

**Chapter 64****JUNKYARDS**

- § 64-1. Legislative intent.**
- § 64-2. Definitions.**
- § 64-3. License required.**
- § 64-4. License application; contents.**
- § 64-5. Fees; duration, transferability and revocation of license.**
- § 64-6. Regulations.**
- § 64-7. Existing businesses.**
- § 64-8. Penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 2-14-61. Section 64-8B amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]**

**§ 64-1. Legislative intent.**

By the adoption of this chapter, the Town Board of the Town of New Baltimore declares its intent in so doing to be to regulate, control and license the activities or businesses known as "auto graveyards," "junkyards," "secondhand parts collection areas," the "processing of used metals for resale" and the "dumping, storage and disposal of waste, secondhand or used materials" of whatever composition. Said Town Board hereby declares that such activities or businesses can constitute a hazard to property and persons and a public nuisance. Such materials may be highly flammable and sometimes explosive. Gasoline tanks on old autos often contain in some quantity combustible gasoline; the engine and other parts of such autos are frequently covered with grease and oil which is also flammable. The tires, plastic seats, tops and other elements of such autos are also flammable. Batteries and other elements of such autos can contain acids and other matter potentially harmful to humans. These autos frequently contain sharp metal or glass edges or points upon which a human could receive serious cuts and abrasions. These autos can constitute attractive nuisances to children and certain adults. The presence of such junkyards even in areas

zoned for business or industry is unsightly and tends to detract from the value of surrounding land and property unless such areas are properly maintained and operated.

### **§ 64-2. Definitions.**

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

AUTO - Passenger auto, truck, tractor-truck, trailer, bus, motorcycle or other vehicle, however propelled, as well as tractors, bulldozers, machinery and equipment.

PERSON - Any individual, an association, a partnership or a corporation.

### **§ 64-3. License required.**

No person shall engage in or conduct on real property within the Town of New Baltimore, either for himself or for and on behalf of any other person directly or indirectly as agent, employee or otherwise, any activity or business either for profit or otherwise, at wholesale or retail, which involves the collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging for sale, storage or disposal or otherwise of bodies, engines or parts of autos, or of any other secondhand or used property of whatever material it is composed or any waste material, whether composed of wood, paper, cloth, cardboard, plastics, metals, stone, cement or otherwise, without first obtaining a license therefor as hereinafter provided.

### **§ 64-4. License application; contents.**

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

- (1) That the applicant is over 21 years of age, that he is a citizen of the United States, whether he has ever been convicted of a felony or misdemeanor and such other facts or evidence as is deemed necessary to establish that he is a person fit and capable of properly conducting the activity or business for which the license is sought.

- (2) A description of the exact type of business he intends to conduct and the nature of the materials he intends to handle.
  - (3) The number of employees he intends to engage.
  - (4) 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.
- B. At the time of making the application, the applicant shall submit to and file with the Town 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 purposes, 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. 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 set forth in § 64-6 of this chapter and that, upon his failure to do so, such license may be revoked.

#### **§ 64-5. Fees; duration, transferability and revocation of license.**

- A. The fee for the license is hereby fixed in an amount set by the Town Board by resolution, which sum covers not only the cost of issuing the license itself, but also the cost of making the necessary inspections of the premises to ascertain compliance with the regulations hereinafter prescribed. **[Amended 5-8-2001 by L.L. No. 3-2001]**
- B. Such license shall be effective from the date of its issuance until the 31st day of December of the year of such issuance, after which a new application for a license must be made yearly if the licensee desires to continue such activity or business.
- C. Such license is personal with the licensee. It does not go with the title of the land, nor may it be sold, assigned, transferred or disposed of.
- D. 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 Town Board may require the removal

of autos, parts and materials left as above provided in the case of an applicant for a temporary license who fails to qualify for a license.

- E. In the event that an applicant for a license as provided herein shall have been duly issued a valid and effective junk dealer's license by the Supervisor of this Town, pursuant to the provisions of Article 6 of the New York State General Business Law, then such applicant shall be entitled to and allowed a credit against the above provided license fee in the amount of \$5, such junk dealer's license fee actually paid by such applicant; otherwise, this chapter shall be fully binding upon and applicable to the holder of any such junk dealer's license.

