

No. 2-1973

TO:

FROM: Lyme Town Board

On October 10<sup>th</sup> 1973, the Town Board of Lyme passed an ordinance for the regulation of automobile junk yards (enclosed copy). The purpose of this ordinance is to establish certain regulations for those individuals who wish to operate a salvage or scrap automobile yard. Included in these regulations are requirements for licensing, fencing and location. Those individuals who do not wish to operate a junk yard should dispose of the automobiles falling into this category. A copy of the ordinance has been enclosed for your convenience. Applications for licenses and further information are available at the Town Clerk's Office.

Your prompt compliance with this ordinance would be greatly appreciated.

Filed October 10<sup>th</sup>  
1973

Oct. 10, <sup>th</sup> 1973

Reba Yott, Town Clerk

Motion made by Councilman Stumpf that the Town of Lyme adopt the ordinance "For the Regulation of Automobile Junk Yards."

Motion seconded by Justice Willock + carried.

ORDINANCE  
OF  
TOWN OF LYME

FOR THE REGULATION OF AUTOMOBILE JUNK YARDS.

BE IT RESOLVED AND ORDAINED by the Town Board of the Town of Lyme, Jefferson County, New York as follows:

Sec. 1. Definitions. For the purposes of this section, "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 secondhand 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 purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles provided, however, the term junk yard shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron steel or nonferrous scrap for sale for remelting purposes only.

"Municipality" as used in this section shall mean the Town of Lyme.

"Motor Vehicle" shall mean all vehicles propelled or drawn by power other than muscular power originally intended for use on public highways. Operating motor vehicles used exclusively for agricultural purposes shall be excluded from this ordinance.

Sec. 2. Requirement for Operation or Maintenance. No person shall operate, establish or maintain a junk yard until he (1) has obtained a license to operate a junk yard business and (2) has obtained a certificate of approval

for the location of such junk yard.

Sec. 3. Application for License and Certificate of Approval. Application for the license and the certificate of approved location shall be made in writing to the governing board of the municipality where it is proposed to locate the junk yard, and, in municipalities having a zoning ordinance and a zoning board, the application shall be accompanied by a certificate from the zoning board that the proposed location is not within an established district restricted against such uses or otherwise contrary to the prohibitions of such zoning ordinance. The application shall contain a description of the land to be included within the junk yard.

Sec. 4. Hearing. A hearing on the application shall be held within the municipality not less than two nor more than four weeks from the date of the receipt of the application by the legislative body. 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 municipality, which publication shall be not less than ten days before the date of the hearing.

Sec. 5. License Requirements. At the time and place set for the hearing, the governing board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junk yard. In considering such application, it shall 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 section.

Sec. 6. Location Requirements. At the time and place set for hearing, the governing board shall hear the applicant and all other persons wish-

ing to be heard on the application for certificate of approval for the location of the junk yard. In passing upon same, it 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; and 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 other causes.

Sec. 7 Aesthetic Considerations. At the hearing regarding location of the junk yard, the governing board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection the governing 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.

Sec. 8. Grant or Denial of Application Appeal. After hearing the governing board shall, within two weeks, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect until the following November first. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing, provided all

provisions of this chapter are complied with during the license period, the junk yard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the governing board may be reviewed under article seventy-eight of the civil practice law and rules.

Sec. 9. License Fees. The annual license fee shall be twenty-five dollars to be paid at the time the application is made and annually thereafter in the event of renewal. In the event the application is not granted, the fee shall be returned to the applicant. A municipality, in addition to the license fee, may assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto and may make the license conditional upon payment of same.

Sec. 10 Fencing. Before use, a new junkyard shall be fenced facing the road with a fence of adequate height necessary to screen the same from view, 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 three hundred feet from a public highway unless otherwise approved by the legislative body. 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 topography, natural growth of timber or other considerations accomplish the purposes of this chapter in whole or in part, the fencing requirements hereunder may be reduced by the legislative body, upon granting the license, provided, however, that such natural barrier conforms with the purposes of this ordinance.

Sec. 11. Established Junk Yards. For the purposes of this section the location of junk yards already established shall be considered approved by the governing board of the municipality where located and the owner thereof deemed suitable for the issuance of a license. Within sixty days from the passage of this section, however, the owner shall furnish the governing board the information as to location which is required in an application, together with the license fee, and the governing board shall issue him a license valid until the next November first, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this section including the fencing requirements set forth in subdivision ten of this section.

Sec. 12. Violations. Violators of any of the portions of this section shall be guilty of an offense punishable by a fine not exceeding one hundred dollars and/or imprisonment for not more than 30 days and each week that such violation is carried on or continues it shall constitute a separate violation.

Sec. 13. This ordinance shall take effect ten days after the publication and posting of the adoption thereof.