

TOWN OF MAYFIELD LOCAL LAW NO. 1 OF THE YEAR 2004

A local law entitled: “Town of Mayfield Junk Yard, Junk Motor Vehicle and Junk Mobile Home Law”.

Be it enacted by the Town Board of the Town of Mayfield as follows:

ARTICLE A INTRODUCTION

Section 1 AUTHORITY

This Local Law is adopted pursuant to the authority granted the Town of Mayfield in Section 10 of the Municipal Home Rule Law and in Sections 130(15) and 130(6) of the Town Law.

Section 2 TITLE

This Local Law shall be known as the “Town of Mayfield Junk Yard, Junk Motor Vehicle and Junk Mobile Home Law”.

Section 3 PURPOSE

This Local Law is intended to regulate junk mobile homes, junk vehicles and junkyards whether operated for commercial profit or otherwise. The Mayfield Town Board hereby declares that a clean, safe, wholesome and attractive environment is of vital importance to the continued welfare of its citizens. Regulation of junk, junk vehicles and junkyards is necessary to protect the community from potential hazards to property and persons, to protect water resources, and to preserve the aesthetic qualities of the Town of Mayfield. The presence of unregulated junkyards is unsightly and tends 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 4 DEFINITIONS

For the purpose of this Local Law, the following words and phrases shall have the meaning ascribed to them in this Article.

4-1 Enforcement Officer: The building code enforcement officer, zoning enforcement officer, constable or any person appointed by the Mayfield Town Board to enforce the provisions of this Local Law.

4-2 Fencing: A barrier intended to prevent escape or intrusion or mark a boundary. Such a barrier may be made of posts, boards, metal or wire. Fencing may not always qualify as screening.

4-3 Junk Mobile Home: Any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living and/or sleeping purposes which meets the following conditions:

1. the electrical service is disconnected or terminated, and

2. it is abandoned as a dwelling unit, or
3. it is no longer habitable for residential occupancy.

4-4 Junk Storage Area: The area of any real property used or intended to be used for the placement, storage or deposit of junk motor vehicles.

4-5 Junk Motor Vehicle: Any motor vehicle which is normally operated on public highways will be considered a junk motor vehicle if it is unregistered and stored outside.

Any motor vehicle which is normally not operated on public highways will be considered a junk motor vehicle if it is not in condition to be moved under its own power and will no longer function for the purpose for which it was designed.

4-6 Junkyard: Any place of outdoor storage or deposit, whether in connection with a business or not, where two (2) or more junk vehicles without a storage permit, or one (1) or more junk mobile homes are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the material therein, metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any purpose.

4-7 Motor Vehicle: All vehicles propelled by power other than muscular power, including but not limited to automobile, bus, construction equipment, truck, tractor, motor home, motorcycle, backhoe, bulldozer, and boats. This term shall also include all terrain vehicles or snowmobiles.

4-8 Motor Vehicle Repair Shop: Any person, individual or company that meets the following requirements:

1. Maintains a valid N.Y.S. Sales Tax Certificate
2. Maintains a New York State Motor Vehicle Repair License.

4-9 Outdoor Storage: Storage other than in a completely enclosed structure, such as a garage, barn or structure with three walls and a roof such as a pole barn.

4-10 Person: Any individual, firm, partnership, association, corporation, company, entity or organization of any kind.

4-11 Screening: A barrier (usually of year-round vegetation) that is sufficiently dense and high to conceal from view that which is behind it. A hill or earthen pile that appears to be occurring naturally could be considered screening. A barn, dwelling or other building that shields the vehicles from view.

4-12 Class A Storage Permit Area: Any place of outdoor storage or deposit, that is suitably screened from view where more than one (1) but less than nine (9) junk motor vehicles are held, whether in connection with a business or not, whether for the purpose of resale or used parts therefrom, for the purpose of reclaiming for use some or all of the material therein, metal, glass, fabric, for the purpose of disposing of the same or for any purpose. This area may contain a maximum of eight (8) junk motor vehicles with a storage permit. If the area contains any of the "junk" as defined under the condition of

“junkyard”, then the area shall be considered a junkyard regardless of the number of permitted junk motor vehicles in storage.

