



TOWN OF HAVERHILL *New Hampshire*

Junk & Junk Yard Ordinance

The Town of Haverhill is adopting the following ordinance to clearly define junk and junk yards, outline licensure requirements for junk yards, and to establish a threshold for enforcement of junk & junk yards within the Town of Haverhill.

This ordinance is meant to help conserve and safeguard public safety, health, welfare, enjoyment, and to further the economic growth and stability of Haverhill. The people of Haverhill deserve a clean, wholesome, attractive environment and it is necessary to safeguard the material rights of residents against unwarrantable invasion. At the same time, it is recognized that the maintenance of properly run and licensed junk yards, are a useful and necessary business, and ought to be encouraged when not in conflict with the express purposes of this ordinance.

Definition:

NH RSA 236:112 defines a junk yard as any place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, metal, glass, cordage, 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.

Licensure:

All municipalities within the State of New Hampshire have the responsibility to license junkyards at the local level. This responsibility is contained in RSA Chapter 236 sections 114 through 126. There is a local licensing obligation even if the NH Department of Transportation has issued a license to the junkyard facility.

The license is issued by the governing body as of April 1st each year and is only effective until April 1st of the following year. The licensing obligation is important, because pursuant to RSA 236:119, any unlicensed junkyard location is declared to be a nuisance, which may be the subject of an enforcement action.

Properties that are properly permitted or licensed through the State of New Hampshire to operate a solid waste collection, storage, or transfer station; or a motor vehicle salvage yard, that are adhering to the stipulations of their permit or license, shall not be subject to this ordinance.

Enforcement:

The governing body's elected or appointed officers, or other appointed agents of the town, or a private person may initiate proceedings for the enforcement of the provisions of this ordinance.

NH RSA 236:127 states that any person who is found to be in violation of any provisions of this ordinance shall be guilty of a civil offense, and each day thereof shall constitute a separate offense.

A civil penalty of up to \$50.00 for per day may be issued upon any property owner(s) whose land is deemed a nuisance pursuant to RSA 236:119 until such time as the nuisance is removed or abated to the satisfaction of the Select Board and/or until the owner of the land acquires a license and is in compliance with the provisions of this ordinance. Civil penalties shall begin to accumulate the day a Letter of Notice is mailed by the Town to the property owner(s) believed to be in violation.

Enforcement procedures:

1. Complaint received and documented.
2. Investigation of complaint and legal implications.
3. Report of findings prepared.
4. Letter of Notice sent to property owner(s) by certified mail.
5. Property owner shall have opportunity to respond in writing.
6. Select Board considers, and votes, on whether to enforce.
7. Petition & Affidavit in Support of Petition prepared.
8. Petition & Affidavit filed with NH Grafton Superior Court.
9. Obtain Injunction (Court Order).
10. Collect penalties and end the violation.
11. Complaint file closed.

The local official with the authority to enforce the provisions of this ordinance shall:

- A. Fully document every complaint filed that could be determined to violate this ordinance.
- B. Thoroughly investigate the complaint, to include site visit, the taking of photographs, testimony from witnesses, statement from complainant, and review of relative portions of state law.
- C. Prepare a Report of Findings that articulates the circumstances of the violation(s).
- D. Request for complaint to be on next SB agenda.
- E. Send Letter of Notice by certified mail to property owners notifying them of the date the SB will consider the complaint & include a copy of the report of findings.
- F. Present the Report of Findings to the Select Board at a regularly scheduled meeting.
 - a. If the Select Board votes to pursue enforcement, proceed to step 5.
 - b. If the Select Board votes not to pursue enforcement, proceed to step 11.
- G. Prepare, or have prepared by legal counsel, a Petition to the court.
- H. Prepare, or have prepared by legal counsel, an Affidavit in Support of Petition.
- I. File with the NH Grafton Superior Court signed copies of both documents.
- J. Obtain an Injunction by the court.
- K. Pursue collection of civil penalties.
- L. Officially close the complaint file and retain for the minimum time allowed by the State's Retention Schedule.

Settlement Negotiations:

The Select Board may choose for the Town to enter settlement negotiations with the property owner(s) when they feel it is in the best interest of the Town of Haverhill to do so, rather than filing for an injunction by the court. However, if the Town is dissatisfied with settlement negotiations, at any time, they may choose to file for an injunction by the court.

Hardship Considerations:

Property owner(s) who wish to remedy a violation of this ordinance, but are without adequate resources to remedy it, and who can prove that they lack sufficient resources to do so, may request assistance from the Town by filing a letter of request to settle the complaint, with assistance.

