

AN ORDINANCE REGULATING JUNK AUTO PARTS ACTIVITIES AND BUSINESSES AND THE
LICENSING THEREOF

CHAPTER 21

TOWN OF GORHAM

TABLE OF CONTENTS

ARTICLE		PAGE
1	PURPOSES	2101
2	DEFINITIONS	2101
3	LICENSING	2101
	21.3000 License Required	2101
	21.3100 Application for License	2101
	21.3200 Hearing	2102
	21.3300 License	2102
4	REGULATIONS	2103
	21.4100 License	2103
	21.4200 Office and Employees	2103
	21.4300 Fencing	2103
	21.4400 Fire Lanes Required	2103
	21.4500 Locked When Not Supervised	2104
	21.4600 Sanitary Facilities	2104
	21.4700 Burning Permitted	2104
	21.4800 Inspection by Enforcement Officer	2104
5	VIOLATIONS AND PENALTIES	2104
	21.5100 Violation of Ordinance	2104
	21.5200 Civil Penalties	2104
	21.5300 Additional Action	2105
6	LEGISLATIVE ENACTMENT	2105
	21.6100 Repeal	2105
	21.6200 Saving Clause	2105
	21.6300 Effective Date	2105

[History: Adopted by the Town Board of the Town of Gorham, July 1968; amended by Local Law #7-87 and Local Law #1-88]

CHAPTER 21
ARTICLE 1
PURPOSES

21.100 Legislative Intent

The Town Board of the Town of Gorham declares that the activities or businesses known as auto “graveyards”, junk yards, second-hand parts collection areas, the processing of used metals, for resale and the dumping, storage and disposal of waste, second-hand or used materials of whatever composition, can constitute a hazard to property and persons and are a public nuisance. It is the intent of said Town Board to license, regulate and control such activities by the adoption of this ordinance. The purpose of such regulation is to protect the value of surrounding land and property, to eliminate unsightly areas in the community and to minimize the hazards inherent in such activities.

ARTICLE 2
DEFINITIONS

As used in this ordinance:

21.2100 Person The term “person” shall mean an individual, an association, a partnership, a corporation.

21.2200 Junk The term “junk” includes scrap metals and their alloys, bones, unused materials and products (such as rags and cloth, rubber, rope, tinfoil, bottles, old tools and machinery, automobiles, fixtures and appliances, lumber, boxes or crates, pipe and pipe fittings), and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled for sale of parts.

21.2300 Auto The term “auto” shall mean passenger auto, truck, tractor-truck, bus, motorcycle or other vehicle, however propelled as well as tractors, bulldozers, machinery and equipment.

21.2400 Junkyard The term “junkyard” for the purpose of this ordinance is an area of land, with or without buildings, primarily used for the storage outside of a completely enclosed building of used and discarded materials, including but not limited to waste paper, rags, metal, building materials, house furnishings, machinery, vehicles or parts thereof, including junk as defined in this Article, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage of two or more wrecked or broken or unregistered motor vehicles, or the major parts of two or more such vehicles shall be deemed to make the lot a “junkyard”

21.3110

ARTICLE 3

LICENSING

21.3000 Licensing Required

No person shall engage in or conduct on real property within the Town of Gorham either for himself or for and on behalf of any other person directly or indirectly as agent, employee or otherwise any activity or business for profit or otherwise, at wholesale or retail which involves the collection, storage or disposal or otherwise of bodies, engines, or parts of autos, or of whatever material it is composed or any waste material whether composed of wood, paper, cloth, cardboard, plastics, metals, stone, cement, or otherwise without first obtaining a license therefore as hereinafter provided.

21.3100 Application for License

Each applicant for a license hereunder shall execute an application therefor to be supplied to him by the Zoning Officer which shall contain the following information:

That the applicant is over twenty-one (21) years of age, that he is a citizen of the United States, that he has never been convicted of a felony and such other facts or evidence as is deemed necessary to establish that he is a person fit and capable of properly conducting an activity or business for which the license is sought: a description of the exact type of business he intends to conduct, the nature of the materials he intends to handle; the number of employees he intends to engage; and the name and address of the owner or owners of the land and the nature of the right of occupancy of the applicant to the use of such land.

21.3110 At the Time of Making the Application

At the time of making the application the applicant shall submit to and file with the Zoning Officer a map or plan of the real property upon which he intends to conduct the activity or business for which he is making application for a license hereunder with the area of such real property which it is proposed, the location of the fence required hereunder indicated thereon as well as the location of any buildings on such land and the location of any water, sewer or gas mains or laterals available thereto as well as the general drainage pattern of such land.

21.3120 Agreement

In the application the applicant shall agree that if granted the license applied for, he will conduct the activity or business pursuant to the regulations hereinafter set forth and that upon his failure to do so such license may be revoked forthwith.