4-13 Class B Storage Permit Area: Any place of outdoor storage or deposit that is suitably screened from view where more than five (5), but less than twenty-one (21) junk motor vehicles are held, whether in connection with another business or not, whether for the purpose of resale or used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, metal, glass, fabric, for the purpose of disposing of the same or for any purpose. This area may contain a maximum of twenty (20) junk motor vehicles with a storage permit.

4-14 Storage Permit: A permit that must be issued to create a storage area as indicated in A 4-12 and A 4-13.

4-15 Town: Includes all areas within the Town of Mayfield, both publicly and privately owned.

4-16 New/Used Auto Dealer: Any person, individual, company or entity that meets the following requirements:

1. Maintains a valid N.Y.S. Sales Tax Certificate.
2. Maintains a New York State Motor Vehicle Dealer License.
3. Vehicles for sale are set back a minimum of ten (10) feet from the front lot line and from each side lot line, respectively.

ARTICLE B FARM VEHICLES AND ABANDONED VEHICLES

Section 1 FARM VEHICLE EXEMPTION

Any farm vehicle being actively used in farming operations shall be exempt from the provisions of this Local Law

Section 2 ABANDONED VEHICLES

2-1 Authorization to Enforce

Any motor vehicle found to be abandoned in the Town of Mayfield in violation of Section 1224 of the Vehicle and Traffic Law of the State of New York may be removed and disposed of in the manner provided in said Section of said Law. The enforcement officer is authorized to execute all notices and documents required to be given, mailed or filed with the Department of Motor Vehicles or any person.

2-2 Procedure

On notification by the property owner that a motor vehicle has been abandoned on his/her property by other than the owner, owner’s spouse, parents, children or entity in which the owner has an ownership interest, the following procedures shall be observed:

- 2-2.1 The enforcement officer shall identify the last registered owner of the motor vehicle.

- 2-2.2 Following the identification of the last owner, the enforcement officer shall contact the owner and advise said owner that the motor vehicle shall be removed from the property by the enforcement officer at the expiration of ten (10) days from the mailing of such notice. The notice shall also contain the name and address of the owner of the property, a description of the property and a description of the motor vehicle, including any vehicle identification number or other numerical identification, reference to this Local Law and the fact that the location of such motor vehicle on such premises is a violation of this Law. The notice may be served upon the owner by personal service, certified mail or registered mail.
- 2-2.3 In the event that the enforcement officer cannot locate the last owner of the motor vehicle, he shall publish a notice in the official newspaper of the Town containing a statement that the motor vehicle is to be removed, allowing the owner an opportunity to be heard regarding the removal, a description of the motor vehicle, including any vehicle identification number or other numerical identification, reference to this Local Law, and the fact that the location of such motor vehicle on such premises is in violation of this Law and a request for proposals to remove such motor vehicle. The Town may accept any such proposal or may itself remove said vehicle.
- 2-2.4 The last registered owner of an abandoned vehicle shall be presumed to be the owner and liable to the Town for the costs of removal and storage of such vehicle, unless he/she shall present proof of present ownership in another person.
- 2-2.5 If the enforcement officer has received proper notification from the property owner that the junk vehicle was abandoned on his/her property by another person and has been unable to identify the last registered owner, the junk vehicle shall be removed from the property and the cost of removal of the vehicle shall become a charge against the Town.

ARTICLE C STORAGE PERMIT

Section 1 REQUIREMENTS

- 1.1 No person shall store outdoors more than one (1) junk motor vehicle unless a Class A Storage Permit has been issued.
- 1.2 No Motor Vehicle Repair Shop or New/Used Vehicle Dealer shall store outdoors more than five (5) junk motor vehicles unless a Class B Storage Permit has been issued. All legally operational vehicles may be displayed without a Class B Storage Permit if the requirements specified in Article A, 4-16 are met.
- 1.3 If the person maintaining the Storage Area does not obtain the necessary permits required under this Law within the allotted time frame, the storage area shall be considered a junkyard and shall be subject to the process outlined in Article E of this Law.

