

TOWN OF GENOA

Junk Storage Law

This is a Local Law regulating the placement and storage of junk.

ARTICLE A: TITLE, PURPOSE, AUTHORITY

Section 1 Title - This local law is to be known as “Town of Genoa Junk Storage Law”

Section 2: Purpose - By adoption of this law the Town of Genoa declares its intent to regulate and control the storage or keeping of junk, and to regulate junkyards, whether operated for commercial profit or otherwise. 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 junk and junkyards can constitute a hazard to property, and persons and be a public nuisance. Junk, and particularly junked vehicles, can constitute attractive nuisances to children and certain adults. The presence of junk and junkyards is unsightly and tends to detract from the value of surrounding properties unless properly screened from view.

Section 3: Authority - This law is adopted pursuant to the authority granted the Town in Section 10 of the Municipal Home Rule Law and in section 130(15) of Town Law.

ARTICLE B: DEFINITIONS

For the purpose of this law, the following words and phrases shall have the meaning ascribed to them in this article

BASIC RENEWAL APPLICATION – A term used in connection with the junkyard permit renewal application process that means and refers to a junkyard permit renewal application where there is and has been no change in the size or character of the junkyard since the date that a prior junkyard permit was issued in conjunction with a public hearing and full site plan review. Basic Renewal Applications are approved administratively upon inspection and permit issuance by the Enforcement Officer, who shall verify that no change in the size or character of the junkyard has occurred in a measurable manner as would trigger a Full Renewal Application.

CHANGE IN SIZE OR CHARACTER – These words, and words of similar use and import, when used in relation to any junkyard for which a permit has been issued, refer to the manner and use of the land in relation to the operation of the junkyard. Examples of a change in the size or character of a junkyard include, but are not limited to, changes (particularly increases) in the amount of land being used for junk processing or storage, any changes in locations where junk is processed or stored, any increase in the number of covered spaces or buildings on site, any changes in the type and nature of junk being stored or processed, any significant changes in the volume of junk being processed or stored, etc. A change in the size or character of a junkyard will generally, and almost always, require a Full Renewal Application, including and together with a new or updated site plan, a site plan review, an environmental review, and a public hearing.

FULL RENEWAL APPLICATION – A term used in connection with the junkyard permit renewal application process that means and refers to a junkyard permit renewal application where there is or has been a change in the size or character of the junkyard since the date that a prior junkyard permit was issued in conjunction with a public hearing and full site plan review. A Full Renewal Application for a junkyard permit requires public hearing, a site plan review, and an environmental review, mainly due to the fact that there has or had been a change in the size or character of the junkyard since the date of permit issuance, or since the last date the junkyard was subject to a full review, which change in size or character occurred incrementally or otherwise. The fact that a junkyard had filed any one or more Basic Renewal Applications is not relevant to the question of whether small changes, cumulatively viewed, have in a subsequent year triggered a Full Renewal Application, and all classifications of renewal permits are without prejudice to the right of the Enforcement Officer to make an independent and new determination at the time of each permit renewal.

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

1. Two (2) or more junk vehicles as further described herein.
2. One (1) or more abandoned mobile homes or trailers, or two or more all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law).
3. Two (2) or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
4. Two (2) or more inoperable pieces of Farm Equipment.
5. Collection and storage of any second hand or used material which, taken together, equal or exceed five hundred (500) cubic feet in bulk volume.

Nothing herein contained shall be deemed to prevent farmers, loggers, or contractors from storing and or maintaining on their own promises, motor vehicles, machinery, and equipment now used by them in their business. Also nothing herein contained shall be deemed to prevent the conduct of a New York State licensed new and or used car business or a bona fide garage business and the parking of not to exceed fifteen (15) vehicles in the process of waiting for repairs.

JUNK STORAGE AREA – The area any lot or parcel of land upon which Junk is kept or stored.

JUNK VEHICLES – Any motor vehicle, whether automobile, bus, trailer, truck, tractor, mobile home, motorcycle, motor bicycle, mini bicycle, or snowmobile, or any other contraption originally intended for travel on the public highways, which is abandoned, stored, left or located by its owner or any other person on public or private premises in the Town of Genoa outside of a junkyard which has a permit to operate in the Town of Genoa, which vehicle:

1. Is not registered by the State of New York (or validly registered in the state or country of licensure or title) for operation on public highways and which has not been registered during the preceding six (6) months
2. Is not currently registered and does not have a valid and current Inspection Sticker.
3. Is no longer intended to be used on public highways, the condition of the vehicle and circumstances surrounding its storage or abandonment being admissible for purposes of determining such intent; or
4. Is being held or used for the purpose of resale of used parts therefrom, or for the purpose of reclaiming for use some or all of the materials therein.

