

## **GROTON JUNKYARD REGULATIONS**

### **BACKGROUND:**

Requirements surrounding the location and operation of salvage facilities frequently raise legal questions. When the State Legislature drafted the salvage facility laws, it attempted to balance two interests. First, it recognized that a “clean, wholesome, attractive environment” promotes the health and safety of its citizens. Such an environment is “essential to the maintenance and continued development of the tourist and recreational industry.” Second, the Legislature understood that the maintenance of legal salvage facilities is a business and should be encouraged.

### **AUTHORITY:**

Under the authority vested in the Board of Selectmen and in accordance with the provisions of the New Hampshire Revised Statutes Annotated, Chapter 236, Sections 111 through 129, inclusive, as amended, and every other authority thereto enabling, the Board of Selectmen adopts the following regulations governing junk yards within the Town of Groton, New Hampshire.

### **PURPOSE:**

This ordinance is adopted in accordance with the stated objectives of the state of New Hampshire to conserve and safeguard the public safety, health, morals, and welfare, and to further the economic growth and stability of the people of the state through encouragement to the development of the tourist industry within the state. 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. In addition, such an environment is considered essential to the maintenance and continued development of the tourist and recreational industry which is hereby declared to be of significant and proven importance to the economy of the state and the general welfare of its citizens. At the same time, it is recognized that the maintenance of junkyards as defined in this subdivision, is a useful and necessary business and ought to be encouraged when not in conflict with the express purposes of this ordinance.

Accordingly, all persons from the Town of Groton shall adhere to the requirements of this ordinance.

### **DEFINITIONS**

I. "Junk yard" means a place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel, or other old or scrap ferrous or nonferrous material. As used in this subdivision, the term includes, but is not limited to, the following types of junk yards:

(a) Automotive recycling yards, meaning a motor vehicle junk yard, as identified in subparagraph (c), the primary purpose of which is to salvage multiple motor vehicle parts and materials for recycling or reuse;

(b) Machinery junk yards, as defined in paragraph III; and

(c) Motor vehicle junk yards, meaning any place, not including the principal place of business of any motor vehicle dealer registered with the director of motor vehicles under

RSA 261:104 and controlled under RSA 236:126, where the following are stored or deposited in a quantity equal in bulk to 2 or more motor vehicles:

(1) Motor vehicles which are no longer intended or in condition for legal use according to their original purpose including motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap; and/or

(2) Used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle.

II. "Local governing body" means the mayor and board of aldermen or the council of a city, the selectmen of a town, or the commissioners of a village district.

III. "Machinery junk yard" means any yard or field used as a place of storage in which there is displayed to the public view, junk machinery or scrap metal that occupies an area of 500 square feet.

IV. "Motor vehicle" means "motor vehicle" as defined by RSA 259:60, I, namely, any self-propelled vehicle not operated exclusively upon stationary tracks, including ski area vehicles.

V. "Motor vehicle dealer"

(a) "New motor vehicle dealer" means every person principally engaged in the business of buying, selling or exchanging new and secondhand motor vehicles, or tractors on commission or otherwise who maintains in operating condition, and in operation, and at which the dealer does a major portion of his business a place of business capable of housing indoors in one building in an area of 1200 square feet, 5 average-sized automobiles, devoted to the motor vehicle, or tractor business and gives mechanical service on the same and who holds a written contract with a manufacturer giving such person selling rights for new motor vehicles, or tractors, or with a distributor of such vehicles who, as such distributor, holds a manufacturer's franchise or contract giving selling rights on new motor vehicles, or tractors.

(b) "Used motor vehicle dealer" means every person or firm principally engaged in the business of buying, selling and exchanging secondhand motor vehicles or tractors, who maintains in operating condition and in operation and at which the dealer does the major portion of his business a place of business capable of housing indoors in one building, in an area of at least 1200 square feet, 5 average-sized motor vehicles devoted to the used motor vehicles, or tractor business, and gives mechanical service on the same and at which the repair of used motor vehicles, or tractors is subordinate or incidental to the business of buying, selling and exchanging the same.

(c) "Junk motor vehicle dealer" means any person or firm who has an established place of business at which he is engaged in the business of buying secondhand motor vehicles for the purpose of taking the same apart, or buying, and selling parts of secondhand motor vehicles, or tires, for the assembling of secondhand motor vehicle parts.

VI. "Person" shall mean any person, association, company, corporation, partnership, or any other natural or unnatural person.

VII. "Trailer" shall mean any towed attachment to a motor vehicle and as otherwise defined in RSA 259.

#### **LICENSE REQUIREMENT:**

A person cannot maintain a salvage facility unless the person has obtained approval from the local governing body, the following:

(1) a license to operate a salvage facility business; and

- (2) a certificate of approval for the location of the salvage facility. At a minimum, the written application for these materials must contain a description of the land where the salvage facility is to be located, by reference to permanent boundary markers.

