

BUENA VISTA COUNTY ORDINANCE 5.7

Title: AN ORDINANCE TO PROVIDE FOR THE LICENSING AND REGULATING OF JUNKYARDS AND JUNK DEALERS AND TO PROVIDE PENALTIES FOR VIOLATIONS.

BE IT ENACTED by the Board of Supervisors of Buena Vista County, Iowa:

SECTION 1. Purpose. The purpose of this Ordinance is to protect the health, safety and welfare of the citizens and safety of property of this County by providing for the licensing and inspections of junkyards and the elimination of open storage of junk except in authorized places.

SECTION 2. Definitions. Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this Ordinance:

1. "Person" means any person, firm, partnership, association, corporation, company or organization of any kind, except that "person" shall not include an entity established or designated to operate a sanitary landfill, a recycling center, or both, under an agreement authorized by Chapter 28E of the Code of Iowa to which Buena Vista County is a party.
2. "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked motor vehicles, or parts of motor vehicles, or iron, steel, or other old or scrap ferrous or nonferrous material, old bottles or other glass, bones, tin ware, plastic, or discarded household goods, or hardware; dismantled or inoperable machinery and appliances or parts of such machinery and appliances; and other waste or discarded material that might be prepared to be used again in some form; but "junk" shall not include materials or objects accumulated by a person as byproducts, waste, or scraps from the operation of the person's own business or materials or objects held and used by a manufacturer as an integral part of its own manufacturing processes.
3. "Junkyard" means a yard, lot or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling, or offering for sale any such junk, in whole units or by parts, for a commercial purpose, or any place where more than two inoperable motor vehicles, or used parts and materials thereof, when taken together equal the bulk of two motor vehicles, are stored or deposited for a commercial purpose; but "junkyard" shall not include any enclosed building were the

only junk that is bought, kept, processed or sold is paper, redeemable bottles, redeemable cans, or a combination thereof; and “junkyard” shall not include a sanitary landfill or recycling center operated by any entity established or designated to operate it under an agreement authorized by Chapter 28E of the Code of Iowa to which Buena Vista County is a party.

4. “Junk dealer” means 1) any person who, for a commercial purpose, buys, sells, transfers, delivers or stores junk, including all persons who carry on such business at a junk shop or junkyard or as a peddler; 2) any person who by advertisement, sign, or otherwise holds himself or herself out as a junk dealer or dealer in articles included within the definition of junk above, including a person engaged in the activity known as “Auto salvage”; and 3) any person who is an employee or agent of a junk dealer while such person is in or on the junkyard operated by the person’s employer or principal who is a junk dealer or while such person is acting within the scope of such person’s authority as such employee or agent or under color of such authority. However, “junk dealer” shall not include businesses engaged in the towing, repairing, or storing of wrecked motor vehicles where sales of such wrecked motor vehicles are only incidental to the collection of repair and storage charges; and “junk dealer” shall not include persons whose junk that is bought, sold, transferred, delivered or stored (1) includes only paper, redeemable bottles, redeemable cans or a combination thereof, and (2) if stored, is stored in an enclosed building.
5. “For a commercial purpose” means for the purpose or with the intent of generating income from the depositing, storage, processing, selling, transferring, delivering, re-manufacturing, repairing, or use of junk.
6. “Contaminant” means any material or liquid which soils, stains, corrupts or infects anything organic or inorganic by contact or association or which may render anything unfit for use by introduction of one or more elements that taint, pollute, or defile it or make it impure or unclean.
7. “Business premises” or “premises” means the area of a junkyard as described in a junk dealer’s license or application for license, as provided in this Ordinance.

SECTION 3. License Required. It shall be unlawful for any person to act as a junk dealer in Buena Vista County, Iowa, whether personally, by agents or employees, singly or in connection with some other business or enterprise, without first having obtained and having in effect a license in accordance with the provisions of this Ordinance. However, a person who is acting as a junk dealer solely because such person 1) is an employee or agent of a junk dealer who holds such a valid license and 2) is either a) in

or on the junkyard operated by such junk dealer or b) acting within the scope of such person's authority as an employee or agent of such junk dealer, is not required to obtain and have a separate junk dealer's license.