ENFORCEMENT OFFICER – Any person appointed by the Town Board to represent it and the Town in particular matters pertaining to this Local Law.

PERSON – Any person, firm, partnership, association, corporation, company, or organization of any kind.

ARTICLE C: JUNK REGULATIONS

No Junk, including as defined herein, shall be located so as to be visible from public roads or neighboring properties.

ARTICLE D: JUNK STORAGE REGULATIONS

Section 1: Location – No junk storage shall be located within:

1. One hundred (100) feet of any adjoining property line.
2. Two hundred (200) feet of any public park, church, educational facility, nursing home, public building or other place of public gathering.
3. Two (200) feet of any stream, lake, pond, wetland, or other body of water.
4. Seventy five (75) feet from the right of way of any public highway.

ARTICLE E: JUNKYARD PERMITS

No person shall establish or maintain a junkyard (as defined herein) without first obtaining a junkyard permit from the Town of Genoa. All permits shall be issued for a period of one (1) year, after which annual renewals and inspections shall be required.

ARTICLE F: APPLICATION PROCEDURE

Section 1: Application Form – The applicant for a junkyard permit or permit renewal shall obtain application forms from the Codes Office or Town Clerk. All junkyard permit applications shall be classified as either a new application, a Basic Renewal Application, or a Full Renewal Application. The completed forms, along with required documents as below-specified and the appropriate fee shall be returned to the Codes Office.

1. If a Basic Renewal Application is appropriate, as determined by the Enforcement Officer upon an inspection of the junkyard and premises upon which operated, more specifically, where inspection shows no material or significant change in the size or character of the junkyard, the permit shall be renewed for one year and the permit fee will be one-hundred dollars (\$100.00). Basic Renewal Applications are and shall be ministerial determinations made by the Enforcement Officer and no updated site plan or Environmental Assessment Form (“EAF”) shall be required.
2. If a new application of a Full Renewal Application then the application fee shall be two-hundred and fifty dollars (\$250.00) and the applicant shall submit a site plan (new or current, as updated), and an EAF in proper form as required by 6 NYCRR Part 617. This review shall be discretionary and the Codes Office shall refer each such application to the Town Board for a public hearing and a site plan review.

Section 2: Permit and Renewal Fees – Permit, renewal, and other fees and charges as set forth in this law may be amended from time-to-time by resolution of the Town Board without the necessity of amending this law.

Section 3: Public Hearing – Whenever required, the Town Board shall hold a public hearing within forty-five (45) days of the date a completed application, and all supporting materials and fees, are received. Notice of the hearing shall be made in the official newspaper at least five (5) days prior to the date thereof, and at the hearing the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a junkyard permit.

Section 4: Application Approval or Disapproval – With-in forty-five (45) days of date the said public hearing is closed and the environmental review concluded, the Town Board shall render a decision to approve, approve with conditions, or to disapprove the application for the junkyard permit. This forty-five (45) day period may be extended by mutual consent of the applicant and the Town Board.

1. If the application is disapproved, the reasons for disapproval shall be entered into the town Board minutes and notice of such disapproval and a copy of the minutes setting forth the reasons for disapproval of the permit application shall be delivered to the applicant by certified mail within five (5) days of the decision of the Town Board.
2. If the application is approved with conditions, the conditions and the reasons therefor, such as what impact is sought to be avoided or mitigated by such condition, shall be entered into the Town Board minutes, and notice of such approval and a and a copy of the minutes setting forth the reasons for such conditions shall be delivered to the applicant by certified mail within five (5) days of the decision to the Town Board. All conditions that must be satisfied before a permit may be issued shall be duly met before permit issuance, and all other permit conditions shall be listed and stated upon the permit.
3. If the application is approved without conditions, the applicant shall be notified of the same within five (5) days of the decision to the Town Board.

Section 5: Issuance of Permit(s) – If the application is approved by the Town Board a junkyard permit will be promptly thereafter issued by the Codes Office once any conditions are met or so stated in the permit as required in Section 4, above.

ARTICLE G: GENERAL CONSIDERATIONS

In reviewing, granting or denying a permit the Town Board shall take the following aesthetic and locational factors into considerations:

Section 1: Aesthetic Considerations –

1. Type of road serving the junkyard or from which the junkyard can be seen.
2. The existence or need for natural or artificial barriers protecting the junkyard from view.

