



## Town of Pelham

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Office of Selectmen  
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6 Village Green  
Pelham, NH 03076

### Junk Yard and Automotive Recycling Ordinance

#### STATUTORY AUTHORITY

This ordinance is enacted under the authority of RSA 147:1 and RSA 236:111 to 129.

#### PURPOSE

The purpose of this ordinance is to protect the safety, health and welfare of the general public and not to protect the personal or property interests of any individual.

It is the policy of the Town of Pelham and determined to be in the public interest to provide for effective control of the establishment, use and maintenance of junk yards and auto motive recycling yards/facilities to promote the safety, health, and welfare of the public, recreational value of public travel, to preserve the natural beauty, and to prevent and eliminate nuisances.

Nothing in this ordinance shall be deemed to be the making of a promise, or the undertaking of a special duty with any person; nor shall the provision of, or failure to provide such licenses or to undertake particular inspections be deemed to create a special relationship or duty towards any person upon which an action in negligence or any other tort may be founded.

The Board of Selectmen may also take into account the clean, wholesome, 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 of New Hampshire 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. The Board of Selectmen may consider collectively the type of road servicing the junk yard or automotive recycling yard/facility or from which the junkyard or automotive recycling yard/facility may be seen, the natural or artificial barriers shielding

the junk yard or automotive recycling yard/facility from view, the proximity of the proposed junk yard or automotive recycling yard/facility to established tourist and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junk yard or automotive recycling yard/facility.

### **LICENSE REQUIRED**

No person shall operate or maintain a junk yard or automotive recycling yard/facility in the Town of Pelham without first obtaining a license from the Board of Selectman and without complying at all times with the requirements of this ordinance, and all Federal, State, and local requirements.

This license is not assignable and nontransferable.

The applicant shall provide the Board of Selectmen all of the materials and information contained in Appendix A as part of the license requirements hereunder.

### **DEFINITIONS**

“Junk Yard” shall mean, in addition to the definition contained in RSA 236:91, II, III, I, any business and place of storage or deposit, whether in connection with another business or not, which has stored or deposited two (2) or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or trailers. 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, or any motor vehicle, the sum of which parts or materials shall be equal in bulk to two (2) or more motor vehicles or trailers. Junk yard shall also include any place of business or storage or deposit of motor vehicles or trailers purchased for the purpose of dismantling the vehicle or trailers for parts or for use of the metal for scrap.

“Junk” shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or junked, dismantled, or wrecked automobiles, trailers, or parts thereof, iron, steel, plastic, aluminum, or other old or scrap ferrous or nonferrous material.

“Automotive recycling yard/facility” shall mean an establishment or place of business which is maintained, used or operated for buying, storing, keeping or selling wrecked, scrapped, ruined or dismantled motor vehicles, trailers or motor vehicle parts. An automotive recycling yard also includes an establishment or place of business which buys second hand motor vehicles for the purpose of taking them apart, or buying or selling parts or secondhand motor vehicles and trailers, or tires, for the assembling of secondhand motor vehicle and trailer parts.

“Person” shall mean any person, association, company, corporation, partnership, or any other natural or unnatural person.

“Motor Vehicle” shall mean any self-propelled vehicle not operated exclusively upon stationary tracks, originally intended for use on public highways.

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

“Motor Vehicle Dealer: shall be as defined in RSA 236:113.

“Used Motor Vehicle Dealer” shall be as defined in RSA 236:113.

“Junk Motor Vehicle Dealer” shall be as defined in RSA 236:113.

“Abutter” shall mean the owner of any property adjacent to or within 200’ of any parcel of land.

### **ZONING REQUIREMENTS**

- A. All new and existing junk yards or automotive recycling yards/facilities shall conform to all applicable provisions set forth in the Town of Pelham Zoning Ordinance as they currently exist, may be established or may be subsequently amended.
- B. All new and existing junk yards or automotive recycling yards/facilities shall conform to all applicable State and/or Federal land use regulations as they currently exist, may be established, or may subsequently be amended.
- C. This ordinance is not intended to increase or diminish any vested rights a junk yard or automotive recycling yard/facility has acquired as a preexisting nonconforming use, through a variance, court proceeding, or consent decree. To the extent the terms of a court order, variance, or consent decree conflict with this ordinance, the licensee must comply with the most restrictive requirements.