SECTION 4. License Application. An applicant for a license under this Ordinance shall file with the Buena Vista County Director of Environmental Health a written application signed by the applicant, if an individual, by all partners, if a partnership, or by the president or chief officer of a corporation or other organization, together with two copies of such application, and a fee as hereinafter prescribed. The application shall include the following:

1. Name, residence address and telephone number of each individual owner, partner, or, if a corporation or other organization, each officer and director.
2. Trade names used during the previous five years by the applicant and each person signing the application, and the locations of prior establishments.
3. The trade name and address of the business on behalf of which application is made and its telephone number.
4. Exact address or location of the place where the business is or is proposed to be carried on, the name or number of the township and section in which the business is or is proposed to be located, the area of the business location in square feet or acres, and a sketch of the actual premises to be used in connection with the business, showing adjoining roads, property lines, buildings and uses.
5. A description of the nature and type of machinery to be used on the business premises.
6. A description of the type of business to be conducted on the business premises.
7. A statement as to whether or not retail sales will be made upon the business premises.

SECTION 5. Processing Of License Application.

1. Upon receipt of a completed application for license, the Buena Vista County Director of Environmental Health shall forward one copy to the Buena Vista County Zoning Administrator and one copy to the Buena Vista County Sheriff.
-

Junkyards - 5.7

2. Upon receipt of a copy of said application, the Zoning Administrator shall cause an inspection to be made of the premises described in the application to determine whether or not the premises are in compliance with, and the activities of the junk dealer to be conducted on the premises are permitted by and are proposed to be conducted in compliance with, all zoning ordinances then in effect.
3. Upon receipt of a copy of said application, the Buena Vista County Sheriff shall cause an inspection to be made of the premises described in the application to determine whether or not the premises are in compliance with, and the activities of the junk dealer are permitted by and are proposed to be conducted in compliance with, all ordinances, regulations and laws then in effect and whether or not said premises meet all of the requirements of this Ordinance.
4. he Buena Vista County Director of Environmental Health shall also cause an inspection to be made of the premises described in the application to determine whether or not the premises are in compliance with, and the activities or proposed activities of the junk dealer thereon are permitted by and are proposed to be conducted in compliance with, the requirements of this Ordinance, and all other ordinances, regulations and laws then in effect, including without limitation, all state and other fire regulations, and determine whether or not any conditions exist on the premises that would constitute a fire or safety hazard or public nuisance.
5. The Zoning Administrator and the Sheriff shall each prepare and submit to the Director of Environmental Health and the Director of Environmental Health shall prepare, an inspection report indicating whether or not the premises inspected are approved. If the premises are disapproved, the inspector shall set forth in the report the reasons for disapproval. If the premises are disapproved and the unlawful conditions reported can be corrected, the inspector shall so state in the report and grant the applicant a reasonable but specific time to correct the condition. Final action on the application shall then be postponed until receipt of a supplementary report from the inspector or inspectors who initially disapproved the premises after the specified date.

SECTION 6. License Fee.

1. The application for a junk dealer's license shall not be processed until an annual license fee of \$100.00 is paid to Buena Vista County through the Buena Vista County Auditor.
 2. The license fee set forth above shall be prorated on a quarterly basis
-

from the date of issuance to the time of expiration, but no refunds of license fees, or any part thereof, shall be paid to a person who discontinues operations under such license for any reason before the expiration of the license or whose license is suspended or revoked.

3. If an application for license or renewal of license is denied, the license fee shall be refunded to the applicant.

SECTION 7. License Issuance and Terms.

