

Local Law Filing

(Name of legislative Body) NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

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.

Town of Orwell

Local Law No. One (1) of the year 2022.

A local law regulating junk storage and junkyards in the Town of Orwell.

Be it enacted by the Town Board of the Town of Orwell ("Town Board") as follows:

TOWN OF ORWELL REGULATION OF JUNK STORAGE AND JUNKYARDS LAW

ARTICLE I AUTHORITY, TITLE, PURPOSE AND APPLICABILITY

Section 1.01 AUTHORITY.

~~SECTION ONE (1). AUTHORITY.~~

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of Municipal Home Rule Law of the State New York, the Town Board of the Town of Orwell hereby adopts and enacts the following law. This local law is adopted pursuant to the authority granted the Town of Orwell under Section 10 of the Municipal Home Rule Law and in Section 130(6) of the Town Law.

~~SECTION TWO (2). Section 1.02- TITLE.~~

This local law shall be known as the "Town of Orwell Regulation of Junk Storage and Junkyards Law".

Section 1.03 ~~SECTION THREE (3). PURPOSE.~~

The Town Board of the Town of Orwell hereby declares that a clean, wholesome, and attractive environment is of vital importance to the continued general welfare of its citizens, and that regulation of the deposit, accumulation, or maintenance of junk regardless of quantity is hereby prohibited anywhere within sight of persons lawfully traveling the public highways or within sight of neighboring property. The purpose of this local law is 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

Formatted: Space After: 0 pt, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers, Tab stops: 0", Left + 0.5", Left + 2.91", Left + 6.62", Right + 7", Left + 7.5", Left

Formatted: Space After: 0 pt, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers, Tab stops: 0", Left + 0.5", Left + 2.91", Left + 6.62", Right + 7", Left + 7.5", Left

Formatted: Tab stops: 1.25", Left

Formatted: Tab stops: 1.25", Left

persons in the neighborhood and the community generally; to provide for orderly growth; to lessen congestion in the streets; to secure safety from fire and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements; and to promote the health, safety, and general welfare of the public. This local law has been made with reasonable consideration, among other things, as to the character of the land within the Town and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land. This local law, and any amendments thereto, shall apply on its effective date to all uses which have not been substantially commenced, and structures which have not been substantially constructed, regardless of the status of permits or certificates of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

By adoption of this local law the Town 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.

Section 1.04 ~~SECTION FOUR (4)~~-APPLICABILITY.

This local law shall supersede and replace any prior existing ordinances and/or local laws or sections of ordinances and/or local laws that relate to junk storage.

ARTICLE II
DEFINITIONS

Section 2.01 ~~SECTION FIVE (5)~~-DEFINITIONS.

- (a) Enforcement Officer – an individual designated by the Town to represent them in particular matters pertaining to this local law.
- (b) Junk – the outdoor storage or deposit of the following whether in connection with another business or not:
 - 1. Two or more junked vehicles.
 - 2. One or more abandoned mobile homes.
 - 3. One or more abandoned recreational vehicles.
 - 4. One or more inoperable or unseaworthy boats, whether propelled by motor, sail or any other means.
 - 5. One or more inoperable or abandoned appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
 - 6. Toxic chemicals and radioactive materials at levels that could be injurious to human, animal and biological life, exempting NYS licensed applicators.

Formatted: Tab stops: 1.25", Left

Formatted: Tab stops: 1.25", Left

7. One or more abandoned or irreparably damaged pieces of indoor furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.

~~3. Any combination of the above that totals five (5) items.~~

tractor, mobile home, motorcycle, motor bicycle, mini bicycle, ATV's or snowmobile, or any other contraption originally intended for travel on the public highways, or any motorboat, row-boat or sailboat which:

~~(d)(c)~~ Junked Vehicles – A “junk vehicle” is any motor vehicle whether automobile, bus, trailer, camper, truck, tractor, mobile home, motorcycle, motor bicycle, mini bicycle, ATV's or snowmobile, or any other contraption originally intended for travel on the public highways, or any motorboat, row-boat or sailboat which:

1. Is unlicensed, unregistered and/or uninspected, 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
2. Is being held or used for the purpose of resale, reclamation, storage or disposal of parts; or
3. 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 registered, licensed and/or inspected 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 motor 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) Junkyard – shall mean a licensed location for the placement and storage of Junk.

