

STATE OF NEW YORK }
COUNTY OF ALBANY }

NOTICE OF PUBLIC HEARING
TOWN OF NEW SCOTLAND

PLEASE TAKE NOTICE that the Town Board of the Town of New Scotland shall hold a public hearing on the adoption of certain amendments to the Ordinance of the Town of New Scotland Providing for the Regulation and Licensing of Automobile Junk Yards within the Town, which ordinance was adopted on June 2, 1967. Said hearing shall be held at Town Hall, Slingerlands, New York, on May 1, 1984 at 7:30 p.m., at which time all persons interested shall be heard on the subject of the amendments to the existing ordinance known and cited as the Ordinance of the Town of New Scotland Providing for the Regulation and Licensing of Automobile Junk Yards within the town by amending the definition of junk yard and by amending the ordinance to provide that permits in connection with the regulation and licensing of automobile junk yards be referred to the Planning Board for consideration.

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PLEASE TAKE FURTHER NOTICE that copies of the foregoing ordinance may be obtained at Town Hall, Town of New Scotland, Slingerlands R.D., New York.

DATED: April 4, 1984
BY ORDER OF THE TOWN BOARD, TOWN OF NEW SCOTLAND
CORINNE COSSAC
Town Clerk

(April 19)

JAMES E. GARDNER of the Town of Guilderland, being duly sworn, says that he is the publisher of THE ALTAMONT ENTERPRISE AND ALBANY COUNTY POST, a weekly newspaper printed and published in the Village of Altamont, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said ALTAMONT ENTERPRISE AND ALBANY COUNTY POST

once each week for one week

consecutively commencing on the *19th* day of

April 19*84*

James E. Gardner

Robert Hagyard

ROBERT HAGYARD
Notary Public, State of New York
Qualified In Albany County
Commission Expires March 30, 19*85*

Friday, August 2, 1984

voted through. The chair committee was authorized to buy some good second hand

PUBLIC NOTICE

PLEASE TAKE NOTICE that the following Amendments to the ORDINANCE OF THE TOWN OF NEW SCOTLAND PROVIDING FOR THE REGULATION AND LICENSING OF AUTOMOBILE JUNK YARDS WITHIN THE TOWN, which ordinance was adopted on June 2, 1967, were duly adopted.

At a regular Town Board meeting of the Town of New Scotland, Albany County, New York, held at the Town Hall, New Scotland, New York, on the 5th day of July, 1984.

PRESENT:

- Stephen P. Wallace, Supervisor
- Anne Carson, Councilwoman
- Wyman Osterhout, Councilman
- Herbert W. Reilly, Jr., Councilman
- Kenneth Tice, Councilman
- Corinne Cossac, Town Clerk
- Frederick C. Riester, Town Attorney

The following amendments to the Ordinance of the Town of New Scotland Providing for the Regulation and Licensing of Automobile Junk Yards Within the Town were introduced by Councilwoman Anne Carson who moved their adoption, and the same were seconded by Councilman Wyman Osterhout.

ORDINANCE OF THE TOWN OF NEW SCOTLAND, ALBANY COUNTY, NEW YORK PROVIDING FOR THE REGULATION AND LICENSING OF AUTOMOBILE JUNK YARDS WITHIN THE TOWN

WHEREAS, a public hearing was duly held on the 22nd day of June, 1983, and all other matters and things required to be done by the Town Law and the State of New York in order that the Town Board may avail itself of the powers conferred by said laws, having been complied with:

NOW, THEREFORE, be it RESOLVED AND ORDAINED by the Town Board of the Town of New Scotland that the Ordinance of the Town of New Scotland Providing for the Regulation and Licensing of Automobile Junk Yards Within the Town which ordinance was adopted on June 2, 1967, is hereby amended as follows:

ORDINANCE OF THE TOWN OF NEW SCOTLAND, ALBANY COUNTY, NEW YORK PROVIDING FOR THE

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once each week for one week

consecutively commencing on the *2nd* day of

August 19*84*

James E. Gardner

Robert Hagyard

ROBERT HAGYARD
Notary Public, State of New York
Qualified In Albany County
Commission Expires March 30, 1985

ORDINANCE OF THE TOWN OF NEW SCOTLAND,
ALBANY COUNTY, NEW YORK

PROVIDING FOR THE REGULATION AND LICENSING
OF AUTOMOBILE JUNK YARDS WITHIN THE TOWN

SECTION 1. LEGISLATIVE INTENT:

A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town and the safeguarding of their material rights against unwarrantable invasion and, in addition, such environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its citizens. It is further declared that the unrestrained accumulation of junk motor vehicles is a hazard to such health, safety and welfare of citizens of the Town 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 purposes of this section.

SECTION 2. DEFINITIONS:

For the purpose of this ordinance:

"Junk Yard" shall mean any place of storage or deposit, whether in connection with another business or not, where [two or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles provided, however, 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 for remelting purposes only.] a person, corporation or other entity collects, buys, sells, trades, processes, dismantles, separates, stores or otherwise handles used metals, machinery, parts, paper, clothing, glass, or plastic in quantities in excess of or

EXPLANATION --Underlined text is new. Text in brackets [] is old ordinance to be deleted.

Enacted 7/5/84

dinary household use. "Junk yard" shall also mean any premises where three or more junk vehicles or parts from vehicles which, taken together, equal in bulk three or more such vehicles, are deposited or stored for a period in excess of 14 days. Junk vehicles or parts from vehicles completely enclosed in a garage or other similar structure shall not be included in the computation under this section.