Section 2 CLASS A STORAGE PERMIT

2.1 Requirements

Any person maintaining a suitably screened Storage Area containing more than one (1) but less than nine (9) junk motor vehicles prior to the effective date of this Law within the Town of Mayfield shall be required to obtain a Class A Storage Permit within sixty (60) days of the effective date of this Law. If the person maintaining the Class A Storage Permit area does not obtain the necessary permits required under this Law within the allotted time frame, the storage area shall be considered a junkyard and shall be subject to the process outlined in Article E of this Law.

2.2 Site Review

Prior to the issuance of any Storage Permit, the Town of Mayfield Code Enforcement Officer shall perform a site review of the property where the Storage Permit is to be issued. This inspection shall certify that all vehicles are suitably screened from view and that any environmental concerns are addressed.

2.3 Duration

A storage permit shall be issued for a period of one (1) year.

Section 3 CLASS B STORAGE PERMIT

3.1 Requirements

Any Motor Vehicle Repair Shop or New/Used Dealer maintaining a suitably screened Storage Area containing more than five (5) but less than twenty-one (21) junk motor vehicles prior to the effective date of this Law within the Town of Mayfield shall be required to obtain a Class B Storage Permit within sixty (60) days of the effective date of this Law. If the person maintaining the Class B Storage Permit area does not obtain the necessary permits required under this Law within the allotted time frame, the storage area shall be considered a junkyard and shall be subject to the process outlined in Article E of this Law.

3.2 Site Review

Prior to the issuance of any Storage Permit, the Town of Mayfield Code Enforcement Officer shall perform a site review of the property where the Storage Permit is to be issued. This inspection shall certify that all vehicles are suitably screened from view and that any environmental concerns are addressed.

3.3 Duration

A storage permit shall be issued for a period of one (1) year.

Section 4 LIMITATIONS

Each Parcel of land within the Town may possess only one storage permit.

ARTICLE D JUNKYARD PERMIT

Section 1 JUNKYARD PERMIT

No person shall establish or maintain a junkyard within the Town of Mayfield unless a permit has first been issued for such junkyard pursuant to this Law. No person owning, having any right to, or any interest in, any real property within the Town of Mayfield shall license, rent, lease or otherwise permit the use of such real property or any part thereof for a junkyard unless a permit shall have first been issued for such junkyard pursuant to this Law. All permits shall be issued for a period of three (3) years, after which time a renewal shall be required.

Section 2 TEMPORARY JUNKYARD PERMIT

2.1 Temporary Permit for Prior Existing Junkyard

Any person maintaining a lawful junkyard prior to the effective date of this law within the Town of Mayfield shall apply for a permit within sixty (60) days of the effective date of this law. If the junkyard does not meet the requirements of this law at that time, a temporary permit may be granted for a period not to exceed one (1) year, during which time the junkyard shall be brought into compliance with said requirements. If at the end of such period the junkyard does not comply with said requirements, such person shall cease and desist from maintaining a junkyard and all junk shall be removed from the premises by such person at his/her expense within sixty (60) days.

2.2 If the junkyard has been deemed non-compliant and does not comply with the order to remove such junk, the Town may use whatever means are necessary to clean up the premises and the property owner shall be liable for all expenses incurred by the Town in doing so.

Section 3 APPLICATION PROCEDURE

3.1 Application

The applicant for a junkyard permit shall obtain application forms from the Town of Mayfield Clerk. The completed forms along with five copies of the proposed junkyard plan, and the appropriate fees, shall be returned to the Clerk. The Clerk shall submit the application materials to the Town of Mayfield Code Enforcement Officer, who shall, after his/her review, submit same to the Mayfield Town Board.