(e) Outdoor Storage – shall mean the intentional placement of Junk, Junked Vehicles, equipment and/or other personal property located outside of an enclosed building or structure for purposes other than decoration, ornamentation and/or proper disposal. Storage within an open carport and/or storage beneath a tarpaulin or similar cover outside an enclosed building or structure shall be considered outdoor storage.

~~SECTION SIX (6).~~ ARTICLE III
REGULATION OF JUNKYARDS

Section 3.01 LICENSE REQUIRED

No person shall engage in or conduct, whether for profit or otherwise, on real property within the Town of Orwell, 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 the collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging, for sale, resale, storage or disposal or otherwise of Junk or Junk Vehicles as defined in this law, without first obtaining a Junkyard license.

Formatted: No bullets or numbering

Section 3.02 SUBMISSION REQUIREMENTS FOR JUNKYARD LICENSE

Each applicant for a license hereunder shall execute, under oath, an application therefor, to be supplied by the Town Clerk, which shall contain the following information:

- (a) That the applicant is over 21 years of age.
- (b) That the applicant is a citizen of the United States.
- (c) Whether the applicant has ever been convicted of a felony or misdemeanor and such other facts of evidence as are deemed necessary to establish that the applicant is a person fit and capable of properly conducting the activity or business for which the license is sought.
- (d) A description of the exact type of activity or business the applicant intends to conduct.
- (e) The nature of the materials the applicant intends to handle.
- (f) The number of employees the applicant intends to engage.
- (g) The name and address of the owner(s) of the land and the nature of the occupancy to the applicant to use the land.
- (h) Supporting documentation that the proposed site is not less than 500 linear feet from any residential structure, waterway or wetland, and is not closer than 100 linear feet from any front, rear or side lot line.
- (i) At the time of making the application the applicant shall submit to the Town Clerk the completed form(s), along with two (2) copies of the proposed site plan prepared by a New York State Professional Engineer or Architect, showing compliance with all DEC, DOT, and DOS requirements as well as this local law, and drafted to scale, along with appropriate fees in certified funds. Said plans shall include a survey map of the real property which is proposed for such purpose, and the location of required fencing, any buildings within 500 feet, water drainage patterns, and other information as the Town Board may require from time to time to support and protect environmental impacts.

Formatted: Indent: Left: 0.25", Hanging: 0.88", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5", Tab stops: 1.13", Left + Not at 1.25"

Section 3.03 LICENSE FEE; DURATION; TRANSFERABILITY

Formatted: No bullets or numbering

- (a) The initial license fee shall be \$500.00, to be paid at the time of application submittal, and \$100.00 annually thereafter on each renewal. In the event a license is not granted, \$300.00 of the initial license fee shall be retained by the Town to recover its administration costs in reviewing the application, and the balance of \$200.00 shall be returned to the applicant within sixty (60) days. Should the license be granted, the entire initial license fee of \$500.00 shall be retained by the Town, and the first two (2) annual renewals thereafter shall be considered as prepaid.
- (b) Any such license granted shall be effective from the date of its issuance and shall terminate on the one (1) year anniversary date of its issuance unless renewed pursuant to this local law.
- (c) Any such license granted is personal to the licensee and cannot be sold, assigned, or otherwise transferred without the application to the Town Board and the approval thereof.

Section 3.04 APPLICATION REVIEW PROCEDURE

- (a) Concept Review. Upon receipt of a completed Junkyard license application, the Town Clerk shall submit a copy to the Town Board, together with the site plan and all other descriptive information as required by this local law, for preliminary review at its next regularly scheduled Town Board meeting. This step begins a dialogue between the applicant and the Town Board. It is contemplated that the initial site plan during this review step may be modified and supplemented with additional information prior to the public hearing required in Section 3.04(b) hereof.
- (b) Public Hearing. Upon completion of the Concept Review phase, the Town Board shall conduct a public hearing within sixty-two (62) days of the receipt of the final site plan. The date and time of the public hearing shall be advertised in the Town's official newspaper or, if there is none, in a newspaper of general circulation in the Town at least five (5) days before the public hearing. The applicant and the owners of adjacent properties within five hundred (500) feet of the subject premises shall be mailed notification of the hearing at least ten (10) days prior to the date of the public hearing. If the land involved in the site plan application abuts a state or county highway, park, public building or drainage channel, at least ten (10) days before such public hearing, the Town Board shall mail notice of such hearing to the County Planning Agency and the requirements of § 239-m of the General Municipal Law shall be complied with if applicable. The Town Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.
- (c) Decision. A decision on the final application shall be made within sixty-two (62) days after the public hearing. In its decision, the Town Board may approve, approve with modifications or disapprove the site plan. The decision shall be filed with the Town Clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant by certified mail, return receipt requested. The time period in which the Town Board must render its decision can be extended by mutual consent of the applicant and the Town Board.

