

SUBCHAPTER 4: JUNK CONTROL

SUBCHAPTER 4: JUNK CONTROL**13.400 PURPOSE**

The purpose of this subchapter is to regulate the possession, storage, accumulation, parking, and placement of junk within the Town of Lyndon, in order to protect the environment, to protect land and property values, to protect the aesthetic beauty of the Town, to protect and promote the prosperity and economic well-being of the Town, and to protect and promote the public health, safety, general welfare, and good order of the Town.

13.401 DEFINITIONS

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them by this section. Any word, term, or phrase not defined below shall have the meaning provided by § 340.01 Wis. Stats.

Automobile Graveyard: The term “automobile graveyard” shall have the definition provided by §84.31(2) Wis. Stats. and all amendments thereto.

Construction Equipment: The term “construction equipment,” as used herein, shall mean and include all equipment commonly used to perform construction work including, but not limited to, the following: excavators, backhoes, scrapers, dozers, crawlers, trenchers, trucks, cranes, loaders, skid loaders, end loaders, forklifts, paving equipment, concrete equipment, compaction equipment, forestry equipment, graders, tankers, elevators, lifts, compressors, generators, pumps, welding equipment, and all similar equipment.

Farm Equipment: “Farm equipment” shall mean and include all equipment commonly used to perform work on a farm including, but not limited to, the following:

- (a) Tractors and all parts thereof;
- (b) Implements commonly drawn by a tractor, such as plows, planters, sprayers, hay bines, choppers, bailers, rakes, manure spreaders, and all parts thereof, and implements commonly affixed to a tractor such as hydraulic buckets, combines, power take offs, and all parts thereof;
- (c) Equipment which is self-propelled such as trucks, chemical sprayers, combines, skidsters, skid loaders, end loaders, dozers, excavators, and all parts thereof;
- (d) Equipment used to store, move, or deliver produce or feed, such as feeders, feeding troughs, augers, elevators, blowers, milking equipment, bulk tanks, and all parts thereof;
- (e) Equipment which was last used upon a farm; and
- (f) Equipment which is actually located upon a farm.

Junk: The term “junk” shall mean and include all of the following:

- (a) “Junk” as defined in §84.31(2) Wis. Stats. and all amendments thereto.
- (b) Items which are commonly discarded or thrown away by most people, but which may be used again in some form and are often collected by salvage yards and/or junk yards for resale.

Junk Construction Equipment: The term “junk construction equipment” shall mean all construction equipment which is not in operating condition. The phrase “not in operating condition,” as used herein, shall mean:

- (a) In the case of self-propelled equipment, equipment which can not be immediately started and operated for the purpose for which it was designed, without repair or without installation of a tire, battery, or other part; and
- (b) In the case of non-self-propelled equipment, equipment which can not be immediately used for the purpose for which it was designed, without repair or without installation of any part.

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A piece of equipment which is located outside and which has not been moved for more than 1 year is rebuttably presumed to be “not in operating condition.”

Junk Farm Equipment: The term “junk farm equipment” shall mean all farm equipment which is not in operating condition. The phrase “not in operating condition,” as used herein, shall mean:

- (a) In the case of self-propelled equipment, equipment which can not be immediately started and operated for the purpose for which it was designed, without repair or without installation of a tire, battery, or other part; and
- (b) In the case of non-self-propelled equipment, equipment which can not be immediately used for the purpose for which it was designed, without repair or without installation of any part.

A piece of equipment which is located outside and which has not been moved for more than 1 year is rebuttably presumed to be “not in operating condition.”

Junk Motor Vehicle: The term “junk motor vehicle” shall mean and include all of the following:

- (a) A “junk vehicle” as defined in §340.01(25j) Wis. Stats.
- (b) A motor vehicle which has been “junked” as defined in 340.01(25g) Wis. Stats.
- (c) A “salvage vehicle” as defined in §340.01(55g) Wis. Stats.
- (d) A motor vehicle which is not in operating condition. A motor vehicle is “not in operating condition” if, upon inspection, the vehicle can not be immediately started and legally driven upon a public highway by the inspector, without repair and without installation of a tire, battery, or other part. A motor vehicle which is located outside and which has not moved under its own power for more than 30 days is rebuttably presumed to be not in operating condition.
- (e) A motor vehicle which has been unlicensed for more than 90 days.

