

# Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE  
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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~COUNTY~~

~~CITY~~

Town of NEW HAVEN

Town

~~VILLAGE~~

Local Law No. 1 of the year 1999

A local law regulating scrap, junk and salvage and the licensing  
(Insert Title)  
of salvage yards in the Town of New Haven

Be it enacted by the Town Board of the  
(Name of Legislative Body)

~~COUNTY~~

~~CITY~~

Town of NEW HAVEN as follows:

~~VILLAGE~~

Section 1. This Local Law shall be known as the "Local Law Regulating Scrap and Junk and the Licensing of Scrapyards and Salvageyards in the Town of New Haven."

Section 2. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town of New Haven and the general welfare of its citizens. It is further declared that the unrestrained accumulation of junk and scrap is a hazard of the Town of New Haven, necessitating regulation, restraint and elimination thereof. At the same time, it is recognized that the maintenance of salvage junkyards and scrap processing yards, as hereinafter defined, are useful and necessary businesses and ought to be encouraged when not in conflict with the express provisions of this Local Law.

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

Section 3. This local law shall supercede and replace any prior existing ordinances or section of ordinances that relate to junk yards, and when enacted shall repeal and replace Local Law #1 of 1992 of the Town of New Haven in its entirety.

Section 4. DEFINITIONS

- (a) **Enforcement Officer** - an individual designated by the Town to represent them in particular matters pertaining to this law, and the enforcement thereof.
- (b) **Junk** - the outdoor storage or deposit of the following, whether in connection with another business or not:
1. <sup>Manufacturer's</sup> **Mobile Home**: a transportable in one or more sections, built on a permanent chassis and designed to be used as a dwelling unit. A mobile home will be considered junk where at least two out of three of the following conditions exist for over six months:
    - (i) The electrical service is disconnected or terminated;
    - (ii) It is abandoned as a dwelling unit;
    - (iii) It is no longer habitable under New York State Uniform Fire Prevention and Building Code;
  2. **Rubbish or Debris**: Includes ordinary trash such as: barrels, cartons, boxes, crates, furniture, appliances, rugs, clothing, rags, mattresses, blankets, lumber, brick, stone and other building materials no longer intended or in condition for ordinary use, and any and all other tangible personal property no longer intended or in condition for ordinary and customary use, and shall be considered junk if the condition exists for over 60 days.
  3. **Snowmobile or ATV**: All vehicles propelled by power other than muscular power, originally intended for use off public highways. Includes, but is not limited to any snowmobile or all-terrain vehicle (ATV) which has not been used for its intended purpose within the last 12 months.
  4. **Yard Equipment or Non-motorized Vehicle**: Includes, but is not limited to, any bicycle or yard equipment which has not been used for its tended purpose within the last 12 months.
  5. **Watercraft**: Mechanically propelled boats, personal watercraft (PWC), and sailboats. Any watercraft that is not in condition for legal use on the waterways will be considered junk if it has not been used for its intended purpose within the last 12 months.
- (c) **Junked Vehicle**: A "junked vehicle" is any motor vehicle whether automobile, bus, trailer, truck, tractor, mobile home, motorcycle, motor bicycle, mini bicycle, or any other contraption originally

intended for travel on the public highways, which is stored out in the open and which is:

(i) is unlicensed, old, wrecked, stored, discarded, abandoned or dismantled or partly dismantled, which is not intended or in any condition for legal use upon the public highway or waterways, or

(ii) is being held or used for the purpose of resale, reclamation, storage or disposal of parts, reclamation of parts, storage of parts, or disposal of parts, or

(iii) is in such condition as to cost more to repair and place in operating condition than its reasonable market value at the time before such repair.

With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than six (6) months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a "junked vehicle."

The fact that a motor vehicle may be licensed or registered with the State of New York, but does not display a current license plate, shall be presumptive evidence that such motor vehicle is unlicensed.

