

Chapter 103
JUNK, JUNKYARDS AND JUNK VEHICLES

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[HISTORY: Adopted by the Town Board of the Town of Henderson 7-14-1983. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste — See Ch. 130.

Zoning — See Ch. 150.

§ 103-1. Dumps and junkyards prohibited; exceptions; special permits.

Dumps and junkyards are hereby prohibited, except in areas so designated upon the Zoning Map of the Town of Henderson, and such designations shall occur only upon approval of the Town Board after public hearing, and any dumps and junkyards shall further be subject to the obtaining of a special permit from the Town Planning Board as set forth below.¹

§ 103-2. Definitions.

For purposes of this chapter, the following terms shall have the meanings indicated:

DUMPS — Property where garbage or discarded materials, equipment or personal property is stored or stockpiled.

GARBAGE — Any waste food, papers, dead animals or parts thereof, and all waste or discarded wood, lumber or vegetable matter of any kind or any other matter which shall be inflammable or combustible or capable of fermentation or decay.

JUNKYARD — As defined in the Highway Law of the State of New York.

MOTOR VEHICLES — As defined in the Vehicle and Traffic Law of the State of New York and are classified as follows:

A. **LICENSED MOTOR VEHICLE** — A vehicle currently licensed pursuant to New York State law or the laws of any other state of the United States.

¹ Editor's Note: See Ch. 150, Zoning.

- B. **OPERATIVE BUT UNLICENSED MOTOR VEHICLE** — A motor vehicle which is unlicensed, but mechanically operable, and which the owner thereof can establish through a bona fide garage repairman as capable of passing a State of New York motor vehicle inspection or which can be rendered operable and capable of passing such an inspection upon the expenditure of \$50 or less for repairs or modifications.
- C. **INOPERATIVE MOTOR VEHICLE** — A motor vehicle which is unlicensed and inoperative, whatever its vintage.
- D. **SPECIALTY MOTOR VEHICLE** — A motor vehicle, the principal use for which is dictated by a purpose other than transportation of people, such as historical motor vehicles and racing motor vehicles.
- E. **HISTORICAL MOTOR VEHICLE** — A motor vehicle manufactured more than 25 years prior to the current calendar year, which is used for participation in club exhibits, tours, parades and similar functions, and also for occasional transportation, but not used for general transportation.

OPEN STORAGE — Parking or leaving or knowingly permitting to be parked or left on private property, other than inside a building or approved enclosure, one or more motor vehicles for a period in excess of three days in continuous repose, or for a period in excess of seven days where the same parcel of private property is used primarily for overnight storage.

OWNER — An owner shall include the actual owner of a vehicle or personal property or the last registered owner of any vehicle and the owner of record of real property or the party assessed as owner thereof.

VIOLATOR — An owner or a person or corporation to whom exclusive possession of property has been demised by the owner, who violates or permits violation of the provisions of this chapter with property owned by him or upon property owned by him or over which he has the legal right to exclusive possession and control.

§ 103-3. Restrictions regarding motor vehicles.

Open storage of motor vehicles shall be permitted on any one parcel of private property shown on the Tax Map for the town, consonant with the following restrictions:

- A. Licensed motor vehicles. Unrestricted open storage is permitted, unless violative of one or more of the other provisions of this chapter, if done in such a manner as to not create a public nuisance.
- B. Operative but unlicensed motor vehicles (including specialty motor vehicles which are inoperative). Open storage is permitted of one such vehicle per Tax Map parcel for a period not to exceed 30 days.
- C. Inoperative motor vehicles. In all zone classifications, except as otherwise specifically provided in this chapter, no open storage of inoperative vehicles is permitted.

- D. Historical or special motor vehicles. If operative: unrestricted as set forth in Subsection A above. If inoperative: subject to the provisions of Subsection B above.²

§ 103-4. Restriction pertaining to dumps and junkyards.

- A. No dump or junkyard shall operate in any area of the Town of Henderson, except after the Zoning Map has been amended by the Town Board as set forth in § 103-2 above, and such operation may only exist under a valid permit (with or without conditions) issued by the Town Planning Board after public hearing. Such permit shall have a three-year duration, renewable after further public hearing. Permits may be revoked at any time for violation of the terms of said permit.
- B. Such permit shall be issued, and such renewal shall be given, only after the Planning Board has made the following findings:
- (1) The proposed dump or junkyard will not increase the risk to the welfare of the general public as to its health or safety:
 - (2) The proposed dump or junkyard will not be a public or private nuisance.
 - (3) The proposed dump or junkyard will not create any significant environmental impacts to the subject property or adjacent properties.
 - (4) All necessary state and local permits have been obtained.
 - (5) No significant negative aesthetic impacts will be created by the proposal.
 - (6) Provisions for reclamation of the site are adequate.
- C. The Town Board shall designate from time to time, by resolution, the content of any application for the above-described permit.
- D. Except as set forth in this chapter, no person or entity shall throw, dump or deposit, or cause to be thrown, dumped or deposited, any refuse, garbage, dismantled, abandoned or worn-out motor vehicles or parts thereof, discarded equipment, machinery or abandoned property within the Town of Henderson.

§ 103-5. Notice of violation; penalties for offenses; removal

- A. Upon a written and sworn complaint made to or by the Zoning Enforcement Officer of the Town of Henderson, the Zoning Enforcement Officer may serve the last known registered owner of a vehicle stored in violation of any preceding section hereof and/or person creating or permitting a junkyard or dump, and the assessed owner of the real property on which said junked motor vehicle(s), junkyard or dump is situate, with a written notice of violation of this chapter.
- B. The notice of violation shall be served in the following manner:

² Editor's Note: Former Subsection B of this section, Waiver, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) By personal service, as said personal service is defined by the Civil Practice Laws and Rules of the State of New York; or
 - (2) By certified or registered mail, return receipt requested.
- C. The notice of violation shall state that the violation shall be remedied within 10 calendar days of the service of said notice and that the failure to remedy such violation shall be deemed to subject the last known registered owner of the motor vehicle(s), creator of the junkyard or dump, and/or the assessed owner of the real property on which the junked motor vehicle(s) or junkyard is situate, to the penalties prescribed by this chapter.
- D. Penalties for offenses. Any person who shall refuse or fail to comply with the demand contained in the notice of violation, and who shall refuse and neglect to remove the motor vehicle(s) or cease operation of the junkyard or dump, as directed by this chapter, or shall otherwise violate the provisions of such chapter, or who shall resist or obstruct the agents of the town from removing the vehicles or other debris involved, shall be deemed guilty of a violation and subject to a fine of not to exceed \$250 and or sentenced to a term of imprisonment not to exceed 15 days, and the junked motor vehicle or debris shall be subject to removal as prescribed in Subsection E hereunder.
- E. Removal of junked motor vehicles or other debris. In any case where the junked motor vehicle(s) or debris remains on private property for a period of 10 or more calendar days, the town, its officers, agents or employees shall be vested, upon request of or with permission of owner or upon court order, with the authority to enter onto such private property and remove such junked motor vehicle(s) or other debris. The persons on whom the notice of violation is served shall be jointly and severally liable for the cost incurred by the Town of Henderson for the removing and towing of said junked motor vehicle(s) or debris, plus an administrative fee of \$15. The 10 days referred to above shall begin to run on the first day after the service of notice of violation prescribed by Subsection A above.
- F. Administrative immunity. No officer, agent or employee of the Town of Henderson shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter.