

290-RICR-30-00-3

TITLE 290 - DEPARTMENT OF TRANSPORTATION

CHAPTER 30 - BUSINESS, PROPERTY OWNERS, AND THE PUBLIC

SUBCHAPTER 00 - N/A

PART 3 - Control of Junkyards

3.1 Authority

These rules and regulations are promulgated pursuant to the provisions of R.I. Gen. Laws Chapter 24-14 and 23 C.F.R. § 751.

3.2 Purpose

The purpose of these Rules and Regulations is to control the establishment, operation and maintenance of junkyards 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. .

3.3 Incorporated Materials

- A. These regulations hereby adopt and incorporate the American Nurserymen's Association "American Standard for Nursery Stock" (2014) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- B. These regulations hereby adopt and incorporate the American Joint Committee on Horticultural Nomenclature "Standardized Plant Names" (1923) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

3.4 Definitions

- A. For the purposes of these Rules and Regulations, the following terms shall have the following meaning:
 - 1. "Department" means the Department of Transportation of the State of Rhode Island.

2. "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.
3. "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 junkyard and the term shall include garbage dumps and sanitary fills.
 - a. "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.
 - b. "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.
 - c. "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.
4. "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.
5. "Municipality" means a city or town in the State of Rhode Island.
6. "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 Commerce, pursuant to the provisions of 23 U.S.C., Highways.
7. "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.
8. "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.

9. "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.10. "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

3.5 Responsibility for Screening and Fencing

- A. 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 this Part 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.
- B. The owner or owners or 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 along 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.
- C. The screening shall be located on the owner's land and not on any part of the highway right-of-way.
- D. The screen shall be in place prior to the time the junk is deposited.
- E. 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.
- F. Fences must be located in such a manner as to not be hazardous to the traveling public.
- G. The construction of fences shall be uniform and no patchwork type of construction shall be permitted.

- H. 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.

3.6 Acceptable Fencing Materials

- A. 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, brick, stone, or other suitable masonry material.
 4. Any other design of fencing constructed of other materials may be submitted for consideration.

3.7 Plant Material

- A. 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.
- B. The requirements for grading, ball size, etc. for specific nursery stock used should be in accordance with the American Nurserymen's Association's "American Standard for Nursery Stock," incorporated above at § 1.4(A) of this Part.
- C. Scientific and common names of plants shall be in conformity with the approved names in "Standardized Plant Names" prepared by the American Joint Committee on Horticultural Nomenclature, incorporated above at § 1.4(B) of this Part.
- D. Certificates of inspection of plant materials required by federal, state or other authority including any Rhode Island Department of Environmental Management licenses shall be procured prior to planting.
- E. The minimum size of plant material at the time of planting shall be as follows:

1. Shade trees: 1" – 1 ½" caliper (Deciduous)
 2. Multi-stem trees: 4' – 5' in height (Hawthorn, crape myrtle, etc.) Evergreen trees: 4' – 5' in height (Pinus, magnolia, etc.)
 3. Evergreen shrubs: 2 ½' – 3' in height (including eleagnus, abelia, etc.)
- F. Planting plans shall show plant pit size, back fill material used, planting and staking details.

3.8 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.

3.9 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.

3.10 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, if it becomes abandoned, worthless or its location is changed.

3.11 Noncompliance

- A. The Department shall inspect all junkyards periodically to ensure 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 this Part. 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.
- B. 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 Legal Counsel with the request that they make application to the Superior Court for an injunction to abate the nuisance.
- C. Failure to comply with this Part will result in the penalties prescribed in R.I. Gen. Laws § 24-14-9.

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