Junk Trailer: The term “junk trailer” shall mean a trailer which is not in operating condition. A trailer is “not in operating condition” if, upon inspection, the trailer can not be immediately hooked up to a motor vehicle and legally drawn upon a public highway by the inspector, without repair or without installation of a tire, tongue, or other part. A trailer which is located outside and which has not been moved for more than 1 year is rebuttably presumed to be not in operating condition.

Junked: The term “junked” shall have the definition provided by §340.01(25g) Wis. Stats. and all amendments thereto.

Junkyards: The term “junkyards” shall have the definition provided by §84.31(2) Wis. Stats. and all amendments thereto.

Municipality: The term “municipality” shall mean a Town, village, town, county, state, or any agency thereof.

Person or Entity: The terms “person” or “entity” shall mean and include a natural person, sole proprietorship, partnership, limited partnership, corporation, governmental entity, municipality, school district, limited liability company, or any other ownership organization recognized under Wisconsin law as having the power to conduct business.

13.403 **JUNK PROHIBITED**

No person or entity shall possess, store, accumulate, park, dump, or locate junk, junk construction equipment, junk farm equipment, junk trailers, junk motor vehicles, junkyards, or automobile graveyards, within the Town, except as provided in §13.405 below, or except as allowed by permit pursuant to §13.407 below.

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13.404 PRE-EXISTING ACCUMULATIONS

Pre-existing accumulations of items, which are subject to this ordinance, (i) shall not be increased or expanded, in number or geographic area, without a permit, and (ii) shall be brought into compliance with the provisions of this ordinance no later than two (2) years from the date of the adoption of this ordinance. Furthermore, one regulated item (e.g. a junk car) shall not be replaced with another regulated item (e.g. a different junk car), without a permit.

13.405 EXCEPTIONS

The following activities are allowed within the Town of Lyndon without a Permit:

- (1) **10 INDOOR ITEMS:** A person or entity may possess up to (but not exceeding) 10 items prohibited by this Ordinance, provided all such items are located entirely inside a completely enclosed structure.
- (2) **3 OUTSIDE ITEMS:** A person or entity may possess, outside of a completely enclosed structure, up to (but not exceeding) 3 items prohibited by this Ordinance, provided all such items are located in such a place as to be entirely invisible (i) from persons using the public highways, and (ii) from persons using adjacent neighboring land that is not owned by the person or entity which owns the land upon which the items are located.
- (3) **TRAVELING ITEMS:** A person or entity may possess items prohibited by this Ordinance (i) if such items are being transported through the Town, and (ii) if such items are only temporarily located in the Town for not more than 2 hours. Such items may not be unloaded and reloaded within the Town.

13.407 PERMITS FOR JUNK

A person may obtain a permit from the Town to possess, store, accumulate, park, dump, or locate junk, junk construction equipment, junk farm equipment, junk trailers, junk motor vehicles, junkyards, or automobile graveyards, within the Town of Lyndon, pursuant to the procedure and under the conditions prescribed herein.

13.408 APPLICATION FOR PERMIT

A written application for a permit shall be filed with the Town Clerk and shall contain the following:

- (1) The name, address, telephone number, and signature of the applicant(s).
- (2) The name, address, telephone number, and signature of all land owner(s).
- (3) The name, address, and telephone number of the intended operator(s).
- (4) The name and address of all property owners who own property adjacent to the property upon which the site will be located.
- (5) The address of the proposed site.
- (6) An aerial photograph of the proposed site, including all land within 1,000 feet of the site. (These photos can be obtained from the Juneau County Land Information Office).
- (7) A detailed description of the type of materials intended to be stored at the site, and a detailed plan of operation.
- (8) A statement describing the amount or number of items intended to be stored at the site.
- (9) A statement that the applicant and land owner shall comply with all Federal, State, County, and Town rules and regulations regarding the operation intended.
- (10) A copy of the permits and licenses received from the Federal, State, and County authorities, which authorize the proposed operation (e.g. a salvage yard license from the State; a junkyard license from the County; etc.).
- (11) Any other information which the Town Board deems necessary to properly review the application, e.g. proof of financial responsibility of the applicant, operator, and/or owner; a transportation impact study; an environmental impact study; and any other information deemed necessary.

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13.409 FEE

An application fee, in an amount established by separate resolution of the Town Board, shall be paid when the application is filed with the Clerk.

13.410 PUBLIC HEARING AND NOTICE

A public hearing on the application shall be conducted by the Town Board, no sooner than 30 days after filing of the application. Notice of the public hearing shall be posted and published by the Clerk as a Class 2 notice, and notice shall be mailed by the Clerk to all adjacent property owners at least 10 days before the public hearing.