The Select Board, at its discretion and within budgetary constraints, may vote to assist the property owner in the form of services to help remove and/or sell the junk with the proceeds to go first towards disposal costs. In such an event, the property owner would be required to sign an agreement vowing never to repeat the violation on any property owned by them within the Town of Haverhill and to hold the Town harmless.

When assistance is provided by the Town a lien would be executed and applied to all properties owned by the property owner within Grafton County for the value of the resources invested by the Town to clean up the property, all penalties owed, and any legal expenses incurred by the Town.

Future Responsibilities:

Imposition of civil penalties does not relieve any property owner from the requirement to comply with the provisions of this ordinance, nor shall it preclude the imposition of further actions or remedies.

Monetary Proceeds:

All proceeds from the assessment of civil penalties shall be for the unrestricted use of the Town of Haverhill.

Junk Yard Licenses:

As part of the enforcement action, the property owner(s) may be required to apply for a local junk yard license, and if applicable, a license from the NH DOT. The application for licensure may relieve the property owner of future violations but shall not relieve them of past/existing violations.

Special Conditions:

1. A junk yard license may not be issued to anyone that has been convicted of any type of larceny and/or have never been convicted of receiving stolen goods.
2. No junk or junkyard shall be located within 660 feet from the right of way lines of Class I, II or III highways.
3. No junk or junkyard shall be located within 300 feet from the right of way lines of Class IV, V, VI highways.
4. No junk or junkyard shall be located on a Class VI highway.
5. No junk or junkyard can be located within 100 feet of the property line for the property on which it exists. In essence, there must be a buffer of 100 feet from an abutting property.
6. No junk or junkyard shall be located within 250 feet of any stream, lake, pond, marsh, swamp or wetland or other body of water.

7. No junk or junkyard shall be located within the floodplain.
8. No junk or junkyard shall be located on properties that sit above the aquifer.
9. There must be erected and maintained an eight (8) foot high fence adequate to prohibit the entrance of children, animals, and others into the area where junk is kept. For new junk yards, the Planning Board may waive the requirement for such a fence where topography or other natural conditions effectively prevent the entrance of children and others.

Highway Classifications Defined:

State Highways

- Class I

Existing or proposed highways on the primary state highway system, excepting all portions of such highways within the compact sections of the cities and towns listed in RSA 229:5, V, provided that the portions of the turnpikes and the national system of interstate and defense highways within the compact sections of these cities and towns shall be class I highways.

- Class II

Existing or proposed highways on the secondary state highway system, excepting all portions of such highways within the compact sections of the cities and towns listed in RSA 229:5, V.

- Class III

Recreational roads leading to, and within, state reservations designated by the legislature.

- Class III-a

Certain boating access highways from certain highways to any public water. All class III-a highways shall be limited access facilities and subject to the layout, design, construction, and maintenance provisions applicable to limited access facilities, except that the executive director of the fish and game department shall have the same authority for class III-a highways that is delegated to the commissioner of the department of transportation for limited access facilities.

Municipal Highways

- Class IV

Class IV highways are portions of state-numbered highways passing through sections of municipalities mainly occupied by dwellings or buildings in which people live or business is conducted. Following the reclassification to Class IV, the state must improve the highway to a "reputable condition," and thereafter the municipality maintains the road. The portions of the turnpikes and the national system of interstate and defense highways within the compact sections of these cities and towns shall remain class I highways.

- Class V

Class V highways consist of all other local, traveled highways which the municipality has the duty to maintain regularly. This does not necessarily mean commencement of travel and maintenance alone may establish Class V status today, but both must exist for a road to continue its Class V status. "Traveled" may mean use by a limited group of people, such as loggers, hunters, and fishermen, provided it is available to the entire public.

Municipalities do not inherit the responsibility to maintain a highway merely because it is traveled. However, a Class V highway must be traveled and maintained regularly to remain a Class V highway.

Class V roads are defined in one statute as “town roads.” RSA 229:5,VI.

- Class VI

All other public ways, including highways discontinued and made subject to gates and bars and highways the municipality has not maintained in a suitable condition for travel thereon for five successive years, constitute Class VI highways. RSA 229:5, VII. Again, the public has the right to pass over Class VI highways.

The public may use Class IV, V and VI highways for all “viatic” purposes, meaning all purposes relating to travel, including the use by automobiles and parking subject to permissible municipal regulation.

Access to Flood Plain & Aquifer Maps:

To access the Town of Haverhill maps, which will reflect which parcels are within the Floodplain and those that sit over the aquifer follow the link below.

<https://next.axisgis.com/HaverhillNH/>



