

MOTOR VEHICLE RECYCLING YARDS AND JUNK YARDS

Section 236:111

RSA 236:111 Purposes. – This subdivision is adopted under the police power of the state to conserve and safeguard the public safety, health, morals, and welfare. 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. It is recognized that the maintenance of junk yards 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 subdivision. (Source, RSA 267-A:1, eff. July 2, 2002).

Section 236:111-a

236:111-a Scope. –

- I. Except as provided by paragraphs II and III, the provisions of this subdivision shall apply to all junk yards, as defined by RSA 236:112,1, including those approved under RSA 149-M and those subject to regulation under RSA 236:90-110.**
- II. The provisions of this subdivision shall not apply to any junk yard that is also a type of solid waste management facility listed below and approved under RSA 149-M, including any such solid waste management facility approved prior to May 1,1989:**
 - Landfills**
 - Processing or treatment facilities, not including automotive**
 - Recycling yards**
 - Transfer stations that collect, store, and transfer municipal**
 - Solid waste**
- III. The provisions of this subdivision shall not apply to any To any noncommercial antique motor vehicle restoration activities involving antique motor vehicles over 25 years old, where the owner or lessee demonstrates that each of the following requirements are met: (a) All antique motor vehicles kept on the premises are owned by the property owner or lessee; and (b) All antique motor vehicles and parts of antique**

motor vehicles are kept out of view of the public and abutters by means of storage inside a permanent structure, or by suitable fencing which complies with the fencing requirements of RSA 236:123, or by trees or shrubbery sufficient to block visual access year round; and (c) Any combination of antique motor vehicles or parts of antique motor vehicles that are not stored inside a permanent structure shall otherwise comply with the requirements of this section and shall not exceed a total amount of 5 vehicles. (d) Not more than one unregistered and uninspected motor vehicle that is not over 25 years old shall be kept on the premises; and (e) The use of the premises is in compliance with all municipal land use ordinances and regulations. Source. 1989, 95-1, eff/ July 1, 2002.

Section 236:112

236:112 Definitions. – For the purposes of this subdivision:

- 1. “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 © the primary purpose of which is to salvage multiple motor vehicle parts and material 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 scrapl 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 selectmen of the town.**
- 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 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 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 tractor.**
 - (b) “Used motor vehicle dealer” means every person or firm principally engaged in the business of buying, selling and exchanging second hand 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 second hand motor vehicles for the purpose of taking the same apart, or buying, and selling parts of second hand motor vehicles, or tires, for the assembling of secondhand motor vehicle parts.

Source. 1939, 50:1RL 165:22. RSA 267-A2,- eff. July 1, 2002.

Section 236:114

236:114 Requirement for Operation or Maintenance. – A person shall not operate, establish, or maintain a junk yard or machinery 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 the junk yard.

Source. RSA 267-A:3 eff. April 20, 1981.

Section 236:115

236:115 Application for License and Certificate of Approval. – Application for the license and the certificate of approved location shall be made in writing to the local governing body of the municipality where it is proposed to locate the junk yard or automotive recycling yard. In municipalities having a zoning ordinance and a zoning board of adjustment the application must be accompanied by a certificate from the board of adjustment that the proposed location is not within an established district restricted against such uses or otherwise contrary to the prohibitions of the zoning ordinance. The application shall include:

- 1. A description of the land to be included within the junk yard or automotive recycling yard, by reference to so-called permanent boundary markers.**
- 2. II. Certification of compliance with best management practices established by the department of environmental services, for application to establish automotive recycling yards and motor vehicle junk yards,**

Source. RSA 267-A:4, eff. Jan.1, 2007.

Section 236:116

236:115 Time of Hearing. – A hearing on the application shall be held within the municipality not less than 2 nor more than 4 weeks from the date of the receipt of the application by the local governing body.

Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and the notice shall be published once in a newspaper having a circulation within the town which publication shall be not less than 7 days before the date of the hearing.

Source. RSA 267-A:5, eff. Jan 1 1986.

Section 236:118

236:118A License Requirements. – At the time and place set for hearing, the local governing body shall hear the applicant at the time and place set for hearing, the local governing body 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 or automotive recycling yard. In passing upon the application, after proof of legal ownership or right to the use of the property by the applicant for the license period, it shall take into account the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gatherings and whetherA:7 or not the use of that proposed location can be reasonably prevented from affecting the public health, safety, or morals by reason of offensive or unhealthy odors or smoke, or of other causes. In no case may a license be granted for a new junk yard or automotive recycling yard located less than 660 feet from the right-of-way lines of class I, class II, class III or class III-a highways or located less than 300 feet from the right-or-way lines of class IV, class V and class VI highways.

Source RSA 267-A7. eff Jan 1, 1993.

Section 236:119

236:119 Nuisance. – Any junk yard or machinery junk yard located or maintained in violation of the provisions of this subdivision is hereby

declared a nuisance, and the same may be abated on complaint of any prosecuting officer as provided in RSA 236:128.

Source. 1939, 50:3 RL 165:24 RSA 267:3 eff. Jan. 1, 2004.

Section 236:120

236:120 Aesthetic Considerations. – At the hearing regarding location of the junk yard or automotive recycling yard, the local governing body may also take into account the clean, wholesome, and attractive environment which has been declared to be of vital importance to the continued stability and development of the tourist and recreational industry of the state and the general welfare of its citizens by considering whether or not the use of the proposed location can be reasonably prevented from having an unfavorable effect thereon.

Source. RSA 267-A:8 eff Jan 1, 1993.

Section 236:121

236:121 Grant or Denial of Application; Renewal; Appeal. –

- 1. After the hearing the local governing body shall, within 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; Renewal; Appeal.**
- 2. Licenses shall be renewed thereafter upon payment of the annual license fee without a hearing, if all provisions of this subdivision are complied with during the license period.**

Source. RSA 267-A:9 eff Jan 1, 2007

Section 236:122

236:122 License Fees. – The annual license fee is \$250. 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.

Source. RSA 267-A:10

Section 236:123

236:123 Fencing. – Fencing. – Before use, a new junk yard or automotive recycling yard shall be completely surrounded with a solidly constructed fence at least 6 feet in height which substantially screens the area and with a suitable gate which shall be closed and locked except during the working hours of the junk yard. Any citizen of the municipality may apply for writ of certiorari to superior court for the county in which the new junk yard is located to review the action of the local governing body.

Source. RSA 267-A:11