Section 2: Location Considerations –

1. The nature and development of surrounding property, such as the proximity of public parks, churches, educational facilities, nursing homes, public buildings, or places of public gathering.
2. Whether or not the proposed location may adversely affect health and safety by reason of offensive or unhealthy noise, odors, or other causes, and whether such impacts can be eliminated or sufficiently mitigated.
3. The proximity of streams, lakes, wetlands, flood plains, groundwater supplies, and public water supplies.
4. Local drainage patterns.
5. Long range comprehensive plans for the town.
6. Proximity of the site to established residential or recreational areas.
7. Availability of other suitable sites for the junkyard.

ARTICLE H: ADMINISTRATION AND ENFORCEMENT

Section 1: Requirements for Operation –

1. The permittee must personally own the land or be responsible for the management of the activity or business for which the permit is granted.
2. Such permit shall be displayed conspicuously at all times at the place of business or on the site.
3. The permittee must assure the lawful, proper and safe conduct of such activity or business, to minimize fire hazards, prevent trespass, and comply with New York State laws and regulations for materials salvage, storage, and junk, including compliance with New York State vehicle decommissioning and storage laws and regulations.
4. The Town Code Enforcement Officer, the Town Board, or any representatives thereof, including the Enforcement Officer, shall be granted access to the area of business during reasonable hours.

Section 2: Enforcement Officer – The Enforcement Officer shall make inspections of the premises of any junkyard for which application has been made, and shall annually inspect any permitted junkyard, including such inspections as are or may be required for any permit renewal applications. However, notwithstanding the requirements herein, the Enforcement Officer shall not enter of any private property without the consent of the owner.

Section 3: Revocation of Permit – The Town Board may revoke a Junkyard Permit upon reasonable cause should the applicant violate or fail to comply with any of the provisions of this law. Before a permit may be revoked a public hearing shall be held by and before the Town Board. Notice of the hearing shall be made in the official newspaper at least five (5) days before such hearing, and the permit holder shall be personally served with such notice of hearing at least fifteen (15) days before such public hearing, unless the Town Board finds and so records in its minutes that an emergency exists justifying less than fifteen (15) days' notice (but in no case less than five (5) days' notice). At such public hearing the permit holder may present any evidence or testimony upon the claimed violation of, or non-compliance with, this law, and the Town and the Enforcement Officer and public may do likewise. After such hearing and within forty-five (45) days of the date of closing of the public hearing, the Town Board shall render its decision upon revocation, which may be to revoke the permit without prejudice to a future reapplication therefor, to revoke the permit with prejudice and permanently, or to let the permit stand (until renewal). No determination upon permit revocation is relevant to the question of whether this law was or was not violated or whether there has or has not been compliance with this local law.

Permit revocation questions shall be determined based upon the nature of the violation or non-compliance, the severity of the violation or non-compliance, whether the violation or non-compliance is continuing or has before occurred, and the impact of such violation or non-compliance upon public health and welfare. If the permit is revoked, the applicant and landowner shall suspend all operations and remove all Junk from the property within sixty (60) days.

Section 4: Penalties – Any person who shall violate any of the provisions of this Local Law shall be guilty of a criminal offense and subject to a fine of two-hundred and fifty dollars (\$250.00). Every such Person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect, or refusal shall continue. The Enforcement Officer is hereby empowered to issue appearance tickets and other required paperwork to commence violation proceedings.

Section 5: Injunction and Other Remedies – In addition to any remedies and penalties provided in this law, 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 restrain by injunction the violation of this law. The rights and remedies of the Town in respect of non-compliance with or the violation of this law shall not be limited to the rights and remedies herein set forth, and the Town may seek to enforce this law and the provisions hereof in any other manner as permitted by applicable law.

ARTICLE I: 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. In such a case, the remainder of this law shall remain valid and enforceable.

ARTICLE J: EXISTING JUNK AND JUNKYARDS

Junk that exists within the Town that is not in compliance with the requirements of this local law shall be cleaned up, removed, or otherwise relocated or brought into compliance with these requirements within 90 days of the date of adoption of this local law. Any junkyards now existing or operating without a permit shall be required to apply for a permit on or before December 31, 2016. Any junkyard that fails to make such application shall thereafter forfeit any claim or right to be or be deemed a grandfathered right or use.

ARTICLE K: CONSTRUCTION

All nouns and pronouns shall be construed in the singular, plural, masculine, feminine, or neutered context when the context or provisions hereof so demand or admit. Defined words shall have their defined meanings and shall be construed within the context of the clause in which such terms appear. Subject headings are for convenience and shall not be construed or applied to limit or restrict the subject matter and terms appearing under such subject heading. Whenever any reference is made to any section of law or regulations, such reference shall be interpreted to include such law or regulation as later amended, renumbered, or re-codified. Mere typographical or citation errors shall not be given effect.

ARTICLE L: EFFECTIVE DATE

This law shall be and become effective immediately.