

## JUNK CAR BYLAW

Section 1. No person or entity, corporate or otherwise, as owner or as one in control of premises, shall keep in the open in any area of the Town of Chester more than one (1) unregistered vehicle or any junk automobiles as defined in the following section, without being licensed to do so under this by-law.

Section 2. For the purpose of this bylaw, a junk automobile shall be one which is worn out, cast off, or discarded and which is ready for dismantling or destruction, or which has been collected or stored for salvage, or for stripping in order to make use of parts thereof.

Section 3. A license to keep no more than one (1) junk automobile may be requested by filing with the Town Clerk an application in writing to the Board of Selectmen. The Board of Selectmen shall hold a public hearing upon such request, notice of which shall be given by publishing in a newspaper published or circulated in the Town of Chester fourteen days at least before the date of the hearing. The cost of publishing shall be paid by the applicant for the license.

Section 4. The Board of Selectmen may grant a license for not over one year, upon such conditions as the Board of Selectmen deems proper, to keep such junk automobiles in the open, after the public hearing has been held and the Board determines that the keeping of the same will not depreciate property values in the area or will not create a hazard to the public safety or will not become a public nuisance. Renewals of said license may be granted only after the procedure set forth is followed.

Section 5. Upon the filing with the Board of Selectmen of a petition signed by at least 10 legal residents of Chester asking for revocation of any license issued under this by-law the Board shall call a public hearing to review the conduct under said license. If the Board of Selectmen determines that the operation of the license under said license is such as to depreciate property values in the area, or creates a hazard to public safety, or constitutes a public nuisance, or otherwise constitutes a detriment to the public good, the Board may, by a majority vote, revoke said license, such revocation to be effective thirty (30) days after the date of said vote.

Section 6. The holder of a Class 1, Class 2, or Class 3 license as defined in MGL Chapter 140, Section 58 is exempt from the provisions of this by-law in respect to the premises specified in the license granted to him under Section 59 of said chapter.

Section 7. Any person of entity who violates this by-law shall be liable to a fine of fifty dollars (\$50) and each day of violation shall be a separate and distinct offense.

#### Section 8. Notice of appeal.

(1) Within 14 calendar days of service of a notice of violation and citation or a notice of violation and abatement, the landowner and/or the last registered owner of record of the vehicle may submit a written notice of appeal to the Appeals Examiner(s), who shall be appointed by the Selectmen.

(2) The appellant may appeal:

(a) Whether the issuing officer appropriately identified the vehicle as a junk vehicle; or

(b) Whether the last registered owner of record of the vehicle is appropriately being held responsible for the nuisance because said owner, in the transfer of ownership of the vehicle, has complied with applicable MGL, as now enacted, or hereafter amended.

(3) The notice of appeal must be in writing and received no later than 4:30 p.m. on the last day of the appeal period at the town clerk's office. If the last day of an appeal period falls on a weekend or legal holiday, the appeal period shall be extended until 4:30 p.m. the next business day. The notice of appeal shall include the following:

(a) A statement of the appellant's issue(s) on appeal.

(b) Signature, address, and telephone number of the appellant, and name and address of their designated representative, if any.

(c) Fifty-dollar (\$50) appeal fee.

#### Section 9. Notice of hearing.

(1) If the Appeals Examiner(s) receives one or more notices of appeal, the town clerk shall issue and serve a notice of hearing to the appellant(s) at least 15 calendar days prior to the date of the hearing on appeal. Requests from multiple parties concerning the same violation shall be consolidated.

(2) The notice of hearing shall contain the date, time, and location of the hearing; the name and telephone number of the Examiner(s); and whether the hearing will address the assessment and allocation of costs of abatement.

(3) The notice of hearing shall be served by mailing a copy of said notice to any party who filed a notice of appeal, the landowner, and the last registered owner of record of the vehicle unless it is in such condition that identification numbers are not available to determine ownership, at their last known addresses by certified mail, with a five-day return receipt requested. Proof of service shall be made by a written declaration by the person effecting the service, declaring the time and date of service and the manner by which service was made. For purposes of issuing and serving notice in this section, the term "landowner" shall be broadly defined to include not only the owner of real

property as shown on the last equalized assessment roll, but any other individual with possession or control of the property, if known to the Officer(s).