1. After approval of said application by the Buena Vista County Zoning Administrator, the Buena Vista County Sheriff and the Buena Vista County Director of Environmental Health and receipt of the required license fee by the County Auditor, the Buena Vista County Director of Environmental Health shall notify the applicant in writing by ordinary mail addressed to the applicant at the address disclosed in his application that the application for a junk dealer's license has been approved subject to the execution and filing of the license bond required in this paragraph. The applicant shall, within twenty days of the mailing of such notice to the applicant, file with the Buena Vista County Auditor a license bond in the penal sum of \$10,000.00, signed by the applicant as principal and a surety or sureties approved by the Auditor, in favor of Buena Vista County, Iowa, the terms of which bond shall guarantee the full compliance by the principal with the provisions of this ordinance and the faithful performance of all the duties imposed by this Ordinance. Failure to timely file the bond shall be cause for which the Director of Environmental Health may refuse to issue the license to the applicant.
2. After the timely filing of such bond approved by the Buena Vista County Auditor, the Buena Vista County Director of Environmental Health shall issue to the applicant a Junk Dealer's License and the Director of Environmental Health shall also notify the Buena Vista County Sheriff and the Buena Vista County Zoning Administrator of the issuance of the license, the person to whom the license was issued, the effective dates of the license, and the address of the licensed premises.
3. All licenses issued hereunder shall be effective from the date of issuance to and including the 30th day of June next succeeding the date of issuance.
4. All licenses issued hereunder shall be numbered serially in the order issued, and they shall set forth the following information:
 - a. The name of the licensee;

Junkyards – 5.7

- b. The street address and an accurate description of the business premises or proposed business premises where the junk dealer's activities will be conducted;
 - b. The fee paid; and
 - c. The expiration date.
5. The licensee shall post the license in a conspicuous place on the licensed premises.
6. No license issued hereunder shall be transferable, and a separate license shall be required for each business premises.

SECTION 8. License Renewal.

1. Licenses may be renewed in the same manner and under the same conditions as originally issued hereunder. An application for renewal of a junk dealer's license shall be submitted to the Buena Vista County Director of Environmental Health at least sixty days prior to the expiration of the license then in effect. An application for renewal of a junk dealer's license shall be processed in accordance with the provisions of Sections 5, 6 and 7 of this Ordinance.
2. When renewal of a license is denied or when an original license is denied to a junk dealer initially exempt from licensing under the provisions of this Ordinance, the junk dealer previously licensed or exempt from licensing under the provisions of this Ordinance shall have a period of six months immediately after such denial in which to conclude the business and dispose of the junk during which time the junk dealer shall be required to comply with all the terms and conditions of the ordinances of the County, except the licensing requirements of this ordinance. If litigation or an appeal is pending contesting the denial or revocation of a license, the Buena Vista County Director of Environmental Health may grant an extension of time during which the junk dealer may operate pending the final outcome of such litigation.

SECTION 9. License Revocation. The Buena Vista County Director of Environmental Health may revoke any license issued hereunder for any of the following reasons:

1. The licensee, an agent, or employee has been convicted of a violation of any of the provisions of this Ordinance.
 2. The Buena Vista County Zoning Administrator, the Buena Vista County
-

Director of Environmental Health or the Buena Vista County Sheriff has found that the licensee has failed to comply with one or more of the provisions of this Ordinance or the licensed premises fail to comply with one or more of the provisions of this Ordinance or of some other regulation, ordinance or statute, and the licensee has failed to correct such condition within the reasonable time specified by the inspector in accordance with the report the inspector has submitted under section 5 of this Ordinance.

3. The termination of the license bond required by Section 7 of this Ordinance if another like bond is not filed before such termination.

SECTION 10. Appeals. Any applicant who has been denied a license or renewal under this Ordinance or any licensee under this Ordinance whose license has been revoked may appeal to the Buena Vista County Board of Supervisors by filing with the Buena Vista County Director of Environmental Health, within seven days after the aggrieved party receives notice of the adverse administrative decision, a written notice of appeal setting forth the grounds upon which the appeal is based. The Buena Vista County Board of Supervisors shall, within fifteen days after the filing of said notice of appeal, fix a time and place of hearing on the appeal. The hearing shall be commenced within thirty days of the filing of the appeal. If the Board of Supervisors finds from the evidence presented at the hearing that the appellant has been denied a license without just cause, or that the appellant's license has been revoked without just cause, it may reverse or modify the administrative decision.

SECTION 11. Screening Requirements.