21.3130 A Person Presently Engaged in Activity

A person presently engaged in conducting an activity or business such as described herein on real property within the Town of Gorham must apply for a license therefor within thirty (30) days of the adoption of this ordinance. If the place where he conducts such activity or business presently complies with the requirements a person must meet to secure a license in the first instance, he shall be issued a license therefor if he meets the other requirements contained herein. If the place where he conducts such activity or business does not presently comply with the requirements a person must meet to secure a license in the first instance, he may be granted a temporary license for one (1) year, during which year he must arrange the place where he conducts such activity or business so that it does then comply with the requirements a person must meet to secure a license in the first instance. If at the end of such year such person had not so arranged his place of such activity or business he shall forthwith cease and desist engaging in or conducting the same and shall remove from such place any autos, parts or other materials of the nature described herein.

21.3200 Hearing

A hearing on the application shall be held by the Board of Appeals not less than two nor more than four weeks from the date of the receipt of the application by the Board of Appeals. Notice of the hearing shall be given to the applicant by mail postage prepaid to the address given in the application and shall be published once in a newspaper having a circulation within the Town of Gorham which publication shall not be less than ten days before the date of the hearing.

21.3300 License 21.3310 Fee

The fee for the license shall be established by a resolution of the Town Board and shall cover not only the cost of issuing the license itself but also the cost of making the necessary inspections of the premises to ascertain compliance with the regulations hereinafter prescribed.

21.3310

Such license shall be placed and at all times displayed in a conspicuous place at the licensee's place of activity or business for which it is issued.

Such license shall be effective from the date of issuance, until the 31st day of December of the year of such issuance. A new application for license must be made yearly before December 1st if licensee desires to continue such activity or business.

Such license is personal with the licensee. It does not go with the title of the land nor may it be sold, assigned, transferred or disposed of.

Such license may be revoked by the Town Board after a public hearing thereon at which the licensee shall have an opportunity to be heard. Upon revocation of a license the Town Board may require the removal of autos, parts and materials left as above provided in the case of an applicant for a temporary license who fails to qualify for a license.

ARTICLE 4

REGULATIONS

21.4100 License

The Licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.

21.4200 Office and Employees

The Licensee must maintain an office and have a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent the improper trespass thereon by children and others.

21.4300 Fencing

Before use, a new junk yard shall be completely surrounded with a fence of suitable material to be approved by the Zoning Officer at least eight (8) feet in height which substantially screens the junk yard and with a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than seventy (70) feet from the center of a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts within the vicinity of the junk yard shall be accomplished within the enclosure.

Where the topography, natural growth of timber or other considerations accomplish the purposes of this chapter in whole or part, the fencing requirements hereunder may be reduced by the Town Board, upon granting the license, provided, however, that such natural barrier conforms with the purposes of this chapter.

21.4400 Fire Lanes Required

Inside and adjacent to and contiguous with such fence a strip of land at least ten (10) feet in width shall be kept free of all dry grass or other growth or other combustible material so as to provide a fire lane or line around the whole area where the activity or business of the licensee is being conducted.

21.4500 Locked When Not Supervised

When the area is not supervised by the licensee or his employees the fence shall be locked by a secure gate in a secure manner.

21.4600 Sanitary Facilities

Suitable sanitary facilities shall be available for the use and convenience of the employees of the licensee, as well as the general public visiting the area.

21.4700 Burning Permitted

A licensee shall be permitted to burn such motor vehicles or parts within the fenced area in such manner as will not affect real property of adjoining owners.

21.4800 Inspection by Enforcement Officer

Any law enforcement officer, the zoning officer or the Town Board or any of its representatives shall be granted access to the area of the activity or business of the licensee at all reasonable hours to inspect the same for compliance herewith.

ARTICLE 5

VIOLATIONS AND PENALTIES

21.5100 Violation of Ordinance an Offense:

Penalties Thereof.

21.5101 An Offense

The owner or licensee of any such place of business who commits or permits any 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 therefor. Each week such violation shall continue or be permitted to exist shall constitute a separate violation.

21.5102 Penalty

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 or imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment.

21.5103 Effect on License

Conviction for any above mentioned violation or any felony shall constitute and effect an immediate forfeiture of the license.

21.5200 Civil Penalties

Any person violating this ordinance shall be subject to a civil penalty enforceable and collectable by the Town in the amount of \$100 for each such violation. Such penalty shall be collectable by and in the name of the Town for each week that such violation shall continue.

21.5300 Additional Action

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.

ARTICLE 6

LEGISLATIVE ENACTMENT

21.6100 Repeal

All ordinances or regulations heretofore adopted in conflict with this ordinance are hereby repealed.

21.6200 Saving Clause

If any clause, sentence, paragraph, section, or part of this ordinance shall be adjudged by a 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 the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgement shall have been rendered.

21.6300 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.

Dated: July 26, 1968