

TOWN OF HUNTER
Local Law No. ____ of the year 2015

THE TOWN OF HUNTER SCRAP FACILITY LAW

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A LOCAL LAW regulating Scrap Facilities in the Town of Hunter.

BE IT ENACTED by the Town Board of the Town of Hunter, Greene County, as follows:

ARTICLE A: INTRODUCTION

Section 1. Title

This local law shall be known as “The Town of Hunter Scrap Facility Law.”

Section 2. Authority

This local law is adopted pursuant to the authority granted the Town in Section 10 of the Municipal Home Rule and in Sections 130 (6) and (15) of the Town Law.

Section 3. Purpose

The Town of Hunter declares that a clean, wholesome, and attractive environment is of vital importance to the health, safety and general welfare of its residents. The Town finds that the scrap processing facilities can be hazardous to persons and to the environment and can threaten the scenic landscape qualities that help define the character of the town.

The purposes of this local law are to promote a safe, clean, wholesome, and attractive environment; protect the health, safety and well-being of residents; protect water quality and other natural resources; help preserve the scenic and aesthetic qualities of the Town to encourage tourism and outdoor recreation; prevent depreciation of property in the neighborhood and community; and further the goals of the Comprehensive Plan. The Town of Hunter is a nationally recognized Preserve America Community and its major roadways are designated by New York State as the Mountain Cloves Scenic Byway.

Section 4. Applicability

This local law regulates scrap facilities, as defined herein. For regulation of the storage of outdoor junk and junkyards not covered under this law, refer to Town of Hunter Junkyard and Junk Storage Law.

Section 5. Definitions

Cargo Truck: Any truck used for transport of materials that is a single unit, open or enclosed (without a detachable trailer).

Construction and Demolition (C&D) Debris: C&D debris is uncontaminated solid waste resulting from construction, remodeling, repair and demolition of utilities, structures, roads and land clearing. Such waste includes, but is not limited to bricks, concrete and other masonry materials, soil, rock, wood, land clearing debris, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roof shingles and other roof coverings, asphaltic pavement, glass, plastics, electrical wiring and components containing no hazardous liquids, and pipe and metals incidental to any of the above.

Enforcement Officer: The person(s) appointed by the Town Board to enforce the provisions of this local law.

Garbage: All putrescible animal and vegetable waste resulting from growing, processing, marketing, preparation and serving of food items, including the containers in which packaged.

Motor Vehicle: All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways, including but not limited to automobiles, busses, trailers, trucks, tractors, motor homes, travel trailers, campers, motorcycles and mini-bikes. The term shall also include all-terrain vehicles and snowmobiles.

Outdoor Storage: Storage other than in a completely enclosed and secured structure, such as a garage or barn.

Person: An individual, partnership, association, corporation, limited liability company, or entity of any other kind.

Roll-off container: A receptacle, dumpster, or like means of conveyance generally used to contain construction and demolition waste with a capacity of 10 cubic yards or more.

Rubbish or Debris: Ordinary household or commercial trash such as paper and paper products, barrels, cartons, boxes, cardboard, cans, glass, metals, machinery, plastics, rubber, crates, rugs, clothing, blankets, tires, and any and all tangible personal property, no longer intended or in condition for ordinary and customary use.

Scrap Materials: Scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc, ferrous or nonferrous scrap, and all other scrap metals and their alloys, and furthermore materials such as rags, used cloth, used rubber, used rope, used foil, used bottles, old or used machinery, boxes or crates, used pipe or used pipe fittings, used tires, construction and demolition debris, and other discarded materials 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 or recycled.

Scrap Facility: A facility that receives, stores, separates and/or transfers scrap materials for potential resale, reuse, reclamation or recycling. This term shall include a Recyclables Handling and Recovery Facility, a Construction and Demolition Debris Processing Facility, and a Transfer Station, as regulated by the New York State Department of Environmental Conservation.

Trailer: A cargo carrying semi-trailer or trailer, open or closed, that is used as a means of conveyance and powered by a motorized “tractor”, truck, or cab.