13.412 STANDARDS OF REVIEW

The following issues shall be considered and addressed by the Town Board in deciding whether to issue a permit:

- (1) Whether the proposed operation on the proposed site complies with the Town's Zoning Ordinance.
- (2) Whether the proposed operation, in its proposed location and as depicted on the required site plan, will cause a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may exist in the future.
- (3) Whether the proposed operation will comply with the regulations set forth below.
- (4) Whether the proposed owner and operator have demonstrated the experience, knowledge, financial ability, and willingness to comply with the regulations set forth below.
- (5) Whether the potential public benefits of the proposed operation outweigh the potential adverse impacts of the proposed operation, after taking into consideration the Applicant's proposal, including the Applicant's suggestions to ameliorate any adverse impacts.
- (6) Whether the size and scope of the proposed operation is appropriate for the site.

13.413 DECISION

Within 60 days after the public hearing (or within an extension of said period requested in writing by the Applicant and granted by the Board), the Board shall issue a decision either (i) in the form of a written resolution, and/or (ii) in the formal minutes of its meeting. Its decision shall include formal findings of fact concerning the standards of subsection 8.13 above. In making its decision, the Board may take any of the following actions:

- (1) **APPROVE:** The Board may approve the application as proposed; or
- (2) **APPROVE WITH MODIFICATIONS OR CONDITIONS:** The Board may approve the application with such modifications and conditions as it deems necessary and appropriate after consideration of the purposes of this Ordinance, after consideration of the standards of review set forth above, after consideration of the regulations set forth below, and after consideration of the recommendations of citizens, experts, its own members, and any other source; or
- (3) **DENY:** The Board may deny the application.

The Board's approval, with or without modifications or conditions, shall be considered the approval of a unique request, and shall not be construed as precedent for any other similar application.

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13.414 EFFECT OF DENIAL

An application which has been denied (in whole or in part) shall not be resubmitted for a period of 12 months from the date of said denial, unless the Clerk first determines that either (i) substantial and material new evidence has arisen, or (ii) a substantial and material change of circumstances has occurred, regarding an issue which was relevant and significant to the prior decision to deny the application.

13.416 REGULATIONS

Any person or entity who wishes to apply for a permit or who receives a permit to possess, store, accumulate, park, dump, or locate items regulated by this Subchapter, shall comply with the following regulations:

- (1) No operation shall be conducted in such a way as to constitute a public or private nuisance.
- (2) No operation shall be conducted within 1,000 feet of any residence in existence when the operation is commenced, except the residence of the owner or operator of the operation.
- (3) No operation shall be conducted in a location which is visible from any residence in existence when the operation is commenced, except the residence of the owner or operator of the operation. Visibility may be controlled by natural vegetation and/or berms, but not by fencing or other artificial means.
- (4) No operation shall be conducted within 1,000 feet of any public highway or Town road in existence when the operation is commenced.
- (5) No operation shall be conducted in a location which is visible from any public highway or Town road. Visibility may be controlled by natural vegetation and/or berms, but not by fencing or other artificial means.
- (6) No operation shall be placed in a location and conducted in such a manner as to adversely affect the value of surrounding lands.
- (7) No operation shall be conducted in such a manner as to permit dust, dirt, debris, or other materials, substances, or odors to be carried by wind across the boundary of the parcel of land being used for the operation.
- (8) The operation shall comply with the Zoning Ordinance of the Town of Lyndon.
- (9) The operation shall comply with all Federal, State (e.g. 175.25 Wis. Stats), County (Ord. 9), and Town rules and regulations regarding the operation intended.
- (10) The operation shall obtain and maintain all permits and licenses required by the Federal, State, and County authorities, which authorize the proposed operation (e.g. a salvage yard license from the State; a junkyard license from the County; etc.).
- (11) No operation shall be modified, altered, or expanded beyond the terms and conditions of the permit, without prior approval by the Board.

13.417 BOND

The Town Board reserves the right to require the applicant, the owner, and/or the operator to post a bond, or other financial security, the conditions of which may include any of the following: that this ordinance shall be observed; that the plan of operation will be carried out; that if there is a violation of this Ordinance or if the operation plan is not carried out, all penalties, legal costs, and remediation expenses imposed hereunder shall be paid.

