

This chapter is a new chapter in the General Code.

Town of Coxsackie

Chapter 130, JUNK STORAGE

§ 130-1. Title.

This chapter may be known and cited as the "Junk Storage Local Law."

§ 130-2. Statement of purpose and findings.

The outdoor storage of junk on privately owned property within the Town of Coxsackie is detrimental to the health, safety and general welfare of the community. Junk storage constitutes an attractive nuisance to children and may imperil their safety. Junk storage, particularly junk vehicles endangers the person and property of members of the community, since such vehicles are often replete with broken glass, sharp and rusted metal edges, highly combustible or explosive gasoline or fumes, and corrosive battery acid; and such vehicles tend to result in the growth of weeds and tall grass, the accumulation of debris, and the breeding of insects, vermin, and rodents. Such storage is unsightly and depreciates property values. The control of the outdoor storage on privately owned properties within the Town of Coxsackie is therefore regulated for the preservation of the health, safety and general welfare of the community.

§ 130-3. Definitions.

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

ABANDONED MOTOR VEHICLES -- The intent of the owner of a motor vehicle not to use it on the public highways shall establish it as abandoned. The intent of the owner shall be determined by all relevant facts, including but not limited to any one of the following: the physical condition of the motor vehicle, any statements as to its abandonment, the length of time since the motor vehicle was last used on public highways, and whether the motor vehicle is currently registered. With respect to a motor vehicle not required to be registered or motor vehicles not usually used on public highways, the intent of the owner shall be determined by the physical condition of the motor vehicle, the length of time since it was last used for the purposes intended and any statements as to its abandonment, and other relevant facts. The statement of the owner or person in control that he does not intend to abandon the vehicle, by itself, without a showing of willingness and ability to repair, register or make the vehicle ready for lawful use, shall not defeat a finding that the vehicle is abandoned.

DISCARDED MOTOR VEHICLE -- Any motor vehicle which the owner thereof, as established by the surrounding circumstances, does not intend to recover the possession of, or any motor vehicle whose owner cannot be found after due and reasonable inquiry.

GARBAGE – All putrescible animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including container in which packaged.

JUNK – Worn out or discarded material of little or no value, including but not limited to a junk appliance, junk motor vehicle, junk appliance, or garbage, rubbish and debris.

JUNK MOTOR VEHICLE -- Any motor vehicle in such condition as to cost more to repair and place in operating condition than the reasonable market value before such repair, or which is impractical to repair due to the age or condition of the vehicle.

MOTOR VEHICLE -- Every vehicle originally designed and intended to be operated, drawn or driven, or capable of being operated, drawn or driven, upon a public highway by any power other than muscular power. For the purposes of this chapter, the term "motor vehicle" shall include but not be limited to automobiles, trucks, buses, motorcycles, trailers, snowmobiles and all-terrain vehicles.

OWNER OF MOTOR VEHICLE -- A person, firm or corporation having the property 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 -- A person, firm or corporation being the owner, contract purchaser, tenant, lessee, occupant, undertenant, receiver or assignee of private premises or private property located within the Town of Coxsackie.

PREMISES OR PROPERTY -- Includes all parcels of real property privately owned, situated in the Town of Coxsackie, whether occupied or vacant.

UNREGISTERED MOTOR VEHICLE -- Any motor vehicle which may be registered with the State of New York and is not currently registered. The fact that a motor vehicle which may be registered with the State of New York does not display a current license plate or displays an expired license plate shall be presumptive evidence of the fact that such motor vehicle is not currently registered.

§ 130-4. Outdoor storage prohibited.

A. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of property within the Town of Coxsackie, to store or deposit, or

cause or permit to be stored, deposited, placed or maintained outdoors, any junk, clutter, litter and debris on any private property within the Town of Coxsackie, excluding a single junk motor vehicle.

- B. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of property within the Town of Coxsackie to use a bus, uninhabited mobile home, truck, truck trailer, horse trailer, semi-trailer, tank truck, or similar vehicles or units for the storage of junk on any premises. Exceptions shall be made for the temporary use of such vehicles or units for construction purposes for periods of less than ninety (90) days or when actively used in the connection with active farming or agricultural operations.
- C. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of any private property within the Town of Coxsackie, to store or deposit, or cause or permit to be stored or deposited thereon, any unregistered motor vehicle unless:
 - (1) Such motor vehicle is the inventory or part of the inventory of a new or used motor vehicle dealer located in compliance with the ordinances and local laws of the Town of Coxsackie; or
 - (2) Such motor vehicle is a camping, house or boat trailer otherwise stored and used in compliance with the local laws and ordinances of the Town of Coxsackie.

§ 130-5. Exceptions.

- A. Section 130-4 shall not apply to the storage or placement on the premises for the following:
 - (1) Wood intended for consumption in a wood burning stove, furnace or fireplace located in a building on the premises.
 - (2) A single junk motor vehicle
 - (3) Lawn or yard or garden ornaments and implements.
 - (4) Lawn and patio furniture.
 - (5) Operable farm, garden and yard machinery and apparatus used on the premises.
 - (6) Standing fences.
 - (7) Hoses and sprinklers used for watering lawns or gardens.