Transfer Station: Means a solid waste management facility other than a recyclables handling and recovery facility, used oil facility, or a construction and demolition debris processing facility, where solid waste is received for the purpose of subsequent transfer to another solid waste management facility for further processing, treating, transfer or disposal. A Transfer Station shall not include a municipally owned and operated Transfer Station, either existing or new.

ARTICLE B: SCRAP FACILITIES REGULATION

Section 1. New Scrap Facilities

No new scrap facilities as defined herein shall be permitted, established or licensed within the Town of Hunter after the effective date of this local law.

Section 2. Existing Scrap Facilities

No junk, scrap materials, rubbish or debris, or garbage not enclosed in a solid waste container, shall be stored, deposited or maintained outdoors on any real property within the Town of Hunter, except within a junkyard or scrap facility licensed by the Town, pursuant to this local law. Additionally, the storage of any roll-off containers, trailers, or cargo trucks not within the enclosed portion of a licensed facility that have been filled to capacity with junk, scrap materials, rubbish or debris, construction and demolition material, garbage, or any other refuse material must be removed from the town within seven days. The NYS Uniform Fire Prevention and Building Code, Property Maintenance Code, Chapter 3, also applies to maintenance of all property within the Town.

- A. Any person operating or maintaining a scrap facility on the effective date of this local law, without a valid license issued by the Town of Hunter, shall cease and desist from operating or conducting same and shall close such facility by removing any scrap materials from the site within a reasonable time frame, but not to exceed a period of six (6) months.
- B. Any person operating a scrap facility or junkyard on the effective date of this local law under a valid license issued by the Town of Hunter, may continue to operate the facility but may not enlarge the boundaries of the facility beyond the fence line in existence on the effective date of this law. All business activities conducted of said scrap facility or junkyard shall be contained within the confines of the licensed scrap facility property. Additionally, an existing, town-licensed scrap facility or junkyard may not be expanded to include any additional activities for which it does not possess a NYS DEC-issued permit or registration as of the effective date of this local law. Such prohibited activities shall include but not be limited to a Construction and Demolition Debris Processing Facility, and/or a Transfer Station.
- C. The Enforcement Officer shall inspect such existing licensed facility within thirty (30) days of the effective date of this local law in order to determine if it fully complies with the regulations included herein. Any areas of non-compliance identified must be corrected within six (6) months of the inspection date, or the Town Board may terminate the license.

ARTICLE C: LICENSE RENEWAL

Section 1. License Renewal Application

The applicant for a license renewal shall obtain a renewal application form from the Town Clerk. The completed application form, supplementary materials, and appropriate license renewal fee

shall be submitted to the Town Clerk by April 1st or at least ninety (90) days prior to the expiration of the current license.

Renewal licenses shall be issued for a two year period and shall expire on June 30th of the second year. In the middle of the two year term, a thorough joint inspection shall be conducted by the relevant permitting agencies. The purpose of this mid-term inspection is to determine if there are any violations or plans for modifications, and leave ample time for these to be addressed prior to the start of the license renewal process.

If any modifications are proposed to the existing site plan of a licensed facility, including the amount, location or type of materials stored, Site Plan Review and approval by the Planning Board shall be required before issuance of a renewal license by the Town Board.

Section 2. Renewal Application Contents

- A. A Scrap Facility license renewal form, including the following information:
 - 1. The name, address and phone number of the owner of the real property tax parcel on which the facility is located.
 - 2. The trade name, address and telephone number of the business.
 - 3. The name, residence, address and telephone number of each individual owner, partner, or, if a corporation, limited-liability company or other organization, each owner, co-owner, officer, director or member thereof.
 - 4. A narrative describing the business activities conducted, the technologies utilized, and the nature of the materials involved.
 - 5. A statement that the applicant agrees to conduct the activity or business pursuant to the regulations in this local law, any other applicable county, state, or federal laws, and any additional conditions which may be imposed upon such license and that upon failure to do so, the license may be revoked or subject to enforcement actions.
- B. Copies of all licenses, permits, registrations or certifications issued to the facility or operator by New York State including, but not limited to:
 - 1. All applicable NYS Department of Motor Vehicles registrations and certifications including but not limited to Vehicle Dismantler, Scrap Processor, Scrap Collector, Dealer, Repair Shop, Certified Inspector, Transporter, etc.
 - 2. All applicable NYS Department of Environmental Conservation (NYS DEC) permits and registrations including but not limited to Vehicle Dismantling Facility, Recyclables Handling and Recovery Facility, Construction and Demolition Debris Processing Facility, etc.
- C. Proposed Contingency Plan as explained in Article E. 24.