- (d) **Junk Storage Area:** Area of any parcel of land or water used or intended to be used for the placement, storage or deposit of junk.
- (e) **Person:** Any individual, firm, partnership, association, corporation, company or organization of any kind.
- (f) **Salvage:** Items with a use or value held for resale, reuse, reclamation or recycling.
- (g) **Salvageyard:** A licensed location for the placement and storage of salvage.
- (h) **Scrap Processing Facility:** A location that stores and/or processes iron, steel and nonferrous scrap metals.
- (i) **Town Board:** Town Board of the Town of New Haven, County of Oswego and State of New York.
- (j) **Toxic Substance:** Any substance or combination of substances, which because of quantity, concentration or physical or chemical

characteristics may (a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated.

- (k) *Plural/Singular:* The use of a term in the singular herein is intended, where applicable, to include the plural.

## Section 5. EXCLUSIONS

- a. This local law shall not apply to farm machinery, including tractors, where such machinery is actively used. Farm machinery kept for parts shall be stored out of sight behind a hedge, in a building or covered.
- b. This local law recognizes the existence of persons who collect antique vehicles (twenty-five [25] years or older) and those person or persons who restore antique vehicles.
- (i) The collection of unlicensed antique vehicles in number no greater than five (5), shall be permitted, providing that said vehicles are in a condition such that they could be licensed and used upon the public highway;
- (ii) Any person showing that he or she collects usable antique vehicles for business or hobby, shall be allowed one (1) vehicle for restoration purposes, providing that said restoration is completed within one (1) year from date of placement of vehicle to be restored on the premises;
- c. The storage of seasonal vehicles, campers, travel trailers, boats, etc. shall be permitted, providing that said vehicles are in a condition such that they could be licensed or used.

## Section 6. LICENSE REQUIRED

- (a) No person shall engage in or conduct, whether for profit or otherwise, on real property within the Town of New Haven, 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 collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting or otherwise, handling or arranging, for sale, resale, storage or

disposal or otherwise of junk or junked vehicles as defined in this law, without first obtaining a salvageyard license.

- (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, consecutive or non-consecutive, shall be considered as engaged in the operation of a salvageyard and shall be required to obtain a license pursuant to the terms of this Local Law.

#### Section 7. ESTABLISHED DISMANTLERS OR SALVAGE YARDS

- (a) Salvageyards already established shall be considered approved and deemed suitable for issuance of a license. Those not having a Town License prior to establishment of Town Ordinance shall apply for such license within sixty (60) days of the adoption of this Local Law. Such already established salvageyards shall be considered a non-conforming use and allowed to continue operation. However, reasonable effort shall be made by said non-conforming operators to comply with this Local Law. A certificate signifying such non-conformity shall be issued with such license.
- (b) The enlargement of any non-conforming use referred to in the preceding paragraph through the expansion of the area increase of real property used for salvageyard purposes beyond that area in present use shall serve to terminate such non-conformity and the salvageyard so expanded shall comply with regulations governing new salvageyards before the renewal of said license.

#### Section 8. PROCEDURES:

- (a) Application Forms -
  - i. The applicant for a salvageyard license shall obtain application forms from the Town Clerk of the Town of New Haven.
  - ii. The completed forms, along with two (2) copies of the proposed site plan and the non-returnable fees shall be returned to the Town Clerk of the Town of New Haven.
- (b) Application Review -

The Town Clerk of the Town of New Haven shall immediately submit one (1) copy of the application, together with all other descriptive plans as required by this Local Law, to the Town Board.
- (c) Public Hearing -

A hearing on the application shall be held by the Town Board not less than two (2) nor more than four (4) weeks from the date of the receipt of the application by the Town Board. Notice of the hearing shall be given to the applicant at the address given in the application and shall be published once in a newspaper having circulation within the Town which publication shall not be less than seven (7) days before the date of the hearing.

At the hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the salvageyard. In considering such application, the Town Board shall take into account the suitability of the applicant with reference to any record of convictions for any type of larceny or receiving of stolen goods and to the applicant's ability to meet the requirements of this law. Additionally, the Board shall take into account, after proof of legal ownership, right to such use of the property for the license period by the applicant, the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.

