

Chapter 93

JUNKYARDS

[HISTORY: Adopted by the Town Board of the Town of Liberty 2-13-2001 by L.L. No. 1-2001.¹ Amendments noted where applicable.]

§ 93-1. Purpose.

This chapter is enacted for the purpose of establishing minimum health and safety standards for junkyards in the Town of Liberty as well as controlling their location so as to limit problems of incompatibility with other activities. The regulations are enacted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 136, Subdivision 1, of the Town Law as well as the Municipal Home Rule Law.

§ 93-2. Jurisdiction and scope.

- A. This chapter shall apply to all junkyards in the Town of Liberty. All junkyards shall be required to conform to said standards or be removed at the owner's expense.
- B. The following land uses shall be exempt from the requirements of this chapter, provided they are not maintained in the manner of a junkyard and do not include a junkyard operation:
 - (1) Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.
 - (2) Agricultural equipment which is utilized as part of an active farming operation or contractors' construction equipment which is part of an active contracting business.
 - (3) Automobile repair businesses or automobile, vehicle and equipment sales operations managed by state-licensed dealers which do not involve the outside storage of unlicensed vehicles in the manner otherwise identified herein as representing a junkyard.
 - (4) Towing businesses which involve the outside storage of no more than 10 vehicles at any one time or any individual vehicle for more than six months and which are completely buffered on all sides by a dense evergreen screen of no less than six feet in height and 15 feet in width.
- C. No right to establish or continue a junkyard operation shall be conveyed by the existence of a state license or the presence of any of the above activities on a site.

§ 93-3. Definitions.

¹. Editor's Note: This local law also repealed former Ch. 93, Junkyards, adopted 7-9-1987 by L.L. No. 6-1987, as amended.

The terms listed below shall be interpreted and are hereby defined as follows:

JUNKYARD

- A. An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used materials, including but not limited to wastepaper, rags, metal, glass, building materials, house furnishings, machines, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other disposition of the same. Recycling facilities conducted inside a completely enclosed building, except for loading and unloading docks, shall not be included.
- B. Any place where two or more old, secondhand, abandoned, partially disassembled, dilapidated or unlicensed vehicles or parts of vehicles, no longer intended or in condition for legal operation on the public highways, are dismantled or stored outside for any purpose for a period of six months or more. The Town of Liberty Code Enforcement Officer(s) shall determine when a vehicle or part thereof shall meet these conditions and it shall be the burden of the landowner in such instance to demonstrate conclusively, within a period of seven days after notice, that a vehicle is legally operable at the present time if he or she shall disagree with the Code Enforcement Officer's determination.

§ 93-4. License required.

- A. All existing junkyards shall obtain a license from the Town of Liberty.
- B. The Code Enforcement Officer of the Town of Liberty shall issue a license within 10 days after approval of the application by the Town Planning Board pursuant to standards contained herein. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Code Enforcement Officer and shall be renewed annually based on an inspection by the Code Enforcement Officer as to continued compliance with the standards of this chapter.
- C. No license shall be issued until the Code Enforcement Officer has received:
 - (1) A written application from the applicant on the form provided by the Town Code Enforcement Officer.
 - (2) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.
- D. The license may be transferred to a new owner of a junkyard, provided all of the requirements of this chapter are met and provided the Town is so notified.
- E. Any disapproval shall be in writing and include the reasons therefor. The Code Enforcement Officer shall not issue a license in any instance where the Planning Board has not approved the site plan. If the application is disapproved, the applicant shall have the right to apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules.
- F. The Code Enforcement Officer shall enforce all of the provisions of this chapter and shall have the right, at all reasonable times, to enter and inspect any junkyard. Nothing herein, however, shall obligate the Code Enforcement Officer to make inspections.

- G. If the Code Enforcement Officer finds that a junkyard for which a license has been issued is not being operated in accordance with the provisions of this chapter, he may serve, personally or by certified mail to the holder of the license, a written order which will require the holder of the license to correct the conditions specified in such order within 10 days after the service of such order. The Code Enforcement Officer shall, for purposes of determining compliance with this chapter, be authorized to make periodic inspections of all junkyards and shall be provided entry to accomplish that task. The Town Board shall specify the frequency of such inspections and set fees to cover costs involved.
- H. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within 10 days after the service of such order, the Code Enforcement Officer may suspend such license, and the holder of the license shall thereupon terminate the operation of such junkyard.
- I. Any license that is not used for the purpose intended within two years of the date of issuance shall automatically expire.

§ 93-5. Prohibition of new junkyards. [Amended 8-15-2011 by L.L. No. 2-2011]

- A. Except as otherwise provided in § 93-5B, the Town of Liberty, for the purposes of preventing damage to the rights of adjacent landowners and promoting the interests of the community as a whole in retaining a clean and attractive environment conducive to a high quality of life and the promotion of tourism, hereby prohibits the establishment of new junkyards within the Town. Lawfully established existing junkyards complying in other respects with these provisions, including § 93-6 below, may continue.
- B. A junkyard issued a license following the enactment of this chapter 93 may be relocated within the Town upon compliance with § 93-6.2.

§ 93-6. Standards applicable to existing junkyards.

