

Got Junk?

How Municipalities Can Deal with Junk and Junkyards

New York Planning Federation
2017 Spring Training School

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What is Junk?



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Why is Junk a Problem?

- Property Values
- Aesthetic Issues
- Safety Hazards
- Health Concerns



New York's Approach

- General Municipal Law § 136 - NYS Motor Vehicle Junkyard Law
- Vehicle & Traffic Law § 415-a – Dismantler's Permit
- General Business Law, Article 6 – Junk Dealers
- NYS Uniform Fire & Prevention and Building Code

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NYS Motor Vehicle Junkyard Law

General Municipal Law § 136

- The NYS Legislature declared that the unrestrained accumulation of junk motor vehicles is a hazard to the health, safety and welfare of NYS citizens and therefore must be regulated.

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NYS Motor Vehicle Junkyard Law

- A junkyard is defined as a property, whether in connection with another business or not, that stores two or more unregistered motor vehicles for purposes of:
 - Resale of used parts;
 - Reclaiming metal, glass, fabric or other materials; or
 - Disposal.



Municipal Authority:

1. A license to operate a junkyard is required from the municipality.
2. Municipalities can also adopt their own local laws to exert more or less control over the accumulation of junk.
3. If a municipality adopts its own local junkyard law, it trumps GML § 136, regardless of whether it is more or less restrictive.

NYS Motor Vehicle Junkyard Law

Junkyard License Applications:

- Initiated by a written application for license and certificate of approved location to the municipal governing board.
- In municipalities with zoning laws, a Certificate of Approval is required from the ZBA.
- Application must include a description of the land.
- A public hearing shall be scheduled within 2-4 weeks from the date of receipt of the application.
- Annual \$25 licensing fee.

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Municipal Considerations in the License Application:

- No junkyard shall be within 500 ft. of a church, school, hospital, public building or place of public assembly.
- Proof of ownership of the property.
- Record of prior convictions for larceny or receipt of stolen goods.
- Nature of surrounding properties.
- Availability of other sites.

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Municipal Considerations (Continued):

- Ability to contain odors and smoke on site.
- Fencing requirements.
- Aesthetic factors:
 - Service roads.
 - Proximity to residential/recreation areas.
 - Natural and artificial barriers screening the junkyard from view.

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NYS Motor Vehicle Junkyard Law

Once a junkyard license is granted:

- Approved licenses are good for 1 year.
- Renewed without a hearing upon payment of the annual renewal fee, provided certain conditions are satisfied.



NYS Motor Vehicle Junkyard Law

Enforcement:

- Municipalities should identify the officers authorized to enforce GML § 136.
- Violations are punishable by a fine (not to exceed \$100/week).
- Municipalities may also adopt local laws that provide additional remedies.

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Motor Vehicle Regulation Under the Property Maintenance Code

NYS Property Maintenance Code § 302.8

- Provides that two or more inoperative or unlicensed motor vehicles shall not be parked, kept, or stored on any premises.

Definitions

- “Inoperable motor vehicle” is defined as a motor vehicle which cannot be driven on a public street because it is unlicensed, wrecked, abandoned, in a state of disrepair or being incapable of being moved under its own power.
- Exception: farm operations

- Junkyard owners may also need a dismantler's permit from NYS.
- A dismantler is defined as “any person who is engaged in the business of acquiring motor vehicles or trailers for the purpose of dismantling the same for parts or reselling such vehicles as scrap”.

- Municipality's involvement:
 - Limited – may verify the applicant's compliance with all local laws and GML § 136 when it applies to a municipality;
 - OR–
 - The local governing board may provide a statement that the business may operate at its location and no local law license is required.

Junk Dealer's License

- Under Article 6 of the NYS General Business Law, junk dealers must obtain a license from the municipality to buy or sell scrap metal.



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Junk Dealer's License

- A “junk dealer” is defined as any person or entity that buys and sells valuable metal including junk shops, junkyards, junk stores, auto wreckers, and salvage yards.
- A junk dealer does not include scrap processors.

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Junk Dealer's License

- License required under Article 6 of the General Business Law.
- Annual license fee of \$5.
- Annual renewal.
- No person shall be entitled to a license if convicted of larceny or receipt of stolen property or a violation of GBL Article 6.

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Junk Dealer's License

Other requirements:

- Timing
- Labeling
- Minimum age of seller
- Enforcement by local authorities

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Automobile Recyclers

- DEC regulates aspects of the automotive recycling industry to ensure protection of the environment:
 - Disposal and storage of waste fluids, refrigerant, and oil
 - Tank registration
 - Tire and battery storage
- A permit is required to store over 1,000 waste tires. (6 NYCRR Part 360)

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Household Junk



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NYS Uniform Fire Prevention and Building Code

- Incorporates the NYS Property Maintenance Code which governs the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.
- Applies to every municipality except NYC.

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Property Maintenance Code

§ 302.1 Sanitation

- Exterior premises shall be maintained in a safe, clean, and sanitary condition.



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Property Maintenance Code

§ 302.4 Weeds

- Property shall be free of weeds or plant growth in excess of 10 inches.
- Weeds include grass and vegetables other than trees (not including cultivated shrubs).



Property Maintenance Code

§ 302.5 Rodent Harborage

- Property shall be kept free of rodents.
- If found, rodents shall be promptly exterminated in a manner that does not injure human health.



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Property Maintenance Code

§ 302.7 Accessory Structures

- Accessory structures including detached garages, fences and walls shall be maintained structurally sound and in good repair.



