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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.

COUNTY OF LEWIS

Local Law No. 3 of the Year 2001

A Local Law Amending Local Law No. 3 - 1992 Being a Local Law Repealing Former Junkyard Laws and Establishing a New County of Lewis Junkyard Law.
(Insert Title)

Be it enacted by the Board of Legislators of the County of Lewis, as follows:

A LOCAL LAW AMENDING LOCAL LAW NO. 3 - 1992 BEING A LOCAL LAW REPEALING FORMER JUNKYARD LAWS AND ESTABLISHING A NEW COUNTY OF LEWIS JUNKYARD LAW.

BE IT ENACTED by the Board of Legislators of the County of Lewis, as follows:

ARTICLE A. INTRODUCTION

Section 1. AUTHORITY

This law is adopted pursuant to the authority granted the County in Articles 2 and 3 of the Municipal Home Rule Law.

Section 2. TITLE

This Local Law shall be known as the "County of Lewis Junkyard Law."

Section 3. PURPOSE OF THE JUNKYARD LAW

By adoption of this Law, the County of Lewis declares its intent to regulate and control the storage or keeping of junk, and to regulate junkyards whether operated for commercial profit or otherwise. The Lewis County Legislature hereby declares that a clean, wholesome, and attractive environment is of vital importance to the continued general welfare of its citizens, and that junk and junkyards can constitute a hazard to property and persons and can be a public nuisance. Such materials may be highly flammable and sometimes explosive. Junk and particularly junked vehicles can constitute attractive nuisances to children and certain adults.

The presence of junk and junkyards is unsightly and tends to detract from the value of surrounding properties unless properly screened from view.

ARTICLE B: DEFINITIONS

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

Junkyard Inspector: Any person proposed by the Junkyard Review Board to represent it in particular matters pertaining to this Local Law and approved by the Lewis County Board of Legislators.

Junk Storage Area: The areas of any parcel of land or water used, or intended to be used for the placement or storage of junkyard items.

Junk Vehicles: Any motor vehicle whether automobile, bus, trailer, truck, tractor-trailer, motor home, motor cycle, bicycle, mini-bicycle, or snowmobile, or any other device originally intended for travel on the public highways which meets all of the following conditions:

- 1) it is unlicensed.
- 2) it is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled.
- 3) it is not in any condition for legal use upon the public highway.
- 4) it is in such condition as to cost more to repair and replace in operating condition than its reasonable market value at that time before such repair.

With respect to any motor vehicle not required to be licensed or any 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 junk motor vehicle.

Junkyard: The outdoor storage or deposit of any of the following:

- 1) three (3) or more junk vehicles.

- 2) three (3) or more junk appliances including but not limited to, washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions.
- 3) any combination of the above that totals three (3) or more items.

Junkyard Appliance: A household appliance, including but not limited to, a washer, dryer, dishwasher, stove, refrigerator, freezer, or television, that is stored outside of any residence or structure.

Junkyard Items: Any junk vehicle or junk appliance.

Junkyard Review Board: Any board appointed or designated by the County Legislature to administer this Law.

Person: Any person, firm, partnership, association, corporation, company, or organization of any kind.

Right-of-Way Line: Line forming boundary of the right of way of a street, road, or highway as dedicated by a deed or record. Where the width of the right-of-way is not established, the right-of-way line shall be considered to be twenty-five (25) feet from the center line of the road pavement.

ARTICLE C: JUNKYARD REGULATIONS

Section 1. LOCATION

No junk storage area shall be located within:

- A. One hundred (100) feet of any adjoining property line.
- B. Five hundred (500) feet of any public park, church, educational facility, nursing home, public building, or other place of public gathering.
- C. One hundred (100) feet of any stream, lake, pond, wetland, or other body of water.
- D. One hundred (100) feet from the right-of-way line of any public street, road, or highway.