Section 3. Public Hearing

A public hearing on the renewal license shall be mandatory. Notice of the hearing shall be advertised in the Town's official newspaper at least five (5) and not more than fifteen (15) days before the hearing. In addition, notice of the public hearing shall be mailed to all landowners located within 100' of the exterior boundary of the subject property at least ten (10) days prior to the hearing, at the applicant's expense. 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 a renewal license to operate or maintain the scrap facility.

Section 4. Town Board Action

In considering such renewal application, the Town Board shall take into account the results of recent inspections of the facility by the Enforcement Officer, and indication or evidence of the applicant's ability to comply with the licensing standards, regulations and requirements of this local law. In addition, the Town Board shall consider the facility's history of compliance with other applicable local and state permitting, licensing and registration regulations. Outstanding violations or non-compliance with any state or local regulations, including any conditions of Site Plan approval, may be grounds for denial of the renewal application.

The Town Board may impose such restrictions and conditions on the facility as are necessary to protect the health, safety and welfare of the community, including limitations on the types of materials received, stored and methods of processing.

Upon approval of the application by the Town Board, the Town Clerk will issue the renewal license. If the approval was issued with conditions, such conditions shall be listed on the license and compliance with these conditions shall be required at all times for the license to remain valid and not be subject to revocation.

Section 5. Waivers

The Town Board may grant waivers of certain requirements of this local law if the following circumstances are met and the grounds for such waiver are recorded in the minutes of their decision:

- A. Granting the waiver is in keeping with the intent and spirit of this law, and poses no hazard to the health, safety or general welfare of the community; and
- B. Denying the waiver would result in undue hardship to the applicant, provided that such hardship has not been self-imposed; and
- C. The waiver granted is the minimum necessary to accomplish the purpose.

ARTICLE D: LICENSE PROVISIONS

- 1. License fees shall be set by resolution of the Town Board and shall be paid at the time of application for license renewal. The sum shall cover not only the cost of reviewing the application, but also the cost of making necessary inspections of the premises to ascertain compliance with the license conditions and regulations.

2. The license shall be placed and at all times displayed in a conspicuous place upon the licensed premises, and applies only to the licensed premises.
3. The license is personal to the licensee and will not attach to the title of the real property. It may not be sold, assigned, or transferred. In the event of any transfer of ownership or change in the shares, membership and/or ownership interests of any corporate or business entity holding the license, a new license must be obtained before commencing or continuing business.

ARTICLE E: SPECIFIC REGULATIONS

1. The facility shall be surrounded by a fence that completely screens the facility from view from public highways and with a suitable gate that shall be closed and locked at all times except during the working hours or when the operator or his agent shall be within. All existing fences must be maintained in good repair and shall be replaced in kind as necessary.
2. For uncovered areas where junk or scrap material is to be stored for more than 24 hours, a strip of land 10 feet in width shall be kept free of all junk, scrap materials, dry grass, plant growth or other combustible material so as to provide a fire break around the entire outdoor storage area. Adequate emergency access must be maintained at all times.
3. Only the premises covered by the license shall be used in the licensed business. All motor vehicles, and parts thereof, and all junk and scrap materials as hereinabove defined, stored either permanently or temporarily by the applicant, shall be kept within the enclosure of the facility except for reasonable transportation of same.
4. No motor vehicles or other junk or scrap materials shall be piled to any height above one foot below the nearest fence line, and shall be stacked in a safe manner.
5. The facility, together with all things therein, shall at all times be maintained in a sanitary and orderly condition and arranged in neat rows so as to permit emergency access as well as easy, clean passage and inspection of the premises.
6. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
7. No material shall be burned, incinerated, smelted, shredded, pulverized, ground or buried on the premises.
8. At least one fire extinguisher of approved design and capacity shall be maintained for each 40,000 square feet of area. Such fire extinguisher shall be mounted or placed in a conspicuous place and clearly marked.
9. Suitable rest rooms and sanitary facilities shall be available for the employees and patrons of such business.