Formatted: Indent: Left: 0.25", Hanging: 0.88", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

Formatted: No bullets or numbering

Formatted: Underline

Formatted: Indent: Left: 0.25", Hanging: 0.88"

Formatted: Underline

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Underline

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

1. Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due the Town, the Town Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town Clerk. The Town Clerk shall then issue the Junkyard license to the applicant.
2. Approval with modifications. The Town Board may approve the final site plan with modifications. After adequate demonstration to the Town Board that all required modifications have been incorporated in the site plan and payment by the applicant of all fees and costs due the Town, the Town Board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the Town Clerk. The Town Clerk shall then issue the Junkyard license to the applicant.
3. Disapproval. Upon disapproval of the site plan, the decision of the Town Board shall set forth the reasons therefor.

Section 3.05 STANDARDS FOR OPERATION OF JUNKYARD

- (a) The licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.
- (b) The licensee shall maintain an office and a sufficient number of employees on premises to ensure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by children or others.
- (c) The licensee shall maintain and display the license in a conspicuous place at the licensed Junkyard at all times.
- (d) The licensee shall maintain on the premises at all times, permanent books and records outlining the spectrum of materials processed at the licensed Junkyard.
- (e) The licensee shall fully enclose the licensed Junkyard with fencing to prevent the entry by unauthorized persons or trespassers. The Town Board shall determine the height, location, and materials for such fencing during its review of the applicant's site plan.
- (f) The autos, parts and materials dealt in by the licensee shall be disassembled or dismantled by means other than burning. They shall be piled or arranged in neat rows so as to permit easy, clear passage through the licensed Junkyard.
- (g) There shall be maintained at least one (1) fire extinguisher for each 40,000 square feet of area. It shall be hung or mounted in a conspicuous place, clearly marked.
- (h) The licensed Junkyard shall not be used as a dump area or as a place for the burning and disposal of Junk or trash.

Formatted: Font: (Default) Times New Roman, 12 pt, Underline

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Indent: Left: 0.56", Hanging: 0.56"

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt, Underline

Formatted: Indent: Left: 0.5", Hanging: 0.63"

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt, Underline

Formatted: Left, Indent: Left: 0.5", Hanging: 0.63", Space After: 12 pt, Line spacing: single, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1", Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers, Pattern: Clear, Tab stops: 1.13", Left + 1.25", Left

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Font: (Default) Times New Roman, 12 pt, Font color: Black

Formatted: No bullets or numbering

Formatted: Indent: Left: 0.25", Hanging: 0.75", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5", Tab stops: 1", Left + Not at 1.13"

(i) The enforcement officer or any other officer, employee, or representative authorized by the Town Board, shall be granted access to the licensed Junkyard at all reasonable hours to inspect the same for compliance herewith.

ARTICLE IV
REGULATION OF STORAGE OF JUNK OR JUNKED VEHICLES

Section 4.01 STORAGE OF JUNK OR JUNKED VEHICLES PROHIBITED ACTS.

- (a) The deposit, accumulation, or storage of Junk or Junked Vehicles, is hereby prohibited within sight of persons traveling the public highways and/or streets or within sight of neighboring property.
- (b) All Outdoor Storage of goods, equipment, materials, personal property that is visible from any public highway and/or street or adjoining property shall be enclosed by view-obscuring fencing.
- (c) It shall be unlawful for any person to use a bus, uninhabited mobile home, camper, trailer, truck, or similar vehicle or units for the storage of Junk, Junked Vehicles, equipment or personal property on any premises.
- (d) The provisions of this Local Law shall be applicable to conditions existing at the time of enactment.