- (d) Aesthetic Considerations - At the hearing regarding location of the salvageyard, the Town Board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection, the Town Board may consider collectively the type of road servicing the salvageyard or from which the salvageyard may be seen, the natural or artificial barriers protecting the salvageyard from view, the proximity of or main access routes thereto, as well as the reasonable availability of other suitable sites for the salvageyard.
- (e) Grant or Denial of Application for License; Appeal - After the hearing, the Town Board shall, within two (2) weeks, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant by mail, postage pre-paid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be issued and shall remain in effect until and including the following March 31st. Approval shall be personal to the applicant and not assignable. The Town Board shall have the right to place any

conditions or restrictions on said license as they deem necessary. License shall be renewed thereafter upon payment of the annual license fee without hearing, provided all provisions of this chapter are complied with during the license period, the salvageyard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Town Board may be reviewed under Article Seventy-Eight of the Civil Practice Law and Rules.

- (f) Renewal of License - All salvageyard licenses expire on March 31st and shall be annually renewed to continue in operation, unless otherwise affected by this law.

Section 9.

FEE:                      DISPLAY OF LICENSE:      DURATION:  
NON-TRANSFERABILITY:      REVOCATION:

- (a) The renewal License fee shall be set by the Town Board and may be changed annually, on or before March 1 of each year at the discretion of the Town Board. The License Renewal fee shall be paid annually on or before March 31st of each year, which is the expiration date of existing licenses. In the event that the renewal application is not granted, the renewal fee shall be returned to the applicant.
- (b) The License fee for a new application shall be set by the Town Board and may be changed annually, prior to April 1 of each year at the discretion of the Town Board. Such fee shall cover the cost of processing the license, making the necessary inspection of the premises to ascertain compliance with the regulations contained in this ordinance, cost of publication, and cost of issuing the license.
- (c) Such license shall at all times be displayed in a conspicuous place at the licensee's place of activity or business for which the license is issued.
- (d) Such license shall be effective from the date of its issuance until the 31st day of March 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.
- (e) The Town Board may revoke a salvageyard license upon reasonable cause should the applicant fail to comply with any provision of this law. A public hearing shall be held by the Town Board before a permit may be revoked. The license holder shall be

placed on notice by certified mail or personal service not less than ten (10) days prior to the hearing date. Public notice of the hearing shall be published in a newspaper in general circulation in the Town at least ten (10) days before the date of the public hearing. At the hearing, the Town Board shall hear the license holder and all other persons wishing to be heard on the revocation of the salvageyard license. Should the Town Board decide to revoke the permit, the reasons for such revocation shall be stated in the Town Board minutes. The license holder shall be notified by the Town Board by certified mail of their decision. Should any salvageyard license be revoked, the operator shall cease and desist from operating a salvageyard. All junk shall be removed from the premises within 60 days. If after 60 days the junk is not removed, the Town Board reserves the right to have the junk removed and disposed of. The expenses thereof shall be charged to the property so affected by including such expense in the next annual tax levy against the property.

Section 10.

APPLICATION FOR LICENSE; REQUIRED INFORMATION:  
APPROVAL:

- (a) Each applicant for a license hereunder shall executed, under oath, an application therefore, to be supplied to the applicant by the Town Clerk, which shall contain the following information:
1. The applicant is twenty-one (21) years of age or older;
  2. The applicant is a citizen of the United States;
  3. Whether the application 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 each type of activity or business the applicant intends to conduct;
  5. The nature of the materials the applicant intends to handle;
  6. The number of employees the applicant intends to engage;
  7. The name and address of the owner or owners of the land and the nature of the right of occupancy of the applicant to use of such land.
- (b) At the time of making the application, the applicant shall submit to and file with the Town Clerk two (2) site plans or maps of the real property upon which the applicant intends to conduct the activity or business for which the applicant is making the application for a license. The site plan shall be drawn to scale, indicate all dimensions and show the following:

1. all existing and proposed structures, including fences;
2. all property lines including the names of owners and adjacent property;
3. all streams, ponds, wetlands, floodplains and other water bodies;
4. all wells and sanitary facilities;
5. all roads and easements;
6. all existing and proposed junk storage areas;
7. all existing and proposed accessways including:
  - (i) fire lanes;
  - (ii) parking areas;
  - (iii) loading and unloading areas;
8. topographical features shown at two foot intervals;
9. any other information that the Town Board may require.

(c) As part of the application, the applicant shall sign a statement in which the applicant agrees to conduct the activity or business, for which a license is to be granted, pursuant to the regulations set forth in Section 11, and that upon failure of the applicant to so comply, the license may be revoked forthwith.