3.2 Junkyard Application Contents

The junkyard plan shall be drawn to scale or indicate all dimensions and show the following:

- 3-2.1 survey stamped by a licensed surveyor or engineer indicating dimensions, map of the site where the junkyard is proposed, including address and real property tax number;
- 3-2.2 property lines including the names of owners of all adjacent properties;

- 3-2.3 streams, lakes, wetlands, flood plains, and other water bodies, including those available for fire protection purposes;
- 3-2.4 the topography of the site and any plans for grading the property;
- 3-2.5 wells and sanitary facilities;
- 3-2.6 drainage patterns on the site;
- 3-2.7 existing and proposed structures, including fences;
- 3-2.8 roads and easements adjacent to, on or through said property;
- 3-2.9 existing and proposed junk storage areas, indicating the type of material which will be stored in each area; and
- 3-2.10 existing and proposed access ways, aisles, parking and loading areas.
- 3-2.11 The Mayfield Town Board may waive any of the above requirements for good cause shown and proven.

3.3 Environmental Compliance

An Environmental Assessment Form (EAF) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act. Upon the review of the completed EAF, the lead agency shall determine whether or not the proposed junkyard may have a significant adverse impact on the environment. If the lead agency determines that the proposed junkyard may have a significant adverse impact upon the environment, a draft environmental impact statement (DEIS) shall be prepared in accordance with the SEQRA regulations. Where a positive declaration is issued, the application shall not be deemed complete until the lead agency has accepted the DEIS as complete.

3.4 Application Fee

The permit fee of \$150 shall accompany all applications and be paid to the Town every three (3) years for as long as the junkyard remains in the Town.

3.5 Public Hearing

The Mayfield Town Board shall conduct a public hearing within sixty-two (62) days from the date a complete application is received. Notice of the hearing shall be made in the official newspaper of the Town of Mayfield at least five (5) days prior to the date of the hearing.

3.6 Town of Mayfield Board Action

Within thirty (30) days of the close of said hearing the Mayfield Town Board shall render a decision on the application for a junkyard permit based upon general considerations and the ability to meet the junkyard regulations. The thirty (30) day period may be extended by mutual consent of the applicant and the Board. The Board shall have the authority to impose reasonable conditions and restrictions as are directly related to and incidental to the proposed Junkyard Permit.

In its decision, the Board shall make findings related to the standards and purposes set forth in this law, and shall enter such findings into the official minutes of the Town of Mayfield. The decision of the Board shall be filed in the office of the Town of Mayfield Clerk within five business days of the time it is made, and the applicant shall be notified of the decision and the reasons for such decision by mail

within five business days of the decision of the Board. If denied, the Board shall include reasons for such denial.

Upon approval of the Junkyard Plan and application, and payment of the fees and reimbursable costs due to the Town of Mayfield, the Board shall endorse its approval upon a copy of the final Junkyard Plan and application.

3.7 Issuance of Permit

If the application is approved by the Mayfield Town Board, a Junkyard Permit shall be issued by the Clerk. If the application is approved with conditions, the Clerk shall issue a Junkyard Permit upon notification by the enforcement officer that said conditions have been complied with.

3.8 Limitations

Each parcel of land within the Town of Mayfield may possess only one (1) junkyard permit.

Section 4 PERMIT RENEWAL PROCESS

4-1 Permit Renewal Application shall be made, before the expiration date of the permit which is to be renewed, to the Town Clerk of the Town upon such forms as are promulgated by the Town Board and furnished to the applicant.

4-2 Permit Renewal Fee

The permit fee of \$150 shall accompany all applications and be paid to the Town Clerk at the time the application is presented for consideration.

4-3 A site review and inspection by the code enforcement officer will be required prior to the renewal of all permits. Any violations noted by the code enforcement officer must be corrected before the Board can approve renewal of the permit.

4-4 Issuance of Permit

If the renewal application is approved by the Mayfield Town Board, a Junkyard Permit shall be issued by the clerk. If the application is approved with conditions, the clerk shall issue a junkyard permit upon notification by the enforcement officer that said conditions have been complied with.