Section 2. SCREENING

- A. Where a junkyard is or would be visible from a public highway or from neighboring properties, there shall be erected and maintained an eight (8) foot high opaque fence to screen the junk storage area. All junkyard items dealt with by the operation of the junkyard shall be kept within such screening at all times so that the junkyard items are not visible from the public highway or from neighboring properties.
- B. The fence provided for in this section shall be of wood or other materials as required by the Junkyard Review Board to totally screen the junk storage area from view.
- C. As an alternative the Junkyard Review Board may permit or require such screening by adequate planting of evergreen trees and shrubbery in place of or in addition to an eight (8) foot high fence. The following requirements shall apply in those cases where this alternative is permitted or required:
 - 1. The applicant shall provide evidence that within five (5) years of the issuance of the initial license the proposed method of screening will provide a year-round opaque screen of the junk storage area from public highways and from neighboring properties.
 - 2. The screening shall be opaque, and remain opaque and attain a height of five (5) feet within five (5) years of the issuance of the initial license. If such requirement is not met within five (5) years of issuance of the initial license, the applicant shall be required to install an eight (8) foot high fence approved by the Junkyard Review Board pursuant to this Section.
 - 3. Prior to Junkyard Review Board approval of the license renewal the junkyard owner shall be required to provide evidence of compliance with this section of the law. In addition the junkyard owner shall be required to provide evidence that all dead trees and shrubbery constituting the screen have been replaced with flora of the same species as the approved screen. Such replacements shall be planted at a height sufficient to maintain an opaque screen. Replacements shall be planted prior to application for renewal.

Section 3. BURNING

No materials shall be burned in a junkyard except in compliance with the New York State Outdoor Burning Law (see 6 NYCRR 215).

Section 4. BURYING

No junkyard items shall be buried in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see 6 NYCRR 360).

Section 5. APPROVED JUNKYARD ITEMS

No junkyard items shall be stored in any junk storage area other than those items specified on a junkyard license approved by the Junkyard Review Board pursuant to this Law.

ARTICLE D: JUNKYARD LICENSE

Section 1. LICENSE REQUIRED

- A. No person shall establish or maintain a junkyard within the County of Lewis unless a license has first been issued for such junkyard pursuant to this Law.
- B. No person owning, having any right to, or any interest in any real property within the County of Lewis shall license, rent, lease, or otherwise permit the use of such real property or any part thereof for a junkyard unless a license has first been issued for such junkyard pursuant to this Law.
- C. All licenses shall be issued for a period of one (1) year, after which time renewal shall be required.

ARTICLE E: APPLICATION PROCEDURE

Section 1. APPLICATION

The applicant for a junkyard license shall obtain application forms from the Junkyard Inspector. The completed forms along with one copy of the proposed site plan, and the

appropriate fees, shall be returned to the County Clerk. The County Clerk shall notify and provide the application materials to the Junkyard Inspector. The Junkyard Inspector shall submit the application materials to the Junkyard Review Board.

Section 2. SITE PLAN CONTENTS

The site plan shall be drawn to scale or indicating all dimensions and show:

- A. All existing and proposed structures, including fences;
- B. All property lines including the names of owners of adjacent property;
- C. All streams, lakes, wetlands, floodplains, and other water bodies;
- D. All wells and sanitary facilities;
- E. All roads and easements;
- F. All existing and proposed junk storage areas;
- G. All existing and proposed access ways, and parking and loading areas.

Section 3. ENVIRONMENTAL IMPACT STATEMENT

An Environmental Assessment Form (EAF) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act (see 6 NYCRR 617). If the EAF indicates that the proposed activity may have significant environmental consequences, the Junkyard Review Board shall require that a Draft Environmental Impact Statement (DEIS) be submitted with the application. The application shall not be considered complete until the DEIS has been accepted by the Junkyard Review Board.

Section 4. FEES

The application fee shall be in the minimum amount of ONE HUNDRED DOLLARS (\$100.00) and must accompany all applications. A license fee shall be in the minimum amount of TWENTY-FIVE DOLLARS (\$25.00). The Junkyard Review Board is, in its discretion, empowered to set a higher application fee, and license fee, and may also set such other fees and charges as it shall determine appropriate. All fees shall be collected by the Lewis County Clerk for and on behalf of the Lewis County Junkyard Review Board.