### **§ 64-6. Regulations.**

- A. The licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.
- B. 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. The licensee must erect and maintain a six-foot wire fence of close mesh or one made of wood or of other material, adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt in by the licensee, and if such area abuts a residential area or public street or highway, such fence shall be twenty-five (25) feet from the boundary line thereof. All the materials dealt in by the licensee shall be kept within such fence at all times.
- D. Inside and adjacent to and contiguous with such fence a strip of land at least ten (10) 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. The autos, parts and materials dealt in by the licensee shall be disassembled or dismantled by means other than by burning, except when it is done at a distance of three hundred (300) feet or more from any street or highway or adjacent property, and even in that event no burning of tires, tubes or other rubber substances shall be allowed or

permitted. They shall be piled or arranged in neat rows so as to permit easy, clear passage through the area.

- F. 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 fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.
- G. When the area is not supervised by the licensee or his employees, the fence shall be locked at a secure gate in a secure manner.
- H. 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.
- I. The area of the licensee's activity or business shall not be used as a dump area nor as a place for the burning and disposal of junk or trash.
- J. The town police, the Town Clerk or the Town Board or any of its 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.

#### **§ 64-7. Existing businesses.**

- A. A person presently engaged in or conducting an activity or business such as described herein on real property within the Town of New Baltimore must, within thirty (30) days after the effective date of this chapter, make an application to the Town Clerk of the Town of New Baltimore for a license, and at the same time must file a map or plan of the real property upon which he is conducting such activity or business.
- B. In the application, such applicant shall agree that, if granted the license applied for, he will conduct the activity or business pursuant to the regulations set forth in this section and that, upon his failure to do so, such license may be revoked.
- C. The special provisions provided in this section applicable to a person presently engaged in or conducting an activity or business as described hereinabove are personal, and they may not be enjoyed by any person to whom the licensee may transfer such business or

activity nor the land upon which it is situated by gift, sale, devise or otherwise, nor may such licensee make any substantial changes in the area or scope of such activity or business without complying with all the provisions of §§ 64-4 and 64-6 of this chapter.

- D. The fee for the license in the case of a person presently engaged in or conducting an activity or business such as is described herein shall be ten dollars (\$10.) annually, and all other provisions in relation to such license as are contained in § 64-5 hereof shall be applicable to such licensee.
- E. If the person conducting such activity or business is not the sole owner thereof, he shall state such fact at the time of making application to the Town Clerk as above provided, and the Town Clerk at the time of issuing a license to such person shall send the owners or each of them a notice of the issuance of such license to such person together with a copy of this chapter.
- F. Persons issued a license pursuant to this section shall operate their activity or business pursuant to the following regulations:
- (1) The autos, parts and materials dealt in by the licensee shall be disassembled or dismantled by means other than by burning, except when it is done at a distance of three hundred (300) feet or more from any street or highway or adjacent property, and even in that event no burning of tires, tubes or other rubber substances shall be allowed or permitted. They shall be piled or arranged in neat rows so as to permit easy, clear passage through the area.
  - (2) Inside and adjacent to and contiguous with the boundary lines of adjoining properties owned by others, a strip of land at least ten (10) feet in width shall be kept free from all dry grass or other growth or other combustible materials so as to provide a fire lane or line around the whole area where the activity or business of the licensee is being conducted.
  - (3) All materials handled or dealt in by the licensee shall be kept at a distance of not less than twenty-five (25) feet from the edge of any public street or highway on which it abuts.
  - (4) The area of the licensee's activity or business shall not be used as a dump area or a place for the burning and disposal of junk or trash.

**§ 64-8. Penalties for offenses.**

- A. The owner or licensee of any such place of business who commits or permits any acts in violation of any of the provisions of this chapter shall be deemed to have committed an offense against such chapter and also shall be liable for any such violation or the penalty therefor. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.
- B. For every violation of any provisions of this chapter, the person violating the same shall be subject to a fine of not more than two hundred fifty dollars (\$250.) or imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment.<sup>1</sup>
- C. Conviction for any above-mentioned violations shall constitute and effect an immediate forfeiture of this license.
- D. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the town in the amount of one hundred dollars (\$100.) for each offense. Such penalty shall be collectible by and in the name of the town for each day that such violation shall continue.
- E. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violations of such chapter.

---

<sup>1</sup> Amended at time of adoption of Code; see Ch. 1. General Provisions, Art. 1