

LOCAL LAW # 3 OF 2010 JUNK LAW
TOWN OF INLET, HAMILTON COUNTY, NEW YORK

§ Section 1 PURPOSE

The purpose of this chapter is to promote the general health, safety and welfare of the residents of the Town of Inlet and to protect the value of real property in the Town of Inlet and to promote and perpetuate the attractive appearance of neighborhoods in the community, by requiring proper maintenance of real property within the Town of Inlet in accordance within this statute and the New York State Property Maintenance Code.

While this law does give power to Town officials to determine whether or not this chapter has been violated, it is expected that, in general, the inspection of the property and the determination as to whether or not the Law has been violated will be made after a signed written complaint, by neighbors, or other persons in the community, who are directly or indirectly affected by the condition of a property. It is expected that people will maintain their properties in a responsible manner and that property owners will respond sensitively and responsibly to the concerns of their neighbors.

§ Section 2 Prohibited acts

A. It shall be a violation of this chapter for any owner, or other occupant or person having control, of real property in the Town of Inlet to deposit, abandon, maintain, keep or allow the accumulation on his real property, outside of any building, of any junk, trash, rubbish, garbage, refuse, debris, discarded material, and any other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to the public health, safety and welfare or creates degradation through unsightliness or offensive odor.

(1) Examples of such materials are as follows:

- (a) Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food
- (b) Putrescible and nonputrescible solid wastes, such as garbage, rubbish, ash piles, animal waste, dead animals, and solid market and industrial waste
- (c) Nonputrescible solid waste consisting of both combustible and noncombustible waste, such as brush piles, scrap lumber and construction materials, broken glass, discarded bedding, broken crockery and similar materials
- (d) Any boat, snowmobile, all-terrain vehicle, or other such device, which is in a state of disrepair or is otherwise dilapidated, broken or abandoned
- (e) Abandoned, discarded, broken, or inoperable refrigerators, washing machines or other machinery or parts thereof. Any such items stored on any yard or lot for a period of more than 60 days shall be presumed to be abandoned
- (f) Any automobile, truck, or other vehicle originally intended for use on the public highways which has remained unused for more than one year, unregistered and no longer intended or in condition for legal use on the public highways, including such vehicles which are in a state of disrepair or otherwise dilapidated, broken, or abandoned. For the purpose of this subsection, a vehicle shall be presumed to be no longer intended or in condition for legal use on the public highways if it does not bear:

[1] A current registration from the State of New York or other recognized registering jurisdiction; or

[2] An inspection certificate issued within the last 12 months in accordance with the laws of the State of New York or the laws of any other recognized inspecting jurisdiction.

(2) Such examples are not exclusive and do not limit the prohibitions contained in this section.

B. Junkyards

It shall be a violation of this chapter for any owner, or other occupant or person having control, of real property in the Town of Inlet to operate or maintain a Junkyard. For the purposes of this chapter, a Junkyard shall be defined as any open lot or area for the dismantling, storage or sale of such items as parts, scrap, or salvage of used or wrecked motor vehicles, machinery, tires, scrap metals, waste papers, rags, used or salvaged building

materials, wooden pallets, household appliances, or other discarded materials. The definition of Junkyard includes the outdoor storage or deposit of any of the following:

- a. Two or more junk motor vehicles
 - b. Two or more pieces of junk power equipment
 - c. Two or more junk travel trailers or campers
 - d. Two or more junk boats or watercraft
 - e. Two or more junk appliances
 - f. Two or more pieces of junk household furniture
 - g. Disassembled parts of any of the above, that when taken together, equal in bulk two or more such vehicles, pieces of equipment, travel trailers, campers, boats, watercraft, appliances or furniture
- C. Except to the extent that a health, safety or fire hazard is found to exist, or the storage of any items would constitute a nuisance, it shall not be a violation of this chapter to maintain any real property items of the kind and nature set forth in subsection A above. If such items are stored within a storage structure or are stored in such manner that they are not visible to the neighboring properties or from a highway without limiting the foregoing, then storage in a front yard as defined in the Town of Inlet Zoning, is forbidden.

§ Section 3 Penalties for offenses

A violation of this chapter shall be a violation as defined in § 10.00 of the Penal Law of the State of New York and shall be punishable by a fine not to exceed \$250 or a sentence of imprisonment not to exceed 15 days or both.

