

ORDINANCE #3

TOWN OF SCHROON

AN ORDINANCE LICENSING AND REGULATING JUNK DEALERS AND DEALERS IN DISCARDED AUTOMOBILES AND OTHER SECOND HAND ARTICLES AND MATERIALS AND REGULATING THEIR PLACES OF BUSINESS.

WHEREAS, the existence and operation within the Township of Schroon of junk yards and so called auto graveyards and the dealing in used, second hand or discarded articles and materials has or threatens to become a matter of public concern requiring action by this Town Board; and

WHEREAS, the Township of Schroon consists in part of various businesses and residences, with its principal population center being the village or hamlet of Schroon Lake, adjacent generally to the well-traveled improved public highway designated U.S. Route #9 and several improved village streets; and

WHEREAS, within such township such business and private homes are in many instances located either directly adjacent or in close proximity to each other, thereby enhancing the necessity of the use and occupation of businesses, particularly those involving the repairing, dismantling or disposal of junk discarded automobiles, equipment or other articles in such manner and at such times as are reasonably consistent with public order and decorum, without unnecessary noise or public disturbance, and with due regard for the danger of fire, conflagration or combustion especially in the use of mechanical devices such as blow torches in the cutting and dismantling of such objects, and the accompanying release or discharge of gasoline, oil, and grease or other combustible substances; and

WHEREAS, there are numerous young children living in such homes in or about the areas occupied by the last above mentioned businesses and frequently moving and playing in and about such residential business premises, and it being common knowledge that young children have a natural and impulsive tendency to be attracted to and interested in and to explore and play upon or about junk yards and abandoned or dismantled automobiles or other vehicles, often with dangerous and fatal results to such children; and

WHEREAS, young children and other irresponsible persons are often inclined, to pick up, conceal or carry away junk discarded or abandoned automobile parts or other discarded articles or materials; and

WHEREAS, it is the reasoned finding and considered opinion of this body that so called junk yards, automobile graveyards or wrecking yards may and do under improper operation and management become public nuisances; and

WHEREAS, the nature of the junk business as a market for stolen property makes it amenable to special regulation; and

WHEREAS, by reason of the above stated facts and circumstances and otherwise this body duly deems this ordinance to be proper and necessary in the preservation and promotion of the public health, safety, comfort and general welfare of this Township and its inhabitants.

Now, therefore, pursuant to the authority of Section 130 and 136 of the Town Laws of the State of New York, the Town Board of the Town of Schroon, Essex County, New York does hereby ordain and enact as follows:

SECTION 1. No person, firm, association, partnership or corporation shall within the Town of Schroon, Essex Co., N.Y.

- a) Engage in or conduct business as a dealer in or collector of junk scrap iron, old metals, second hand materials, waste paper, rags and other discarded materials, or
- b) Engage in the business commonly known as the junk business or in the collection, purchase or storage, sale, dismantling or disposal of junk, scrap iron, old metals, second hand materials, waste paper, rags and other discarded materials, or
- c) Maintain or operate or allow to be maintained or operated a place for the placing or storing, dumping, accumulation of discarded automobiles, worn out dismantled or abandoned machinery, equipment, automobiles or other vehicles and parts thereof.

WITHOUT, first having obtained a license therefore and subject to the provisions all as herein provided.

SECTION 2. PLACE OF BUSINESS. The license place of business is defined to be a lot, land, buildings or structure or part thereof used for the storage, sale of waste paper, rags, scrap iron, old metal or discarded materials or for the collection, dismantling, storage or salvaging of machinery and vehicles above described and for the sale of parts thereof.

SECTION 3. LICENSE, FEE, REVOCATION.

- a) Each applicant for such license shall submit to the Town Clerk a written application supplying under affidavit the following information: that he is a citizen of the U.S.; Whether he has ever been convicted of a felony or misdemeanor or of any violation of Art. 6 of the N.Y. General Business Law and if so the details thereof; and that he is a fit and desirable person and capable of properly conducting the business for which the license is desired. The Town Clerk shall examine and process this application, and upon the same appearing complete and in order shall thereupon refer the application to the Town Board for its approval.
- b) No person, firm, association, partnership or corporation shall be entitled to or receive such license, who or which, and in case of a partnership, firm, or association, any member of which has been, since Jan. 1st, 1903, or who or which shall hereafter be, convicted of larceny or of knowingly receiving stolen property or of a violation of Art. 6 of the N.Y. Gen. Business Law.
- c) If such application is fully approved as above provided, the Town Clerk shall issue a license to the applicant upon payment of the fee below provided.
- d) The annual fee for such licenses hereby fixed in the sum of \$10.00.
- e) Such license shall be effective from the date of its issuance and shall continue in force for the term specified therein, but the same shall not be issued for a longer term than until the first day of Jan. next succeeding its issuance.
- f) Such license shall not be transferable.