#### Section 10. Hearing.

(1) The appeal of a notice of violation and citation or a notice of violation and abatement shall be heard by the Hearing Examiner(s) as an appeal of an administrative decision.

(2) The hearing will address the allowable grounds of appeal as stated in the notice of appeal. If the Hearing Examiner(s) determines that multiple parties share responsibility for the nuisance, the Examiner(s) will allocate the assessment of costs of administration, removal, and disposal among the responsible parties.

(3) The owner of the property on which the junk vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing and deny responsibility for the presence of the vehicle on the property, with his or her reasons for the denial, pursuant to applicable MGL, as now enacted or hereafter amended.

#### Section 11. Order of the Hearing Examiner(s).

(1) The order of the Hearing Examiner(s) shall be served upon the person to whom it is directed, either personally or by mailing a copy of the order to such person at his/her last known address. Service by mail shall be deemed effective upon the third business day following the day of mailing.

(2) Proof of service shall be made by a written declaration of the person effecting the service, declaring the time and date of service and the manner by which service was made.

(3) The Hearing Examiner(s), in affirming the Clerk's notice of violation and abatement, may assess administrative costs or costs related to the abatement. The Hearing Examiner may also order the refund of fees to parties deemed not responsible for the violation.

(4) If it is determined at the hearing that the vehicle was placed on the property without the consent of the landowner and that he or she has not subsequently acquiesced in its presence, then the Hearing Examiner's order shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the landowner, pursuant to applicable MGL, as now enacted or hereafter amended.

#### Section 12. Appeal of Hearing Examiner's decision.

The appeal decisions of the Hearing Examiner as set forth in the order of the Hearing Examiner pursuant to this bylaw are final unless appealed by filing a request for an appeal in Hampden County District Court within 20 calendar days of service of the order of the Hearing Examiner, together with a filing fee in the amount required for the filing of a suit in District Court.

#### Section 13. Removal and disposal - Costs - Liens.

(1) After 45 calendar days have passed since service of the notice of violation and abatement and if no appeal has been filed, or after 20 calendar days have passed since service of the order from the Hearing Examiner resulting in authority to remove, the Officer may proceed with organizing the removal and disposal of the junk vehicle(s) thereof according to the provisions of applicable MGL, as now enacted or hereafter amended.

(2) Cost of removal may be assessed against the last registered owner of the junk vehicle if the identity of the owner can be determined, unless the owner, in the transfer of ownership of the vehicle, has complied with applicable MGL, as now enacted, or hereafter amended, or the costs may be assessed against the owner of the property where the junk vehicle public nuisance is located.

(3) The Tax Collector shall record a lien for abatement costs incurred by the town pursuant to a notice of violation and abatement under this bylaw, and all other related costs against the real property on which any of the work of abatement was performed, unless and to the extent that the landowner was not responsible in the order issued by the Hearing Examiner under this bylaw. The Tax Collector shall record such a lien within 90 calendar days from the date the work was completed, or the nuisance abated, whichever is later.

(a) The lien for abatement costs shall run with the property, shall be subordinate to all previously existing special assessment liens imposed on the same property, and shall be superior to all other liens, except for State and Town taxes, with which it shall be in parity, pursuant to applicable MGL, as now enacted or hereafter amended, and shall accrue interest at six percent per annum from the date of recording the lien until paid in full.

(b) The lien for abatement costs shall contain a reference to the notice of violation and abatement and/or order of the Hearing Examiner, a description of the property to be charged with the lien, the owner of record, and the total amount of the lien.

(5) Within 30 calendar days of full payment of all abatement costs assessed against the landowner, the Officer shall record a lien satisfaction with the Hampden County Registry of Deeds, or its successor agency. The satisfaction shall include a legal description of the property where the violation occurred.