

## CHAPTER 15

### JUNK DEALERS AND JUNK YARDS

#### §15.1 Application of chapter

This chapter shall apply to every person who shall be engaged in business as a junk dealer as hereinafter defined.

#### §15.2 Legislative intent

A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Village 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 Village and the general welfare of its inhabitants. The outdoor storage of junked motor vehicles and other waste material is detrimental to the health, safety and general welfare of the Village. Such storage also endangers the person and property of members of the community, since fuel tanks of junked automobiles containing gasoline or gasoline fumes may easily explode and the accumulation of waste material unless regulated can cause serious fire and safety hazards and the harboring of vermin.

#### §15.3 Definitions

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Junk dealer" shall mean any person who shall carry on the business of buying, selling, storing or processing any of the articles enumerated in §15.4 at a junk yard as defined in the next paragraph.
2. "Junk yard" shall mean in addition to the definition contained in §30.4(34) of this Municipal Code any place of storage or deposit, whether in connection with another business or not, where junked motor vehicles and waste material are bought, sold, stored, dismantled, processed for salvage or otherwise handled for any other related purpose.

#### §15.4 License required

No person shall engage in or conduct the business of junk dealer within the Village of Avon either for himself or for and on behalf of any other person directly or indirectly as agent, employee or otherwise either for profit at wholesale or retail, which involves the collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging for sale, resale, storage or disposal or otherwise of bodies, engines, or parts of junked motor vehicles, or of any other second hand or used property of whatever material it is composed or any waste material whether composed of wood, paper, cloth, cardboard, plastics,

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metals, stone, cement or otherwise without first obtaining a license therefor as hereinafter provided, but no license shall be required of persons buying, storing, repairing and selling second hand automobiles as complete units.

**§15.5        Application for license**

**A.        Information required.**

Each applicant for a license hereunder shall execute under oath an application therefor to be supplied to him by the Village Clerk which shall contain the following information:

1.        The name, address and age of the applicant.
2.        Whether he has ever been convicted of a felony or misdemeanor and, if so, the Court, date of conviction and sentence prescribed.
3.        A description of the exact type of business he intends to conduct, the nature of the materials he intends to handle.
4.        The number of employees he intends to engage.
5.        The name and address of the owner or owners of the land and the nature of the right of occupancy of the applicant to the use of such land.
6.        Such other information that may be required by the Board of Trustees.
7.        Such application shall be signed and sworn to before a Notary Public or other officer authorized to administer oaths.

**B.        Map or plan.**

At the time of making the application the applicant shall submit to and file with the Village Clerk a map or plan of the real property upon which he intends to conduct the activity or business for which he is making application for a license hereunder with the area of such real property which it is proposed to use for such purpose, the location of the fence required hereunder indicated thereon as well as the location of any buildings on such land and the location of any streets or highways abutting or passing through such land and the location of any water, sewer or gas mains or laterals available thereto as well as the general drainage pattern of such land.

**C. Agreement to comply with regulations.**

**In the application the applicant shall agree that, if granted the license applied for, he will conduct the activity or business pursuant to the regulations hereinafter set forth and that upon his failure to do so such license may be revoked forthwith.**

**D. Bond.**

**Such application shall be accompanied by a bond to the Village of Avon, approved as to form by the Village Attorney in the penal sum of Five Thousand Dollars (\$5,000.00) with sufficient surety or sureties or sufficient collateral security, conditioned for due observance during the term of the license of any and all provisions of this chapter and Municipal Code which are now in force or may hereafter be adopted by the Board of Trustees respecting the collection, buying, selling or otherwise dealing in articles enumerated in §15.4.**

**§15.6 Issuance of license**

**Upon the filing of the application and the bond as provided in the preceding section, the Licensing Officer may, upon approval of such application after investigation thereof, and of such bond as to sufficiency of surety or sureties or collateral security, and the payment to the Village of the license fee hereinafter provided, issue to the applicant a license to engage in business as provided in §15.4. No license shall be refused except for a specific reason and for the protection of public safety, health, welfare or morals. All licenses shall state clearly the location of the junk business, the date of issuance and expiration of the license and the name and address of the licensee. No applicant to whom a license has been refused shall make further application until a period of at least six (6) months shall have elapsed since the last previous rejection unless he can show that the reason for such rejection no longer exists. Any license granted hereunder shall not be deemed to waive any provision of the Village Zoning Law.**

**§15.7 License Fee**

**Every junk dealer as defined in §15.3 shall pay an annual license fee of Seventy-Five Dollars (\$75.00) for each established place of business. All licenses shall be issued as of April first and shall continue in force until April first next succeeding the date of issuance thereof, unless sooner revoked by the Board of Trustees. Each junk dealer while exercising his license shall exhibit the same whenever requested to do so by a police officer or other official of the Village. No license shall be used by any person other than the original licensee, and any holder of such license who permits it to be used by any other person and any person who used such license granted to any other person, shall be guilty of a violation of this chapter. Whenever a license shall be lost or destroyed without fault on the part of the holder or his agent or employee a duplicate license in lieu thereof under the original application and bond may be issued by the Licensing Officer in his discretion.**

**§15.8        Regulations****A.        Licensee to be responsible.**

The licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.