### **LICENSE APPLICATIONS**

Any person or business who intends to operate a junk yard or automotive recycling yard/facility must apply for a license to the Board of Selectmen or its designee on a form prescribed by the Town. A renewal application must be filed by June 1 of each year. Initial applications and renewal applications must be accompanied by a license fee of \$25.00.

### **APPROVAL OF LICENSE APPLICATION**

Upon receipt of an initial license application or renewal application, the Code Enforcement Official, Health Officer, and Fire Department shall inspect the site. The

Board of Selectman may also complete a site walk of the proposed or existing facility. The New Hampshire Department of Environmental Services may also perform an annual inspection prior to renewal of a license. No junk yard or automotive recycling yard/facility shall be issued a license unless it is in conformity with this ordinance and any applicable Federal, State or other local regulations including but not limited to the following:

A. Enclosure of junk yard or automotive recycling yard/facility

A junk yard or automotive recycling yard/facility shall be completely surrounded with a solidly constructed fence at least six (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 or automotive recycling yard/facility or when the applicant or his agent is within. Where the topography, natural growth of timber, a natural barrier, or other considerations accomplish the purposes of fencing, the fencing requirements hereunder may be reduced by the Board of Selectmen upon granting of the license.

B. Use of premises

All motor vehicles and parts stored or deposited by the applicant shall be kept within the enclosure of the junk yard or automotive recycling yard/facility except as removal is necessary for its transportation in the reasonable course of business. All wrecking or other work on such motor vehicles and parts shall be accomplished within the enclosure.

C. Certified Plot Plan

All junk yards and automotive recycling yards/facilities shall, at their own cost and expense, prepare a Certified Plot Plan which must be submitted with the license application. The Certified Plot Plan shall depict the lot on which the junk yard or automotive recycling yard/facility is or is proposed to be located, with reference to each building, the total acreage, the total acreage devoted to junk and/or automotive recycling activities.

D. Facility Plan

All junk yards and automotive recycling yards/facilities, shall, at their own cost and expense, prepare a Facility Plan which must be submitted with the license application.

The Facility Plan shall depict the lot on which the junk yard or automotive recycling yard/facility is/shall be located, with reference to:

1. All buildings located on the site and indicate their use and size;
2. The location and depth of all wells used for water supply purposes;
3. The location of testing wells and their depth (if applicable);
4. The location and size of all septic systems;
5. The location, width and length of all driveways or roadways;
6. The location of any wetlands and any seasonal water;
7. The location of any building drains, including floor drains;
8. The location of temporary storage of tires within the facility;
9. The location of hazardous materials/liquid wastes including tank sizes and piping systems;
10. The location of fire breaks and work roads/paths within the facility;
11. The capacity of the facility without stacked vehicles;
12. Topographic map of the site;
13. Such other requirements as the Board may determine.

E. National Pollutant Discharge Elimination System Permit

Junk yards or automotive recycling yards shall obtain a National Pollutant Discharge Elimination System (NPDES) Permit for storm water discharges as required by the United States Environmental Protection Agency ("US EPA").

F. Hours of Operations

The permitted hours of operations for junk yards and automotive recycling yards/facilities shall be from 7 a.m. unto 5 p.m. Monday through Friday. On Saturday the hours shall be from 8:00 a.m. until 1:00 p.m.

G. Saleable Tires

All junk yards and automotive recycling yards/facilities shall store saleable tires on the site in such a manner as recommended by the Pelham Fire Department and in conformance with NFPA code requirements.

All saleable tires not stored under cover in a closed building shall be located in piles of not more than one hundred (100) and shall be enclosed by a protective berm to prevent oil runoff in the case of a fire. Outdoor piles shall not be located closer than one hundred (100) feet from each other. All tire storage locations shall be indicated by location on the facility plan.