All existing junkyards shall conform to the following standards:

- A. Existing junkyards, within a period of two years following the effective date of this chapter, shall be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations provided below. The Town of Liberty Code Enforcement Officer shall be responsible for notifying the owners of existing junkyards of any nonconformities and shall, additionally, inform all owners of existing junkyards of the action which must be taken to comply with this chapter, the time available to take those actions and the consequences of violations.
- B. Applications for licenses to continue operating existing junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one year following the effective date of this chapter.
- C. Applications for licenses to continue operation of existing junkyards shall include a site plan prepared by a professional engineer depicting the existing operation and any planned improvements as may be required by this chapter.
- D. The plan shall comply with the requirements applicable to new junkyards to the maximum

extent practical and shall include provisions for screening of the view of the junkyard from adjacent property as well as the public highway. An eight-foot high fence or dense screening, etc., along the side and rear boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals shall be required unless physical circumstances would make such fencing wholly impractical.

- E. All fencing must be approved by the Town of Liberty Planning Board and generally must consist of dense evergreen screening of no less than eight feet in height. The Town Board shall be responsible for taking measures, including securing injunctive relief, to ensure maintenance of such fencing or screening.
- F. The initial license application for the existing nonconforming junkyard shall be processed in a manner identical to that for special use applications under the Town of Liberty Zoning Law and shall include other information as may be required to determine compliance with this chapter, including a site plan defining the boundaries of the existing junkyard for future application renewal and enforcement purposes. The Planning Board, in acting upon the application, shall consider the following:
 - (1) The impacts of the use on the enjoyment and use of adjoining properties as well as the community as a whole.
 - (2) The degree to which the use can economically be made to comply with requirements for new junkyards.
 - (3) The effectiveness of screening available or to be provided, visibility from the highway and the extent to which the operator's plans address various health, safety and aesthetic concerns.
 - (4) The extent to which dismantling operations can or do take place inside an enclosed structure and whether or not all parts of vehicles or equipment are similarly stored inside an enclosed structure. Likewise, the Board shall consider whether or not vehicles awaiting dismantling or retained for sale or use intact are or will be stored in improved parking areas specifically designated for this purpose.
- G. Existing junkyards shall not be expanded by more than 25% beyond the boundaries of the existing junkyard as defined by the above-referenced site plan, and in no case shall any change in an existing junkyard that would lessen its conformity with these regulations be permitted.
- H. No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.

§ 93-6.1. Limited amnesty. [Added 2-7-2005 by L.L. No. 2-2005; amended 4-17-2006 by L.L. No. 4-2006]

Notwithstanding anything contained in Subsections A and B of § 93-6 of this chapter to the contrary, any junkyard existing on the effective date of this chapter that was entitled to but not given the notification from the Town of Liberty Code Enforcement Officer required pursuant to Subsection A of § 93-6 of this chapter shall have until September 30, 2006, to file the application

required pursuant to Subsection B of § 93-6 of this chapter. The Town of Liberty Code Enforcement Officer shall not be required to give the owners or operators of any such existing junkyard the notification provided for in Subsection A of § 93-6 of this chapter or any other notification with respect to this section. Any such existing junkyard, within a period of two years following the effective date of this section, shall be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations otherwise contained in this chapter, which regulations shall remain, in their entirety, fully applicable to any such existing junkyard.

§ 93-6.2. Procedure and standards applicable to relocated junkyards. [Added 8-15-2011 by L.L. No. 2-2011]

All existing licensed junkyards which are proposed to be relocated shall conform to the following procedure and standards:

- A. By petition to the Town Board, a licensed junkyard owner may request the Town Board authorize a relocation of the junkyard within the Town. The petition shall specifically identify the existing junkyard location, and attach a copy of the permit issued therefore. The petition shall also provide a complete metes and bounds description and map of the parcel of land to which the junkyard is proposed to be relocated.
- B. The Town Board shall review the petition and may, in its sole and absolute discretion, either:
 - (1) Determine that it is not in the best interest of the Town to relocate the existing junkyard and, therefore, deny the petition; or
 - (2) Determine that the petition merits further consideration and so notify the petitioner.
- C. Following a notice from the Town Board that a petition merits further consideration, the junkyard owner may apply to the Town of Liberty Planning Board for a license for the new location in the same manner as contemplated by § 93-4. The new location shall comply with all of the requirements of § 93-6, Subsections C through H.
- D. The Planning Board shall review the license application and if the new location meets the requirements of § 93-6C through H, the Planning Board shall so notify the Town Board.
- E. Upon receipt of a notice from the Planning Board that the new site meets or can meet the applicable requirements under § 93-6.2D, the Town Board may, but shall not be obligated to, enter into a formal agreement with the licensed junkyard owner to relocate the junkyard. Such an agreement shall include a time frame for accomplishing the relocation and shall require adequate financial security to close the previous junkyard location.

§ 93-7. Variation of standards.

Variations to the standards contained herein may be approved by the Town Board upon recommendation of the Town Planning Board and/or Code Enforcement Officer in order to accommodate unusual site conditions.

§ 93-8. Penalties for offenses.

- A. Any person, partnership, association or corporation who violates any provision of this chapter shall be guilty of an offense against this chapter and subject to a fine of not more than \$350. Each day of continued violation after notice thereof shall constitute a separate and distinct violation.
- B. In addition to the above-provided penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any portion of this chapter.

§ 93-9. Severability.

Should any section of provisions of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.