

# JUNKYARDS

## Chapter 128

# JUNKYARDS

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**§ 128-18. Penalties for offenses.**

[HISTORY: Adopted by the Board of Trustees of the Village of Vernon: Art. I, 6-30-1952 as Section 6.6 of Art. VI of the 1952 Code; Art. II, at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Section 128-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

**GENERAL REFERENCES**

Garbage, rubbish and refuse — See Ch. 114.  
Zoning — See Ch. 200.

**ARTICLE I****General Provisions**

[Adopted 6-30-1952 as Section 6.6 of Art. VI of the 1952 Code]

**§ 128-1. Location.**

No person shall establish or operate a yard for the purchase, sale or storage of junk, used automobiles, trucks or the parts thereof within the corporate limits of the Village of Vernon unless such yard is located in a zone where such establishments are expressly permitted by the zoning chapter of this Code.<sup>1</sup> All such yards shall be operated subject to the terms and conditions which the Board of Trustees shall from time to time establish.

**§ 128-2. License required; fee.<sup>2</sup>**

Each owner or operator of such a yard shall be required to obtain an annual permit, to be known as a "junk dealer's license." The cost of such license is hereby fixed at the sum of twenty-five dollars (\$25.) per year or major fraction thereof.

<sup>1</sup> Editor's Note: See Ch. 200, Zoning.

<sup>2</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ARTICLE II  
**Junked and Abandoned Motor Vehicles**  
**[Adopted at time of adoption of Code<sup>3</sup>]**

**§ 128-3. Purpose.**

- A. This Article is enacted in recognition of the fact that junk cars abandoned or stored on private property can constitute both a public and private nuisance. They, amongst other sources of potential injuries, are a source of potential injury to children and others who may find them an attractive nuisance; they are oftentimes replete with broken glass, sharp and torn metal edges and points, gasoline fumes, gasoline remaining in tanks of a highly explosive and combustible nature and hurtful acid in batteries. Junk cars constitute a blight on the village's landscape; they destroy the aesthetic qualities of the village and they are generally otherwise unsightly. Their existence tends to depreciate not only the property on which they are located but also the property of other persons in the neighborhood and the village generally. They constitute the village a less safe and less pleasant place in which to live and to do business. The control of the storage of junked motor vehicles outdoors on privately owned property, as well as abandoned vehicles on privately owned property, is, therefore, a necessity for the preservation, safety and welfare of the community. The intent of this Article is to establish a procedure for the control and timely removal of these junked and abandoned motor vehicles where they are found in the village outside duly licensed establishments.
- B. With increasing frequency, vehicles which are not roadworthy have been licensed with the apparent intent to avoid the requirements of this Article. As a result, vehicles which are not roadworthy and which are physically unattractive and detrimental to the health and well-being of residential areas are being retained upon residential property contrary to the purpose expressed at the time of the enactment of this Article. It is the purpose of this amendment to indicate with certainty that the retention of motor vehicles on residential property must be for the purpose of eventual use and enjoyment of said

<sup>3</sup> Editor's Note: See Ch. 1, General Provisions, Art. I.

vehicles upon the highways of the State of New York and not simply to avoid the time or expense of removal. It is further the purpose hereof to encourage the owners thereof to commence repair, renovation and removal of dangerous articles from their premises to promote the general health and well-being desired in the Village of Vernon.

#### § 128-4. Definitions.

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

**ABANDONED MOTOR VEHICLE** — The same definition as that contained in § 1224 of the Vehicle and Traffic Law of the State of New York, as now or hereafter amended.

**ENFORCEMENT OFFICER** — The individual designated by the Board of Trustees to investigate and commence action upon violation of this Article. Such individual shall be the Code Enforcement Officer or a police officer of the village unless the Board of Trustees, by resolution, designates some other or additional officer.

**JUNK MOTOR VEHICLE** — Any motor vehicle that is unlicensed and is not in condition for legal use on the public highway or is licensed or unlicensed and is dismantled or partly dismantled and which is being used for the purpose of resale as a whole or as used parts therefrom or for purposes of reclaiming for use some or all of the materials therein for the purpose of disposing of the same or is in such condition as to cost more to repair and place in operating condition than its reasonable market value at the time before such repair or does not display a current New York State inspection sticker applicable to said vehicle.