A license cannot be issued for any salvage facility within 660 feet from a Class I, II, III or III-a highway or within 300 feet from a Class IV, V and VI highway.

#### **REVIEW OF LICENSE APPLICATION:**

The Groton Select Board review of the license application will take the following into consideration:

- The suitability of the applicant, including his or her ability to comply with the fencing requirements or other reasonable regulations concerning the proposed salvage facility;
- Any convictions for any type of larceny or receiving of stolen goods;
- Applicant's proof of legal ownership or right to the use of the property;
- The nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gatherings;
- Whether the proposal will affect the public health, safety or morals by reason of offensive or unhealthy odors or smoke, or of other causes.

Additionally, the local governing body shall take into account general aesthetic considerations and whether the proposed use will have a negative aesthetic impact on the surroundings. The governing body shall consider such factors as: the road the salvage facility would abut (and from which the facility may be seen); natural and artificial barriers protecting the facility from view; the proximity to established tourist and recreational areas or main access routes thereto; as well as the reasonable availability of other suitable sites.

Both the license and the certificate are effective until the following July 1. The approval is personal to the applicant and cannot be assigned. The annual license fee is \$35 to be paid at the time the application is made and annually thereafter in the event of renewal. If the application is not granted, the fee shall be returned to the applicant. An applicant may renew his or her license upon payment of the annual license fee without a hearing, provided:

- All the provisions of the salvage facility statute have been complied with during the previous license period;
- The salvage facility has not become a public nuisance under the common law or is not a nuisance under RSA 236:119;
- The applicant is not convicted of any type of larceny or receiving stolen property. The cost of the background check is the responsibility of the applicant and is in addition to the application fee; and
- Applications to renew a license to operate an automotive recycling yard or motor vehicle junk yard shall include certification of compliance with best management practices established by the Department of Environmental Services for the automobile salvage industry.

If the governing body refuses to issue a license, an applicant may appeal the denial to the superior court by writ of certiorari.

## **FENCING:**

Prior to opening, a new salvage facility must be completely surrounded with a solidly constructed fence. The law mandates that the fence be a minimum of 6 feet in height and substantially screen the area. The gate must be closed and locked except during hours of operation or when the applicant or his or her agents are present. The applicant must store all motor vehicles and parts within the enclosure, except when removal is necessary. All wrecking or other work on motor vehicles and all burning shall be performed within the fenced area.

The governing body may reduce or eliminate the fencing requirements when natural geographic features (for example: topography, natural growth or other natural barriers) or other considerations accomplish the same purposes. However, any municipal citizen may apply for writ of certiorari to the superior court to review the action of the local governing body.

## **ENFORCEMENT:**

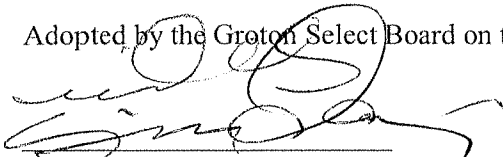
The law provides that any salvage facility located or maintained in violation of this ordinance is a nuisance. Any prosecuting officer may abate the nuisance upon written complaint. Further, any person who violates this ordinance is guilty of a violation; each day of operation constitutes a separate offense and shall be subject to a \$50 per day penalty. The penalty will commence after due notification to the salvage facility and continue until corrected. The governing body will send the written request to the salvage facility owner and the owner will have two weeks (14 days) to respond. If the property owner does not, within 30 days, take appropriate action, the governing body may take judicial action to enjoin the operation of the salvage facility. The governing body may sue to obtain an injunction to cease the illegal operation. If it declines to pursue such an enforcement action, the attorney general may obtain an injunction in the name of the state.

## **PUBLIC HEARING:**

Upon receipt of the application materials, the governing body is required to conduct a public hearing not earlier than two (2) and not more than four (4) weeks. It must provide the applicant with notice of the hearing via mail, postage prepaid. Further, notice must be given to the general public through publication in a newspaper with a circulation within the municipality at least seven (7) days or posting at two locations within the municipality before the hearing. During the hearing, the governing body shall permit all persons, including the applicant, an opportunity to speak.

Within two (2) weeks of the hearing, the governing body must make a finding regarding the approval or denial of the application, with notice to the applicant, postage prepaid. If approved, the governing body is required to issue the license, including the Certificate of Approval of the location.

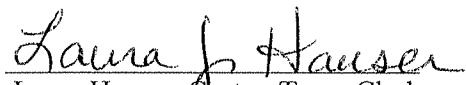
Adopted by the Groton Select Board on this the 10 day of MAY 2011

  
Miles Sinclair

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Christina McClay

  
Kyle Andrews

Received and recorded this 11<sup>th</sup> day of May 2011 at 9:30am/pm.

  
Laura Hauser, Groton Town Clerk