Town of Smithville

Local Law No. 1 in the year 2025

REFUSE DISPOSAL & JUNK STORAGE LAW

Be it enacted by the Town Board of the Town of Smithville, New York as follows:

ARTICLE 1
GENERAL PROVISIONS

Title: This local law shall be known as "Refuse Disposal & Junk Storage Law" of the Town of Smithville.

II. Authority: This law is adopted pursuant to the authority granted the Town of Smithville in Section 10 of the Municipal Home Rule Law and Section 136 of the General Municipal Law (pertaining to the regulation of junk).

III. Declaration of Purpose: By adoption of this law, the Town of Smithville declares its intent to regulate and control the disposal of refuse and junk storage. The Town Board hereby declares that a clean, wholesome, and attractive environment is of vital importance to the continued health, safety, and general welfare of its citizen. Refuse, junk, and junk yards can constitute a hazard to property and persons, detract from the value of surrounding properties (unless screened from view), and be a public nuisance.

IV. Prior Existing Refuse & Junk Yard Law: This local law shall replace and supersede any prior existing refuse disposal or junk storage/junkI. yard law currently in existence in the Town of Smithville.

V. Definitions: For the purpose of this law, the following words and phrases shall have the meaning ascribed in this article.

A. Enforcement Officer: Any person appointed by the Town Board as the Enforcement Officer to represent them in particular matters pertaining to this local law.

B. Persons: Any individual, firm, partnership, association, corporation, company, of organization of any kind.

C. Refuse & Junk: The outdoor storage or deposit of any of the following shall constitute refuse and/or junk:

1. Garbage: Shall mean all decayable wastes, except sewage and body wastes, including all vegetable and animal offal, carcasses of dead animals,

and all such substances accumulated on or removed from all public and private establishments and properties including residences.

2. Rubbish: Shall mean all general, dry materials produced routinely by household, commercial, or industrial establishments, such as: paper, cans, bottles, other containers, ashes, and any other similar materials.

3. Refuse: Shall include all rubbish, garbage, trash, and any other similar materials.

4. Trash: Two (2) or more abandoned or inoperable appliances, including but not limited to, washers, dryers, dishwashers, stoves, refrigerators, freezers, computers, and televisions. Two (2) 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. Building demolition and construction waste.

5. Motor vehicles: Two (2) or more junk motor vehicles defined as: vehicles propelled or drawn by power other than muscular power originally intended for use on public highways which are unregistered, old, secondhand motor vehicles, no longer intended, or in condition for legal use on the public highway, or used parts, or waste materials from motor vehicles which, taken together, equal in bulk two (2) or more such vehicles. A vehicle is considered junked when it meets all of the following conditions:

a) It is unlicensed;
b) It is either abandoned, wrecked, discarded, dismantled, or partly dismantled;
c) It is not in any condition for legal use upon the public highway;
d) It is in such condition as to cost more to repair to operating condition than its reasonable market value at the time before such repair.

6. Mobile Homes: One (1) or more junk mobile homes defined as: a structure transportable in one or more sections, built on a permanent chassis and designed to be used as a dwelling unit, which is currently not inhabited and is no longer habitable under New York State Uniform Fire Prevention and Building Code. Includes but is not limited to mobile homes, travel trailers, and campers.

7. Farm Machinery: Inoperable farm machinery used for parts shall not be considered junk.

ARTICLE 2
REFUSE STORAGE

I. Receptacles required: Every owner, lessee, or occupant of any building, premises, or place of business within the Town of Smithville, shall provide or cause to be provided at all times suitable and sufficient receptacles for receiving and containing garbage, rubbish, or refuse that may be accumulated or be used upon said premises.

II. Accumulation and burning prohibited:

a. The owner or occupant of the real property shall be responsible for the regular disposal of all refuse which may accumulate on the property owned or occupied by them.

b. Nothing herein contained shall be construed to prohibit the maintenance of compost or mulch piles.

III. Deposit on public or private property: No person shall throw, deposit, burn, or cause to be thrown, deposited, or burned, any refuse or leaves in or upon any public highway, street, or place, including drainage ditches, or any other property not owned by said person with the Town of Smithville.

ARTICLE 3
JUNK STORAGE

1. Junk Storage: The areas of any parcel of land or water used or intended to be used for the placement, storage, or deposit of junk as described below:

* Three (3) or more junk motor vehicles;
* Two (2) or more junk mobile homes;
* Five (5) or more junk appliances;
* Five (5) or more pieces of junk furniture; or
* Any combination of the above that totals five (5) items.

Junk Storage Regulations:

A Location: No junk shall be located so as to be visible from public roads. No junk storage area shall be located within:

* 100 feet of any adjoining property;
* 500 feet of any public park, church, educational facility, nursing home, public building, or other place of public gathering;
* 100 feet of any stream, lake, pond, wetland, or other body of water;
* 100 feet from the right-of-way of any public highway.