1. If a junkyard is within three hundred feet of the nearest edge of a public highway or public road, any part of such junkyard that has junk stored or deposited thereon and is visible from the traveled portion of such public highway or public road shall be effectively screened by natural objects, plantings, fences or other means approved by the Buena Vista County Director of Environmental Health. The screening shall substantially screen the area in which junk is stored or deposited from the view of persons on the traveled portion of the public highway or road. No junk shall be permitted to be stored or deposited outside of such screening, nor may junk be stacked higher than the screening within thirty feet of the screening.
2. The screening requirements of this Ordinance shall be waived by the Buena Vista County Director of Environmental Health for any part of a junkyard in existence and being operated in Buena Vista County on the date of the first publication of this ordinance where it is impractical to

Junkyards – 5.7

effectively screen the junkyard because the junkyard is lower in elevation than the surrounding terrain or because of other physical features of the junkyard.

SECTION 12. General Operating Requirements. The following general operating requirements shall apply to all junk dealers in Buena Vista County, Iowa:

1. The junkyard, and all things kept therein shall be maintained in a sanitary condition.
2. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
3. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as defined herein, and is in use in the licensed business.
4. No junk shall be allowed to rest upon or protrude over any public highway, walkway or curb or become scattered or blown off the business premises.
5. Junk shall be stored and arranged so as to permit easy access to all such junk for firefighting purposes.
6. No combustible material of any kind not necessary to the licensed business shall be kept on the business, nor shall the premises be allowed to become a fire hazard.
7. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises.
8. Transmission and motor oils, antifreeze and all other contaminants shall be recovered in an environmentally safe manner, and such fluids and contaminants shall be collected in closed receptacles and disposed of properly under all applicable laws, ordinances and regulations.
9. Reusable tires and tubes kept for resale shall be stored under cover. Not more than one hundred tires that are not under cover and are not mounted on wheels attached to motor vehicles shall be kept on the premises at any time.
10. Toxic chemicals and unsalvageable toxic waste shall not be kept on the business premises.

11. No noisy processing of junk or other noisy activity shall be carried on in connection with the licensed business at any time between the hours of 10:00 p.m. and 7:00 a.m.
12. No motor vehicle or part thereof, including tires, shall be burned for wrecking or salvage purposes in or on premises occupied as a junkyard unless the same be burned in a manner that has been approved by the Buena Vista County Director of Environmental Health; and all motor vehicle gasoline and fuel tanks shall be separated and removed from motor vehicles intended for salvage purposes prior to cutting, stacking or burning such vehicles.
13. All junk shall be segregated by type.
14. All dogs, six months or older, shall be kept in kennels, separate enclosures or restrained and not allowed to run at large in the junkyard when the junkyard is open to the public and during inspections.
15. Each junk dealer shall complete accurate and legible records of all purchases in the English language. The records shall be kept in a permanent type register that shall be kept on the premises. The records shall be available for inspection by any sheriff, deputy sheriff, peace officer, the Buena Vista County Director of Environmental Health, or any authorized agent of Buena Vista County for a period of at least six months. The records shall include:
 - a) The name and residence address of the person from whom the junk was received or purchased.
 - b) Reasonably accurate inventory and description of each article.
 - c) The value or amount paid for each article.
16. No junk dealer shall purchase or receive any personal property from any minor without first receiving the consent, in writing, of the parent or guardian. Such written consent shall be included in the permanent records as defined in Section 12 (15).
17. Upon written order of the Sheriff of Buena Vista County or the Sheriff's designated representative, each junk dealer shall segregate specific items or categories of items and hold such items until authorized to dispose of the items by the Buena Vista County Sheriff's Department. The holding period shall not exceed 45 days.

Junkyards – 5.7

18. No junk dealer shall conceal, secrete, or destroy for the purpose of concealing, any article purchased or received by the dealer for the purpose of preventing identification thereof by any officer or any person claiming the same. No junk dealer shall sell, melt up, break up or otherwise dispose of any article the dealer has reason to believe has been stolen, or which is adversely claimed by any person, or which the dealer has been notified not to sell or otherwise dispose of by any sheriff, deputy sheriff or peace officer, without first obtaining a permit in writing from the Buena Vista County Sheriff.

