

CHAPTER 43

JUNKYARDS ADJACENT TO THE INTERSTATE AND NATIONAL HIGHWAY SYSTEMS

Authority

N.J.S.A. 27:1A-5, 27:1A-6, 27:5E-1 et seq., particularly 27:5E-6.

Source and Effective Date

R.2005 d.217, effective June 10, 2005.
See: 37 N.J.R. 729(a), 37 N.J.R. 2554(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 43, Junkyards Adjacent to the Interstate and National Highway Systems, expires on December 7, 2010. See: 42 N.J.R. 1337(a).

Chapter Historical Note

Chapter 43, Junkyards Adjacent to the Interstate and Primary Highway Systems, was adopted as R.1979 d.499, effective December 26, 1979. See: 11 N.J.R. 468(a), 12 N.J.R. 94(b). Pursuant to Executive Order No. 66 (1978), Chapter 43 expired on December 26, 1984.

Chapter 43, Junkyards Adjacent to the Interstate and Primary Highways Systems, was adopted as new rules by R.1985 d.432, effective September 3, 1985. See: 17 N.J.R. 567(b), 17 N.J.R. 2144(a).

Pursuant to Executive Order No. 66 (1978), Chapter 43, Junkyards Adjacent to the Interstate and Primary Highway Systems, was readopted as R.1990 d.286, effective May 10, 1990. See: 22 N.J.R. 1061(a), 22 N.J.R. 1740(a).

Pursuant to Executive Order No. 66 (1978), Chapter 43, Junkyards Adjacent to the Interstate and Primary Highway Systems, was readopted as R.1995 d.229, effective April 6, 1995. As a part of R.1995 d.229, Chapter 43, Junkyards Adjacent to the Interstate and Primary Highway Systems, was renamed Junkyards Adjacent to the Interstate and National Highway Systems, effective May 1, 1995. See: 27 N.J.R. 644(a), 27 N.J.R. 1810(a).

Pursuant to Executive Order No. 66 (1978), Chapter 43, Junkyards Adjacent to the Interstate and National Highway Systems, was readopted as R.2000 d.90, effective February 9, 2000. See: 31 N.J.R. 4224(a), 32 N.J.R. 820(a).

Chapter 43, Junkyards Adjacent to the Interstate and National Highway Systems, was readopted as R.2005 d.217, effective June 10, 2005. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

16:43-1.1 Declaration of policy

The intent of this chapter is to effectuate the purposes of the New Jersey Junkyard Control Act, N.J.S.A. 27:5E-1 et seq., which are to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, and to foster the public policy of the State expressed by that Act, which is to regulate and restrict the establishment, operation, and maintenance of junkyards in areas adjacent to the interstate and national highway systems within the State; further, to ensure New Jersey compliance with section 136 of Title II of the Federal Highway Beautification Act of 1965, and the provisions of Title 23 of the Code of Federal Regulations, Part 751, Junkyard Control and Acquisition.

Amended by R.1995 d. 229, effective May 1, 1995.
See: 27 N.J.R. 644(a), 27 N.J.R. 1810(a).

16:43-1.2 Authority

(a) The Commissioner of Transportation is authorized pursuant to N.J.S.A. 27:5E-4 et seq. to:

1. Promulgate, after public hearing, regulations defining “unzoned industrial areas,” as that term is employed in the Junkyard Control Act;
2. Screen junkyards lawfully in existence on the effective date of the Junkyard Control Act (July 24, 1970) which are located within 1,000 feet of, and are visible from, any interstate or national highway system highway, and which are located outside of zoned and unzoned industrial areas, and to acquire such lands, or interests in lands, as may be necessary to provide adequate screening of such junkyards;
3. Promulgate rules and regulations governing the location, planning, construction and maintenance, including the materials used, in screening or fencing required by the Junkyard Control Act;
4. Determine whether the screening of a junkyard is feasible, and where such screening is not feasible, to pursue alternate control measures, including the relocation, removal, or disposal of such junk;
5. Acquire such interests in lands as may be necessary to secure the relocation, removal, or disposal of junkyards,

and to pay for the costs of relocation, removal, or disposal thereof;

6. Apply to the Superior Court, Chancery Division for an injunction to abate public nuisance created by junkyards which do not conform to the requirements of the Junkyard Control Act;

7. Enter into agreements with the United States Secretary of Transportation relating to the control of junkyards in areas adjacent to the interstate and national highway systems, and to take action in the name of the State to comply with the terms of such agreements; and

8. Comply with all applicable rules, regulations and guidelines of the Federal Government or any agency thereof, and more specifically those regulations and guidelines promulgated by the Federal Highway Administration in the Federal Aid Highway Program Manual, Volume 7, Chapter 6, Section 4 and codified in 23 C.F.R. Part 751, insofar as compliance with said rules, regulations and guidelines is a necessary condition for Federal participation in junkyard control projects authorized under N.J.S.A. 27:5E-1 et seq.

Amended by R.1995 d. 229, effective May 1, 1995.

See: 27 N.J.R. 644(a), 27 N.J.R. 1810(a).

Amended by R.2000 d.90, effective March 6, 2000.

See: 31 N.J.R. 4224(a), 32 N.J.R. 820(a).

In (a), inserted N.J.S.A. reference in the introductory paragraph, and deleted N.J.S.A. references in 1 through 8.

16:43-1.3 Definitions

The following words and terms when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Automobile graveyard” means any establishment or place of business which is maintained, used, or operated, for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Ten or more such vehicles will constitute an automobile graveyard.

“Commissioner” means the Commissioner of Transportation of the State of New Jersey.

“Department” means the Department of Transportation of the State of New Jersey.

“Industrial activities” means those permitted only in industrial zones, or in less restricted zones by the nearest zoning authority within the State, or prohibited by said authority but generally recognized as industrial by other 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 three months of the year;

4. Transient or temporary activities;

5. Activities not visible from the traffic lanes of the main traveled way;

6. Activities more than 500 feet from the nearest edge of the main traveled way;

7. Activities conducted in building principally used as a residence;

8. Railroad tracks, minor sidings, and passenger depots;

9. Junkyards, as defined in Section 136, Title 23, United States Code.

“Illegal junkyard” means a junkyard which is established in violation of the Junkyard Control Act, N.J.S.A. 27:5E-1 et seq.

“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 Commissioner of Transportation, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23 of the United States Code.

“Junk” means old or scrap metal, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof.

“Junkyard” means an 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 graveyard, and the term shall include garbage dumps and sanitary fills.

“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.

“National system” means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the Commissioner of Transportation, and approved by the United States Secretary of Transportation, pursuant to the provisions of Title 23 of the United States Code.

“Nonconforming junkyard” means a junkyard which does not comply with N.J.S.A. 27:5E-4 and which was either:

1. In actual existence on July 24, 1970, as distinguished from a contemplated use, except where a permit or similar specific governmental action was granted for

the establishment of the junkyard prior to July 24, 1970, and the junkyard owner in good faith expended funds in reliance thereon, or