

CONTROL OF JUNKYARDS

RULES AND REGULATIONS

I. PURPOSE

The purpose of these Rules and Regulations is to control the establishment, operation and maintenance of junkyards in accordance with the declaration of policy set forth by the Rhode Island General Assembly in enacting Chapter 24-14 of the General Laws of Rhode Island.

II. APPLICATION

These Rules and Regulations are applicable to all areas within 1,000 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the Interstate and Federal-aid primary system of highways in the State of Rhode Island. These provisions apply regardless of whether Federal funds participated in the cost of such highways. Nothing contained in these Rules and Regulations shall prohibit a municipality from establishing regulations imposing stricter limitations.

III. DEFINITIONS

A) Department means the Department of Transportation of the State of Rhode Island.

B) Industrial activities, for purposes of these regulations, shall mean those permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the State, or prohibited by said authority but generally recognized as industrial by zoning authorities within the State, except that none of the following shall be considered industrial activities:

- 1) Outdoor advertising structures.
- 2) Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands.
- 3) Activities normally and regularly in operation less than 5 months of the year.
- 4) Transient or temporary activities.
- 5) Activities not visible for the traffic lanes of the main traveled way.
- 6) Activities more than 300 feet from the nearest edge of the main traveled way.
- 7) Activities conducted in a building principally used as a residence.
- 8) Railroad tracks, minor sidings, and passenger depots.
- 9) Junkyards as defined in Chapter 24-14.2 of the General Laws of Rhode Island.

C) Industrial Zones means those districts established by zoning authorities as being most appropriate for industry or manufacturing. A zone which simply permits certain industrial activities as an incident to the primary land use designation is not considered to be an industrial zone.

D) Interstate system means that portion of the national system of Interstate and defense highways located within this state, as officially designated, or as may hereafter be so designated, by the Director of Transportation, and approved by the U.S. Secretary of Transportation pursuant to the provision of title 23, United States code, "Highways."

E) Junk means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles and other motor vehicles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

F) Junkyard means establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile and other motor vehicle junkyard. This definition includes scrap metal processors, auto-wrecking yards, salvage yards, scrap yards, auto-recycling yards, used auto parts yard and temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises. The definition includes garbage dumps and sanitary landfills.

1) Automobile junkyard means any establishment or place where one or more unserviceable, discarded, worn out or junked automobiles, or bodies, engines, tires, parts or accessories are gathered together.

2) Illegal junkyard means a junkyard which was established or is maintained in violation of the State law, Rules and Regulations, or local law or ordinance.

3) Nonconforming junkyard means a junkyard which was lawfully established, but which does not comply with the provisions of subsequent State law or regulations or which later fails to comply with law or regulations due to changed conditions.

G) Main-traveled way means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways or parking areas.

H) Municipality means a city or town in the State of Rhode Island.

I) Primary system means that portion of connected main highways, as officially designated, or as may hereafter be so designated by the Director of

Transportation, and approved by the U.S. Secretary of Transportation, pursuant to the provisions of title 23, United States code, "Highways."

J) Right-of-way means the easement in or property acquired by the public through the Department of Transportation or its predecessors for the purposes of highway construction, safety rest areas, landscaping or any other purpose incidental to highway travel.

K) Scrap Processing Facility means any establishment having facilities for processing iron, steel, non-ferrous scrap, mineral wastes or slag, and whose principal produce is scrap iron, steel, or nonferrous scrap for sale for remelting purposes only.

L) Screening means the use of any vegetative planting, fencing, ornamental wall of masonry, or other architectural treatment, earthen embankment, or a combination of any of these which will effectively hide from view any deposit of junk from the main traveled way.

M) Unzoned industrial area shall mean the land occupied by the regularly used building, parking lot, storage or processing area of an industrial activity, and that land within 1,000 feet thereof which is –

- 1) Located on the same side of the highway as the principal part of said activity, and
- 2) Not predominantly used for residential or commercial purposes, and
- 3) Not zoned by State or local law, regulation or ordinance.

