

Guidelines for Review of Local Laws Affecting Junk, Litter and Junkyards

Some local governments have developed Junk Storage Laws that may affect farm operations located within a county adopted, State certified agricultural district. The Department recognizes a local government's right to regulate certain aspects of the storage of "junk" within its geographic boundaries. However, Agriculture and Markets Law (AML) §305-a requires local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, to exercise these powers in such a manner as may realize the policy and goals of the Agricultural Districts Law and not unreasonably restrict or regulate farm operations within a county adopted, State certified agricultural district in contravention of the purposes of the Agricultural Districts Law unless it can be shown that the public health or safety is threatened. In the Department's view, local governments should exempt farm operations within a county adopted State certified agricultural district from the application of junk storage laws to the extent that such "junk" and "junked vehicles" are used by the farm operation for agricultural purposes and in an amount and type consistent with the needs and scope of the farm operation.

The Department performs §305-a reviews on a case by case basis. The following discussion outlines the Department's position with regard to common local junk storage law provisions which restrict farms.

Municipalities typically define the term "junk" to include, litter, waste paper, rags, used tires, discarded materials, appliances, household furniture, used metal, construction debris, unoccupied mobile homes, inoperable farm implements, and unlicensed, inoperable or "junked" vehicles. Some of these items are commonly found on farms and may or may not be considered "junk" to the farm operation. For example, tires are commonly used as a weight to keep coverings on bunk silos in place and items such as used metal, waste paper, rags, plastic, and discarded materials are collected and piled on the farm and periodically burned or taken to the local waste transfer station for disposal. Junked vehicles, particularly trucks, and farm equipment may be kept and used for spare parts to repair functional farm trucks and equipment or may be temporarily out of service. Unoccupied mobile homes may periodically exist on a farm if their labor needs are seasonal or if temporarily vacant because a farm worker leaves the operation. Farm worker housing may also remain unoccupied for a period of time if the farm changes ownership or upon the death of a farm operator, and pending settlement of the estate. For further explanation, see the Department's guidance document entitled *Guidelines for Review of Local Laws Affecting Farm Worker Housing*.

Municipalities may define junked vehicles to include unlicensed, old, wrecked, discarded, abandoned, dismantled or stored vehicles, tractors, trucks, motor homes, motorcycles, trailers, automobiles, and buses. Often the regulating municipality considers vehicles not in condition for legal use on the public highway to be "junk" or a "junk vehicle." Some agricultural operations maintain unlicensed vehicles on the farm

for use on that property. Although unlicensed and unable to be used on a highway, such vehicles may be essential to the conduct of the operation. Old vehicles and farm equipment may be kept and used for spare parts to repair functional farm trucks and equipment.

In prior reviews, the Department has determined that municipal regulation as “junk” of certain pieces of heavy equipment, buses, campers, cars, farm equipment, trailers, dilapidated buildings and other items, that do not have a use in the production function of the farm, are not subject to AML §305-a restrictions. The Department has determined that the use of box trailers for the storage of hay, other agricultural commodities or farm equipment in an amount and scope directly related to the production function of the farm operation, are protected under the Agriculture and Markets Law.

Some local laws may define and interpret the word “litter” to include animal manure and compost. An increasing number of farm operations compost their animal waste to help reduce the amount of land needed for the application of green manure, reduce odor and provide the farmer with additional income. The Department does not view animal waste as “litter” or “filth” because of its beneficial uses for farm operations. For additional information, see the Department’s *Guidelines for Review of Local Laws Affecting Nutrient Management Practices (i.e., Land Application of Animal Waste, Recognizable and Non-recognizable Food Waste, Sewage Sludge and Septage; Animal Waste Storage/Management)*.

Some municipalities require the screening of “junk” and “junk vehicles.” A local government’s administration of such requirements may, in some circumstances, unreasonably restrict farm operations. Aesthetics are an appropriate and important consideration under zoning and planning laws. However, the purpose of the Agricultural Districts Law is to conserve and protect agricultural lands by promoting the retention of farmland in active agricultural use and any aesthetics requirement which unreasonably restricts a farm operation is problematic. Generally, farmers should not be required to bear the extra costs to provide screening unless such requirements are otherwise warranted by special local conditions or are necessary to address a threat to the public health or safety. The Department has concluded that it is not unreasonably restrictive for a municipality to require that farmers move inoperable vehicles, farm equipment and tractors to a less visible location. Farmers may move such vehicles and equipment behind agricultural buildings, along existing fence rows where vegetation is present, behind topographic features, such as drumlins or sloping ground, or further away from public roads.

Generally, the Department would view as unreasonably restrictive a requirement that farmers obtain a junkyard license or permit to keep items (identified in the local law as junk, junk vehicles or litter) used on the farm, in an amount and scope directly related to the agricultural operation.

Section 302.8 of the *Property Maintenance Code of New York State (PMCNYS)*, issued by the New York State Department of State and entitled "Motor Vehicles," states in part, that "...except as provided for in statute or other regulations, two or more inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled." The Codes Division of the Department of State has expressed the opinion that PMCNYS §302.8 is not applicable to unlicensed or inoperative vehicles used for agricultural purposes by a farm operation located within a county adopted, State certified agricultural district when the number and type of vehicles is consistent with the needs and scope of the farm operation.