

TOWN OF SPRINGWATER
LOCAL LAW NO. 2 OF THE YEAR 2022
A PROPOSED LOCAL LAW ENTITLED
"JUNK STORAGE LAW"

BE IT ENACTED by the Town Board of the Town of Springwater to adopt Local Law No. 2 of 2022 as follows:

ARTICLE I TITLE, SCOPE, PURPOSE AND AUTHORITY

Title. This local law shall be known as the "Junk Storage Law of the Town of Springwater," hereinafter referred to as this "local law."

Scope. This local law shall apply to all lands and structures located within the Town of Springwater, New York.

Purpose. The Town Board of the Town of Springwater hereby declares that a clean, wholesome, and attractive environment is of vital importance to the continued general welfare of its citizens and that the outdoor storage 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 local law, the Town of Springwater declares its intent to preserve and promote a reasonable quality of environment and aesthetics and to prohibit actions and conduct that tend to depreciate not only the property on which it is located but also the property of other persons in the neighborhood and the community generally.

Authority. This local law is adopted pursuant to the authority granted to the Town of Springwater, New York, in § 10 of the Municipal Home Rule Law of the State of New York.

ARTICLE II DEFINITIONS

As used in this local law, the following terms shall have the meanings indicated:

GARBAGE — The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

JUNK — The outdoor storage or deposit of any of the following shall constitute junk:

JUNK APPLIANCE — Abandoned, discarded, or irreparably damaged 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 FIXTURES — Abandoned, discarded, or irreparably damaged kitchen or bathroom fixtures, including, but not limited to, sinks, toilets, tubs, showers, faucets, or countertops which are stored outside of any residence or structure.

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

JUNK MANUFACTURED HOME — Any manufactured housing unit designed with a chassis and constructed to be towed or otherwise transported in 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 conform to the applicable regulations of the New York State Uniform Fire Prevention and Building Code; and
- (2) It is either wholly or partially abandoned, wrecked, discarded, dismantled or in a state of disrepair.

JUNK LAWN EQUIPMENT — Abandoned, discarded, or obviously unusable lawn or garden equipment.

JUNK LAWN ORNIMENTATION — Abandoned, discarded, broken or obviously unusable lawn or garden ornamentation including but not limited to lighting, trellis, seasonal decorations.

JUNK VEHICLE — Any vehicle or used parts or waste materials from such vehicle which are wholly or partially abandoned, wrecked, discarded, dismantled or in a state of disrepair. With respect to such vehicles not required to be licensed or registered in accordance with state law, the fact that such vehicle is not in an operable condition shall be presumptive evidence that such vehicle is a junk vehicle unless refuted by verifiable and credible proof.

1. Exemption. Unlicensed and/or inoperable vehicles in connection with a farm operation as defined by § 301 of the Agriculture and Markets Law of New York State. However, the same shall be stored in less visible locations such as, but not limited to, behind agricultural buildings, along existing hedgerows where vegetation is present, behind topographic features, such as drumlins or sloping ground, or set back a minimum of 50 feet from the edge of a public road.

MOBILE OFFICE — An office built for temporary purposes, usually, within any variety of approved movable, temporary buildings. Such office shall not be used as a dwelling unit.

OUTDOOR STORAGE — Storage other than in an approved structure, with a roof and fully enclosed on all sides, such as a garage or barn.

OWNER — Any person, agent, operator, firm or business entity having a legal or equitable interest in the property as recorded in the official records of Livingston County, New York, as holding title to the property.

PORTABLE STORAGE STRUCTURE — An approved transportable storage structure that is designed and used primarily for the storage of household goods, personal items and other materials for use on a limited basis. Such structures are uniquely designed for their ease of loading to and from a transport vehicle. For the purposes of this local law, the trailer portion of a tractor-trailer, boxcars and shipping containers shall also be considered portable storage structures when expressly used for the purposes of on-site storage.

PUBLIC ROAD — A public way which permits conducting of vehicular traffic and/or affords the primary means of access by vehicles and pedestrians to abutting lots, which shall include the entire area within the right-of-way.

RUBBISH — Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, batteries, construction debris, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, tires, yard trimmings, plumbing fixtures, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

STORAGE AREA — The areas of any parcel of land or body of water used for the placement, storage or deposit of junk, other than an approved licensed junkyard.

VEHICLE — All vehicles designed for use in the air and/or on roads, off roads or on waterways, including but not limited to aircraft, automobiles, boats, buses, bicycles, trailers, tractors, marine vessels, motor homes, travel trailers, campers, motorcycles, mini-bicycles, all-terrain vehicles, recreational vehicles and snowmobiles

ARTICLE III PROHIBITED ACTS; EXCLUSIONS

Prohibited acts.