## H. Junk Tires

All junk yards and automotive recycling yards/facilities shall at least once every six (6) months during the license period, dispose of junk tires stored on the site, through a licensed facility. The licensee(s) shall maintain an accurate record of the date of disposal, the transporter and a copy of the facility receipt for the acceptance and disposal of the tires and the number of tires disposed of.

All junk tires not stored under cover in a closed building shall be located in piles of not more than one hundred (100) and shall be enclosed by a protective berm to prevent oil runoff in the case of a fire. Outdoor piles shall not be located closer than one hundred (100) feet from each other. All tire storage locations shall be indicated by location on the facility plan.

All junkyards and automotive recycling yards/facilities shall forward to the Board of Selectmen and Code Enforcement Officer the records stated above every six (6) months as evidence that they dispose of junk tires through companies with appropriate licenses.

## I. Hazardous Materials/Liquid Wastes

All junkyards and automotive recycling yards/facilities shall comply with all applicable Federal, State, and local requirements for the transportation, handling, storage, and/or use of hazardous materials/liquid waste.

All junk must be processed on a surface that prohibits the hazardous materials/liquid waste from penetrating into the soil and/or groundwater.

All junkyards and automotive recycling yards/facilities shall maintain an approved contract for the disposal of all hazardous materials/liquid wastes that are generated in the course of the licensed facilities operation. The contract shall be for the full term of the license issued hereunder and must be with a State or federally permitted and/or licensed facility. A copy of the Federal or State license or permit to operate, stating the types of hazardous materials/liquid waste that can be accepted at the facility, must accompany the application for license.

All junkyards and automotive recycling yards/facilities shall, at least once every three (3) months during the license period, dispose of all hazardous materials/liquid waste. The licensee shall maintain an accurate record of the date of disposal, the transporter and a copy of the facility receipt for the acceptance and disposal of hazardous materials/liquid waste, together with the Hazardous Waste Manifest(s).

All junkyards and automotive recycling yards/facilities shall forward to the Board of Selectmen and Code Enforcement Officer the records stated above every three (3) months as evidence that they dispose of hazardous materials/liquid waste through companies with appropriate licenses.

All junkyards and automotive recycling yards/facilities shall forward current copies of Material Safety Data Sheets (MSDS) for all hazardous materials/liquid waste located on the site at the time of application to the Board of Selectmen, Code Enforcement Officer and Pelham Fire Department.

License holders, who are permitted to burn hazardous materials/liquid waste on site, in furnaces, to heat enclosed facilities, provided such furnaces are approved by the United States Environmental Protection Agency ("US EPA"). Before such furnaces are used, the license holder shall provide proof of compliance with US EPA requirements and shall obtain and pass an inspection from the Pelham Fire Department certifying that the combustion equipment is properly installed.

#### J. Prohibited Materials

No materials shall be allowed in any licensed junk yards and automotive recycling yards/facility that would be in violation of any Federal, State or local law, ordinance or regulation.

#### K. Junk Materials

License holders shall provide the Board of Selectmen with written proof that they junk out vehicles and trailers held beyond the approved capacity of the facility or that no longer have a value for salvage. All such removed vehicles and trailers shall be hauled to facilities licensed to dispose of scrap metals or other resulting or unwanted materials. The licensee shall maintain an accurate record of the date of disposal, the transporter and a copy of the facility receipt for the acceptance and disposal of junk materials and wastes that shall indicate the quantity delivered.

All junkyards and automotive recycling yards/facilities shall forward to the Board of Selectmen and Code Enforcement Officer the records stated above every six (6) months as evidence that they dispose of junk materials through companies with appropriate licenses.

#### L. Standing Water/Testing

License holder(s) shall be required to test any standing water on the site at least once annually using standard tests under EPA approved methods 418, 601 and 602 to demonstrate that no unwanted chemicals have moved to surface or

groundwater during facility operations. Such test shall be performed by a certified testing company in which the license holder(s) have no interest, personal or financial. Such tests shall be at the license holder(s)/applicant's expense.