B Fencing: There must be erected and maintained an eight-foot high fence enclosing the entire junk storage area and a locking gate, adequate to prohibit the entrance of children and others into the area of the activity or business, and to contain within such fence the materials dealt with by the operator of the junk storage. Fencing requirements may be waived where topography of other natural conditions effectively prohibit the entrance of children and others.

C Screening: Where a junk storage area is or would be visible from a public highway or from neighboring properties, the fence provided in the section above shall be of wood or other materials sufficient to totally screen the junk area from view. Such screening may be permitted by adequate planting of evergreen trees or shrubbery.

D Burning: No materials shall be burned in a junk storage area except in compliance with New York State Solid Waste Disposal Law (see New York Code of Rules and Regulations, Part 215).

E Burying: No junk storage area items shall be buried except in compliance with New York State Solid Waste Disposal Law (see New York Code of Rules and Regulations, Part 360).

F Approved Junk Storage Items: No junk storage items shall be stored other than those items specified on a junk storage permit approved by the Town Board pursuant to this law.

III. Junk Storage Permit:

A. Permit Required: No person shall establish or maintain a junk storage area within the Town of Smithville unless a permit has first been issued for such junk storage area pursuant to this law.
No person owning, having any right to, or any interest in any real property within the Town of Smithville shall license, rent, lease, or otherwise permit the use of such real property or any part thereof for a junk storage area unless a permit has first been issued for such junk storage area pursuant to this law.
All permits shall be issued for a period of one (1) year, after which time a renewal shall be required. Annual renewal fee is available from the Town Clerk.

B. Temporary Permit for Prior Existing Junk Storage Area: Any person maintaining a junk storage area prior to the effective date of this law within the Town of Smithville, shall apply for a permit within sixty (60) days of the adoption of this local law. If the junk storage area does not meet the requirements of Junk Storage Regulations listed above, a temporary permit shall be granted for a period not to

exceed one (1) year, during which time the junk storage area shall be arranged to comply with said requirements. If at the end of such period the junk storage area is not in compliance with said regulations, such person shall cease and desist from maintaining a junk storage area and all junk shall be removed from the premises.

IV. Application Procedure:

A Application: The applicant for a junk storage permit shall obtain application forms from the Town Clerk. The completed forms along with one copy of the proposed site plan, and the appropriate fees, shall be returned to the Clerk. The Clerk shall submit the application materials to the Town Board.

B. Site Plan Contents: The site plan shall be drawn to scale and shall indicate all dimensions and show:

1. All existing and proposed structures, including fences;
2. All property lines, including the names of owners of adjacent property;
3. All streams, lakes, wetlands, floodplain, and other bodies of water;
4. All well and sanitary facilities;
5. All roads and easements;
6. All existing and proposed junk storage areas;
7. All existing and proposed access ways, parking, and loading areas;

c. Environmental Review Compliance: A full or long Environmental Assessment Form (EAF) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act, Part 617, of New York Code of Rules and Regulations. If the EAF indicates that the proposed activity may have significant environmental consequences, the Town Board shall require that an application shall not be considered until the EIS has been accepted by the Town Board.

D. Public Hearing: The Town Board shall fix a time within four (4) weeks of the date of receipt of a complete application for a public hearing. Notice of the hearing shall be made in the official newspaper seven (7) days prior to date thereof. Notice of the hearing shall be given to the applicant by mail.

At the public hearing, the Town Board shall hear the applicant, and all other persons wanting to be heard on the application. In considering such application, the Town Board shall take into account the suitability of the applicant with reference to their ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junk storage area, to any record of convictions for any type of larceny, or receiving of stolen foods, and any other matters within the purposes of this section.

E. Town Board Action: Within four (4) weeks of the hearing the Town Board shall render a decision to approve, approve subject to conditions, or disapprove the application for a junk storage permit. The four (4) week period may be extended by mutual consent of the applicant and the Town Board. All findings of the Board shall be entered into the official minutes of the Town. The decision of the Board shall immediately be filed in the office of the Town Clerk and the applicant shall be notified of the decision and the reasons for such decisions by certified mail within five (5) days of the decision of the Board. Upon approval of the site plan, application, payment of the fees, and reimbursable costs (mailings, public notice for hearing, etc.) due the Town, the Board shall endorse its approval upon a copy of the final site plan and application. One copy of the approved site plan shall remain on file with the Town.

F. Issuance of Permit: If the application is approved by the Town Board, a junk storage permit shall be issued by the Town Clerk. If the application is approved with conditions by the Board, the Clerk shall issue a junk storage permit when notified by the Enforcement Officer that said conditions have been complied with.

V. General Considerations:

An Aesthetic Considerations

1. Type of road servicing the junk storage or from which the junk storage can be seen.
2. Natural or artificial barriers protecting the junk storage from view. 3. Proximity of the site to established residential or recreational areas or main access routes thereto.

B. Location Considerations: In granting or denying a permit, the Town Board shall take the following location factors into consideration:

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 can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy noise, odors of smoke, or other causes.
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 junk storage.

