

Town of Canaan Junk Yard Enforcement Policy

Purpose:

The laws of the State of New Hampshire require Towns to regulate and enforce the licensing of junk yards. (RSA 236:111) Junk yards are by law aggregations of vehicles as well as rope, rags, paper, trash and waste. Given the broad definition of junk yards, the Town is adopting the following policy with respect to the requirement of a license for a junk yard. The purpose of this policy is to establish the threshold for enforcement in an objective manner so as to prevent the waste of legal and financial resources in situations that may technically violate the law but which do not reach the level of violation that is defined in this policy.

Policy:

1. A property owner or tenant or invitee who stores or maintains the materials described in RSA 236:112 (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) without a junk yard license and has continued to do so for a period in excess of 60 days after receiving notice of violation shall be considered in violation subject to enforcement.
2. If the violation meets the definitions of RSA 236:111 et seq. and the following standards, the Town will use the remedies defined in RSA 236:127 and RSA 236:128 (enforcement action).
 - a. **The materials constitute an attractive nuisance that has attracted children or others and has the potential of causing bodily harm; OR**
 - b. **The materials are within the right-of-way of a class IV or lower town highway; OR**
 - c. **The materials or their run-off or leachate pose an actual or immediate threat to ground or surface water; OR**
 - d. **The materials are causing a health hazard due to the documented presence of vermin or vectors (animals, birds); OR**
 - e. **The materials are not directly used in the raising of agricultural crops or animals where the raising and sale of those crops are the primary economic activity of the owner and/or tenant or licensee; AND**
 - f. **The materials, in sufficient quantity to qualify, have little or no commercial value OR have value but no license has been obtained; AND**
 - g. **The materials occupy a footprint of at least 500 square feet of outside area as plotted on an aerial photo or similar method OR an area that is twice the size of the primary residence; AND**
 - h. **The materials are visible from a Town or State road.**
3. The Town will give the property owner, any known tenants and any known licensees 30 day notice of the violation prior to commencement of an enforcement action. Prior to a notice of

violation being sent out, the Selectmen shall warn the action on a public agenda of one of their meetings stating the name and address of the violators. The violator shall have 30 days to start an application for a license and must complete and submit the application for a license including the satisfaction of any state requirements within 90 days from the letter of notification.

Notification shall be by certified or registered mail to the owner and by actual delivery in hand to the owner of the property or the tenant or licensee on the property.

4. In many cases, the violator may come into compliance by obtaining a license.
5. In some cases, the area may be licensed if the area is screened in accordance with state law.
6. In some cases, the area **may not qualify for a license if it is within 300 feet of a town highway and the Board of Selectmen may waive further action if all other requirements are met** for a license and the area occupied by the junk is not within the highway right-of-way.
7. Action may include any or all of the following remedies:
 - a. **Criminal sanctions**
 - b. **Civil sanction (\$50 per day)**
 - c. **Injunctive relief through court order and contempt actions for violation of court orders**
8. Alternative remedy actions may be used sequentially or all at once at the discretion of the Town.
9. In the case of owners who wish to remedy the situation but are without adequate resources to remedy the situation and can prove that they lack sufficient resources to remedy the situation, the **Town MAY but is not required to provide assistance to the Owner, at the Owner's request, in the form of services to remove and/or sell the junk** with the proceeds to go first towards disposal costs. In such event, the Owner shall sign an agreement promising never to repeat the violation on any property owned by any person in the Town of Canaan and shall further **execute a lien of all lands owned by the Owner in Canaan for the value of the resources provided in the clean-up and for all fines owed and legal expenses incurred by the Town which lien will remain recorded and in force during the ownership of the property by the violating owner** unless released by the Board of Selectmen. The cost of such services shall be borne by the disposal budget of the Town Solid Waste Department to the extent that there are funds available. Fines derived from the enforcement action shall be retained in the Transfer Station revolving fund if authorized by the voters.