Section 5. PUBLIC HEARING

The Junkyard Review Board shall conduct a public hearing within forty-five (45) days of the date a complete application is received. Notice of the hearing shall be made in the official newspaper at least five (5) days prior to the date thereof. At the hearing, the Junkyard Review Board shall hear the applicant and all other persons wishing to be heard on the application for a junkyard license.

Section 6. JUNKYARD REVIEW BOARD ACTION

Within forty-five (45) days of said hearing, the Junkyard Review Board shall render a decision to approve, to approve with conditions, or to disapprove the application for a junkyard license. The forty-five (45) day period may be extended by mutual consent of the applicant and the Junkyard Review Board. All findings of the Junkyard Review Board shall be entered into the Junkyard Review Board minutes. The decision of the Junkyard Review Board shall immediately be filed in the office of the County Clerk and the applicant shall be notified of the decision and the reasons for such decision within ten (10) days of the decision of the Board. Upon approval of the site plan and application and payment of all fees and reimbursable costs due the County, the Junkyard Review Board shall endorse its approval upon a copy of the final site plan and application.

Section 7. ISSUANCE OF LICENSE

- A. If the application is approved by the Junkyard Review Board a Junkyard License shall be issued by the County Clerk upon payment of the license fee.
- B. If the application is approved with conditions by the Junkyard Review Board, the County Clerk shall issue a Junkyard License upon notification by the Junkyard Inspector that said conditions have been complied with, and upon payment of the license fee.

Section 8. LICENSE RENEWAL

Applications for renewal shall be approved by the Junkyard Review Board upon payment of all fees and notification by the Junkyard Inspector that the junkyard remains in compliance with this Law. The County Clerk shall issue a Junkyard License renewal once the application is approved.

Section 9. BY-LAWS, RULES, DIRECTIVES, AND REGULATIONS

There is hereby delegated to the Junkyard Review Board full power and authority to adopt and enact any and all by-laws, rules, directives, and regulations necessary or appropriate in furtherance of carrying out its duties under this Local Law.

ARTICLE F: GENERAL CONSIDERATIONS

Section 1. AESTHETIC CONSIDERATIONS

In granting or denying a license, the Junkyard Review Board shall take the following aesthetic factors into consideration:

- A. Type of road servicing the junkyard or from which the junkyard can be seen.
- B. Natural or artificial barriers protecting the junkyard from view.
- C. Proximity of the site to established residential or recreational areas or main access routes thereto.

Section 2. LOCATIONAL CONSIDERATIONS

In granting or denying a license, the Junkyard Review Board shall take the following locational factors into consideration:

- A. 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.
- B. 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, or smoke, or of other causes.
- C. The proximity of streams, lakes, wetlands, flood plains, groundwater supplies, and public water supplies.
- D. Local drainage patterns.
- E. Long range comprehensive plans for the county.
- F. Proximity of the site to established residential or recreational areas.
- G. Availability of other suitable sites for the junkyard.

ARTICLE G. ADMINISTRATION AND ENFORCEMENT

Section 1. WAIVERS

Where the Junkyard Review Board finds that due to special circumstances of a particular case, a waiver of certain requirements as stated in Article C herein is justified, then a waiver may be granted. No waiver shall be granted, however, unless the Junkyard Review 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 has not been self-imposed.
- D. The waiver is the minimum necessary to accomplish the purpose.

Section 2. JUNKYARD INSPECTOR

- A. The Junkyard Inspector shall upon request of the Junkyard Review Board make inspections of the premises of any junkyard for which application for a license has been made, or any other existing junkyard within the county, and shall report to the Junkyard Review Board on the conditions of such junkyard.
- B. The Junkyard Inspector shall make periodic inspections of the County to ensure that all existing junkyards have licenses and that the requirements of this law are met. Any observed violations shall be reported to the Junkyard Review Board.
- C. The Junkyard Inspector shall not enter the premises of any private property without the consent of the owner. It shall be the responsibility of the applicant to arrange for required inspections of the premises prior to license issuance or renewal.