SECTION 13. Monitoring Wells. When the Buena Vista County Director of Environmental Health has probable cause to believe that a junk dealer has violated or is violating the provisions of Section 12(8) or Section 12(10) of this Ordinance, the Director of Environmental Health may require the junk dealer, at the junk dealer's expense, to have installed a monitoring well on the junk dealer's licensed premises. If such a well is required, the well shall be installed by a well contractor certified by the State of Iowa under the supervision of a registered groundwater professional in a location approved by the Buena Vista County Director of Environmental Health. The monitoring well shall be constructed and installed in accordance with the provisions and specifications for such wells contained in 567 Iowa Administrative Code 110.11. A variance from such provisions and specifications may be issued, modified or denied by the Buena Vista County Director of Environmental Health.

SECTION 14. Inspections.

1. Any peace officer and the Buena Vista County Director of Environmental Health, during the period a junk dealer's license is in effect, may inspect all premises licensed hereunder at such intervals as they shall deem reasonable to determine whether or not the premises are being operated and maintained in compliance with all applicable regulations, ordinances and laws.
 2. As a part of any inspection, the Buena Vista County Director of Environmental Health or a peace officer may collect water samples from any monitoring well installed on the junk dealer's licensed premises and collect other water and soil samples from the junk dealer's licensed premises. The Buena Vista County Director of Environmental Health or peace officer may remove all such samples from the junk dealer's licensed premises for examination, analysis, or both.
 3. No persons shall prevent, hinder or obstruct or attempt to prevent, hinder or obstruct any county inspector or peace officer in the performance of their duties set forth in this Ordinance.
-

SECTION 15. Violation, Penalty.

1. Any person who violates any of the provisions of this Ordinance, upon conviction, commits a criminal offense and is subject to a penalty of imprisonment in jail not exceeding thirty days, a fine not exceeding five hundred dollars, or both such fine and imprisonment. Each day that a violation occurs or is permitted by the Defendant to exist shall constitute a separate offense.
2. Any violation of this Ordinance also constitutes a county infraction, unless Iowa law provides that such violation may not be a county infraction. Each day that a violation occurs or is permitted by the Defendant to exist constitutes a separate offense. Acting as a junk dealer without having a valid license as required by this Ordinance shall be punishable by a civil penalty of five hundred dollars for a first offense and seven hundred fifty dollars for each repeat offense. Any other violation of this Ordinance shall be punishable by a civil penalty of not more than five hundred dollars for a first offense and not more than seven hundred fifty dollars for each repeat offense, as determined by the Court. Buena Vista County may seek all relief prescribed by Iowa law for county infractions.
3. For purposes of this Ordinance, an employer or an employer's agent, officer, director, or employee who supervises or directs the work of other employees, is guilty of the same criminal offense or county infraction committed by an employee acting under the employer's control, supervision, or direction in any of the following cases:
 - a. The person has directed the employee to commit the offense or infraction.
 - b. The person knowingly permits an employee to commit the offense or infraction under circumstances in which the employer expects to benefit from the unlawful activity of the employee.
 - c. The person assigns the employee some duty or duties, which the person knows, cannot be accomplished, or are not likely to be accomplished, unless the employee commits an offense or infraction under this ordinance, provided that the offense or infraction committed by the employee is one which the employer can reasonably anticipate will follow from this assignment.

As used in this Subsection 3 of Section 15, "employer" includes, without limitation, a person standing in the position of a principal to an agent, and "employee" includes, without limitation, an agent of a principal.

Junkyards – 5.7

4. The Buena Vista County Director of Environmental Health, his or her designees, the Buena Vista County Attorney, and his or her assistants are the officers authorized to enforce this Ordinance by issuance of civil citations for county infractions.

SECTION 16. Relationship to Other Laws. Nothing in this Ordinance shall be construed to abrogate or affect the provisions of any lawful statute, ordinance, regulation, or resolution, which are more restrictive than the provisions of this Ordinance; and nothing contained in this Ordinance shall relieve a person from compliance with other federal, state, county and municipal laws, regulations, ordinances or licensing requirements.

SECTION 17. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 18. Severability. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part of the Ordinance not adjudged invalid or unconstitutional.