- g) Such license shall be placed and at all times displayed in a conspicuous place at the licensee's place of business.
- h) After a public hearing thereon, at which the licensee shall have an opportunity to be heard, the Town Board may revoke any such license for a duly established violation of any provision of this ordinance.
- i) In the event that an applicant for a license as provided herein shall have previously been duly issued a valid and effective junk dealers license pursuant to the provisions of Art. 6 of the N.Y. General Business Law, then such applicant shall be exempt from the requirements of obtaining a license and the payment of license fee as herein provided for the remainder of the period for which such junk dealers license shall be fully binding upon and applicable to the holder of any such junk dealers license.

SECTION 4. There shall be maintained in each place of business as defined in Sect. 2 above, at least two approved fire extinguishers and such additional number as may be prescribed by the Town Board. Such Board may specify the location of all such fire extinguishers.

SECTION 5. Every place of business maintained by a party licensed under this ordinance shall be under the management of the licensee who shall manage said place of business from an office located on the premises. It shall be the duty of such licensee to at all times operate and maintain said place of business in such a manner as to prevent the creation of fire and safety hazards of any kind.

SECTION 6. ENCLOSURE OF PREMISES --INSPECTION THEREOF --

- a) Each place of business maintained by a party licensed hereunder shall be enclosed within a fence, screen, wall or similar structure of sufficient height and construction to fully enclose and retain all materials dealt in by the license and to adequately prevent the entrance and access thereto by children of tender years or otherwise irresponsible persons.
- b) All junk, scrap iron, old metal, second hand materials, waste paper, rags, discarded automobiles or other vehicles, machinery, or equipment shall be enclosed and retained within such fence or wall.
- c) Also, no gasoline, oil, grease or combustible substance shall be permitted at any time to unnecessarily become deposited upon the ground or at any time to be released or to flow upon any adjoining street, highway or other premises.
- d) Each such licensee shall permit his place of business, his vehicles, conveyances and equipment to be examined or inspected at any time by the Police, by the Town Clerk or by any authorized representative of the Town Board.

SECTION 7. All junk, scrap iron, old metal, second hand materials, discarded objects, vehicles and parts thereof above described shall at all times be placed, stored or piled neatly and orderly and repaired, altered or dismantled, so as to eliminate all fire and safety hazards and shall regularly be cared for in such a manner that no obnoxious or repulsive odors shall arise therefrom.

SECTION 8. No junk, scrap iron, old metals, discarded automobiles or other vehicles, machinery or equipment or other metallic objects or materials or parts thereof shall be dismantled, repaired, altered or marked upon in any such place of business, in such a manner or at such times and hours as shall unreasonably or unnecessarily prevent or

interfere with the rest, comfort and good health of the occupants of the same or other premises.

SECTION 9. None of the above mentioned automobiles, vehicles, machinery shall be burned in whole or in part, excepting under the direct supervision of an authorized person or representative of such Board and pursuant to a permit to be issued by such Board specifically for each such purpose.

SECTION 10. VIOLATION OF ORDINANCE AND OFFENSE -- PENALTIES THEREFOR.

- a) The owner or licensee of any such place of business who commits or permits any act, 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 of 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 or party violating the same, shall be subject to a fine of not more than \$100 or imprisonment not exceeding 30 days or by both fine and imprisonment.
- c) Conviction for any above mentioned violation shall constitute and effect an immediate forfeiture of the license.
- d) Any person or party violating this ordinance shall be subject to Civil Penalty enforceable and collectible by the Town with amount of \$100.00 for each such offense. Such penalty shall be collectible by and in the name of the Town for each day that such violation shall continue.
- e) 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 11. All ordinances or regulations heretofore adopted in conflict with this ordinance are hereby repealed.

SECTION 12. EFFECTIVE DATE IN APPLICABILITY.

- a) This ordinance shall take effect ten days after its publication and posting in accordance with the provisions of Section 133 of the Town Law, excepting that such ordinance shall take effect from the date of its service against a person or party served personally with a copy thereof certified by the Town Clerk under the Corporate Seal of the Town and showing the date of its passage and entry in the minutes.
- b) However, as to any person or party actually engaged in the business or businesses above described upon the date of adoption of this ordinance, such party shall be allowed the period of 60 days within which to fully comply with the provisions of the ordinance with the privilege of applying for and being allowed an additional 30 days upon satisfying the Town Board that such an extension of time is necessary and justified upon the basis of extraordinary or emergency conditions.
- c) The provisions of this ordinance shall be wholly inapplicable excepting as may otherwise be thereby provided to any business or business site which may at any time hereafter be or become governed or regulated by a valid zoning ordinance or other legislative action pertaining to any business or location embraced or regulated by the ordinance.