- A. It shall be unlawful for any owner to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained outdoors any junk, regardless of quantity, within sight of persons traveling the public roads. The provisions of this local law shall also be applicable to conditions existing at the time of enactment.
- B. It shall be unlawful for any owner to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained outdoors any bus, uninhabited manufactured home, truck, truck trailer, horse trailer, semitrailer, tank truck, or similar vehicles or units for storage purposes on any premises. Exemptions shall be made for the following uses:
 - (1) The use of a mobile office and/or portable storage structure for the construction of buildings or structures with an active building permit, provided such structures shall be removed following the issuance of a certificate of occupancy or abandonment of such construction.
 - (2) The use of a mobile office for a temporary real estate sales office during the development of a subdivision, provided its use relates only to the subdivision in which it is located and it shall be removed after the subdivision is developed.
 - (3) The use of mobile offices and/or portable storage structures on a property where owners have obtained a special use permit for outdoor storage in accordance with the applicable provisions of the local laws of the Town of Springwater.
 - (4) The use of portable storage structures in connection with a farm operation as defined by §301 of the Agriculture and Markets Law of the State of New York. When practicable, the same shall be stored in a neat and orderly fashion and, if possible, hidden from public view.

Exclusions.

Prohibited acts shall not apply to junkyards as permitted by the Town of Springwater or any successor rules, regulations or statutes, or the outdoor storage on the premises of the following equipment, machinery or material:

- A. Wood intended for consumption in a wood-burning stove, furnace or fireplace located on the premises. Such wood shall be stored in a neat and orderly fashion.
- B. Lawn, garden or yard ornaments and implements that are maintained in good condition.
- C. Lawn and patio furniture that is maintained in good condition.
- D. Operable garden and yard machinery and apparatus used on the premises that are maintained in good condition. When practicable, such machinery and apparatus shall be

kept in a location not visible from any public road or screened from public view; otherwise, the same shall be stored in a neat and orderly fashion.

- E. Standing fences that are maintained in good condition.
- F. Hoses and sprinklers used for watering lawns or gardens that are maintained in good condition.
- G. Unlicensed vehicle (1) one permitted if:
 - (1) An unlicensed vehicle in operating and good condition that is being stored while the owner of such vehicle is:
 - (a) A full-time student of the immediate family attending a school, college or university;
 - (b) A member of the United States Armed Forces; or
 - (c) Suffering from an injury or illness requiring hospitalization or confinement to a bed.
 - (2) When practicable, such vehicles shall be kept in a location not visible from any public road or screened from view; otherwise, the same shall be stored in a neat and orderly fashion.
- H. Operable farm machinery, equipment and vehicles in connection with a farm operation as defined by § 301 of the Agriculture and Markets Law of New York State. When practicable, the same shall be stored in a neat and orderly fashion.
- I. Operable machinery, equipment and vehicles in connection with a nonresidential operation (e.g., farm equipment dealerships, construction yards, etc.) duly conducted on the premises where such outdoor storage, placement and accumulation are expressly permitted.
- J. Short-term, which shall be no more than 10 business days, accumulation of junk in approved leakproof and covered containers with the purpose of said accumulation being for the proper removal from the property by a licensed hauler for the delivery of the same to a regulated disposal facility.
- K. Construction equipment, machinery and materials being utilized for construction, landscaping or other types of improvements. Such equipment, machinery and materials shall be stored in a neat and orderly fashion and placed so as not to endanger the public, the workers or adjoining property for the duration of the construction project.
- L. Compost, mulch and other organic biomass crops as defined in § 301 of the Agriculture and Markets Law and utilizing acceptable practices as determined by the Cornell Cooperative Extension

ARTICLE IV ADMINISTRATION AND ENFORCEMENT

Code Enforcement Officer

Authority

The Code Enforcement Officer is hereby authorized and directed to administer and enforce the provisions of this local law. The Code Enforcement Officer shall have the authority to adopt policies and procedures in order to clarify the application of its provisions. Such policies and

procedures shall be in compliance with the intent and purpose of this local law. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this local law

Identification.

The Code Enforcement Officer shall carry proper identification when inspecting structures or premises in the performance of duties under this local law.

Right of entry

- A. Whenever it is necessary to make an inspection to enforce the provisions of this local law and the Code Enforcement Officer has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of the Uniform Code, Energy Code or the local laws of the Town of Springwater which make the building or premises unsafe, dangerous or hazardous, the Code Enforcement Officer shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the Code Enforcement Officer by this local law.
- B. Whenever it is necessary to make an inspection to enforce the provisions of this local law, if such building or premises is occupied, the Code Enforcement Officer shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the Code Enforcement Officer shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, or if the owner or other person having charge or control of the building or premises cannot be found, the Code Enforcement Officer has recourse to every remedy provided by law to secure entry.

Inspections

The Code Enforcement Officer shall make all of the required inspections or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Enforcement Officer is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the Town Board

Notices and orders

The Code Enforcement Officer shall issue all necessary notices or orders to ensure compliance with this local law

Records

The Code Enforcement Officer shall keep official records of all business and activities specified in the provisions of this local law. Such records shall be retained in the official records for the period required for retention of public records

ARTICLE V COMPLAINTS

Review and investigation of complaints; procedure for responding

The Code Enforcement Officer shall review and investigate complaints that claim the existence of conditions or activities that fail to comply with this local law. The process for responding to a complaint shall include but is not limited to the following steps as deemed appropriate by the Code Enforcement Officer:

- A. A complaint shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer and shall contain the name, contact information and signature of the complainant;
- B. Performing an inspection of the conditions and/or activities alleged to be in violation and documenting the results of such inspection;
- C. If a violation is found to exist, providing the owner of the affected property with a notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in this local law; and

If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint

ARTICLE VI VIOLATIONS

Violations unlawful.

