

LOCAL LAW NUMBER 1 OF 2007

A LOCAL LAW OF THE TOWN OF RICHFORD REGULATING JUNK STORAGE

ARTICLE I INTRODUCTORY PROVISIONS

Section 1 Enactment

The Town Board of the Town of Richford, Tioga County, New York, does hereby enact the Town of Richford Junk Storage Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and in Section 130 (15) of the Town Law and all other applicable laws.

Section 2 Title

This local law shall be known as the "Town of Richford Junk Storage Law".

Section 3 Intent and purpose

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 the deposit, accumulation, or maintenance of junk regardless of quantity is hereby prohibited anywhere within sight of persons lawfully traveling the public roads or within sight of neighboring property. By adoption of this law the municipality declares its intent to preserve and promote a reasonable quality of environment and aesthetics, protect water quality, and prohibit actions and conduct that tend to depreciate not only the property on which junk is located but also the property of other persons in the neighborhood and the community generally.

Section 4 Applicability

Applicability of this law shall apply in addition to the provisions of any other local law or ordinance adopted by the Town of Richford. Where there is a conflict, the more restrictive provision shall apply. The provisions in this law shall apply to all property within the Town of Richford.

Section 5 Definitions

For the purposes of this local law, the language set forth herein shall be interpreted by reference to the words and meanings as defined below. Any term used in this local law which is not defined below shall carry its customary meaning unless the text otherwise dictates. For the purposes of this local law, the singular includes the plural; the plural includes the singular; the masculine includes the feminine; the present tense includes the future. The words "shall" and "will" mean the action is mandatory; the words "may" and "should" mean the action is elective. The word "person" includes an individual, person, firm, corporation, co-partnership, or any other agency of voluntary action.

ENFORCEMENT OFFICER: The Code Enforcement Officer and/or other person(s) appointed by the Richford Town Board to enforce the provisions of this law.

GARBAGE: All putrescible (capable of decay or rot) animal and vegetable waste resulting from growing, processing, marketing and/or preparation of food items, including container(s) in which packaged.

RUBBISH, CLUTTER, LITTER AND DEBRIS: Ordinary household or commercial trash such as paper and paper products, barrels, cartons, cans, glass, metals, machinery, plastics, rubber crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber, brick, stone and other

building materials no longer intended or in condition for ordinary use; and any and all tangible personal property no longer intended or in condition for ordinary and customary use.

JUNK: Worn out or discarded material of little or no value including, but not limited to, a junk appliance, junk construction equipment, junk farm equipment, junk furniture, junk home and garden equipment, electronic equipment, junk mobile home, inoperable or unseaworthy boat, recyclable materials, garbage, rubbish, clutter, litter and debris.

JUNK APPLIANCE: Any household appliance, including but not limited to, a stove, washing machine, dryer, dishwasher, freezer, refrigerator, air conditioner, water heater, or television, which is stored outside of any residence or structure.

JUNK CONSTRUCTION EQUIPMENT: Any construction related machinery and equipment, including but not limited to earthgrading, excavating and paving equipment, steel, plastic and other tanks, containers, flatbed carriers and cranes which are abandoned, wrecked, discarded or inoperable.

JUNK FARM EQUIPMENT: Any tractor, truck, self-propelled or drawn or stationery piece of equipment which cannot be used for its intended purpose and has been discarded or abandoned for use as a farm vehicle, farm implement, farm equipment or for any other purpose, excepting any of the aforesaid which has had completely drawn from it all flammable, corrosive and pollutant type fluids such as gasoline, diesel fuel, transmission fluid and battery acid, and which is stored, placed or discarded in a spot, locale or position less visible from users of a public highway and all adjoining properties.

JUNK FURNITURE: Abandoned, discarded, or irreparably damaged furniture including, but not limited to, sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.

JUNK HOME AND GARDEN EQUIPMENT: Any lawn mower, snow blower, roto-tiller, or other self-propelled, drawn or stationary piece of equipment which cannot be used for its intended purpose and has been discarded or abandoned for use.

JUNK MOBILE HOME: Any manufactured housing unit designed with a chassis, and constructed to be towed or otherwise transported whole or in part to a site, and which is designed to permit occupancy for dwelling, sleeping, or storage purposes and which meets all of the following conditions:

- (1) It is unoccupied and in its present condition does not meet the requirements of the New York State Uniform Fire Prevention and Building Code for residential occupancy;
- (2) It is either stored, abandoned, wrecked, discarded, dismantled, or partly dismantled; and
- (3) It has not been occupied for two or more years by on-farm labor when the farm is located within a County-adopted and State-certified, agricultural district.

JUNKYARD - A lot, land or structure, or part thereof, used for the collecting, storage or sale of wastepaper, rags, scrap metal or discarded material; or the collecting, dismantling, storage, processing or salvaging of machinery or vehicles not in running condition or for the sale of the parts thereof, all when operated as a business on site where an employee is in attendance for the entire working day to receive deliveries and to be responsible for ensuring that materials brought to the site are stored in a manner that will not result in any sort of nuisance to property or persons off the site.

RECYCLABLE MATERIALS: Refundable/non-refundable bottles, cans, plastic containers, plastic materials, glass, metal, paper and cardboard.