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Property Maintenance Code

§ 308.1 Disposal of Rubbish

- Exterior property shall be free of any accumulation of “rubbish” or “garbage”.
- “Rubbish” is defined as combustible and non-combustible waste material (except garbage) including paper, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings, tin cans, metals, glass, crockery and discarded, abandoned or stored refrigerators.
- “Garbage” is defined as animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.



Property Maintenance Code

§ 308.2.2 Disposal of Rubbish

- Refrigerators shall not be stored or discarded without first removing doors.



Property Maintenance Code

§ 308.3 Disposal of Garbage

- Garbage must be disposed in an approved garbage disposal facility or garbage containers.



Property Maintenance Code

§ 702.1 Means of Egress

- There must be a safe and unobstructed path between any building to the public way.



Enforcement

Property Maintenance Code is enforced by local law in the same manner as enforcement of the NYS Uniform Fire Prevention and Building Code.

No municipality may waive, modify or otherwise alter the Property Maintenance Code unless approved by State Fire Prevention and Building Code Council.

Regulating Junk through the Adoption of Local Laws



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Regulating Junk through the Adoption of Local Laws

- Pursuant to their authority under the NYS Municipal Home Rule Law, municipalities may adopt junk storage regulations to address household debris and abandoned motor vehicles and their parts.
- Municipalities can also regulate the storage of outdoor junk through their zoning laws, and/or permit conditions.

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Specifics of Local Junkyard Laws

- Must comply with the Municipal Home Rule Law and SEQRA.
- Define the use and set appropriate districts, i.e. industrial zones for junk disposal.

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Adoption of Local Laws

- Municipalities cannot unreasonably restrict farming operations with local laws
- Some items may not be junk to farm operations
 - tires or weights for covering old vehicles used for parts
 - Unoccupied mobile homes used periodically for seasonal labor
- Items not used in farming operations can be regulated (i.e., school buses, cars, equipment, trailers, etc.)

Farm Junk??



Specifics of Local Junkyard Laws

- Provide definitions for junk, debris, and abandoned vehicles.
- Provide license application requirements.
- Require financial security for closure.
- Establish a fee for the junkyard application.



Specifics of Local Junkyard Laws: Operational Requirements

- Provide for screening.
- Limit burning and noxious odors.
- Regulate the location, storage, amount and handling of fluids and liquids.
- Provide that at all times the junkyard and all things therein be maintained in a sanitary and orderly condition and arranged in neat rows so as to permit emergency access as well as easy, clean passage and inspection of the premises.
- Require a contingency plan in the event of a fire or discharge of material.

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Examples of Local Junk Laws



- Issues licenses to “citizens desiring to carry on the business of buying, selling and dealing in junk, rags, old rope, old iron, brass, copper, tin, lead, scrap metals or other old metals, old bottles, old glass, old bones, old tinware, old clothing unfit for wearing, old shoes or any secondhand articles except secondhand books and furniture”.
- Requires junk dealers to report to the Chief of Police all articles purchased or received via an electronic pawn and scrap metal reporting system.
- Violations punishable by \$1,000 or imprisonment up to 6 months.

Town of Kingsbury

- Based on NYS Junkyard Law.
- Requires a license for the “operation, establishment or maintenance of a junkyard”.
- Sets forth 28 enumerated “specific regulations for operation”.
- Identifies the Code Enforcement Officer as the designated enforcement officer.

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Village of Lynbrook

- Requires a license for junk dealers.
- Defines “junk dealer” as “anyone dealing in the purchase or sale of junk, old rope, old metal, rubber, paper, rags, bagging, slush or empty bottles, in large or small quantities, including junk cartmen”.
- Disqualifies anyone “who, and, in the case of a partnership or association or corporation, any member of which, has been or who shall hereafter be convicted of larceny or receiving stolen property” or prior violation of the Code.



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- Town Law § 64(5-a) provides that towns and villages may compel the removal of rubbish from a property at the owner's expense.
- If a property owner refuses, a town can remove debris itself and the costs of removal will become a lien against the property.
- Local junk laws should include a provision regarding enforcement including the designated enforcement agent and extent of punishment.

Matter of Sabrina Corp. v. Jones, 199 A.D.2d 396 (2d Dept 1993)

- Town board passed resolution directing a property owner to remove litter, rubbish, and construction debris.
- The appellate court upheld the resolution as a valid exercise under Town Law 64(5-a).
- The resolution was a valid measure because the property in question caused outbreaks of fire and smoke from an ongoing subsurface fire in the debris pile.

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4M Holding Co. v. Town Bd. of Islip, 81 N.Y.2d 1053 (1993)

- Town Board passed a resolution requiring a property owner to remove 33,000 cubic yards of burning debris within 10 days.
- The property owner challenged the Town's action in an Article 78 proceeding, stating the action was arbitrary, capricious or contrary to law.
- The NYS Court of Appeals affirmed the Appellate Division's determination that given the history of the dispute and the public health and safety concerns raised by the fire, which had been continuously burning on the property for 9 months, the requirement that the lot be expeditiously cleared was justified.

Private Programs to Reduce Junk

- NYSEG offers a \$50 rebate, six free compact fluorescent light bulbs, and free pickup for disposal of working refrigerators or freezers.
 - <http://www.nyseg.com/energyefficiencyprograms/recycle/>
- Best Buy also accepts most electronics and large appliances at no charge.
 - <http://www.bestbuy.com/site/global-promotions/recycling-electronics/pcmcat149900050025.c?id=pcmcat149900050025>
- Apple Renew program lets you recycle any Apple device at any Apple Store and online.
 - <http://www.apple.com/recycling/>

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