10. Sufficient off-street driveway, parking and loading areas shall be provided such that all traffic and/or parking will occur outside the roadway rights-of-way and the facility does not create a hazard on nearby roadways.
11. All fluid draining, removal and collection activities shall be conducted on a concrete surface or other surface that allows equivalent protections to surface water and groundwater. Such surfaces shall be cleaned daily, or more frequently when spillage has occurred, using absorbent materials that are collected and properly disposed of.
12. All fluids shall be completely drained, removed, collected and stored for appropriate use, treatment or disposal.
13. Junk motor vehicles arriving at the facility shall be inspected upon arrival for leaking fluids and unauthorized waste. Leaks should be remedied or contained to avoid discharges of fluids to the environment.
14. Prior to vehicle crushing or compaction, the following potential environmental contaminants shall be drained, removed, deployed, collected and/or stored, as appropriate and in accordance with best management practices:
 - a. Fluids including, but not limited to, engine oil, transmission fluid, trans-axle fluid, front- and rear-axle fluid, brake fluid, power steering fluid, coolant, and fuel;
 - b. Lead acid batteries;
 - c. Small PCB capacitors, mercury switches or other mercury-containing devices;
 - d. Refrigerants used in automobile air-conditioning systems;
 - e. Air bags are deployed or removed; and
 - f. Any other potential environmental contaminants required to be drained, removed, collected and/or stored as required by federal, state or local law.
15. Fluids that are stored shall be placed in closed containers. The containers shall be in good condition without severe rust or apparent structural defects and shall be clearly and legibly marked as to contents. Containers shall be stored on a bermed or curbed concrete surface or surface that allows equivalent protection to groundwater and surface water.
16. No drums, barrels, tanks or other vessels containing any kind of liquid shall be stored outdoors at any time, except as required for the storm water management system.
17. Lead acid batteries shall not be stored on the ground. All lead acid batteries shall be covered by a tarp or other means in a manner that severely restricts water from coming into contact with the lead acid battery. Leaking batteries shall be stored in a leakproof container separately from intact lead acid batteries, and provisions shall be in place to absorb any leakage.
18. Small PCB capacitors, mercury switches and other mercury-containing devices shall be stored in an appropriate, labeled container for recycling or disposal.
19. No more than 1,000 waste tires off vehicles shall be stored at the facility at any one time unless all federal, state and/or local permits are obtained.

20. Fluids shall not be discharged on the ground or to surface water, groundwater or the environment.
21. Ensure the safe handling, processing and storage of any residues, including, but not limited to, any fluids left over after an automobile is crushed or compacted and parts have been extracted, in such a manner as to prevent off-site migration or runoff of pollutants.
22. Dust shall be effectively controlled so as not to constitute a nuisance or hazard to health, safety or property.
23. The facility shall be maintained so as to prevent or control on-site populations of vectors using techniques appropriate for protection of human health and the environment and which prevent the facility from being a vector-breeding area.
24. The facility shall have a Contingency Plan which describes the organized, planned and technically coordinated courses of action to be followed by employees in the event of an emergency such as a fire, discharge, or the receipt of unauthorized material at the facility.
25. The operator shall keep a log book containing the following information for each junk motor vehicle brought into the yard. All entries shall be made in ink or typed and such log book shall be available for review by the Enforcement Officer upon request:
 - a. The make, model, color and year of such motor vehicle.
 - b. The vehicle identical number (VIN).
 - c. The arrival and disposal dates
 - d. A certification that the motor vehicle arrived with or without regulated parts (engine, fuel tank, battery, brake lines and radiator.) If the motor vehicle had any regulated parts, the certification must state that any such regulated part was drained, rinsed, and the contents and products thereof disposed of in a proper manner as required by law.
26. Upon submission to NYS DEC, the operator shall provide the Town Clerk with copies of the facility's NYS DEC annual reports, as applicable.
27. No scrap facility shall be operated in such a manner as to create a hazard to the health, safety or welfare of the community or of any residents.
28. Under 6 NYCRR §360-16, Construction and Demolition Debris Processing Facilities must submit a closure plan to NYS DEC as part of the NYS DEC permit application. In compliance with §360-16.3(h)(6) the closure plan must identify the steps necessary to close the facility and must contain the most recent closure cost estimate for the facility prepared in accordance §360-1.12 and a copy of documentation required to demonstrate financial assurance under §360-1.12.

