

ORDINANCE #12

AN ORDINANCE REGULATING AND LICENSING THE OPERATION OF JUNK YARDS
IN THE TOWN OF BOLTON

ADOPTED: JULY 19, 1967
PUBLISHED: JULY 27, 1967
EFFECTIVE: AUGUST 6, 1967

ADOPTED: DECEMBER 11, 1986
PUBLISHED: JANUARY 16, 1987
EFFECTIVE: JANUARY 25, 1987

BE IT RESOLVED AND ORDERED by the Town Board of the Town of Bolton, Warren County, New York, as follows:

SECTION 1

LEGISLATIVE INTENT. By the adoption of this ordinance the Town Board of the Town of Bolton declares its intent to be to regulate and license the operation within this Town of junk yards.

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 an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants. It is further therefore declared that the operation of junk yards in the vicinity of highways, dwellings, buildings, bodies of water, and wooded areas, including but not limited to the burning of inflammable parts of motor vehicles, machinery, appliances or equipment, and of paper and any other waste materials constitutes a public nuisance, a constant fire menace and a danger to such health, safety and welfare of the inhabitants of the Town of Bolton and creates an environment which tends to discourage said continued development of the economy of the Town of Bolton.

SECTION 2

DEFINITIONS. (a) The term "person" shall mean an individual, an association, a partnership or a corporation.

(b) The term "motor vehicle" shall mean all vehicles propelled or drawn by power, other than muscular power, originally intended for the use on public highways.

(c) The term "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 second hand 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 purpose of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles, and shall also include operations performed and carried on, wholly or in part, outside of a fully enclosed building or structure, for the acquisition, purchase, storage, conversion, dismantling, processing or resale of all types of used machinery, appliances, equipment, metal, rags, paper, fabrics, rubber and any other waste materials or their combination.

SECTION 3

REQUIREMENTS FOR OPERATION OR MAINTENANCE. No person shall operate, establish or maintain a junk yard upon property having less than 5 acres of land. No person shall operate, establish or maintain a junk yard until he (1) has obtained a certificate of approval for the location of said junk yard and (2) has obtained a license to operate the junk yard business.

SECTION 4

APPLICATION FOR LICENSE. Before filing an application for the operation of a junk yard, the applicant must first obtain a certificate of approval from the Town of Bolton Planning Board or any other applicable Board or governmental body having jurisdiction. Such certification of approval shall state that the proposed location is not within an established district restricted against such uses or otherwise contrary to the prohibitions of such zoning ordinance. Application for the license shall be made in writing to the Town Board. The application shall specify the name, occupation and residence address of the applicant, the location of the proposed junk yard, a description of the land to be included in the junk yard and the details and specifications of the fencing and other screening devices to be utilized by the applicant. The application shall be accompanied by a certificate of approval from the Planning Board. The application, license and filing fees shall be filed with the Town Clerk.

SECTION 5

HEARING. A hearing on the application shall be held not less than 14 days nor more than 60 days from the date of the receipt of the application by the Town Board. Notice of the hearing shall be given to the applicant by certified mail, return receipt

requested, to the address given in the application and shall be published once in the 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 the hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain a junk yard. In considering such application, the Town Board will 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 ordinance.

SECTION 7

LOCATION REQUIREMENTS. At the time and place set for hearing, the Town 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, the Town Board 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. No junk yard shall be established or maintained in the Town of Bolton within one hundred feet of the boundary line of any public highway, street, avenue, road or place, nor within three hundred feet of any dwelling, church, school, hospital, public building or other place of public gathering. The Town Board will also consider 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 any other causes.