Section 4.02 SECTION SEVEN (7). EXCEPTIONS.

- (a) Section ~~64.01~~(b) above shall not apply to the storage or placement of the following materials:
- 1. Wood intended for consumption in a wood burning stove, furnace or fireplace located in a building or structure on the premises;
 - 2. Lawn, yard or garden ornaments or implements;
 - 3. Lawn or patio furniture;
 - 4. Standing fences;
 - 5. Hoses and sprinklers used for watering lawns or gardens;
 - 6. Storage or placement and accumulation of materials in connection with a commercial operation duly conducted on the premises where such storage, placement and accumulation is expressly permitted by the laws of the Town; and
 - 7. Construction materials and equipment used for the construction or renovation of a building on the premises for which a building permit has been issued.

Formatted: Font: Not Bold

Formatted: No bullets or numbering

Formatted: Tab stops: 1.25", Left

Formatted: Tab stops: 1.25", Left

- (b) Section ~~64.01~~(c) above shall not apply to 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.
- (c) This Local Law shall not apply to farm machinery, including tractors, where such machinery is actively used. Actively used shall mean the machinery being used for its intended purpose within the immediate two (2) years prior to its placement on the premises.
- ~~(d) This Local Law recognizes the existence of those person or persons who collect antique vehicles (twenty-five (25) years or older) and those person or persons who restore antique vehicles.~~
- ~~5. 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 highways and/or waterways.~~
- ~~6. 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.~~
- ~~(g)(d)~~ Waiver of Regulations. Commercial businesses may seek a waiver of the regulations of this ~~Local Law Article IV~~ by application to the Town Board for a Special Permit pursuant to Section ~~Eight4.03 (8)~~ of this Local Law.

Section 4.03~~SECTION EIGHT (8), SPECIAL PERMIT PROCEDURE.~~

- (a) Purpose. The Special Permit approval process seeks to ensure that certain uses are established in a manner that is appropriate and compatible to a site or neighborhood. These uses are hereby declared to possess characteristics of such unique and/or special form that each shall be considered as an individual case.
- (b) Authority. Individual Special Permits assigned to the review and approval of the Town Board based on recommendation of the Enforcement Officer.
- (c) Application. An application for a Special Permit pursuant to this Local Law shall be submitted to the Town Board. The following information is required to accompany the application:
1. Land: a description of the land to which the proposed Special Permit will relate;
 2. Use/Occupancy: a statement of the existing and proposed use of all parts of the land and the location, character and existing and proposed use of any existing or proposed buildings or structures;
 3. Description of Stored Items: a detailed description of the Junk, Junked Vehicles, equipment or other stored items to be maintained.
 4. Additional Information: such other information as may reasonably be required by the Town Board.

Formatted: Tab stops: 1.25", Left

(d) Procedure.

1. Public Hearing and Decision. The Town Board shall conduct a hearing within sixty-two (62) days from the day the completed application is received. Public notice of such hearing shall be published in the official newspaper at least five (5) days prior to the date thereof. The Town Board shall decide the application within sixty-two (62) days after the public hearing. The time within which the Town Board must hold a public hearing and/or render its decision may be extended by mutual consent of the applicant and the Town Board. The decision of the Town Board on the application after holding the public hearing shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered and a copy thereof mailed to the applicant.
2. Notice to Applicant and County Planning Agency. At least ten (10) days before such hearing, the Town Board shall mail notices thereof to the Applicant and to the County Planning Agency, if required by General Municipal Law §239-m, which notice shall be accompanied by a full statement of the matter under consideration.
3. Compliance with State Environmental Quality Review Act. The Town Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in 6 NYCRR 617.

(e) Special Permit Standards and Criteria.