N) Visible means capable of being seen without visual aid by a person of normal visual acuity.

IV. JUNKYARDS PROHIBITED

No person, firm, corporation or association shall establish, operate or maintain a junkyard, any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any interstate or primary highway, except the following:

- A) Those which are screened so as not to be visible from the main-traveled way.
- B) Those located within areas which are zoned for industrial use, or
- C) Those located within unzoned industrial areas.

V. SCREENING

A) Responsibility for Screening

1) Any junkyard lawfully in existence on May 6, 1966, the effective date of Chapter 24-14 of the General Laws of Rhode Island, or if later, the date on which the highway became part of the Interstate or Federal-aid primary system of highways, which is within one thousand (1,000) feet of the nearest edge of the right-of-way of a highway shall be screened, if physically and economically feasible by the Department at locations on the highway right-of-way or in areas acquired for such purposes outside the right-of-way, so as not to be visible from the main traveled way of the highway. Whenever the Department shall determine that screening prescribed for an existing junkyard is not physically or economically feasible, the Department shall remove, relocate or dispose of said junkyard after the payment of just compensation therefor.

Nothing contained herein shall be construed to relieve the owners or operators of automobile junkyards from the provisions of chapter 5-21

of the General Laws entitled, "Secondhand dealers," as amended relating to the screening thereof.

2) Junkyards established subsequent to May 6, 1966, or if later, the date on which the highway became part of the Interstate or Federal-aid primary system of highways, and located in areas subject to control by the Act and as contained in these rules and regulations must provide for adequate screening located off the highway right-of-way and at the expense of the person owning the junkyard. Screening must be of a type approved by the Department. Those junkyards that cannot be adequately screened shall be relocated at owner's expense.

The owner or owners of any junkyard or scrap processing facility shall submit a plan drawn to scale indicating how screening is to be accomplished. Such plan shall show the construction details of the screening to be used. When fencing is used alone or in combination with plant material, the results shall provide immediate screening. When planting is used alone or in combination with an earthen embankment, the number, type, size and spacing of the plants shall be capable of screening the junk entirely from view. The ability of the proposed plant material to accomplish this goal shall be judged by the Department.

- (a) The screening shall be located on the owner's land and not on any part of the highway right-of-way.
- (b) The screen shall be in place prior to the time the junk is deposited.
- (c) At no time after the screen is established shall the junk be stacked high enough to be visible above the screen. No junk shall be placed outside of the screened area or in areas not covered by license.

- (d) Fences must be located in such a manner as to not be hazardous to the traveling public.
- (e) The construction of fences shall be uniform and no patchwork type of construction shall be permitted.
- (f) Fences shall be painted where the composition is such that painting is required. The paint used shall be of such color so as to blend into the environs of the highway right-of-way.

B) Acceptable Fencing Materials

Subject to the approval of the Department, acceptable fencing shall include fences of steel or other metals, durable woods such as heart cypress, redwood, or other wood treated with a preservative, or walls of masonry. Some of the types acceptable are:

- 1) Chain link type with aluminum, steel, plastic, or wooden slat inserts so as to prevent visibility through the fence.
- 2) Wooden types of basket weave, palisade, louver, or other suitable design.
- 3) Walls of masonry including plain or ornamental concrete block, block, brick, stone, or other suitable masonry material.

NOTE: The above types of fencing and walls are given for examples only. Any other design of fencing constructed of other materials may be submitted for consideration.

C) Plant Material

1) Plant materials indicated on the plans shall specify the botanical name of the plant materials used, the size at the time of planting, and the spacing between plants. All plant material shall be predominately evergreen and approved by the Department.

2) The requirements established by the American Nurserymen's Association as shown in their current publication entitled "American Standard for Nursery Stock" shall be in accord and govern grading, ball size, etc. for specific nursery stock used. Scientific and common names of plants shall be in conformity with the approved names in "Standardized Plant Names" (Current Edition) prepared by the American Joint Committee on Horticultural Nomenclature. Certificates of inspection of plant materials required by federal, state or other authority including the Rhode Island Department of Environmental Management licenses shall be procured prior to planting.