SECTION 8

AESTHETIC CONSIDERATION. At the hearing regarding location of the junk yard, the Town Board will take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of the inhabitants of the Town of Bolton, by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection the Town 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

FENCING. Before use, a new junk yard shall be completed surrounded with a fence in accordance with the regulations of the Town of Bolton Zoning Ordinance and any other applicable governmental ordinance or regulations. Unless required otherwise, such fence shall be constructed of either tight board or sheet metal at least eight feet in height which substantially screens the junk yard. Such fence shall include a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant and his agent shall be within. Such fence shall be painted in such a color that it will blend in with the surroundings. No advertising matter of any kind shall be attached to or painted on any fence enclosing a junk yard. Such fence shall be erected not nearer than 100 feet from a public highway right of way. All junk yard materials including motor vehicles parts thereof, machines, appliances, equipment, metal, rags, paper, fabric, rubber and any other waste materials or their combinations, stored or deposited in a junk yard shall be kept within the enclosure of the junk yard except as removal shall be necessary for the height where the same shall be visible over the top of the fencing. All wrecking or other work and all burning shall be accomplished within the enclosure and no burning shall be done in a licensed junk yard unless a permit for such burning shall have been issued by the Conservation Department of the State of New York.

SECTION 10

GRANT OR DENIAL OF APPLICATION. After the hearing, the Town Board will make a finding as to whether or not the application should be granted. If approved, the license, including the certificate of approved location, will be forthwith issued to remain in effect until the following April 1st. Approval shall be personal to the applicant and not assignable, except that in the event of the death of a licensee, the junk yard may be operated for the balance of the license year by his executor or administrator. If this application is disapproved, all money paid to the Town Clerk with the application, shall be refunded. Licenses shall be renewed yearly on April 1st upon payment to the Town Clerk of the annual license fee without hearing, provided all provisions of this ordinance have been complied with during the

license period, the junk yard has not become a public nuisance under the common law and the applicant has not been convicted of any type of larceny or the receiving of stolen goods.

SECTION 11

LICENSE FEE. The annual license fee for junk yards in the Town of Bolton shall be twenty-five dollars (\$25.00) to be paid at the time the application is made and annually thereafter on the 1st day of April in the event of renewal.

SECTION 12

ESTABLISHED JUNK YARDS. For the purpose of this ordinance, the location of junk yards already established shall be considered approved by the Town Board and the owner thereof deemed suitable for the issuance of a license. Within sixty days from the adoption of this ordinance however, the owner shall furnish the Town Board the information as to location which is required in the application; together with the license fee, and the Town Board will issue him a license valid until the next April 1st, at which time such owner shall apply for renewal as herein provided. Such owner shall comply with all other provisions of this ordinance including the fencing requirements set forth herein.

SECTION 13

VIOLATION OF ORDINANCE AN OFFENSE: PENALTIES THEREFORE,
(a) Any person who operates, establishes or maintains a junk yard in the Town of Bolton or who commits or permits any act or acts in violation of any of the provisions of this ordinance shall be deemed to have committed an offense against such ordinance, and also shall be liable for any such violation or the penalty therefore. Each day such violation shall continue or be permitted to exist shall constitute a separate violation. (b) For every violation of any provision of this ordinance, the person violating the same shall be subject to a fine of not more than \$100.00 or imprisonment not exceeding 30 days, or by both such fine and imprisonment. (c) Any person violating this ordinance shall be subject to a civil penalty enforceable and collectable by the Town in the amount of \$100.00 for each offense. Such penalty shall be collectable by and in the name of the Town for each day that such violation shall continue. (d) In addition to the above provided penalties and punishment, 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 such ordinance.

SECTION 14

SAVING CLAUSE. If any clause, sentence, paragraph, section or part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to be clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgement shall have been rendered.

SECTION 15

The Zoning Enforcement Officer of the Town of Bolton shall be responsible for the administration and enforcement of the Ordinance. The Zoning Enforcement Officer shall conduct an on site inspection of all licensed junk yard prior to the date of the renewal of a junk yard license. A report of such inspection shall be furnished to the Town Board within ten days of said inspection.

SECTION 16

EFFECTIVE DATE. This ordinance shall take effect ten days after publication and posting or immediately upon personal service as provided by Section 133 of the Town Law.