**JUNKYARD** — Any place of storage or deposit, whether in connection with another business or not, where one (1) 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 one (1) or more such vehicles; provided, however, that the term "junkyard" shall not be construed to mean an establishment using facilities for processing iron, steel or nonferrous scrap for sale or remelting purposes only.

**MOTOR VEHICLE** — All vehicles propelled or drawn by power other than muscular power, originally intended or constructed to be for use on public highways.

**OWNER OF MOTOR VEHICLE** — Any person, firm, partnership or corporation having the primary interest in or title to a motor vehicle, including a person entitled to the use and possession of a vehicle, subject to a security interest in another person, and also including any lessee or bailee of a motor vehicle having the use thereof under lease or otherwise.

**OWNER OF PRIVATE PROPERTY** — Any person, firm, partnership or corporation, whether business or membership or religious, charitable or otherwise, or any purchaser, tenant, lessee, occupant, undertenant, receiver or assignee of private premises or private property or any other unit or entity owning real property in the Village of Vernon.

**PERSON** — Any individual person or persons, firm, partnership or corporation, whether business, membership, religious, charitable or otherwise, or any association or other unit or entity owning or occupying real property in the Village of Vernon.

**PREMISES or PROPERTY** — Includes all parcels of privately owned real property located within the boundaries of the Village of Vernon, whether occupied or vacant, irrespective of size or topography.

**§ 128-5. License and approval of location required for junkyard.**

No person shall operate, establish or maintain a junkyard in the Village of Vernon until:

- A. He has obtained a license to operate a junkyard business.
- B. He has obtained a certificate of approval for the location of such junkyard.

**§ 128-6. Application for license and approval.**

Application for the license and the certificate of approved location shall be made, in writing, to the Village Board of the Village of Vernon, and the application shall be accompanied by a certificate from the Zoning Board of Appeals of the Village of Vernon that the proposed location is not within an established district restricted against such use or otherwise contrary to the prohibitions of Ch. 200, Zoning. The application shall contain the legal description of the land to be included within the junkyard.

**§ 128-7. Hearing.**

A hearing on the application shall be held within the Village of Vernon not less than two (2) nor more than four (4) weeks from the date of the receipt of the application by the Village Board of said Village of Vernon. 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 Village of Vernon, which publication shall be not less than fifteen (15) days before the date of the hearing.

**§ 128-8. Considerations for determination.**

At the time and place set for the hearing, the Village Board of the Village of Vernon 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, it 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, to any record of convictions for any type of larceny or receiving of stolen goods and to other matters within the purposes of this section.

**§ 128-9. Aesthetic considerations.**

At the hearing regarding location of the junkyard, the Board of Trustees of the Village of Vernon 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 Board of Trustees of the Village of Vernon 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.

**§ 128-10. Issuance or denial of license; appeal.**

After the hearing the Board of Trustees of the Village of Vernon shall, within two (2) weeks, make a finding as to whether or not the application should be granted, giving notice of its findings 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 hearing, provided that all provisions of this Article are complied with during the license period, the junkyard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Board of Trustees of the Village of Vernon may be reviewed under Article 78 of the Civil Practice Law and Rules.

**§ 128-11. License fees.**

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. In addition to the license fee, the Board of Trustees of the Village of Vernon shall 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 shall make the license conditional upon payment of the same. The applicant shall pay the estimated advertising costs at the time the application is made.

**§ 128-12. Fencing requirements.**

- A. Before use, a new junkyard shall be completely surrounded with a fence at least eight (8) feet in height which substantially screens the enclosed materials 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 to 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. All burning of such motor vehicles and parts and other junk shall be confined to the hours between sunrise and sunset, except on Sundays, when no burning shall take place. Stacking and piling of such motor vehicles and parts and other junk shall not exceed eight (8) feet in height.
- B. Where the topography, natural growth of timber or other considerations accomplish the purposes of this Article in whole or in part, the fencing requirements hereunder may be reduced by the Board of Trustees of the Village of Vernon upon granting the license; provided, however, that such natural barrier conforms to the purposes of this Article.