4-5 Denial of Renewal

The Mayfield Town Board may deny renewal of a junkyard permit for reasonable cause should the applicant fail to comply with any provision of this law or any condition of the permit. Before a permit may be denied, a public hearing shall be held by the Board. Notice of the hearing shall be made in the official newspaper at least five (5) days prior to the date thereof. The permit holder shall be notified of the hearing by written notice prior to the meeting. Written notice shall be served in one of two ways:

4-5.1 by personal service of a copy of the notice at least ten days prior to the date of the hearing; or

4-5.2 by certified mail, return receipt requested, addressed to the last known address of the property owner or occupant. If said certified mail is refused or returned, service upon the property owner or occupant shall be made by mailing a copy of the notice

by first class mail to the address of the property owner or occupant in a post office or official depository under the exclusive care and custody of the United States Postal Service within the State of New York. Notice served according to this paragraph shall be served at least fifteen (15) days prior to the date of the hearing. Service shall be deemed complete upon depositing the notice in a post office or an official depository of the United States Postal Service within the State of New York.

At the hearing, the Board shall hear the permit holder and all other persons wishing to be heard on the revocation of the junkyard permit.

Should the Board choose to deny renewing a permit, the reasons for such denial shall be stated in the Board minutes. The permit holder shall be immediately notified of the denial by certified mail. Should any renewal junkyard permit be denied, the operator shall cease and desist from operation of a junkyard. All junk appliances, junk furniture, junk mobile homes, junk vehicles and materials originating from such items shall be removed from the premises within sixty (60) days after the date of revocation.

Section 5 GENERAL CONSIDERATIONS

In order to protect the clean, wholesome, safe and attractive environment of the community, the Mayfield Town Board shall take the following factors into consideration in granting or denying a permit:

1. type of road servicing the junkyard or from which the junkyard can be seen;
2. natural or artificial barriers protecting the junkyard from view;
3. proximity of the site to established residential or recreational areas or main access routes thereto;
4. the nature and development of surrounding property;
5. whether or not the proposed location will affect the public health and safety by reason of offensive or unhealthy noise, odors or smoke, or of other causes;
6. the proximity of flood plains, groundwater supplies, and public water supplies;
7. local drainage patterns;
8. the availability of municipal fire protection and the adequacy of the water supply for fire protection purposes;
9. the Comprehensive Plan for the Town of Mayfield, or zoning, if a Zoning Law exists;
10. proximity of the site to established residential or recreational areas;
11. availability of other suitable sites for the junkyard;
12. the type of junk to be stored or deposited in the junkyard; and
13. any record the applicant may have had of convictions for larceny or receiving stolen property.

Section 6 SPECIFIC REQUIREMENTS-JUNKYARD

6.1 Location

No Junkyard area shall be less than five (5) acres or located within:

1. Fifty (50) feet of any adjoining property line;

2. Five-Hundred (500) feet of any public park, church, educational facility, nursing home, public building or other place of public gathering;
3. Five-Hundred (500) feet of any stream, lake, pond, wetland or other body of water;
or
4. Fifty (50) feet from the right-of-way of any public highway.

6.2 Fencing

There must be erected and maintained an eight (8) foot high fence enclosing the entire junkyard and a locking gate to contain within such fence all junk appliances, junk furniture, junk mobile homes, junk motor vehicles and materials originating from such items. Fencing requirements may be waived where topography or natural conditions permit, provided screening is not necessary.

6.3 Screening

Where a junkyard is or would be visible from a public highway or from neighboring properties, the fence may be required to be totally screened from view with year round vegetation (evergreen trees or shrubbery) of sufficient height and density that the fencing of said junkyard is invisible from all roadways and neighboring properties.

6.4 Approved Junkyard Items

The Mayfield Town Board shall specify in the junkyard permit which types of junk may be stored or deposited in the junkyard. No items shall be stored in any junkyard other than those items specified on a junkyard permit approved by the Mayfield Town Board pursuant to this Law.

6.5 Burning

No materials shall be burned in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see NYCRR Part 215) and any other applicable law/ordinance of the Town of Mayfield.

6.6 Burying

No junkyard items shall be buried in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see NYCCR Part 360).

6.7 Site Review

The Town of Mayfield Code Enforcement Officer shall perform a site review of the proposed junkyard within thirty (30) days from the date a complete application is received.