(d) **Environmental Impact Statement** - An Environmental Assessment Form (EAF) shall be completed and submitted with all application pursuant to the provisions of the State Environmental Quality Review Act, NYCRR Part 617. If the EAF indicates that the proposed activity may have significant environmental consequences, the Town Board may require that a Draft Environmental Impact Statement (DEIS) be submitted before any further consideration of the application. The application shall not be considered complete until the DEIS has been submitted to the Town Board.

**Section 11. REQUIREMENTS OF OPERATION:**

- (a) The licensee must personally manage or be responsible for management of the activity or business for which license is granted.
- (b) The licensee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others.
- (c) The licensee shall maintain on the premises at all times, permanent books and records prepared in accordance with applicable state

requirements, and such other regulations and requirements as from time to time may be required by the Town Board.

- (d) The licensee must erect on all boundary lines, as may be determined by the Town Board, not fronting on a public highway, a six (6) foot wire fence of close mesh or one made of wood or other materials, such as living hedge as approved by the Town Board, adequate to prevent the entrance of children and others into the area of the activity or business and to contain within such fence or enclosure the materials dealt in by the licensee.
- (e) The licensee must erect and maintain a tight board fence eight (8) foot in height, made of wood or other material or a living hedge as may be determined after due consideration by the Town Board on all boundaries fronting on a public highway, and located at least fifty (50) feet therefrom, adequate to prevent the entrance of children and others into the area of the activity or business, reasonably adequate to keep said salvageyard from the public view, and to contain within such fence or enclosure the materials dealt in by the licensee. The licensee must erect and maintain a gate approved by the Town Board which will be kept locked during the hours the business is closed.
- (f) Location - No junk storage shall be located within:
  - (1) 50 feet of any adjoining property line;
  - (2) 600 feet of any public park, church, education facility, nursing home, public building, or other place of public gathering.
  - (3) 600 feet of any stream, pond, wetland or other body of water;
  - (4) 50 feet from the right-of-way of any public highway.

Section 12. PENALTIES:

- (a) Any person who shall violate any provisions of this law shall be guilty of an offense and be liable for all fines and penalties hereinafter set forth. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.
- (b) For each of the first, second and third violations of any provision of this law, there shall be imposed a fine of not more than Five Hundred Dollars (\$500.00) and/or fifteen (15) days in jail, for each such violation. For the fourth violation of any provision of this law, and any violation thereafter, there shall be imposed a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand

Dollars (\$1,000.00), and/or 15 days in jail, for each such violation. Additionally, the license may be suspended or revoked for a period not to exceed six (6) months for each such violation. Such period of suspension may be extended in the event that the licensee continues in violation of this ordinance. In the event of a revocation, the violator must apply for a new license and pay all applicable fees. Such fine shall be collectible by and in the name of the Town of New Haven for each day that such violation shall continue. The Town Justice Court of the Town of New Haven shall have jurisdiction for all proceedings involving the violation of this ordinance.

- (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 injunction the violation of such Local Law, and to obtain a civil judgment for unpaid fines.

Section 13. **ADDITIONAL REGULATIONS:**

- (a) Burning - No material shall be burned in a salvageyard unless in conformity with the New York State Solid Waste Disposal Law (NYCRR Part 215).
- (b) Burying - No material shall be buried in a salvageyard unless in conformity with New York State Solid Waste Disposal Law (NYCRR Part 360).
- (c) Toxic Substances - The storage, treatment, transportation and disposal of toxic substances shall be pursuant to the provision of the New York State Environmental Conservation Law.

Section 14. **REPEALER:**

All ordinances or regulations heretofore adopted in conflict with this Local Law are hereby repealed.

Section 15. **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.

Section 16. ADMINISTRATIVE LIABILITY

No officer, agent or employee of the Town of New Haven shall render himself personally liable for any damage that may accrue to persons or property as a result of any action brought against any officer, agent or employee of the Town of New Haven as a result of any act required or permitted in the discharge of his or her duties under this Local Law. Such officer, agent or employee shall be defended by the Town Attorney until the Final determination of the proceedings thereon.

Section 17. WHEN EFFECTIVE:

This Local Law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with the provision of Section 27 of the Municipal Home Rule Law.