13.418 CHANGE OF OWNERSHIP

Permits shall run with the land. All requirements of a permit shall be maintained, regardless of ownership of the subject property. However, no permit may be transferred to a new owner without the express approval of the Town Board, which approval may be granted after the new owner complies with the procedure set forth above for new applicants.

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13.420 ENFORCEMENT AND PENALTIES

- (1) **REVOCATION:** Upon violation of this Ordinance, any permit issued hereunder may be revoked by the Town Board, pursuant to the following procedure. Written notice of the violation shall be filed with the Town Clerk and mailed to the permittee, along with notice of a hearing, which shall be scheduled not less than 20 days after mailing of the notice. The Town and the permittee may produce evidence and witnesses, cross-examine witnesses, and be represented by counsel. The Town Board shall consider the evidence and testimony, and then render a decision regarding whether this ordinance has been violated, and if so, whether the permit should be revoked. Nothing herein shall prevent or limit the Town's right to seek the other remedies provided herein, in addition to or in lieu of revocation of the permit.
- (2) **FORFEITURES:** Except as otherwise provided herein, any person or entity who shall violate any provision of this Ordinance shall, upon conviction thereof, be subject to the following forfeitures:
- (a) \$100 for the 1st day a violation occurs; and
 - (b) \$10 per day for each day the violation continues, without full and complete abatement, for the next 29 days (i.e. days 2 thru 30); and
 - (c) \$25 per day for each day the violation continues, without full and complete abatement, for the next 90 days (i.e. days 31 thru 120); and
 - (d) \$50 per day for each day the violation continues, without full and complete abatement, for the next 90 days (i.e. days 121 thru 210) ; and
 - (e) \$100 per day for each day the violation continues thereafter, without full and complete abatement (i.e. violations longer than 210 days).
- (3) **MONEY JUDGMENT AND EXECUTION:** Whenever any person or entity fails to pay any forfeiture, the Court, in lieu of imprisonment or in addition to imprisonment or after release from imprisonment, may do the following:
- (a) The Court may render a money judgment against the defendant in favor of the Town for such forfeiture, and said judgment may then be docketed and collected by the Town in any manner permitted by law; and/or
 - (b) The Court may issue an execution against the property of the defendant for the payment of such forfeiture and costs, pursuant to the procedures set forth in Chapter 815 of the Wisconsin Statutes.
- (4) **ABATEMENT OF VIOLATIONS:** In addition to any other penalty provided herein, the Town may seek the removal, prevention, and/or abatement of any violation of any provision of this Ordinance. Such remedies may be joined with any action seeking a forfeiture, or may be separately commenced and maintained. When any such remedy is sought, the Court may order, in addition to any forfeiture authorized herein, the removal, prevention, and/or abatement of a violation as follows:
- (a) By the violator at the violator's sole expense, and/or
 - (b) If the violator fails to remove, prevent, and/or abate the violation within the time limits established by the Court, then by the Town at the sole expense of the violator. If the Town incurs expenses in the removal, prevention, and/or abatement of any violation, the Town may collect said expenses by application to the Court for one or more of the following:
 - 1. The Court may impose upon the violator a new or additional forfeiture in the amount not to exceed the expenses incurred, and in default of payment of such forfeiture, the Court may imprison the violator in the county jail until such forfeiture is paid, but not exceeding 90 days; and/or

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2. The Court may issue an execution against property of the violator for such expenses pursuant to Chapter 815 Wis. Stats.; and/or
 3. The Court may render a money judgment against the violator in favor of the Town for such expenses, and said judgment may then be docketed and collected by the Town in any manner permitted by law.
- (5) **RESTITUTION:** In addition to any other penalty provided herein, the Court may order the payment of restitution for violations of this Code in conformity with § 943.24 and 943.50 Wis. Stats., and shall use the restitution procedures as provided therein.
- (6) **MULTIPLE VIOLATIONS:** Each violation and each day a violation continues or occurs, shall constitute a separate offense. Prosecution of two or more offenses committed by the same violator may be joined into one action, and the prosecution of two or more violators for the same offense may be joined into one action.

13.421 OTHER LAWS APPLICABLE

Nothing herein shall be deemed to limit or restrict the application of any Federal, State, or County law, ordinance, or rule regulating the subject of this Ordinance. Compliance with this Ordinance does not excuse compliance with all other applicable laws.

13.422 SEVERABILITY

Should any section, clause, or provision of this Ordinance be declared by a Court to be invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

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