ARTICLE II PROHIBITED ACTS

Section 6 Prohibited Acts

1. The deposit, accumulation, or storage of junk, regardless of quantity, is hereby prohibited within sight of persons traveling the public highways or within sight of neighboring property. The provisions of this law shall also be applicable to conditions existing at the time of enactment.
2. It shall be unlawful for any person to use a bus, uninhabited mobile home or trailer, truck, truck trailer, horse trailer, semi-trailer, tank truck, automobile, or similar vehicles or units for the storage of junk on any premises. Exceptions shall be made for the temporary use of such vehicles or units for construction purposes for periods of less than ninety (90) days, or when actively used in connection with active farming or agricultural operations.
3. It shall be unlawful for any person to deposit, accumulate or store junk on public land, or on land owned by another person, regardless of distance from the road.
4. No materials shall be burned or buried except in compliance with Part 215 of the Environmental Conservation Law §19-0301,19-0303 of the State of New York and its implementing regulations promulgated by the New York State Department of Environmental Conservation (Part 360 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York or "6 NYCRR Part 360") and any other applicable law or ordinance of the municipality.
5. It shall be unlawful for any person to operate a junkyard without the proper permits from New York State. If the Enforcement Officer shall find that an alleged junkyard exists without the necessary permit(s), the Enforcement Officer is hereby authorized pursuant to Criminal Procedure Law §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.

ARTICLE III EXEMPTIONS

Section 7 Exemptions

Article II shall not apply to the storage or placement on the premises of the following material:

1. Wood intended for consumption in a wood burning stove, furnace or fireplace located in a building on the premises.
2. Lawn or yard or garden ornaments and implements.
3. Lawn and patio furniture.
4. Operable farm, garden and yard machinery and apparatus used on the premises, including unlicensed vehicles used solely for snow plowing on the premises.
5. Standing fences.
6. Hoses and sprinklers used for watering lawns or gardens.
7. Storage or placement and accumulation of materials in connection with a commercial operation duly conducted on the premises.
8. Construction materials and equipment used for the construction or renovation of a building on the premises for which a building permit has been issued.
9. Construction materials stored under cover.

ARTICLE IV ENFORCEMENT

Section 8 Enforcement Officer

This law may be enforced by the Enforcement Officer or by any constable of the Town of Richford. Said persons shall have the authority to inspect premises within the Town as necessary for said enforcement.

Section 9 Complaints

Any person may file a complaint with the Enforcement Officer of the Town of Richford that a violation of this law may have taken place. The Enforcement Officer shall properly record and investigate any such complaint. The Enforcement Officer may also investigate any alleged violation that he or she has reason to believe has occurred or is occurring.

Section 10 Notice to Comply

Upon finding that a violation has occurred, the Enforcement Officer shall issue a written Notice to Comply to the violator. The Notice to Comply shall contain the following information:

- 1) The name of the owner or occupant to whom the notice is addressed;
- 2) The location of the premises involved in the violation;
- 3) A description of the alleged violation;
- 4) A list of the various means of compliance;
- 5) A request that action to remedy the violation be taken within thirty (30) days and completed within sixty (60) days;
- 6) A copy of this local law;
- 7) A statement that proof of proper disposal must be provided to the Enforcement Officer; and
- 8) A statement that a failure to comply with the demand may result in prosecution.

If no response or action is taken within the stated time period, the violation will be turned over to the Richford Town Court for satisfaction. The Enforcement Officer is hereby authorized pursuant to Criminal Procedure Law §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.

Section 11 Penalties and Remedies

1. Any person who shall violate any of the provisions of this law shall be guilty of a violation and subject to a fine not to exceed \$500.00.
2. Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omission, neglect or refusal shall continue.
3. The Town may 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.
4. Repeat violators (persons who have been guilty of a violation of this local law, and subsequently receive a separate Notice to Comply from the Code Enforcement Officer) shall be assessed a larger fine with each repeated violation. The increased fine shall consist of a doubling of the previous fine.

Section 12 Summary Abatement

Upon failure of an owner, tenant or occupant with notice to correct a violation of the Town of Richford, and a determination by the Enforcement Officer that the violation comprises a threat to public health, water quality, and/or a clean, wholesome and attractive environment, the Town Board may hold a public hearing to determine whether the violation constitutes a public nuisance requiring abatement by the Town. The public hearing shall be held upon notice posted conspicuously on the subject property, and publication in the official Town newspaper. The notice shall also be sent to the last known address of the property owner, as it appears on the current assessment records of the Town, by certified mail, return receipt requested or served on the owner by personal service. Posting and service of such notice shall not be less than 15 calendar days, exclusive of the date of service, prior to the date of the public hearing. The notice shall:

1. Identify the premises as the same appears on the current assessment role;
2. Contain a statement of the conditions on the property deemed upon inspection to constitute a public nuisance;
3. Contain a demand that the condition or conditions constituting the public nuisance be immediately abated or removed before the date of the hearing specified in the notice;
4. Contain a statement that a failure or refusal to comply within the period specified may result in a duly authorized officer, agent or employee of the municipality entering upon the property and abating or removing the public nuisance; and
5. Contain a statement that the cost and expense of such abatement or removal shall be the responsibility of the owner, tenant or occupant, and without limitation on the Town's potential remedies to recoup its expenses, such cost and expense shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

Where the Town Board finds, based on substantial evidence in the public hearing record, that the violation or violations amount to a public nuisance requiring abatement by the municipality, the Town Board may cause the abatement or removal of the public nuisance. The abatement or removal may be performed by the municipality or by its designee, or agent, including a private contractor lawfully engaged and authorized by the Town. The Town Board shall ascertain the cost of removal, and assess such expense against the record owner of the property. The expense so assessed shall constitute a lien in charge on real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges. The foregoing shall not be construed as a limitation on the Town's potential remedies to recover its costs.

The removal of any nuisance by the Town's agents shall not operate to excuse such owner, tenant or occupant from properly maintaining the premises as required by this law. Such owner, tenant or occupant shall, in addition to the remedies provided herein, be subject to any other penalties provided for by this law.

ARTICLE V MISCELLANEOUS PROVISIONS

Section 13 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 14 Effective Date

This local law shall become effective upon the date it is filed in the Office of the New York Secretary of State, or May 1 2008, whichever is later.