1. Appropriateness of Special Permit Proposal. No Special Permit shall be granted by the Town Board unless it finds that the use for which the Special Permit is sought will not, under conditions that the Town Board considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare.
2. Imposition of Conditions. The Town Board may impose conditions when approving a Special Permit, which conditions shall be documented as required by the Town Board and appropriately filed in the Town office.
3. Standards of Approval. All applications for a Special Permit shall meet the following minimum requirements:
 - i. The proposed use shall be so located and designed that it is compatible in size and character to existing patterns of development and land uses and/or is consistent with the long-term development objectives for the affected portions of the Town;
 - ii. The proposed use or structure shall be appropriately located with respect to the existing pattern of streets and other facilities, including but not limited to: water, sanitary lines and drainage systems; and will not adversely affect the functioning of these facilities nor impede any planned improvements;
 - iii. The scale and design of the proposed use shall be physically and visually compatible with the conditions of the site and surrounding properties;

Formatted: Indent: Hanging: 0.5"

- iv. There shall be safe and efficient vehicular and pedestrian movement within the site to neighboring properties and in relationship to any streets serving the site;
- v. The proposed use shall be located, designed and operated in a manner that avoids or minimizes disturbance of significant natural or cultural resources; is consistent with the site's soil capabilities to accommodate the use; and complies with applicable county, state or federal regulations for significant environmental resources.
- vi. The use shall minimize adverse visual effects on surrounding properties or public rights-of-ways. Consideration shall be given to the proposed use (or continuation thereof) and the effect of same on the character of the neighborhood, including with respect to noise, effects on condition and appearance of such properties and the likely effects on nearby properties and their respective values.
- vi.
- viii. The detection of any noise, smoke, heat or odor shall be within limits established by applicable laws or regulations. Such emissions shall be minimized and directed away from surrounding properties.
- vii.
- ix-viii. Any other factors or criteria the Town Board may determine relevant in relation to a particular use, such as uses generally, or to all uses subject to its special permit authority.

ARTICLE V
HIGHER STANDARDS TO PREVAIL; EXISTING REMEDIES

Section 5.01 ~~SECTION NINE (9)~~ HIGHER STANDARDS TO PREVAIL; EXISTING REMEDIES

- (a) In any case where a provision of this Local Law is found to be in conflict with a provision of any applicable federal, state, or local building, fire, safety or health ordinance, law, code or regulation, that provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.
- (b) Nothing in this Local Law shall be deemed to abolish, restrict or impair any other existing rights and remedies of the Town, its officers or agencies or of other governmental authorities or private persons relating to the subject matter hereof.
- (c) No license, permit, certificate of occupancy, registration, inspection or compliance or similar issuance shall constitute a conclusive defense against a violation hereunder, or of any other local law or ordinance applicable to the real property, any structure or premises or use of such structure or premises, nor shall

Formatted: Indent: Left: -0.44", Numbered + Level: 1 + Numbering Style: i, ii, iii, ... + Start at: 2 + Alignment: Left + Aligned at: 1.25" + Indent at: 1.75"

Formatted: Indent: Hanging: 0.5"

Formatted: No bullets or numbering

Formatted: Tab stops: 1.25", Left

any provision herein relieve any owner from complying with any such, or other provision, nor shall same preclude its enforcement by any official of the Town.

ARTICLE VI
ADMINISTRATION AND ENFORCEMENT

Section 6.01SECTION TEN (10).— ADMINISTRATION AND ENFORCEMENT.

Formatted: Tab stops: 1.25", Left

- (a) Enforcement Officer. This Local Law may be enforced by the Town's Code Enforcement Officer, or by any law enforcement agency with jurisdiction in the Town. Said persons shall have the authority to enforce the provisions of this Local Law and to inspect premises within the Town as necessary for said enforcement.
- (b) Complaints. Any person may file a complaint with the Enforcement Officer that a violation of this Local 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.
- (c) Notice to Comply. The written notice to comply shall contain the following information:
 - 1. The name of the owner (and occupant, if different than owner) of the premises in violation;
 - 2. The location of the premises in violation;
 - 3. A citation of the Section of this Local Law alleged to be in violation;
 - 4. A statement of facts which it is alleged violates this Local Law;
 - 5. A demand that the Junk, Junked Vehicles or Outdoor Storage be removed or placed so as to be in compliance with this Local Law within a specified number of days after the service or mailing of the notice; and
 - 6. A statement that a failure to comply with the demand may result in prosecution.

Section 6.02SECTION ELEVEN (11).— ENFORCEMENT AND SUMMARY ABATEMENT.

