

City of Barre
Chapter 9 – JUNKYARDS
#2020-02

The City Council of the City of Barre, Vermont will hold a second reading and public hearing on Tuesday, June 30, 2020 at 7:15 P.M. in the City Council Chambers to discuss the following revision to the Code of Ordinances, Chapter 9 – Junkyards, as follows:

The City Council of the City of Barre hereby ordains that the Code of Ordinances of the City of Barre, Vermont is hereby amended by revising Chapter 9 – Junkyards, to read as follows:

Note: **Bold/Underline indicates additions**
~~[brackets/Strikeout indicates deletions]~~

Chapter 9 – Salvage Yards

Sec. 9-1. Authority.

Under the Authority granted in 24 V.S.A. §2291 and the Council of the City of Barre hereby ordains the following civil ordinance pertaining to salvage yards, junk and junk motor vehicles.

Sec. 9-2. Purpose.

The purpose of this ordinance is to protect, preserve and promote the health, safety and welfare of all citizens of the City of Barre through the establishments of enforceable standards for the regulation of salvage yards, accumulation of junk and junk motor vehicles under this ordinance.

Sec. 9-3. Applicability.

Unless specifically exempted in this Ordinance, all salvage yards within the City of Barre require local, state and federal permits and approvals in accordance with this Ordinance.

Sec. 9-4. Relationship with Other Laws or Regulations.

- a. If any provision of this Ordinance is more restrictive than any other law or regulation, the provision of this Ordinance will apply and take precedence.**
- b. If any provision of another law, regulation or code is more restrictive than this Ordinance, the provision of this Ordinance will be superseded and the more restrictive provision shall apply.**

Sec. 9-5. Severability.

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

Sec. 9-6. Effective Date.

Amendments to this Ordinance shall be effective fourteen (14) calendar days after the adoption (by majority vote of City Council) and shall remain in effect until repealed or amended in accordance with the Barre City Charter (Sec. 107 and 108).

Sec. 9-~~1~~7. Definitions.

- a. Abandon: means to leave without claimed ownership for 30 consecutive days or more.**
- b. Camping Unit: means any camper, travel trailer, RV, motor home, pop-up camper, cabin, lean-to, tent, etc.**
- c. Household Appliance: meaning includes but is not limited to any water pump, power tool, clothes washing machine, clothes dryer, dishwasher, refrigerator, stove, range or similar.**
- d. Junk: Old or discarded scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or motor vehicle parts.**
- e. Junk Motor Vehicle: means an unusable, discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or motor vehicle parts; a motor vehicle other than an on-premise utility vehicle which is allowed to remain unregistered or uninspected for a period of 90 days. It also means a camping unit not placed for storage, not connected to the city water/sewer system and does not meet the standards found in the Barre City Unified Development Ordinance for Camping as an Accessory Use.**
- f. Motor Vehicle: means any usable vehicle or conveyance propelled or drawn by power other than muscular power, including trailers, used to transport people, animals, goods or materials. Functional vehicles and equipment used for construction operations are excluded from this definition.**

A single, usable, but either unregistered and/or uninspected motor vehicle, or a single, unusable motor vehicle is permitted, and must conform to the Barre City Chapter 21 – Regulations of Vehicles Permitted on Private Property.
- g. Outdoor Storage: means the keeping of any merchandise, goods, materials, vehicles, equipment, junk or waste in an unenclosed area and in the same place for more than**

24 hours. This definition excludes a repair service or contractor's yard, provided they meet the Barre City Unified Development Ordinance.

h. Salvage Yard: formerly known as a junkyard, is defined as [~~A "junkyard" shall include any business and any~~]place of storage or deposit, **that is maintained, operated or used** [~~whether~~]in connection with [~~another~~]business **for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility.**

A Salvage Yard is also any place of outdoor storage or deposit of materials not in connection with a business, that is maintained or used for the storing or keeping junk [~~or not, where discarded or waste materials which include one or more of the following items, i.e., old paper, rags, glass, wood, or metals any or all of which shall~~] equal in bulk to one **(1) cubic yard** [~~tøn~~] or more; **any junk motor vehicle; or** two (2) or more unusable motor vehicles **that are either or both uninspected or unregistered for at least 12 months, and are visible from any portion of a traveled way** [~~or parts of motor vehicles, the sum total of which parts shall equal in bulk two (2) or more motor vehicles, none of which items are considered usable for the purpose intended in their manufactured or original state, and all or part are displayed to the public view and are collected or held or kept for the purpose of using parts thereof in furtherance of anyone's business, or offered for sale in whole or in part for any purpose~~].

i. Traveled Way: means any portion of a public highway designed for the movement of a motor vehicle, contiguous to the traveled portion of the roadway.

j. Unusable: a motor vehicle that cannot be used because it is broken or unsafe.