- (8) Storage or placement and accumulation of materials in connection with a commercial operation duly conducted on the premises where such storage, placement and accumulation is expressly permitted by the laws of the Town of Coxsackie.
- (9) Construction materials and equipment used for the construction or renovation of a building on the premises for which a building permit has been issued.

§ 130-6. Notice of violation.

- A. If the provisions of the foregoing sections are believed to be violated, the Code Enforcement Officer shall serve a written notice, either personally, by regular mail, or by posting conspicuously at the premises, upon the owner, occupant or person having charge of such private property, to comply with the requirements of this chapter. The Code Enforcement Officer may determine ownership of any parcel of land in the Town of Coxsackie from the current assessment roll of the Town and may serve written notice upon the owner thereof by mailing such notice to the owner at the address listed on the current assessment roll. If the Code Enforcement Officer is unable to determine the ownership or address of the owner of said private property, such notification may be made by publishing same once in the official newspaper of the Town.
- B. The notice shall be in substantially the following form:

To the owner, occupant or person having charge of land within the Town of Coxsackie briefly described as follows:

(here describe subject property)

NOTICE IS HEREBY GIVEN that the above-described property in the Town of Coxsackie is in violation of the Junk Storage Law. This violation must be removed therefrom within five days from the date of this notice; provided, however, that if this notice is served on you by publication, said violation shall be removed within 30 days from the date of publication of this notice.

§ 130-7. Violations.

- A. Failure to remove the junk storage within the periods prescribed above is a violation of this chapter.
- B. All motor vehicles shall be removed at the owner's expense. Any person, firm or corporation who shall resist or obstruct the duly authorized agents, servants, officers and employees of

the Town of Coxsackie in the removal and disposal of a motor vehicle by order of the Town Court of the Town of Coxsackie shall be subject to the fines and penalties provided herein.

§ 130-8. Penalties for offenses.

Violations of this chapter shall be punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both.

This chapter is a new chapter in the General Code.

Town of Coxsackie

Chapter 132, JUNKYARDS

§ 132-1. Legislative intent.

A clean, wholesome, attractive environment is declared to be important 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 chapter.

§ 132-2. Definitions.

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

JUNKYARD -- Any place of storage or deposit, whether in connection with another business or not, where two 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 or more such vehicles; provided, however, the term "junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

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

MUNICIPALITY -- The Town of Coxsackie.

§ 132-3. 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.

§ 132-4. Application for license and certificate.

Application for the license and the certificate of approved location shall be made in writing to the Town Board where it is proposed to locate the junkyard and the application shall be accompanied by a certificate from the Planning Board that the proposed location is not within an established district restricted against such uses or otherwise contrary to the prohibitions of Chapter 201, Zoning. The application shall contain a description of the land to be included within the junkyard.

§ 132-5. Hearing; notice.

- A. A hearing on the application shall be held in the Town of Coxsackie not less than two nor more than four weeks from the date of the receipt of the application by the Town Board.
- B. 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 Town of Coxsackie, which publication shall be not less than seven days before the date of the hearing.

§ 132-6. Review of application.

At the time and place set for hearing, the Town 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, 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 conviction for any type of larceny or receiving of stolen goods and to any other matter within the purposes of this chapter.

§ 132-7. Location requirements.

At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junkyard. In passing upon same, it 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.

§ 132-8. Aesthetic considerations.

At the hearing regarding location of the junkyard, the governing 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 Town Board may consider collectively the type of road servicing the junkyard or from which the junkyard may be seen, the nature 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.

§ 132-9. Grant or denial of license; appeals.

After the hearing, the Town Board shall, within two 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 first. 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 chapter 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 governing board may be reviewed under Article 78 of the Civil Practice Law and Rules.

§ 132-10. License fees.

The annual license fee as set forth by the town of Coxsackie in the Fee Schedule shall 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 Town Board, 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.

§ 132-11. Fences; natural barriers.

- A. Before use, a new junkyard shall be completely surrounded with a fence at least eight 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 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.

- B. Where the topography, natural growth of timber or other considerations accomplish the purposes of this chapter in whole or in part, the fencing requirements hereunder may be reduced by the legislative body, upon granting the license; provided, however, that such natural barrier conforms to the purposes of this chapter.

§ 132-12. Compliance required for existing junkyards.

For the purposes of this chapter, the location of junkyards already established shall be considered approved by the Coxsackie Town Board and the owner thereof deemed suitable for the issuance of a license. Within 60 days from the passage of this chapter, however, the owner shall furnish the Town Board the information as to location which is required in an application, together with the license fee, and the Town Board shall issue him a license valid until the next April first, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this chapter, including the fencing requirements set forth in § 132-11 of this chapter.

§ 132-13. Required distance from certain buildings.

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

§ 132-14. Penalties for offenses.

Any person, firm or corporation who shall violate any of the provisions of this chapter shall, upon conviction, be guilty of an offense punishable by a fine not exceeding \$100, and each week that such violation is carried on or continues shall constitute a separate violation.