§ Section 4 Enforcement

- A. The Codes & Zoning Enforcement Officer of the Town of Inlet is hereby authorized to enforce the provisions of this chapter.
- B. Upon receiving a complaint or upon any inspection of a property, the Codes & Zoning Enforcement Officer shall determine whether or not there appears to be a violation of this chapter. Upon determining that this chapter has been violated, the Codes & Zoning Enforcement Officer shall give the owner of the real property or other person charged with the maintenance of the property written notice setting forth the nature and existence of the violation, the provisions of this chapter violated, and directing that remediation of the violation must begin within the time specified by the Codes & Zoning Enforcement Officer (not to exceed 20 days) and that the violation must be terminated or corrected within 60 days of the notice date. The grace period may be extended upon application to and approval by the Zoning Board of Appeals. Such notice shall be given personally to the owner, lessee, occupant or other person required to maintain the property within the Town of Inlet, or by posting a copy of the notice in a conspicuous place on the real property, or by mailing the same to the address of the real property or that listed by the owner for the receipt of tax bills.
- C. If the owner of the real property or other person charged with the maintenance of the property fails to terminate or correct the violation in the time provided, the Codes & Zoning Enforcement Officer may file a written complaint, signed by the complaining party, specifying the conditions, acts or omissions constituting a violation of this chapter, the address of the real property where the violation is taking place, the name and address of the owner, occupant, lessee, tenant and/or other party having control of the real property, with the Town Justice and shall issue and serve on the real property owner an appearance ticket requiring his or her appearance in court. The Codes & Zoning Enforcement Officer shall also file proof of compliance with Subsection B above. In the alternative, the Codes & Zoning Enforcement Officer or any complaining or aggrieved party may file a written complaint, signed by the complaining party, with the Town Justice specifying the conditions, acts, or omissions constituting a violation is taking place, the name and address of the real property owner, occupant, lessee, tenant or other party having control of the real property, and facts showing compliance with Subsection B of this section. Upon receipt of such complaint, the

Town Justice shall issue a written summons directing the property owner or other responsible party to appear in person before him; if such person does not appear, the Town Justice may issue a warrant for the arrest of said person based upon any complaint or information previously filed.

§ Section 5 Variance procedure

The Zoning Board of Appeals may grant variances from the application of this chapter only upon the following conditions:

- A. Any variance shall be prospective in its application and shall not relieve any person from the penalties for violating this chapter by conditions that existed prior to the granting of the variance.
- B. An application for a variance shall be submitted to the Codes & Zoning Enforcement Officer in a form substantially indicating the name and owner of the real property, the nature of the condition for which a variance is sought, and the reasons for which a variance is sought.
- C. The applicant shall pay a fee as set forth by the Town of Inlet for appeals to the ZBA.
- D. The Board of Appeals shall hold a public hearing on the application and shall publish notice of said public hearing at least five days prior to its date. At the option of the Board of Appeals notice of said application shall also be given to all landowners owning property adjoining the property for which a variance is sought. At the option of the Board of Appeals a notice that a variance is sought shall also be posted on the property in accordance with the posting provisions of Chapter 160, Zoning, of the Code of the Town of Inlet.
- E. The Board of Appeals may grant a variance if it determines that the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board may consider, among other matters:
 - (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
 - (2) Whether the benefits sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;
 - (3) Whether the requested variance is substantial;
 - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance.
- F. The Board of Appeals, if it chooses to grant the variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
- G. The Board of Appeals shall, in the granting of such variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property and/or the period of time such variance shall be in effect. Such conditions may include a time limit on the variance including a time variance related to the occupancy of the premises by the applicant. Such conditions shall be consistent with the spirit and intent of this chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- H. The variances and the procedure for obtaining same shall be in accordance with Chapter 160, Zoning, of the Code of the Town of Inlet, except where explicitly otherwise required by this Law.

§ Section 6 Exemption

The Town of Inlet Transfer Station facility on Limekiln Road is, by necessity, exempt from this Junk Law. No other properties owned or controlled by the Town of Inlet are exempt from this law.

POLL VOTE; COUNCILMAN LEVI-AYE-COUNCILMAN FARO-AYE-COUNCILMAN
BROWSELL-AYE-COUNCILMAN SCHMID-AYE-SUPERVISOR FREY-AYE

5 AYES

0 NAYS

MOTION CARRIED

DECEMBER 14, 2010
PATRICIA WITTMAYER
TOWN CLERK, TOWN OF INLET