**§ 128-13. Established junkyards.**

For the purposes of this Article, the location of junkyards already established shall be considered approved by the governing board of the municipality where located and the owner thereof deemed suitable for the issuance of a license. Within sixty (60) days from the passage of this Article, however, the owner shall furnish the Board of Trustees the information as to location which is required in an application, together with the license fee, and the Board of Trustees 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 Article, including the fencing requirements set forth above.

**§ 128-14. Location restrictions.**

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

**§ 128-15. Outdoor storage on private property.**

It shall be unlawful for any person within the Village of Vernon to store or deposit, or cause, suffer or permit to be stored or deposited, a junked or abandoned motor vehicle, or part or piece thereof, on any private property within the Village of Vernon without a license to do so, unless:

- A. Such motor vehicle is stored or deposited in a completely enclosed building or reinforced covering which completely obscures the same from view.
- B. Such motor vehicle is under repair, reconstruction or refurbishing by the owners thereof, who must actually be residing on the premises. Not more than one (1) such motor vehicle shall be permitted at any one time on any premises. Such motor vehicle must be so maintained and protected as to not create any safety hazard or nuisance to surrounding property owners and shall not remain on the premises more than ninety (90) days unless the owner thereof has obtained an

extension from the Zoning Board of Appeals, for good cause shown, upon a petition thereto.

- C. Such motor vehicle is temporarily stored on the premises of a duly authorized motor vehicle service station or a body repair shop within the village or is in the inventory or part of the inventory of a new or used motor vehicle dealer or a duly licensed junk dealer located in compliance with the laws and ordinances of the Village of Vernon.

### § 128-16. Removal procedures.

Any junked or abandoned motor vehicle, as defined herein, shall be removed from the premises on which it is located by the Village of Vernon in the manner hereinafter provided:

- A. Notice to remove. The enforcement officer, upon detecting an abandoned or junked motor vehicle, shall serve written notice on the person owning the premises on which the same is located, ordering such person to remove the same or cause the same to be removed therefrom within ten (10) days of the date of service of said notice. Such notice shall be served personally or upon a person of suitable age and discretion residing upon the premises and/or, failing the above, by registered mail to the owner's last known address, as shown on the latest completed assessment roll of the village, if the owner. Such notice shall specify the vehicle to be removed and shall also indicate the appeal procedure specified in Subsection B hereof. The current assessment roll shall be presumptive evidence of the ownership of any parcel of land upon which junked or abandoned vehicles are detected.
- B. Appeal of notice. The owner of any premises who receives notice to remove junked or abandoned motor vehicles may petition the Zoning Board of Appeals of the village for a hearing. Such petition shall be filed with the Clerk of the Village of Vernon within ten (10) days of the date when service of the notice on the owner is complete. The filing of such petition shall stay removal proceedings, pending hearing and determination of the petition by the Zoning Board of Appeals, which shall notify the owner of the premises of its decision in

writing. If the decision of the Zoning Board of Appeals affirms the notice of the enforcement officer, the owner of the premises shall remove the designated vehicle(s), within five (5) days of the date of such decision. The Zoning Board of Appeals shall also have the discretion to grant extensions for the removal of cited vehicle(s) and/or may specify additional conditions under which said vehicle(s) may be retained upon the premises.

- C. In the event said junked or abandoned motor vehicle or vehicles are not removed from the premises within the time required in Subsection A or B above, the Village of Vernon or its agent may enter upon the premises and remove and dispose of the junked or abandoned motor vehicle or vehicles. The expense of such removal and disposal shall be a lawful charge against the owner and occupant of the premises and may be collected, if necessary, in a civil action instituted in the name of the village.

#### § 128-17. Disposition of vehicles.

The provisions of § 1224 of the Vehicle and Traffic Law of the State of New York shall govern removal and disposition of abandoned motor vehicles.

#### § 128-18. Penalties for offenses.

Any person committing an offense against the provisions of this Article shall be guilty of a violation pursuant to the provisions of the Penal Law and, upon conviction thereof, shall be punishable for each offense by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both.

The following information was obtained from a review of the files of the [redacted] and [redacted] and is being furnished to you for your information. It is to be understood that this information is being furnished to you in confidence and is not to be disseminated outside of your office.

[redacted] was born on [redacted] at [redacted] and is currently residing at [redacted]. He is a [redacted] and has been employed by [redacted] since [redacted].

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