

JUNKYARDS, MOTOR VEHICLE

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[HISTORY: Adopted by the Board of Trustees of the Village of New Berlin 7-10-67.
Amendments noted where applicable.]

GENERAL REFERENCES

Garbage and refuse -- See Ch. 49.
Littering -- See Ch. 55.
Property maintenance -- See Ch. 65
Vehicles and traffic -- See Ch. 85.

§ 53-1. Legislative intent.

A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants and the safeguarding of their material rights against unwarrantable invasion, and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the state and the general welfare of its citizens. It is further declared that the unrestrained accumulation of junk motor vehicles is a hazard to such health, safety and welfare of citizens of the state, necessitating the regulation, restraint and elimination thereof. At the same time, it is recognized that the maintenance of junkyards, as hereinafter defined, is a useful and necessary business and ought to be encouraged when not in conflict with the express purposes of this section.

§ 53-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

JUNKYARD, AUTOMOTIVE - Any place of storage or deposit, whether in connection with another business or

not, where two (2) or more unregistered, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of

disposing of the same or for any other purpose. Such term shall include any place of storage or deposit, for any such purposes, of used parts or waste materials from motor vehicles which, taken together, equal in bulk two (2) or more such vehicles; provided, however, that the term "junkyard" shall not be construed to mean an establishment having the facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron or steel or nonferrous scrap for sale for remelting purposes. only. **[Amended 2-28-77 by L.L. No. 6-1977]**

MOTOR VEHICLE - Any vehicle propelled or drawn by power other than muscular power, originally intended for use on public highways.

MUNICIPALITY--The Village of New Berlin, New York.

§ 53-3. License and certificate of approval required.

No person shall operate, establish or maintain a junkyard until he has obtained a license to operate a junkyard business and has obtained a certificate of approval for the location of such junkyard.

§ 53.4. Application for license and certificate.

Application for the license and the certificate of approved location shall be made in writing to the Village Board of the Village of New Berlin. The application shall contain a description of the land to be included within the junkyard.

§ 53-5. Hearing; notice.

A hearing on the application shall be held within the village not less than two (2) nor more than four (4) weeks from the date of the receipt of the application by the Village Board. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having a circulation within the municipality, which publication shall be not less than seven (7) days before the date of the hearing.

53-6. Conduct of hearing; matters to be considered.

At the time and place set for hearing, the Village Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junkyard. In considering such application, the Board shall take into account

the suitability of the applicant with reference to: his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junkyard; any record of convictions for any type of larceny or receiving of stolen goods; and any other matter within the purposes of this section.

§ 53-7. Location requirements.

At the time and place set for hearing, the Village Board shall hear the applicant and all other persons wishing to be heard on the application for a certificate of approval for the location of the junkyard. In passing upon the same, the Board shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.

§ 53-8. Aesthetic considerations.

At the hearing regarding the location of the junkyard, the Village Board may also take into account the clean; wholesome and attractive environment, which has been declared to be of vital importance to the continued general welfare of its citizens, by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection, the Village Board may consider, collectively, the type of road servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of the proposed junkyard to established residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junkyard

§ 53-9. Final determination; appeal.

After the hearing, the Village Board shall, within two (2) weeks, make a finding as to whether or not the application should be granted, giving notice of its finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect until the following April 1. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without a hearing, provided that all provisions of this chapter are complied with during the license period, that the junkyard does not become a public nuisance under the common law and that the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the governing body may be reviewed under Article 78 of the Civil Practice Law and Rules.

§ 53-10. Fees and costs.

The annual license fee shall be twenty-five dollars (\$25.), to be paid at the time the application is made and annually thereafter in the event of renewal. In the event that the application is not granted, the fee shall be returned to the applicant. The village, in addition to the license fee, may assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto and may make the license conditional upon payment of same.

§ 53-11. Fencing.

Before use, a new junkyard shall be completely surrounded with a fence at least eight (8) feet in height, which substantially screens, and with a suitable gate which shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than fifty (50) feet from a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junkyard except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts and all burning of same within the vicinity of the junkyard shall be accomplished within the enclosure. Where the topography, natural growth of timber or other considerations accomplish the purposes of this chapter, in whole or in part, the fencing requirements hereinabove may be reduced by the legislative body upon granting the license; provided, however, that such natural barrier conforms with the purposes of this chapter.

§ 53-12. Established junkyards.

For the purposes of this section, the location of a junkyard already established shall be considered approved by the Village Board and the owner thereof deemed suitable for the issuance of a license. Within sixty (60) days from the passage of this section, however, the owner shall furnish the Village Board with the information as to location which is required in an application, together with the license fee, and the governing board shall issue him a license valid until the next April 1, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this section, including the fencing requirements set forth in § 53-11 of this chapter.

§ 53-13. Proximity to places of public assembly;

Notwithstanding any of the foregoing provisions of this chapter, no junkyard hereafter established shall be licensed to operate if such junkyard or any part thereof shall be within five hundred (500) feet of a church, school, hospital, public building or place of public assembly.

§ 53-14. Penalties for offenses. [Amended 2-28-77 by L.L. No.6-1977]

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.