#### M. NH Green Yards Program

All junkyards and automotive recycling yards/facilities shall participate in the State of New Hampshire Green Yards Program and by accepting a license to operate agree to disclose the details of their participation in this program. This documentation shall include, but is not limited to, copies of certificates of completion or training classes and/or seminars attended by licensees and their employees and copies of their environmental self-audit. In addition, annually as a condition of application, applicants shall complete the "Statement of compliance with NH Green Yards best management practices."

#### N. Abutter Notification

All junkyards and automotive recycling yards/facilities shall notify, at their expense, all legal abutters to the facility after application submission and prior to June 1. This notification shall indicate the legal name of the junk yard and automotive recycling yards/facility and detail their intent to obtain a license to operate. This notice shall also include contact information for the Board of Selectmen's Office and locations where official public hearing/meeting postings will be made.

#### O. License Forfeiture

Any junkyard or automotive recycling yard/facility who does not file an application for renewal or whose license was either denied or revoked by the Pelham Board of Selectmen and remains unlicensed for a period of 12 months from the expiration of the previous license shall no longer be considered a going concern and shall forfeit their pre-existing non-conforming status and will be required to seek a variance from the Zoning Board of Adjustment prior to submission of another application. To the extent the terms of a court order, variance, consent decree or zoning ordinance conflict with this ordinance, the licensee must comply with the most restrictive requirements.

### **RENEWAL OF LICENSES FOR JUNK YARDS OR AUTOMOTIVE RECYCLING YARDS NOT IN COMPLIANCE**

Renewal applications must be filed with the Board of Selectmen on or before June 1 or each year. Prior to July 1 or each year, the Board of Selectmen shall provide notice to the public of the junk yards and automotive recycling yards/facilities that have submitted renewal applications and shall schedule a meeting for public comment and input on the renewal application.

If a junk yard or automotive recycling yard/facility is not in compliance with the requirements of this ordinance at the time its license is to be renewed, the Board of Selectmen may issue a temporary 90 day license. The 90 temporary licenses shall set forth all the conditions that the junk yard or automotive recycling yard/facility must meet to bring it into compliance with this ordinance.

If at the end of the 90 day temporary license period the junk yard or automotive recycling yard/facility has met the conditions, the Board of Selectmen shall renew the license.

If the junkyard or automotive recycling yard/facility has not met the conditions at the end of the 90 day temporary license, the Board of Selectmen shall hold a hearing under RSA 236:121 to determine whether to grant or deny the renewal application. The Selectmen may grant an extension of a temporary license up to an additional 90 days provided that there is a favorable recommendation from the Code Enforcement Officer.

Any junk yard or automotive recycling yard/facility that is denied a renewal license shall be subject to the penalties set forth below.

### **ENFORCEMENT/PENALTIES**

- A. Per RSA 236:127, any person in violation of this ordinance shall be guilty of a violation and each day or fraction thereof shall constitute a separate offense.
- B. In addition to the penalty set forth in RSA 236:127, the Board of Selectmen may obtain an injunction to end the violation.
- C. Violation of this ordinance is cause for the Board of Selectmen to refuse to renew a license and/or to revoke a license.
- D. Any person owing real property whose property is directly affected by the site of a junk yard or automotive recycling yard/facility maintained in violation of the provisions of RSA 236 may in writing, addressed to the Board of Selectmen, request that the Board of Selectmen take appropriate action under said statutes. A copy of the written communication to the Board of Selectmen shall be mailed to the person complained of. If the Board shall not, within 30 days thereafter, make a determination that a junk yard or automotive recycling yard/facility does exist

and issue appropriate orders, the complainant may, in his own name and in his own right, seek appropriate injunctive relief for the enforcement of this subdivision in the Superior Court.

***Approved this 13<sup>th</sup> day of September, 2011***

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Edmund Gleason, Chair

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William McDevitt, Vice Chair

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Robert Haverty, Selectman

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Harold Lynde, Selectman

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Douglas Viger, Selectman