to any existing illegally established junkyard. To continue as a "grandfathered" use, existing junkyards will be required to obtain a yearly renewable Permit to Operate a Junkyard from the Town. This Permit must be applied for within 90 days of the passage of this Law. It is the intent of this Law to prohibit a "grandfathered" junkyard to expand outside of its existing property boundaries (at the time of passage of this Law). If a facility ceases operation for more than a 6-month calendar period, the Permit to Operate a Junkyard will expire.

All junkyards existing which wish to change, or modify in any way as to number of cars, appliances, amount of junk materials, or area used (on the existing site) as a junkyard, shall be subject to all requirements of this chapter, and approved in writing by the Town Planning Board.

Section V. Permit Applications

Junkyards as defined in this section will be allowed by a Permit to Operate a Junkyard which must be applied for/renewed annually. These Permits will be reviewed and granted by the Planning Board. The application shall include information on the following: material storage types, location and heights; activity areas (what is done and where); and all existing permit and approval information concerning the site including a

site plan review and SEQRA requirement.

The annual fee for a permit shall be \$50.00, or such higher amount as may be determined by resolution of the Town Board.

Section VI. Enforcement/Penalties

Should the enforcement officer find that an alleged junkyard exists without the necessary permit, the enforcement officer is hereby authorized pursuant to Criminal Procedure Law Section 150.20(3) to issue an appearance ticket to any person whom the enforcement officer has reason to believe has violated this law, and shall cause such person to appear before the Town Justice.

Any person who shall violate any of the provisions of this law shall be guilty of a violation and subject to the following: (1) a fine not to exceed \$1,000.00 or imprisonment for a period not to exceed fifteen days, or both.

Every such person shall be deemed guilty of a separate violation for each week such violation, disturbance, omission, neglect or refusal shall continue.

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 any provision of this law.

Section VII. Severability

If any clause, sentence, paragraph, section or article of this 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 in which such judgment shall have been rendered.

Section VIII. Revocation of Prior

All prior local laws and ordinances concerning junkyards are hereby revoked.

Section IX. Effective Date

This local law shall become effective upon the date it is filed in the Office of the New York State Secretary of State.

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

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

I hereby certify that the local law annexed hereto, designated as Local Law No. _____ of 2019 of the Town of Dansville was duly passed by the Town Board of the Town of Dansville, on _____, 2019, in accordance with the applicable provisions of law.

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 (Name of Legislative body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.

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 (Name of Legislative body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) _____ 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.

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 (Name of Legislative body) on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ (Elective Chief Executive Officer*) _____ 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.

* 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 1, above.

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

(Seal)

Date: _____, 2019