ARTICLE 4
ADMINISTRATION AND ENFORCEMENT

Waivers: Where the Town Board or the Planning Board find that due to special circumstances of the particular case, a waiver of certain requirements as stated in Section II herein is justified, then a waiver may be granted. No waiver shall be granted however unless the Board finds and records in its minutes that:

A. Granting the waiver would be in keeping with the intent and spirit of this law and is in the best interests of the community.

B. There are special circumstances involved in the particular case.

C. Denying the waiver would result in undue hardship to the applicant, provided that such hardship had not been self-imposed.

D. The waiver is the minimum necessary to accomplish the purpose.

I.

II. Enforcement Officer:

A. The Enforcement Officer shall upon request of the Board, make inspections of the premises of any junk storage for which application for a permit has been made, or any other existing junk storage within the town, and shall report to the Board on the conditions of such junk storage site.

B. The Enforcement Officer shall make periodic inspections of the town to ensure that all existing Refuse Disposal requirements and Junk Storage sites have permits, and that the requirements of this law are being met. Any observed violations shall be reported to the Town Board within thirty (30) days.

C. The Enforcement Officer shall not enter the premises of any private property without consent of the owner. It shall be the responsibility of the applicant to arrange for all required inspections of the premises prior to permit issuance or renewal.

III. Penalties: Any person who violates this law shall be guilty of an offense and subject to a fine as established by the Town Board of Smithville and included on the Town Fee Schedule, or imprisonment for not more than fifteen (15) days, or both.

IV. Separability: If any section, paragraph, subdivision, or provision of this local law shall be invalid, such invalidity shall apply only to the section, paragraph, subdivision, or provision adjudged invalid and the remainder of this law shall remain valid and in full effect.

V. Effective Date: This local law shall take effect upon the filing thereof in the Office of the Secretary of State, State of New York.

This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations relative to the Refuse Disposal Regulations and the Junk yard regulations within the Town of Smithville.

NEW YORK STATE | Department of State
Corporations, State Records & UCC

New York State
Department of State
DIVISION OF CORPORATIONS,
STATE RECORDS AND
UNIFORM COMMERCIAL CODE
One Commerce Plaza
99 Washington Ave.
Albany, NY 12231-0001
dos.ny.gov

Local Law Filing

Pursuant to Municipal Home Rule Law §27

Local Law Number ascribed by the legislative body of the local government listed below:

1 **of the year 20** 25

Local Law Title: Refuse Disposal and Junk Storage Law

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

☐ **County** ☐ **City** ☑ **Town** ☐ **Village**
(Select one)

of Smithville **as follows on the attached pages:**
(Name of Local Government)

For Office Use Only

Department of State Local Law Index Number: _____ **of the year 20** ____

(The local law number assigned by the Department of State for indexing purposes may be different from the local law number ascribed by the legislative body of the local government.)

Local Law Filing

(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 ascribed as local law number 1 of 20 25 of the (County)(City)(Town)(Village) of Smithville was duly passed by the Town Board of Smithville on March 17, 20 25 in accordance with the applicable provisions of law.

(Name of Legislative Body)

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, ascribed as local law number _____ of 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20_____ and was

(Name of Legislative Body)

(approved)(not approved)(repassed after disapproval) by the _____

(Elective Chief Executive Officer)*

on _____ 20_____ in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, ascribed as local law number _____ of 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20_____ and was

(Name of Legislative Body)

(approved)(not approved)(repassed after disapproval) by the _____ on

(Elective Chief Executive Officer)*

_____ 20_____.

Such local law was submitted 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 _____ 20 _____ 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, ascribed as local law number _____ of 20_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20_____ and was

(Name of Legislative Body)

(approved)(not approved)(repassed after disapproval) by the _____ on

(Elective Chief Executive Officer)*

_____ 20 _____ . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20_____ in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide 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.

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

I hereby certify that the local law annexed hereto, ascribed as local law number _____ of 20_____ of the City of_____ having 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 _____ 20_____ became operative.

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

I hereby certify that the local law annexed thereto, ascribed as local law number _____ of 20_____of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20_____ 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 the paragraph 1 above.

(Seal)

Alison B. Owens

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

March 20, 2025

(Date)

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
HTTPS://DOS.NY.GOV

RECEIVED
APR 10 2025

KATHY HOCHUL
GOVERNOR

WALTER T. MOSLEY
SECRETARY OF STATE

April 2, 2025

Town of Smithville
PO Box 217
5285 State Hwy 41
Smithville Flats, NY 13841

RE: Town of Smithville

To Whom it May Concern:
Local Law 1 of the year 2025 was filed with this office on March 25, 2025. The Department of State Local Law Index Number 1 of the year of 2025. The Local Law number assigned by the Department of State for indexing purposes may be different from the Local Law number ascribed by the Legislative Body of the Local Government.

Department of State
Division of State Records
(518) 473-2492
www.dos.ny.gov

The Local Law filing form has been updated as of 03/05/2025 in compliance with Section 27 of the Municipal Home Rule Law

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