Sec. 9-8. Requirements.

a. No salvage yard may be within 500 feet of any park, playground, place of worship, school or municipal building, or other places of public gatherings and must comply with all applicable Unified Development laws.

b. It shall be unlawful to place, discard, or abandon junk or junk motor vehicles anywhere visible from the traveled way of a highway or town road, or abutting landowner. Any item(s) so placed, discarded or abandoned is hereby declared a public nuisance.

c. It shall be unlawful to place, discard, or abandon junk or junk motor vehicles upon the land of another with or without the consent of the owner, when such items are visible from the traveled way of a highway or town road, or abutting landowner. Any item(s) so placed, discarded or abandoned is hereby declared a public nuisance.

d. Any person or business wishing to operate a salvage yard within the City of Barre must obtain a Certificate of Approved Location from the City Council, prior to applying for a State of Vermont Agency of Natural Resources Salvage Yard Permit (required).

1. Certificate of Approved Location: an application for a Certificate of Approved Location shall be made in writing to the City Council through the City Manager. Said application shall contain the following:

- i. A description of the land to be included within the salvage yard, which shall be by reference to so-called permanent boundary markers.**
 - ii. A certificate from the Development Review Board that the proposed location is not within an established district restricted against such uses or otherwise contrary to the Unified Development Ordinance. The procedures to be followed after this application is made are those specified in 24 V.S.A. Chapter 61, Subchapter 10 *Salvage Yards* (24 V.S.A. §2251-2256, as from time to time amended).**
- 2. State Salvage Yard License: The procedures for obtaining a salvage yard license from the State of Vermont Agency of Natural Resources are those specified in 24 V.S.A. §2261-2264, as from time to time amended.**
- e. Once the State Salvage Yard License is obtained, a City License is required.**
 - f. A Salvage Yard shall be effectively screened from public view by an artificial means such as a fence at least eight (8) feet in height. Said fence shall be used for screening purposes, and shall have a gate which shall be closed after business hours. Fencing shall be maintained neatly and in good repair, and shall not be used for advertising signs or other displays that are visible from the traveled way. Any junk or junk motor vehicles stored in the salvage yard shall be kept within the fenced enclosure, except while being transported to and from the yard. All wrecking or other work on the junk or junk motor vehicles shall be accomplished within the fencing. Failure to provide screening as required herein shall be considered a violation of this Ordinance.**
 - g. All other applicable local, state and federal regulations as required must be complied with. Local requirements include but are not limited to a Council Approved Location Certificate, license, and zoning permit. State environmental regulations shall include but are not limited to stormwater management, hazardous waste management, solid waste management, wastewater and drinking water regulations, water quality and wetland regulations, and air pollution control regulations. Federal EPA laws and regulation may also apply.**

Sec. 9-[2]9. License-- Required; [fee]Fee.

No[A] person shall not establish a new, or enlarge a current salvage yard[junkyard or business, unless he shall first obtain approval therefor from the council. A license shall be necessary, notwithstanding the approval or lack of approval for the existence of such a business by the board of adjustment] without the application and payment of a City license fee through the City Clerk's office. All salvage yards require an annual license. Salvage yard licenses will be

reviewed for renewal yearly by the City Council. [Upon the issuance of the license, the licensee shall pay a fee to the city treasurer, and annually thereafter on the first of February of each year.]The fees for **new or renewed license** [the permit and annual renewal] shall be designated by the city council and upon adoption of the rates, the council shall publish [in the local newspaper] the rate change thirty (30) days prior to the effective date of the rate change. [The purpose of the fees shall be for paying the cost of periodic inspection of the premises where said business is maintained, which inspection shall be done by the zoning administrator.] (Ord. No. 1983-1, 1-13-83, Ord. No. 2005-1, 08-18-05)

Sec. 9-[3]10. [Same--]—License Application procedure; hearing by council.

- a. Upon receipt of an application for, **or renewal of** such license, the **city** council shall assign a day for hearing [thereon]to be held not less than two (2) nor more than four (4) weeks from the date **of acceptance of the application by the City Clerk's office** [thereof, at some designated place in the city.]
- b. Notice **shall be given by publication in a newspaper of general circulation in the City, or in such other manner of publication as acceptable in State law, at least once, together with a notice of the time and place when and where there will be a public hearing for consideration. The publication shall be** [-of hearing shall be given the applicant. Others shall be notified by publication in the Barre Daily Times or some other newspaper circulating within the city]not less than seven (7) days **prior to** [before] the date of **the public** [such] hearing. **The cost of the publication and any expenses related to the hearing may be borne of the applicant.**
- c. A license shall not be issued unless the **city** council [shall find]**finds**, after such hearing, that no unreasonable depreciation of surrounding property would ensue from the establishment, **continuation** or enlargement of such [junkyard or business] **salvage yard**, and **the applicant has obtained all necessary local and state permits and licenses.** [that in their judgement the best interest of the community requires the operation of such junkyard or business at the location designated. In awarding such license the council shall take into account applicable zoning laws, the proximity of schools, churches, or other places of public gathering, sufficiency in number of other similar places in the city, and the suitability of the applicant to receive such license. Each applicant shall pay the cost of publication and expenses of such hearing to the treasurer of the municipality upon receipt of notice of the total cost.]

Sec. 9-[4]11. Application Approval or Denial; Appeals.