Section 3. REVOCATION OF LICENSE

The Junkyard Review Board may revoke a Junkyard License upon reasonable cause should the applicant fail to comply with any provision of this law. Before a license may be revoked, a public hearing shall be held by the Junkyard Review Board. Notice of the hearing shall be made in the official newspaper at least five (5) days prior to the date thereof. The license holder shall be notified of the hearing by certified mail at least five (5) days prior to the hearing. At the hearing the Junkyard Review Board shall hear the license holder and all other persons wishing to be heard on the revocation of the junkyard license. Should the Junkyard Review

Board decide to revoke a license the reasons for such revocation shall be stated in the Junkyard Review Board minutes. The license holder shall be immediately notified of the revocation by certified mail.

Section 4. PENALTIES

- A. Any person convicted of a violation under this Local Law shall for a first conviction thereof be punished by a fine of not more than TWO HUNDRED FIFTY DOLLARS (\$250.00), or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a second such conviction within thirty-six (36) months thereafter, such person shall be punished by a fine of not more than FIVE HUNDRED DOLLARS (\$500.00), or by imprisonment for not more than forty-five (45) days or by both such fine and imprisonment; upon a third or subsequent conviction within thirty-six (36) months after the first conviction, such person shall be punished by a fine of not more than ONE THOUSAND DOLLARS (\$1,000.00), or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment. Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omission, neglect, or refusal shall continue. Any reference for legal help in connection with assistance or prosecution herein shall be made to the District Attorney of the County of Lewis.

- B. Any person who shall violate any of the provisions of this Local Law shall be guilty of a civil violation and shall be subject to a penalty of FIVE HUNDRED DOLLARS (\$500.00) to be recovered by the County in a civil action. Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omissions, neglect, or refusal shall continue. Any reference for legal help in connection with assistance or prosecution herein shall be made to the County Attorney of the County of Lewis.

- C. In addition to the above provided penalties, the Junkyard Review Board may also maintain an action or proceeding in the name of the County in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any article of this Local Law. Any reference for legal help in connection with assistance or prosecution herein shall be made to the County Attorney of the County of Lewis.

ARTICLE H: APPLICABILITY

This Local Law shall not apply to any city, village, or town during such time as the city, village, or town is regulating or licensing junkyards.

ARTICLE I: 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, 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.

ARTICLE J: EFFECTIVE DATE

This Local Law shall be effective immediately upon all legal requirements being met.

ARTICLE K: PRIOR JUNKYARD LAWS

This Local Law replaces Local Law No. 5 - 1987 and Local Law No. 3 - 1992.

(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. 3 of 2001, of the County of Lewis was duly passed by the Lewis County Board of Legislators on February 6, 2001, 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 _____, of the County, City, Town, Village of _____ was duly passed by the _____ on _____, _____, and was approved, not disapproved, repassed after disapproval, by the _____, and was deemed duly adopted on _____, _____, 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 _____, of the County, City, Town, Village of _____ was duly passed by the _____ on _____, _____, and was approved, not disapproved, repassed after disapproval, by the _____ on _____, _____. 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 _____, _____, in accordance with the applicable provisions of law.

4. (Subject to a 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 _____, of the County, City, Town, Village of _____ was duly passed by the _____ on _____, _____, and was approved/not disapproved/repassed after disapproval by the _____ on _____, _____. Such Local Law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, _____, 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 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, designated as Local Law No. _____ of _____, 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 _____, _____, 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 _____, of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, _____ pursuant to the 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 of 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 1, above.

Teresa L. Kenealy

Clerk of the County Legislative Body, City, Town or Village Clerk
or officer designated by local legislative body
TERESA L. KENEALY, CLERK

(Seal)

Date: February 6th, 2001

(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 LEWIS**

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.

Kevin M. McArdle

Signature - Kevin M. McArdle, Esq.

Lewis County Attorney

(Title)

County of Lewis

Date: February _____, 2001