3) The minimum size of plant material at the time of planting shall be as follows:

Shade trees: 1" – 1 ½" caliper (Deciduous)

Multi-stem trees: 4' – 5' in height (Hawthorn, crape myrtle, etc.)

Evergreen trees: 4' – 5' in height (Pinus, magnolia, etc.)

Evergreen shrubs: 2 ½' – 3' in height (including eleagnus, abelia, etc.)

4) Planting plans shall show plant pit size, back fill material used, planting and staking details.

D) Maintenance

The owner or owners of any junkyard shall maintain the screening established initially, doing such painting and repairs to keep any fences, walls or other structural material in good appearance. Plant material shall be watered, cultivated, or mulched, and given any required maintenance including spraying for insect control, to keep the planting in a good healthy condition. Dead plant material will be removed immediately and shall be replaced during the next spring or fall planting season following death. The replacement plants shall be at least as large as the initial planting.

E) Extension of Junkyards Screened by the Department

The owner or owners of any junkyard lawfully in existence on May 6, 1966, and which has been screened from view of the highway by the Department may not extend the deposit of junk beyond such screening so as to be visible from the main traveled way of the highway. Any such extension shall be screened by owner at his own expense and such screening shall be subject to these rules and regulations. Piling of junk above planned height of screening established by the Department is prohibited.

VI. MAINTENANCE OF NONCONFORMING JUNKYARDS

A) The right to continue a nonconforming junkyard is not confined to any one individual or corporation so using the land. Thus, a nonconforming junkyard may be sold, leased, or otherwise transferred without affecting its status.

B) The nonconforming junkyard may continue as long as it is not extended, enlarged, or changed in use. Once a junkyard has been made conforming, the placement of junk so that it may be seen above or beyond a screen, or otherwise becomes visible, shall be treated the same as the establishment of a new junkyard.

C) The right to maintain a nonconforming junkyard shall be terminated if, for a period of three (3) months, the property is void of junk, or if, for a period of six (6) months, there is no additional junk placed on the site and no existing junk removed from the site.

VII. NONCOMPLIANCE

The Department shall inspect all junkyards periodically to insure that they are being operated in accordance with applicable rules and regulations pertaining to junkyard control, and shall require that fences or plant material be maintained in such a manner as to accomplish the objective of these rules and regulations. If the inspection discloses that the junkyard is being operated in violation of these rules and regulations, the owner shall be informed in writing, by registered mail, stating the violation and instructing him to make the necessary corrections with 30 days from the date of the letter.

If the owner fails to take corrective action within 30 days, copies of all pertinent information will be submitted to the Department's Office of Special Counsel with the request that they make application to the Superior Court for an injunction to abate the nuisance.

VIII. SEVERABILITY

If any section, clause, or provision of these Rules and Regulations shall be held either unconstitutional or ineffective, to the extent that it is not unconstitutional or ineffective it shall be valid and effective, and no other section, clause, or provision shall on account thereof be termed invalid or ineffective.

IX. EFFECTIVE DATE

These Rules and Regulations are hereby adopted by the undersigned on this _____ day of _____ A.D. 2001 and shall be effective twenty (20) days after filing a certified copy hereof in the Office of the Secretary of State.

_____, 2001

William D. Ankner, Ph.D.
DIRECTOR

CERTIFICATION

I certify that the foregoing is a true and exact copy of the Rules and Regulations of the Director of the Department of Transportation of the State of Rhode Island governing the Control of Junkyards located adjacent to the Interstate and Primary Highway Systems, pursuant to Chapter 24 – 14 of the General Laws of Rhode Island, 1956, as amended.

_____, 2001

William D. Ankner, Ph.D.
DIRECTOR

Revised: 12/01