6.8 Requirements

Junkyard must meet all state agency requirements.

6.9 Hours of Operation

Processing of junk or any other operations conducted within the junkyard shall cease between the hours of 6:00 p.m. and 7:00 a.m. of the following day, on any day of the week.

ARTICLE E ADMINISTRATION AND ENFORCEMENT

1.1 Enforcement Officer

The enforcement officer may, and upon the request of the Mayfield Town Board shall, make any inspections of any storage permit area or junkyard for which an application for a permit has been made or a permit has been granted, and shall report to the Mayfield Town Board on the conditions of such storage permit area or junkyard. The enforcement officer shall make periodic inspections of the Town of Mayfield to ensure that all existing storage permit areas or junkyards have permits and that the requirements of this Law are met. Any observed violations shall be reported to the Town Board.

1.2 Revocation of Permit

The Mayfield Town Board may revoke a storage permit area or junkyard permit upon reasonable cause, should the applicant fail to comply with any provisions of this Law or any condition of the permit. Before a permit may be revoked, a public hearing shall be held by the Town Board. Notice of the hearing shall be made in the official newspaper of the Town at least five (5) days prior to the date thereof. The permit holder shall be notified of the hearing by written notice prior to the hearing. Written notice shall be served in one of two ways:

- 1.2-1 by personal service of a copy of the notice at least ten (10) days prior to the date of the hearing; or
- 1.2-2 by certified mail, return receipt requested, addressed to the last known address of the property owner or occupant. If said certified mail is refused or returned, service upon the property owner or occupant shall be made by mailing a copy of the notice by first class mail to the last known address of the property owner or occupant in a post office or official depository under the exclusive care and custody of the United States Postal Service within the State of New York. Notice served according to this paragraph shall be served at least fifteen (15) days prior to the date of the hearing. Service shall be deemed complete upon depositing the notice in a post office or an official depository of the United States Postal Service within the State of New York.

At the hearing, the Town Board shall hear the permit holder and all other persons wishing to be heard on the revocation of the Permit. Should the Town Board decide to revoke a permit, the reason or reasons for such revocation shall be stated in the Board minutes. The permit holder shall be immediately notified of the revocation by certified mail. Should any Junkyard Permit be revoked, the operator shall cease and desist from operating the storage area or a junkyard. All junk appliances, junk furniture, junk mobile homes, junk vehicles and materials originating from such items shall be removed from the premises within sixty (60) days of the effective date of the revocation.

1.3 Operating Without a Permit

If the enforcement officer shall find that an alleged storage permit area or junkyard exists without the necessary permit, the enforcement officer is hereby authorized, pursuant to Section 150.20(3) of the Criminal Procedure Law of the State of New York, to issue an appearance ticket to any person whom the enforcement officer has reason to believe has violated this Law, and shall cause such person to appear before the Town of Mayfield Justice Court to answer such ticket.

1.4 Penalties and Remedies

Any person who shall violate any of the provisions of this Local Law shall be guilty of a violation and shall be subject to the following:

1. a fine of Three Hundred Fifty Dollars (\$350.00) per week or part thereof, until such violation is removed from the Town; or
2. imprisonment for a period not to exceed thirty (30) days,
3. or both.

Every person shall be deemed guilty of a separate violation for each week, or part thereof, such violation, disobedience, omission, neglect or refusal shall continue. The Mayfield Town Board may also maintain an action or proceeding in the name of the Town of Mayfield in a Court of competent jurisdiction to compel compliance with, or restrain by injunction any violation, of any provision of this Local Law.

ARTICLE F MISCELLANEOUS PROVISIONS

1-1 Severability

If any clause, sentence, paragraph, section or article of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid or illegal, 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.

1-2 Prior Existing Junkyard Law

Local Law No. 1 of 1989 is hereby REPEALED, as are all other Local Laws and Ordinances of the Town of Mayfield pertaining to junk and junkyards to the extent that they either conflict with or are inconsistent with this Local Law.

1-3 Effective Date

This Local Law shall become effective 180 days after its filing with the Secretary of State of the State of New York.