Formatted: Tab stops: 1.25", Left

- (a) 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 Local Law, and shall cause such person to appear before the municipal justice; **or**
- (b) Upon failure of an owner, tenant or occupant with notice to correct a violation of this Local Law, the Town Board of the Town 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. 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 fifteen (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 a 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 with the period specified may result in a duly authorized officer, agent or employee of the Town 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 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 Town, the Town Board may cause the abatement or removal of the public nuisance. The abatement or removal may be performed by the Town 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 Local Law. Such owner, tenant or occupant shall, in addition to the remedies provided herein, be subject to any other penalties provide for by this Local Law.

Section 6.03 REVOCATION OF JUNKYARD LICENSE.

Any Junkyard license issued pursuant to this local law may be revoked by the Town Board after a public hearing thereon at which the licensee shall have an opportunity to be heard. Revocation may occur due to failure of the applicant to honor the terms and conditions of the license or for violations of the provisions of this local law. Upon revocation of a license the Town Board may require the removal of automobiles, parts and materials.

ARTICLE VII
PENALTIES FOR OFFENSES

SECTION TWELVE (12)-SECTION 7.01 PENALTIES FOR OFFENSES.

← -- Formatted: Indent: Left: 0"

← -- Formatted: Space After: 0 pt

← -- Formatted: Centered, Space After: 0 pt

- (a) Any person or persons who commits or permits any acts in violation of any of the provisions of this Local Law or fails to comply with the provisions hereof shall be deemed to have committed an offense against this Local Law and also be liable for any such violation or the penalty therefore. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.
- (b) For every violation of any provision of this Local Law, the person or persons violating the same shall be subject to a fine of not less than two hundred dollars (\$200.00) and not more than five hundred dollars (\$500.00) and/or fifteen days in jail for such offense. Such penalty shall be collectable by and in the name of the Town for each day that such violation shall continue.
- (c) In addition to the above provided fine and punishment, a court of competent jurisdiction may compel compliance with or to restrain by injunction the violation of such local law.
- (d) In addition to the above provided fine and punishment, a court of competent jurisdiction may issue an order for the abatement or removal of any such violative condition by the Town or by its designee, or agent, including a private contractor lawfully engaged and authorized by the Town, and permitting the cost and expense of such abatement or removal 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.

ARTICLE VIII
MISCELLANEOUS PROVISIONS

SECTION THIRTEEN (13), Section 8.01 SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstances is adjudged invalid, illegal or unconstitutional by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances. Further, in adjudging such invalid provision, the court shall attempt to modify same to a provision which is not invalid, illegal or unconstitutional and which best achieves the intent of the invalid provision.

SECTION FOURTEEN (14), Section 8.02 ADMINISTRATIVE LIABILITY.

No officer, agent or employee of the Town of Orwell 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 Orwell as the result of any act required or permitted in the discharge of his duties under this local law shall be defended by the attorney for the town until the final determination of the proceedings thereon.

Section 8.03 SECTION FIFTEEN (15) EFFECTIVE DATE.

Formatted: Font: Bold

Formatted: Centered

This Local Law shall take effect upon its filing in the office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 1 of 2022 of the (County)(City)(Town)(Village) of Orwell was duly passed by the Town Board of the Town of Orwell on _____, 2022 in accordance with the applicable provisions of law.

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 19__, and was (approved)(not approved)(repassed~~

~~_____ (Name of legislative Body) disapproval) by the _____ and was deemed duly adopted on _____, 199_~~

~~in accordance with the applicable provisions of law.~~

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 199__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 19__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____, 19__. Such local law was _____~~

~~(Elective Chief Executive Officer*)~~

~~to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____, 19__, in accordance with the applicable provisions of law.~~

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 19__, and was (approved)(not approved)(repassed after~~

~~(Name of Legislative Body)~~

~~disapproval) by the _____ on _____, 19__. Such local law was subject to~~

~~(Elective Chief Executive Officer*)~~

~~permissive referendum and no valid petition requesting such referendum was filed as of _____, 19__, in accordance with the applicable provisions of law.~~

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 19__, became operative.~~

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of 19__ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph one (1) above.

Amber Wilson, Town Clerk

Date: _____, 2022

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF OSWEGO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature
Courtney M. Hills

Attorney for
Title
County
City of Orwell
Town Village

Date: _____, 2022

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.