["Motor Vehicle" shall mean all vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.] Vehicle - any means of transport or conveyance having wheels originally designed and manufactured (1) to be moved or propelled by any power other than muscular power, (2) or to be drawn or towed. A vehicle shall include but not be limited to automobiles, trucks, trailers, motorcycles, motorbikes, buses.

Junk Vehicle - any vehicle which for any reason, is incapable, without repair, of being moved or propelled by application of internal power, if it is a vehicle originally designed to be propelled by internal power or is incapable without repair of being drawn or towed in the manner originally intended, if it is a vehicle originally designed to be towed or drawn from behind an internally powered vehicle, and as adjudged by the standards of an ordinary reasonable man, is unsightly in appearance because of the existence of one or more conditions such as, but not limited to, the following: deterioration by rust of the body; deterioration of the exterior finish of the vehicle; broken windows; absence of component parts of the vehicle (such as fenders, panels, doors, bumpers, headlights, hood, trunk door, tires, wheels, grille, roof, tailgate); physical damage (such as dents, cracks, scrapes, holes,) to component parts of the vehicle; absence of interior components (such as seats, dashboard, interior door moldings, etc.)

Person - one or more individuals, a partnership, corporation, association or any other legal entity.

SECTION 3. REQUIREMENT FOR OPERATION OR MAINTENANCE:

No person shall operate, establish or maintain a junk yard until he (1) has obtained a license, as hereinafter provided for, 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

Enacted 7/5/84

approval shall be made in writing to the [Town] Planning Board. The application shall [be accompanied by a certificate from the Zoning Board of Appeals that the proposed location is not within an established district restricted against such uses or otherwise contrary to the prohibitions of the zoning ordinance.] contain a description of the land to be included within the junk yard.

SECTION 5. HEARING:

A hearing on the application shall be held not less than two or more than four weeks from the date of the receipt of the application by the [Town] Planning 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, which publication shall not be less than seven days before the date of the hearing.

SECTION 6. LICENSE REQUIREMENTS:

At the time and place set for hearing, the [Town] Planning 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] Planning 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] Planning 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] Planning 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 established 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] Planning Board shall, within two 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 ordinance 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] Planning Board may be reviewed under article seventy-eight of the civil practice law and rules.

SECTION 10. LICENSE FEES:

The annual license fee shall be Twenty Five (\$25.00) Dollars to be paid at the time the application is made and annually thereafter in the event of renewal. In the event the application is not granted, the fee shall be returned to the applicant. The Town may also charge the applicant with the cost of advertising and any other reasonable costs incident to the hearing and may make the license conditional upon payment of the said charge.

SECTION 11. FENCING:

Before use, a new junk yard shall be completely surrounded with a fence at least eight feet in height, which substantially screens 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 feet from a

Enacted 7/5/84

public highway. All motor vehicles and parts thereof 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 ordinance in whole or in part, the fencing requirements hereunder may be reduced by the [Town] Planning Board, upon granting the license, provided, however, that such natural barrier conforms with the purposes of this ordinance.

SECTION 12. ESTABLISHED JUNK YARDS:

For the purposes of this ordinance the location of junk yards already established shall be considered approved by the [Town] Planning Board and the owner thereof deemed suitable for the issuance of a license. Within sixty days from the passage of this ordinance; however, the owner shall furnish the [Town] Planning Board the information as to location, which is required in application, together with the license fee, and the [Town] Planning Board shall issue him a license valid until the next April first, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this ordinance including the fencing requirements set forth in section eleven of this ordinance. However, the [Town] Planning Board may, for good cause shown, grant such owner a period of time, not to exceed [one year] six months from the date of issuance to such owners of this first license under this ordinance, in which to comply with the fencing requirements set forth in section eleven of this ordinance.

SECTION 13.

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

SECTION 14. MANNER OF ENFORCEMENT:

The owner, occupant or lessee of a [building or] premises where a violation of any of the provisions of this ordinance is committed or shall exist, or any other person who commits, take part or assists in any such violation or who maintains any [building or] premises or any part thereof in

Enacted 7/5/84

which any violation shall exist or be committed shall be guilty of an offense against the ordinance punishable by a fine of not more than [One Hundred (\$100.00) Dollars] Two Hundred Fifty (\$250.00) Dollars or by imprisonment not to exceed [Sixty (60) days] Fifteen (15) days or both[, and such offense, for the purpose of conferring jurisdiction upon courts and judicial officers generally, shall be deemed a misdemeanor and for such purpose only, provisions of law relating to misdemeanors shall apply to such violation]. Each week's continued violation after notice thereof shall have been given as herein provided shall constitute a separate violation. Such notice shall be in writing signed by the building inspector[, supervisor, or one of his deputies,] and shall be served upon the person or persons committing such violation, either personally or by registered mail addressed to such person or persons at his or their last known address. Possession by the building inspector of the U.S. Postal receipt indicating delivery of the notice to the addressee whether the receipt is signed by the addressee or by a third party, shall constitute conclusive proof of the receipt by the addressee of the said notice. In addition, the Town shall have such other remedies as are provided by law to restrain, correct or abate any violation of this ordinance.

SECTION 15. EFFECTIVE DATE:

This ordinance shall take effect ten (10) days after publication and posting as required by law.

Enacted 7/5/84

TOWN OF NEW SCOTLAND

ORDINANCE NO# 13

Adopted July 5, 1984

REGULATION AND LICENSING OF AUTOMOBILE JUNK YARDS