**B.        Office and employees.**

The licensee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others.

**C.        Fencing.**

Notwithstanding any other provision of this Municipal Code, every junk yard shall be completely surrounded with a fence at least eight (8) feet in height which substantially screens by and opaque permanent material and with a suitable gate which shall be closed and locked except during the working hours of such junk yard 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 junked motor vehicles and waste material stored or deposited by the applicant shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of the business. All processing and dismantling shall be accomplished within the enclosure.

**D.        Fire lanes.**

Inside and adjacent to and contiguous with such fence a strip of land at least twelve (12) feet in width shall be kept free of all dry grass or other growth or other combustible material so as to provide a fire lane or line around the whole area where the activity or business of the licensee is being conducted.

**E.        Burning prohibited; location of material.**

No materials shall be burned. The junked motor vehicles, parts and materials dealt in by the licensee shall be piled or arranged in neat rows so as to permit easy, clear passage through the area. Open storage of junked motor vehicles and other waste material shall be separated by twelve (12) foot lanes at least every fifty (50) feet in width and seventy-five (75) feet in depth and shall not be stored closer than twelve (12) feet in any building or structure. Access roads and lanes shall be adequately graded and drained to prevent seasonal flooding and shall be covered with crushed stone or washed gravel of a minimum depth of six (6) inches sufficient to support emergency vehicles.

**F. Fire protection.**

There shall be maintained at each such place of activity or business for which a license is issued at least one (1) fire extinguisher of approved design and capacity for each forty thousand (40,000) square feet of area. Each such fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.

**G. Sanitary facilities.**

Suitable sanitary facilities shall be available, connected to approved public sewers or septic tanks, for the use and convenience of the employees of the licensee as well as the general public visiting the area.

**H. Access to Village officials.**

Police officers, the Licensing Officer or any member of the Board of Trustees or any of its representatives and in particular the Zoning Enforcement Officer shall be granted access to the area of the activity or business of the licensee at all reasonable hours to inspect the same for compliance herewith.

**I. Standards of performance.**

1. **Noise.** It shall be unlawful for any junk yard to permit the emission of measurable noises, as measured at the individual property lines of the junk dealer, to exceed seventy (70) decibels during the period between 7:00 a.m. and 8:00 p.m., or sixty (60) decibels during the period between 8:00 p.m. and 7:00 a.m. The sound level may exceed these established sound levels for a period not to exceed six (6) months during any sixty (60) minute period by not more than seven (7) decibels. Noises shall be muffled so as not to become unreasonably offensive due to intermittence, beat frequency, high frequency or other means.

2. **Odor.** It shall be unlawful for any junk dealer to permit the emission of any odor that is unreasonably offensive as measured at the individual property lines of the junk yard.

3. **Dust and dirt.** It shall be unlawful for any junk dealer to permit or cause the escape of such quantities of soot, cinders or fly ash as to exceed three tenths (0.3) grains per cubic foot of flue gases at a stack temperature of five hundred (500) degrees F. when measured at the top of the stack. Other kinds of dust, dirt and other particulate matter shall not be in excess of eight tenths (0.8) grains per cubic foot of air as measured at the top of the stack and corrected to standard conditions, provided that if the top of the stock is one hundred (100) feet or more above the finished grade, the amount of particles of not more than ten (10) microns in size, if any, may be increased to an amount not in excess of three tenths (0.03) (H/100) grains

per cubic foot, corrected to standard conditions, when H is the height of the top of the stack above the finished grade.

**4. Vibrations.** It shall be unlawful for any junk dealer to permit it or use, as a result of normal operations, a vibration which creates a displacement of plus or minus three thousandths (0.003) of one (1) inch as measured at the property line.

**5. Noxious gases.** It shall be unlawful for any junk dealer to permit the escape of such quantities of noxious acids, fumes or gases in such manner and concentration as to endanger the health, comfort or safety of any person, or to cause or have a tendency to cause injury or damage to property, business or vegetation.

**6. Glare.** It shall be unlawful for any junk dealer to carry on a process such that a direct or sky reflected glare, whether from floodlights or from high temperature process such as combustion or welding or other such process, is unreasonably offensive when visible at the property line. No lighting of signs or buildings shall be allowed unless it is of such low intensity or brilliance and at such a location as not to cause glare or impair the vision of the driver of any motor vehicle.

**7. Radioactive materials.** It shall be unlawful for any junk dealer to permit the emission of such quantities of radioactive materials, in any nature whatsoever, as to be unsafe under standards established by the United States Bureau of Standards.

**8. Fire and safety hazards.** All buildings, operations, storage, waste disposal, etc. shall be in accordance with applicable provisions of the Fire Prevention Code designated in Chapter 55 of this Code.

