

JUNK ORDINANCE

AN ORDINANCE LICENSING AND REGULATING DEALERS BUSINESSES AND OTHER ACTIVITIES, RELATING TO THE COLLECTION, STORAGE OR SALE OF JUNK

Adopted June 5, 1962

SECTION 1. Legislative Intent and title.

By the adoption of this ordinance, the Town Board of the Town of Kirkwood declares its intent to license and regulate the activities of businesses commonly known as junkyard and automobile graveyards, including the use of lands and buildings in said town for the collection, storage or sale of used machinery, metal, paper rags, and, other used materials of whatever composition, including the processing thereof, in the interests of fire precaution and to further peace, good order and safety of persons and property in said town, and may be cited as the "Junk Ordinance of the Town of Kirkwood."

SECTION 2. Definitions. As used in this ordinance:

- a. The term "person" shall mean individual, association, partnership or corporation.
- b. The term "auto" shall mean passenger automobile, truck, tractor-truck, trailer, bus, motorcycle or other vehicle, however propelled, as well as tractors, and bulldozers, and related machinery and equipment.

SECTION 3. License required.

No person shall engage in or conduct on real property within the Town of Kirkwood, either for himself or on behalf of any other person, directly or indirectly, or otherwise, except as an employee in any business or activity, whether or not for profit, 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 autos, or of any other second hand or used property of whatever material it is composed or any waste material composed of wood, paper, cloth, cardboard, plastics, metals, stone, cement or otherwise, without first obtaining a license thereof as hereinafter provided.

SECTION 4. Application for license.

- a. An applicant for a license hereunder shall execute an application under oath, upon a form supplied by the Town Clerk, containing the following information:
 - (1) The age of the applicant;
 - (2) Whether applicant has ever been convicted of a felony or misdemeanor;
 - (3) The names of three electors of the Town of Kirkwood who can attest that applicant is a person fit and capable of properly conducting the activity or business for which the license is sought;
 - (4) A description of the nature of business applicant intends to conduct, including the materials he intends to handle.
 - (5) The number of persons he intends to employ; and
 - (6) The name and address of the owner of the land to be used by applicant in connection with such activity, and unless applicant is the owner, the nature of his right to use such land.

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- b. The applicant shall submit with such application a scale map or plan of the real property upon which the activity or business is to be conducted showing:
 - (1) The bounds of such real property including the dimensions thereof;
 - (2) The location of any buildings on such land;
 - (3) The location of any streets or highways abutting or passing through such land;
 - (4) The location of any water, sewer or gas mains or laterals; and
 - (5) The general drainage pattern of such land
- c. Such application shall contain an agreement that applicant will conduct the activity or business pursuant to the regulations hereinafter set forth, and that upon his failure to do so, his license may be revoked forthwith.

SECTION 5. Provisional license.

Any person engaged in or conducting a business or activity subject to regulation by this ordinance upon the effective date hereof shall apply for a license for such business or activity within 30 days after the effective date of this ordinance. Notwithstanding that the place where such person conducts said business or activity does not meet the requirements of this ordinance, such applicant shall be granted a provisional license for the balance of the calendar year in which issued, renewable only upon proof of compliance with all provisions of this ordinance; provided however, such provisional license shall be issued only upon showing that the applicant is otherwise a qualified person to engage in such business or activity.

If at the end of such year such person has not so arranged his place of such activity or business he shall forthwith cease and desist engaging in or conducting the same and shall remove from such place any autos, parts or other materials of the nature described herein.

If the person conducting such activity or business is not a sole owner thereof he shall state such fact at the time he applies for his temporary license and the Town Clerk at the time of issuing such temporary license shall send the owners or each of them a notice of the issuance of such temporary license to such person together with a copy of this ordinance.

SECTION 6. The license.

- a. Upon the issuance of such license, a fee in the sum of One Hundred Dollars (\$100.00) shall be paid by the licensee to defray the administrative costs thereof and the cost of inspecting the premises during the term of such license to insure compliance with this ordinance.
(Amended 9-6-05 by LL #7-2005)
- b. Such license shall be placed and at all times displayed in a conspicuous place at the licensee's principal place of conducting the business or activity for which it is issued.
- c. Such license shall be effective from the date of its issuance until the 31st day of December of the year of such issuance. Applications for renewal licenses shall be submitted in the December preceding the year for which such renewal license is sought and may be issued, either upon the applicant's reaffirmation of his original application and a statement showing any variations therein, or upon a new application as described in Section 4 of this ordinance.

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- d. Such license is personal with the licensee and cannot be sold, assigned, transferred or otherwise disposed of.
- e. Such license may be revoked by the Town Board after a public hearing thereon at which the licensee shall have an opportunity to be heard. Upon revocation of a license, the owner of the property upon which such business or activity was conducted shall properly remove all autos, parts and materials left upon the licensed premises.
- f. Where an applicant for a license as herein provided shall hold a valid license issued by the supervisor, pursuant to the provisions of Article 6 of the New York State General Business Law, then such applicant shall be allowed a credit of Five (\$5.00) Dollars upon issue of a license pursuant to this ordinance.

SECTION 7. Regulations.

- a. A licensee hereunder shall be personally responsible for the management of the business or activity for which the license is granted.
- b. 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 perimeter of the whole area where the activity or business of the licensee is being conducted. Additional fire lanes running from the front to the rear of the property at least twelve (12) feet each in width and not more than forty (40) feet apart shall be maintained by the licensee. These fire lanes may be used as drive ways by the licensee but must be kept open for the use of fire trucks and equipment if necessary.
- c. The autos, 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. Said autos, parts and materials shall not be stored within the twelve (12) foot areas mentioned in paragraph "b" above.
- d. There shall be maintained at each such place of business or activity for which a license is issued at least one (1) fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each such fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available for use.
- e. The licensed premises shall not be used as a dump area for the disposal of garbage or trash.
- f. No person shall set fire to or burn or cause to set fire to or burn any materials without first obtaining a permit from the Commissioner of Environmental Conservation of the State of New York.
- g. The licensee shall provide a motor vehicle parking space with necessary egress and ingress of at least 600 square feet adequate in size to accommodate customer's vehicles so that same need not be parked on the public streets and highways.
- h. Any state or municipal law enforcement officer or the town clerk or any member of the town board or any of its duly authorized representatives 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.

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SECTION 8. Violation of ordinance an offense; penalties therefor:

- a. A violation of this ordinance is an offense, punishable by a fine not exceeding one hundred dollars imprisonment for a period not to exceed fifteen days, or both.
- b. A civil penalty not to exceed one hundred dollars per day of violation.
- c. In addition to the above prescribed penalties, the Town Board may in its discretion revoke any permit previously issued after a public hearing at which the applicant shall have an opportunity to be heard, or in the alternative, may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with this ordinance by injunction, abatement or otherwise compel cessation of each violation, and obtain restitution to the Town for costs incurred by the Town in remedying each violation, including but not limited to reasonable attorney's fees.
(Amended May 4, 2004 by LL No. 16-2004)

SECTION 9. Repeal.

Any portions of ordinances, resolutions or regulations heretofore adopted in conflict with this ordinance are hereby repealed.

SECTION 10. Saving clause.

If any clause, paragraph, section or part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair, invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 11. Effective date.

This ordinance shall take effect ten (10) days after publication and posting thereof or immediately upon personal service, as provided by Section 133 of the Town Law.