It shall be unlawful for any owner to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained outdoors any junk upon private property in violation of this local law or fail in any manner to comply with any notice, directive or order of the Code Enforcement Officer

Public nuisance.

Any condition caused or permitted to exist in violation of any of this local law shall be deemed a public nuisance and shall be abated as such by the owner pursuant to law.

Notice of violation

A notice of violation shall be in accordance with all of the following:

- A. Be in writing.
- B. Include a description of the real estate sufficient for identification.
- C. Include a statement of the violation or violations and why the notice is being issued.
- D. Include a correction order allowing a reasonable time to take the necessary actions to comply with this local law.

- E. Inform the owner of the right to appeal.
- F. Include a statement of the any applicable penalties and the right to file a lien in accordance with this local law

Method of service

A notice of violation shall be deemed to be properly served if a copy thereof is:

- A. Delivered to the owner personally;
- B. Sent by certified mail addressed to the owner at the last known address with the return receipt requested; or
- C. Posted in a conspicuous place in or about the structure affected by such notice, if the notice is returned showing that the letter was not delivered.

Compliance with notices

A notice of violation issued or served as provided by this article shall be complied with by the owner, operator, occupant and other person responsible for the condition or violation to which the notice of violation pertains

Voluntary Code compliance agreement.

The Code Enforcement Officer has the authority to enter into a written voluntary compliance agreement with the owner in order to gain voluntary compliance in correcting a confirmed violation. The agreement shall include time limits for compliance and shall be binding on the owner. The Code Enforcement Officer shall abate further processing of the alleged violation during the time allowed in the voluntary compliance agreement for the completion of the necessary corrective action. The Code Enforcement Officer shall take no further action concerning the alleged violation if all terms of the voluntary compliance agreement are satisfied, other than steps necessary to terminate the waiver. The failure to comply with any term of the voluntary compliance agreement constitutes a separate violation and shall be handled in accordance with the procedures established by this local law, except no further notice after the voluntary compliance agreement has been signed need be given before the Code Enforcement Officer may also proceed on the alleged violation that gave rise to the voluntary compliance agreement.

Abatement of unlawful acts

An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this local law, or any term or condition of any notice of violation order or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where any junk is stored, deposited, placed or maintained outdoors upon private property in violation of any provision of this local law, or any notice of violation order or other order issued under this local law, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of junk or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Board

Authorization to issue appearance tickets

The Code Enforcement Officer is authorized to issue appearance tickets for any violation of this local law

Service of appearance tickets

The Code Enforcement Officer shall cause the appearance ticket, or a copy thereof, to be served on the owner of the affected property as provided by law

Penalties for offenses; restoration

- A. **Civil penalty.** Any person who undertakes any action regulated by this local law, or who violates, disobeys or disregards any provision of this local law, shall be liable to the Town for a civil penalty not to exceed \$250 per day for every such violation. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.
- B. **Criminal penalty.** Any violation of any part of this local law shall constitute a violation as defined in the Penal Law of the State of New York and shall be punishable by a fine not to exceed \$250, or 15 days' imprisonment, or both such fine and/or imprisonment. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. The criminal penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.
- C. **Restoration.** A court of competent jurisdiction may order or direct a violator to restore the affected land to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Code Enforcement Officer or his/her designate.

ARTICLE VIII MISCELLANEOUS PROVISIONS

Other laws.

The provisions of this local law shall not be deemed to nullify any provisions of local, state or federal law

Responsibility of owners

An owner shall be responsible for compliance with this local law regardless of any agreement between or among lessors, operators, occupants or persons as to which party shall be responsible

Assessment

The failure of the owner to pay any penalty or expense incurred by the Town in connection with the enforcement and administration of this local law shall be assessed against the land subject to any action prescribed within this local law and shall be levied and collected in the same manner as provided in the Town Law of the State of New York for the levy and collection of Town taxes or special ad valorem levies

ARTICLE IX SEVERABILITY, INTERPRETATION AND EFFECTIVE DATE

Severability.

If any clause, sentence, paragraph, section or a part of this local law shall be adjudged by a 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 a part thereof directly involved in a controversy in which such judgment shall have been rendered.

Interpretation

This local law shall be interpreted in such a way wherever possible so that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect. Whenever the requirements of this local law are at variance with the requirements of other lawfully adopted rules, regulations or laws, the law with the most restrictive provisions or those imposing the higher standards shall govern

When effective

This local law shall be operative immediately and effective upon being filed with the New York State Secretary of State pursuant to §27 of the Municipal Home Rule Law of the State of New York.