

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

~~County~~
~~City~~ of BELLMONT
Town
~~Village~~
Local Law No. 2 of the year 19 87

A local law to regulate junk yards.
(insert title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

~~County~~
~~City~~ of BELLMONT as follows:
Town
~~Village~~

SECTION 1. LEGISLATIVE INTENT. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants and the safeguarding of their material rights against unwarrantable invasion and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town of Belmont and the general welfare of its citizens. It is further declared that the proliferation of junk yards is hazardous to such health, safety and welfare of citizens of the Town of Belmont necessitating the regulation, restraint and elimination thereof. At the same time, it is recognized that the maintenance of junk yards as hereinafter defined, is a useful and necessary business and ought to be encouraged when not in conflict with the express purpose of this section.

SECTION 2. DEFINITIONS. For the purposes of this section, "junk yard" shall mean any open lot or area for the placement, storage, dismantling, or sale as parts or salvage, of any unlicensable or nonworking motor vehicle or of any other machinery, scrap metal, waste paper, waste glass, waste wood, rags, used or salvaged building materials or other discarded materials. Nevertheless, the term "junk yard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale or remelting purposes only.

"Motor Vehicle" shall mean all vehicles originally intended to be propelled or drawn by power other than muscular power.

(If additional space is needed, please attach sheets of the same size as this and number each)

SECTION 3. REQUIREMENT FOR OPERATION OR MAINTENANCE. No person shall operate, establish or maintain a junk yard until he (1) has obtained a license to operate a junk yard business and (2) has obtained a certificate of approval for the location of such junk yard.

SECTION 4. APPLICATION FOR LICENSE AND CERTIFICATE OF APPROVAL. Application for the license and the certificate of approved location shall be made in writing to the Town Board of the Town of Belmont. The application shall contain the applicant's name, address, telephone number, an accurate description of the land to be included within the junk yard, a recent photograph of the said land taken from the nearest road, and a complete and accurate list of all criminal convictions of applicant for any type of larceny or receiving of stolen goods.

SECTION 5. HEARING. A hearing on the application shall be held within the Town of Belmont not less than two (2) nor more than four (4) weeks from the date of the receipt of the application of the Town Board. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having a circulation within the Town of Belmont, which publication shall be not less than seven (7) days before the date of the hearing.

SECTION 6. LICENSE REQUIREMENTS. At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junk yard. In considering such application, it shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junk yard, to any record of convictions for any type of larceny or receiving of stolen goods, and to any other matter within the purposes of this section.

SECTION 7. LOCATION REQUIREMENTS. At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junk yard. In passing upon same, it shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.

SECTION 8. AESTHETIC CONSIDERATIONS. At the hearing regarding location of the junk yard, the Town Board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or

not the proposed location can be reasonably protected from having an unfavorable effect thereon, In this connection the Town Board may consider collectively the type of road servicing the junk yard or from which the junk yard may be seen, the natural or artificial barriers protecting the junk yard from view, the proximity of the proposed junk yard to establish residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junk yard.

SECTION 9. GRANT OR DENIAL OF APPLICATION; APPEAL. After hearing the Town Board shall, within two (2) weeks, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect until the following April first. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing, provided all provisions of this chapter are complied with during the license period, the junk yard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Town Board may be reviewed under Article Seventy-Eight (Art. 78) of the Civil Practice Law and Rules.

SECTION 10. LICENSE AND APPLICATION FEES. A one (1) time non-refundable application fee of Fifty Dollars (\$50.00) shall accompany all applications made under this Local Law. In addition, there shall be an annual license fee of Fifty Dollars (\$50.00) to be paid at the time the application is made and annually thereafter in the event of renewal. In the event that the application is not granted, the license fee shall be returned to the applicant.

SECTION 11. FENCING. Before use, a new junk yard shall be completely surrounded with a fence at least eight (8) feet in height which substantially screens the junk yard and with a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than fifty (50) feet from a public highway. All motor vehicles and parts thereof and all other junk stored or deposited by the applicant shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts and all burning of same within the vicinity of the junk yard shall be accomplished within the enclosure.

Where the topography, natural growth of timber or other considerations accomplish the purposes of this chapter in whole or in part, the fencing requirements hereunder may be reduced by the Town Board, upon granting the license, provided, however, that such natural barrier conforms with the purposes of this chapter.

SECTION 12. ESTABLISHED JUNK YARDS. For the purpose of this section the location of junk yards already established shall be considered approved by the Town Board and the owner thereof deemed suitable for the issuance of a license if and only if the junk yard was in compliance with all federal, state and local laws and rules governing the establishment and use of junk yards applicable immediately preceding the effective date of this Local Law. Within sixty (60) days from the effective date of this Local Law, however, the owner shall furnish to the Town Board the information as to location which is required in an application, together with the application fee and the license fee, and the Town Board shall issue him a license valid until the next April 1st, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all the provisions of this section including the fencing requirements set forth in subdivision 11. of this section.

SECTION 13. Notwithstanding any of the foregoing provisions of this section, no junk yard, hereafter established, or any part thereof shall be licensed to operate within five hundred (500) feet of a church, school, hospital, public building or place of public assembly or eating establishment.

SECTION 14. Violators of any of the sections of this section shall be guilty of an offense punishable by a fine not exceeding one hundred dollars (\$100.00) and/or fifteen (15) days imprisonment and each week or part thereof that such violation is carried on or continues shall constitute a separate violation.

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

(Final adoption by local legislative body only.)

1. I hereby certify that the local law annexed hereto, designated as local law No. 2 of 1987..
of the ~~County~~ ~~Town~~ ~~Village~~ of BELLMONT was duly passed by TOWN BOARD
(Name of Legislative Body)
on May 18, 1987 in accordance with the applicable provisions of law.

(Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer or repassage after disapproval.)

2. I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County
of the City of _____ was duly passed by _____
Town (Name of Legislative Body)
Village
on _____ 19_____ and was approved not disapproved by the _____
repassed after disapproval Elective Chief Executive Officer
and was deemed duly adopted on _____ 19_____, in accordance with the applicable provisions of law.

(Final adoption by referendum.)

3. I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County
of the City of _____ was duly passed by the _____
Town (Name of Legislative Body)
Village
on _____ 19_____ and was approved not disapproved by the _____
repassed after disapproval Elective Chief Executive Officer
on _____ 19_____. Such local law was submitted to the people by reason of a
mandatory referendum and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on _____ 19_____, in accordance with the appli-
annual
cable provisions of law.

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

4. I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____
County
of the City of _____ was duly passed by the _____ on _____
Town (Name of Legislative Body)
Village
_____ 19_____ and was approved not disapproved by the _____ on _____
repassed after disapproval Elective Chief Executive Officer
_____ 19_____. Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
_____ 19_____, 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 chairman of the board of supervisors, the mayor of a city or village or the supervisor of a town, where such officer is vested with power to approve or veto local laws or ordinances.

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

~~5. I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of ^{§ 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 the 19 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 paragraph1..... above.

Carol Hamilton Town Clerk Belmont
Clerk of the Board of Supervisors, City, Town or Village Clerk or Officer designated by Local Legislative Body

Date: May 18, 1987

(Seal)

~~(Certificate to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of jurisdiction)~~

STATE OF NEW YORK
COUNTY OF ...FRANKLIN.....

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.

ATTORNEY FOR TOWN
(Title of Officer)

~~County~~
~~City~~ of ...BELLMONT.....
Town
~~Village~~

Dated: May 20 1987

Brian S Stewart
BRIAN S. STEWART, Esq.