

Local Law 1 1979:
May 11, 1979

Junkyard Law

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

A local law regulating, controlling, and licensing activities known as auto graveyards and junkyards.

- I. Legislative intent; specific repealer.
- II. Short title.
- III. Definitions.
- IV. License required.
- V. Application for licenses; required information; approval.
- VI. Fee; display of license; duration; nontransferability; revocation.
- VII. Requirements for operation.
- VIII. Penalty for offenses.
- IX. Repealer.
- X Severability.
- XI. Administrative liability.
- XII. When effective.

Be it enacted by the Town Board of the Town of Portville, New York, as follows:

I. Legislative intent; specific repealer.
A. By adoption of this local law, the Town of Portville declares its intent in so doing to regulate, control, and license the activities, whether operated for profit or otherwise, of businesses known as auto graveyards, junkyards, secondhand parts collection areas, the processing of used metals for resale and the dumping, storage, and disposal of waste, secondhand or used materials of whatever composition. Said Town Board hereby declares that such activities and/or businesses with regard to the use of land can constitute a hazard to property and persons and a public nuisance. Such materials may be highly flammable and sometimes explosive. Automobiles of this type and state of condition can constitute attractive nuisances to children and certain adults. The presence of such junkyards, even in areas zoned for business or industry, is unsightly and tends to detract from the value of surrounding land and property, unless such areas are properly maintained and operated.

B. The provisions of the Town of Portville law on junkyards, adopted by the Town Board on the 2nd day of May, 1980 entitled "Junkyard" Ordinance is hereby repealed.

II. Short title.
This local law shall be known and may be cited as the "Junkyard Law of the Town of Portville, New York."

III. Definitions.
As used in this local law, the following words shall have the meanings indicated:
AUTO - A passenger auto, truck, tractor-truck, trailer, bus, motorcycle, or other vehicle, however propelled, as well as tractors, bulldozers, machinery, and equipment.
ENFORCEMENT OFFICERS - The Town of Portville Enforcement Office appointed pursuant to this law.

PERSON - An individual, association, partnership, or corporation.

IV. License required.
A. No person shall engage in or conduct, whether for profit or otherwise, on real property within the Town of Portville, either for himself or for and on behalf of any other person, directly or indirectly, as agent, employee, or otherwise, at wholesale or retail, any operation which involves the collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging, for sale, resale, storage or disposal or otherwise, of bodies, engines, or parts of autos, without first obtaining a license therefor as hereinafter provided.
B. Any person who shall permit the collection or storage outside of a building of two (2) or more unlicensed or inoperative autos, or the shell or body thereof, for a period of more than thirty (30) days shall be considered as engaged in the operation of an auto graveyard and shall be required to obtain a license pursuant to the terms of this local law. An auto shall be considered inoperative

if, after five (5) days written notice from the Enforcement Officer, the owner of the auto or the owner of the land upon which said auto rests does not secure a New York State motor vehicle inspection certificate or, in the alternative, meet the necessary inspection certificate or, in the alternative, meet the necessary inspection requirements to obtain a New York State motor vehicle inspection certificate.

V. Application for license; required information; approval.

A. Each applicant for a license hereunder shall execute under oath, an application therefor, to be supplied to him by the Town Clerk, which shall contain the following information:

- (1) That the applicant is over twenty-one (21) years of age.
- (2) That he is a citizen of the United States.
- (3) Whether he has ever been convicted of a felony or misdemeanor and such other facts of evidence as are deemed necessary to establish that he is a person fit and capable of properly conducting the activity or business for which the license is sought.
- (4) A description of the exact type of activity or business he intends to conduct.
- (5) The nature of the materials he intends to handle.
- (6) The name and address of the owner or owners of the land and the nature of the right of occupancy of the applicant to the use of such land.

B. At the time of making the application, the applicant shall submit to and file with the Town Clerk a map or plan of the real property upon which he intends to conduct the activity or business for which he is making application for a license hereunder, with the area of such real property which is proposed for use for such purpose; the location of the fence or enclosure required hereunder indicated thereon, as well as the location of any buildings on such land; the location of any streets or highways abutting or passing through such land; the location of any water, sewer or gas mains or laterals available thereto, as well as the general drainage pattern of such land; and such other general information as the Town Board may from time to time require.