**9. Smoke.** It shall be unlawful for any junk dealer to permit the emission of any smoke from any source whatever, as measured to the individual property line, of a density greater than, or equal to, that density described as No. 2 of the Ringlemann Chart, as published by the United States Bureau of Mines; provided, however, that the emission of smoke shall be unlawful if it is unreasonably offensive despite its apparent lack of density when measured by the Ringlemann Chart.

**10. Vermin control.** Grounds, buildings and waste material shall be maintained free of insect, vermin and rodent harborage and infestation. The junk dealer shall conduct monthly rodent control measures adequate to control any rodent harborage; or more frequently if directed by the Zoning Enforcement Officer.

**11. Methods of analysis. Standard methods of collection and chemical analysis, or any method approved by the United States Bureau of Standards, shall be used in the application of these standards.**

**§15.9        Restrictions**

**A. No junk dealer shall carry on the business at or from any other place than the one designated in the license therefor. Nor shall he continue to carry on business after such license has been revoked or has expired.**

**B. No junk dealer shall purchase any article enumerated in §15.4 from any minor under the age of sixteen (16) years or from any person or persons who, he has reason to believe, is not the owner of the article offered for sale or at any time except during regular business hours.**

**C. No person licensed under the provisions of this chapter shall, during the continuance of such license use, exercise or carry on the business or trade of a pawn broker nor shall any pawn broker receive a license under the provisions of this chapter.**

**D. No license as junk dealer shall be granted to any person who shall have been convicted of a violation of this chapter within five (5) years of the date of application; or who shall have been a member of an association or an officer of a corporation which shall have been so convicted; also any person who shall have been convicted of a felony or of knowingly receiving stolen goods or a member of any association or partnership or an officer of any corporation which shall have been so convicted.**

**§15.10 Revocation of license**

**The Board of Trustees may, at any time, for such cause as it upon investigation deems sufficient, revoke any license granted under the provisions of this chapter. Whenever any license shall be so revoked, no refund of any unearned portion thereof shall be made and no license shall be granted to any person whose license has been so revoked within a period of five (5) years from the date of such revocation. Notice of such revocation and the reason or reasons therefor in writing shall be served by the Village Clerk upon the person named in the application by mailing the same to the address given in the application, and upon filing a copy of such with the Village Clerk. Before making such notice, however, the Board of Trustees shall notify the junk dealer in writing of the grounds upon which a revocation is contemplated and the opportunity to be heard at a public hearing to be held not later than thirty (30) days from the date of the notice of intention.**

**§15.11 Duties of junk dealers****A. Keeping of records.**

Every junk dealer shall keep, in such form as the Chief of Police may prescribe, and written in ink or indelible pencil, a daily record of all articles purchased, the name, residence, age and occupation of the person from whom each article was purchased, and the name of the employer, if any, of such person; also the day and hour of such purchase and the price paid. The records shall be open to inspection at all reasonable times by any Police Officer or other authorized official of the Village. No entry of such record shall be changed, erased, obliterated or defaced.

**B. Reports to Police Department.**

Every junk dealer, upon being served with a written notice so to do, by an officer of the Police Department, shall report to the Chief of Police, on blank forms to be furnished by the Police Department, an accurate description of all goods, articles or things purchased or received by him in the course of business as a junk dealer at such time and during such period of time specified in the notice, stating the amount paid for and the name, residence and general description of the person from whom such goods, articles or things were received.

**C. Lost or stolen goods.**

If any goods, articles or things whatsoever shall be advertised in any newspaper having general circulation in the Village as having been lost or stolen, and the same, or any answering the description advertised or any part or portion thereof, shall be or come into the possession of any junk dealer, he shall give information thereof in writing to the Chief of Police, and state from whom the same was received. Any junk dealer who shall have or receive any goods, articles or things lost or stolen, or alleged or supposed to have been lost or stolen, shall exhibit the same on demand to any Police Officer or other official of the Village.

**§15.12 Enforcement Officer**

The Zoning Enforcement Officer shall enforce this chapter and he and any of his subordinates or agents shall be granted access to any junk yard and all areas therein within the control of the junk dealer at all reasonable times, upon exhibiting proper credentials.



**§15.20 Penalties**

**Each violation of any provision of this chapter shall constitute a violation pursuant to the Penal Law. However, in no case shall the fine imposed exceed Two Hundred Fifty Dollars (\$250.00).**

**Historical Note**

**Chapter 15 was replaced by Local Law #1 of 1978.**

**References:**

**Aesthetic reasons.**

**Municipality may enact regulations for aesthetic reasons as long as they are "reasonably related to the community policy sought to be implemented, and are not unduly oppressive." People v Goodman, 31 NY2d 262,266**

**Fees, power to impose. Stat Loc Govt §10(5)**

**Junk dealers.**

**keeping property in separate piles. Gen Bus L §63**

**purchasing property from child. Gen Bus L §63-a**

**State licensing provisions. Gen Bus L §60**

**Junk yards, automobile, regulation of. Gen Mun L §136**