[Any person aggrieved by the action taken by the council may appeal to the county court in the same manner as is provided for appeals from the decision of selectmen in laying out and discontinuing highways. Upon such appeal the court shall make such order in relation to the action appealed from as it may deem equitable.]

- a. **After the hearing the City Council shall, within 30 days, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant by mail, postage prepaid, to the address given on the application.**

- b. If approved, the Certificate of Approved Location shall be issued for a period not to exceed five years and shall contain at a minimum the following conditions:**
- 1. conditions requiring compliance with the screening and fencing requirements of Sec. 9-4(f) of this Ordinance;**
 - 2. approval shall be personal to the applicant and not assignable;**
 - 3. conditions that the City Council deems appropriate to ensure that considerations of 24 V.S.A. § 2254 Aesthetic, environmental, and community welfare considerations have been met;**
 - 4. any other condition that the City Council deems appropriate to ensure the protection of public health, the environment, or safety or to ensure protection from nuisance conditions.**
- c. Certificates of Approved Location shall be renewed thereafter for successive periods of not more than five years upon payment of the renewal fee without hearing, provided all provisions of this Ordinance are complied with during the preceding period, and the salvage yard does not become a public nuisance under the common law.**
- d. Any person may appeal the issuance or denial of a Certificate of Approved Location to the Environmental Division within 30 days of the decision.**

~~[Sec. 9-5. Violation; penalty.~~

~~A person who violates any provision of this ordinance shall be fined not more than one hundred dollars (\$100.00) and not less than ten dollars (\$10.00).]~~

Sec. 9-12. Enforcement, Penalty; appeals.

For the purpose of this ordinance, the property owner shall be considered the violator.

- a. Any junk and/or junk motor vehicle discovered in violation of this Ordinance shall be removed by owner of the land upon which it is discovered, regardless of who owns the junk, or the title to the junk vehicle(s).**
- b. Such notice shall be served as a written "Notice of Violation" to any person believed to be in violation of any provision of this Ordinance, and shall be recorded in the municipal land records.**
 - 1. Such Notice shall provide 30 days for removal of junk and/or junk motor vehicles; it shall list a compliance date for which the violation shall be cured. No fines or penalties shall be levied if the violation is corrected during this 30-day period to the satisfaction of the enforcement officer.**

- 2. The written warning shall be hand delivered or mailed by US First Class Mail, return receipt to the listed owner of the property. If the Notice cannot be delivered or return receipt is rejected, the Notice shall be posted in a conspicuous place on the property.**
- 3. When a Notice of Violation is cured to the satisfaction of the enforcement officer, the officer shall record an order of removal or cancellation in the municipal land records.**
- c. If, after the expiration of the above 30-day notice period to remove an illegally stored material, and the violator has not complied with the Notice to the satisfaction of the violation of this ordinance, a Municipal Complaint shall be issued and pursue enforcement before the Judicial Bureau in accordance with the provisions of 24, V.S.A., Sec. 1974a and 1977 as prescribed below.**

 - 1. First offense. A first offense of this ordinance shall be punishable by a fine of \$150.00. The waiver fine shall be \$100.00**
 - 2. Second and subsequent offenses. Any second or subsequent offenses of the same provision of the bylaws within a 12-month period shall be punishable by a fine of \$200.00. The waiver fine shall be \$150.00.**
 - 3. Each day that a violation continues after the initial seven (7) days' notice shall constitute a separate offense.**
 - 4. The Enforcement Officer may notify the City Attorney of the violations, who may then take action in Superior Court seeking injunctive relief with penalties as prescribed by law.**
 - 5. For the purposes of enforcement in the Judicial Bureau, the City's Code Enforcement Office shall be designated at the enforcement officer(s), and shall issue tickets any may be the appearing officer at any hearing.**
- d. If, after 60 days from the date of the Notice of Violation, the violation remains, the City of Barre or its designee shall undertake removal of the salvage material with cost of removal and or storage to be levied as an additional fine against violator.**
- e. An appeal of a Notice of Violation can be done by sending a written notice from the violator to the Chief Inspector, along with any documentation chosen to be sent.**

 - 1. Written notice of appeal shall be submitted to the Chief Inspector within ten (10) business days of the date of the Notice of Violation.**
 - 2. The Chief Inspector shall review the appeal and all related documentation and make a written determination within twenty (20) business days of receipt of an appeal;**

3. Any person aggrieved by any decision of the Chief Inspector may appeal a decision by instituting relief in Superior Court under V.R.C.P. 74.

ADOPTION HISTORY

- First Reading at regular City Council meeting held on Tuesday, June 2, 2020. Second Reading and Public Hearing set by Council for Tuesday, June 30, 2020.
- Summary of proposed language printed in Times Argus newspaper on Saturday, June 27, 2020.
- Second Reading and Public Hearing held on Tuesday, June 30, 2020. Adopted at regular City Council meeting held on _____ and entered in the minutes of that meeting which are approved on _____.
- Posted in public places on _____.
- Notice of adoption published in the Times Argus newspaper on _____.
- Effective _____.

Dated this _____ day of _____, 2020.

Carolyn S. Dawes
City Clerk/Treasurer