C. In the application the applicant shall agree that; if granted the license applied for, he will conduct the activity or business pursuant to the regulations hereinafter set forth, and that upon his failure to do so, such license may be revoked forthwith.

D. The Town Clerk shall immediately submit said application together with all other descriptive plans as required by this local law, to the Town Board, who shall examine same and either approve or disapprove the application.

E. A person presently engaged in or conducting any activity or a business, such as described herein, on real property within the Town of Portville must apply for a license therefor within thirty (30) days of the adoption of this local law. If the place where he conducts such activity or business presently complies with the requirements that a person must meet to secure a license in the first instance, he shall be issued a license therefor if he meets the other requirements contained herein. If the place where he conducts such activity or business does not presently comply with the requirements that a person must meet to secure a license in the first instance, he may, at the discretion of the Town Board, be granted a temporary license for a period not to exceed one (1) year, during which period he must arrange the place where he conducts such activity or business so that it does then comply with the requirements a person must meet to secure a license in the first instance. If, at the end of such period, such person has not so arranged his place of such activity or business, he shall forthwith cease and desist engaging in or conducting the same and shall removed from such place any autos, parts, or other materials of the nature described herein.

VI. Fee; display of license; duration; nontransferability; renovation.

A. The initial and annual fee for the license is hereby fixed in the sum of two (\$2.00) Dollars, which sum covers not only the cost of issuing the license itself, but also the cost of making the necessary inspection of the premises to ascertain compliance with the regulations hereinafter described.

B. Such license shall be placed and at all times displayed in a conspicuous place at the licensee's place of activity of business for which it is issued.

C. Such license shall be effective from the date of its issuance until the 31st day of December of the year of such issuance, after which a new application for license must be made yearly if the licensee desires to continue such activity or business.

D. Such license is personal with the licensee. It does not go with the title of the land, nor may it be sold, assigned, transferred, or disposed of.

E. Such license may be revoked by the Town Board after a public hearing thereon at which the licensee shall have an opportunity to be heard. Upon revocation of a license, the Town Board may require the removal of autos, parts, and materials left as provided above in the case of an applicant for a temporary license who fails to qualify for a license.

VII. Requirements for operation.

A. The licensee shall be responsible for the management of the activity or business for which the

license is granted.

B. The licensee must erect and maintain an eight foot wire fence of close mesh or one made of wood or of other material, such as a living hedge, as approved by the Town Board, adequate to contain within such fence or enclosure the materials dealt in by the licensee. Such fence or enclosure must be located at least ten (10) feet from the right-of-way of any highway and along any sideline boundary lines or even with any existing structure of an existing licensee as may be determined by the Town Board after due consideration of adjoining property locations.

C. The autos, parts, and materials dealt in by the licensee shall be disassembled or dismantled by means other than burning. They shall be piled or arranged in neat rows so as to permit easy, clear passage through the area.

D. The area of the licensee's activity or business shall not be used as a dump area nor as a place for burning and disposal of junk or trash.

E. The town police, the Enforcement Officer, or the Town Board, or any of its representatives, shall be granted access to the area of activity or business of the licensee at all reasonable hours to inspect the same for compliance herewith. The Town Enforcement Officer shall have all the necessary authority to enforce this local law.

VIII. Penalties for offenses.

A. The owner of licensee of any such place of business, or any person, as defined in IV, who commits or permits any acts in violation of any of the provisions of this local law or fails to comply with the provisions thereof shall be deemed to have committed an offense against such local law and also shall be liable for any such violation or the penalty therefor. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.

D. For every violation of any provision of this local law, the person violating the same shall be subject to a fine of not more than one hundred (\$100.00) dollars for each such offense. Such penalty shall be collectible by and in the name of the town for each day that such violation shall continue.

C. In addition to the above provided penalties and punishment, 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 to restrain by injunction the violation of such local law.

IX. Repealer.

All ordinances or regulations heretofore adopted in conflict with this local law are hereby repealed.

X. Severability.

If any clause, sentence, paragraph, section, or part 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 part thereof directly involved in the controversy in which such judgment shall have been rendered.

XI. Administrative liability.

No officer, agent, or employee of the Town of Portville shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this local law. Any suit brought against any officer, agent, or employee of the Town of Portville as the results of any act required or permitted in the discharge of his duties under this local law shall be defended by the Town Attorney until the final determination of the proceedings thereon.

XII. When effective.

This local law shall take effect immediately.