ARTICLE F: ADMINISTRATION AND ENFORCEMENT

Section 1. Enforcement Officer

The Enforcement Officer shall have the authority to enforce the provisions of this article, the conditions and restrictions of a scrap facility license and to inspect premises within the Town as necessary for said enforcement.

- A. The Enforcement Officer shall make periodic inspections of the Town to ensure that all requirements of this law are met. The Enforcement Officer shall inspect all licensed facilities quarterly or as necessary to determine whether they are being operated in accordance with the provisions of this law, the conditions and restrictions of such license, and other applicable provisions of law.
- B. No person shall refuse entry to the Enforcement Officer or the authorized representative of the Enforcement Officer attempting to enter any premises for the purposes of inspection. Such entry shall be permitted not only to areas open to the public but also to all other areas.

Section 2. Revocation of License

The Town Board may revoke a scrap facility license upon reasonable cause should the applicant fail to comply with any provision of this law or any condition or restriction of a license. Upon revocation of a license, the Town Board may require the termination of such activities upon the premises and removal of any scrap or other materials of the nature described herein which would constitute a scrap facility.

Section 3. Operating a Scrap Facility without a License

If the Enforcement Officer shall find that an alleged scrap facility exists without the required Town license or New York State permits or registrations, or that a licensed scrap facility is in violation of this article or the conditions and restrictions of its license, the enforcement officer is authorized to:

- A. Issue a written notice to comply, which shall contain the following information: the name of the person to whom the notice shall be addressed; the location of the premises involved; a statement of the facts alleged to constitute an unlicensed facility or a violation of this law or the conditions and restrictions on a facility's license; a demand that the alleged offender bring the premises into compliance with this article and/or its license, if any, within a specified number of days after service of the notice; a statement that failure to comply may result in prosecution; and a copy of the relevant provision(s) of law or condition(s) and restriction(s) alleged to be violated.
- B. Issue an appearance ticket to any such person and cause such person to appear before the Town Justice.

Section 4. Penalties and Remedies

- A. Any person who shall violate any of the provisions of this law shall be guilty of a violation and subject to the following:
 - 1. A fine not to exceed \$350.00 or imprisonment for a period not to exceed 15 days, or both; or

2. A penalty of \$350.00 to be recovered by the Town in a civil action.
- B. Every week such condition shall continue shall constitute a separate offense.
 - C. In addition to the above provided penalties, 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 restrain by injunction the violation of any provision of this law.
 - D. The person responsible for the violation shall be responsible for the Town's reasonable attorney fees and court costs.

ARTICLE G: MISCELLANEOUS PROVISIONS

Section 1. Severability

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

Section 2. Repealer

The following local laws and all amendments thereto are hereby repealed:

Local Law #4 of 1966, "Licensing and Regulating Dealers in Second Hand Junk and Auto Parts Activities and Businesses"; and

Local Law #1 of 1992, "Junk Car Anti-Proliferation Law"

Section 3. Effective Date

This local law shall become effective upon the date it is filed in the Office of the New York Secretary of State.