

CHAPTER 52

OUTDOOR STORAGE OF JUNK

§52.1 **Title**

This chapter shall be known and may be cited as the "Outdoor Storage of Junk Law of the Village of Avon."

§52.2 **Purpose**

The purpose for this law is to provide for a clean, wholesome, attractive environment thereby safeguarding the inhabitants of this Village of their material rights against unwarrantable invasions, and, in addition, such environment is deemed essential to the maintenance and continued development of the economy of this Village and the general welfare of its citizens. It is further declared that the unrestrained accumulation of junk, such as but not limited to, junk motor vehicles, junk appliances, junk lawn mowers, junk motorized lawn equipment, old parts, rubbish and debris upon privately owned property within the Village constitutes a hazard to the health, safety and welfare of the citizens of this Village necessitating the regulation, restraint and elimination thereof.

§52.3 **Definitions**

As used in this chapter, unless the context or subject matter otherwise requires, the following terms shall have the following meaning:

1. Antique automobile - Any motor vehicle which is more than twenty-five (25) or more model years old which can be economically restored to a value more than the cost of restoration.
2. Appliance - Any stove, refrigerator, washing machine, dryer, freezer, television set, radio or other household device or equipment.
3. Debris - An accumulation of any broken or destroyed material, rubble or fragments having no economic value.
4. Junk appliance - Any stove, refrigerator, washing machine, dryer, freezer, television set, radio or other household device or equipment which is either:
 - a. At least eight (8) model years old and which has been placed outside for a period of least one (1) month to be exposed to the elements; or
 - b. Is in such a state of disrepair or appearance as to be unsightly.

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5. Junk motor vehicle - Any motor vehicle which either:
 - a. Is in such a state of disrepair or damage that it cannot be readily or economically restored for the use on a public highway; or
 - b. Is over eight (8) model years old and is so damaged or so rusted or in such a condition as to be unsightly.
6. Motor vehicle - All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

7. Rubbish - Household trash or store trash consisting of such things as barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, rubber tires, lumber, stone, brick and other building materials or any and all other tangible personal property no longer intended or no longer in condition for ordinary use.

8. Junk lawn mower - Any lawn mower which is either so damaged or so rusted or in such a condition as to be unsightly.

9. Junk motorized yard equipment - Any motorized yard equipment which is either so damaged or so rusted or in such a condition as to be unsightly.

§52.4 **Storage on private property prohibited**

A. No person shall cause or permit the outdoor storage of any junk motor vehicle, junk appliance, junk lawn mower, junk motorized yard equipment, rubbish or debris on property owned by such person.

B. No person shall store any appliance in the front or side porch visible to the public from any public street on any front or side porch for a period of more than two (2) weeks.

C. No person shall store an unrestored antique automobile out of doors except in a location not in the front or side yard of any premises and not visible to the public from any public street.

§52.5 **Enforcement procedure**

A. The Zoning Enforcement Officer of the Village of Avon or any other agency or official authorized from time to time by the Village Board of Trustees by resolution shall inspect property and file a written report of violations by owners with the Village Clerk. The Village Clerk shall prepare a written notice and shall cause the same to be served upon the owner personally or by certified mail. The notice shall contain the following:

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1. The name of the owner to whom the notice shall be addressed.

2. The location of the premises involved in the violation.

3. A statement of the facts which it is alleged violate this chapter.

4. A demand that the junk motor vehicle, junk appliance, junk lawn mower, junk motorized yard equipment, rubbish or debris be removed from the premises within ten (10) days after service or mailing of this notice.

5. A statement that a failure to comply with the demand may result in prosecution and a public hearing before the Board of Trustees to determine whether the Village shall remove or contract to remove debris, junk appliances, junk motor vehicles, junk motorized yard equipment or rubbish from the premises of the owner.
[Amended by Local Law #8 of 1993, filed 11/10/93]

6. A copy of this chapter.

B. Upon failure of the owner to comply with the demand, the Chief of Police of the Village of Avon shall cause a further notice to be served upon such owner demanding the removal of the junk motor vehicle, junk appliance, junk lawn mower, junk motorized yard equipment, rubbish or debris from the premises, which are alleged to violate this chapter, within thirty (30) days after the personal service upon or the mailing by certified mail to said owner, with notice that the owner will be prosecuted for failure to comply and a public hearing may be held before the Board of Trustees to determine whether the Village shall remove or contract to remove debris, junk

appliance, junk motor vehicle, junk motorized yard equipment or rubbish from the premises of the owner and assess the costs thereof to the owner. [Amended by Local Law #8 of 1993, filed 11/10/93]

C. Upon application of the alleged owner showing reasonable cause, the Board of Trustees may grant an extension of up to ninety (90) days for the owner to comply with the demands.

§52.6 **Deposit on other property**

No person shall willfully place a junk motor vehicle, junk appliance, junk lawn mower, junk motorized yard equipment, rubbish or debris on premises which such person does not own without the permission of the owner thereof.

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§52.7 **Exclusions**

This chapter shall not apply to any junk yard permitted under other provisions of the Village of Avon Municipal Code.

§52.10 **Penalties for offenses**

A violation of any provision of this chapter is an offense and any person committing an offense against any provision of this chapter shall be guilty of a violation pursuant to the Penal Law punishable by a fine not exceeding Two Hundred Fifty Dollars (\$250.00) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense thereunder.

§52.11 **Procedure where owner fails to remove junk stored out of doors**

A. Institution or proceeding.

Whenever the Board of Trustees shall determine that any junk motor vehicle, junk lawn mower, junk motorized lawn equipment, debris, junk appliance or rubbish is being stored out of doors in the Village of Avon in violation of this chapter, the Board of Trustees may give a notice of hearing to the owner or owners thereof to be served personally with a notice of hearing that a hearing will be held not less than ten (10) days after the service.

B. Contents of notice.

The notice shall contain the following information:

1. The date, time and place of public hearing before the Board of Trustees within the Village of Avon.
2. Factual allegations which are alleged to constitute a violation of this chapter.
3. The proposed work that the Village intends to perform or contract to perform to bring the owner's premises in compliance with this chapter.
4. An estimate of the total cost to perform such work together with the estimated cost to reimburse the

Village for the work and administering and supervising the work.

C. Public hearing.

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At the time, date and place of hearing, the Board of Trustees shall conduct the hearing and shall hear all interested persons.

The Board of Trustees may adjourn the hearing at any time without giving further notice, except to announce the time, date and place of the adjourned hearing at the close of the scheduled hearing.

D. Determination by the Board of Trustees.

As soon as practicable after the public hearing, the Board of Trustees shall determine:

1. Whether or not to perform the work necessary to bring the owner's property in compliance with this chapter and the estimated cost thereof.
2. If the work is to be performed, whether the Village shall perform the work by contract or by Village employees and the estimated cost thereof.
3. The owner or owners responsible for such work, and if more than one (1), the proportionate share that each shall bear as may be just and equitable.

E. Filing with the Village Clerk.

The determination of the Board of Trustees shall be filed with the Village Clerk and a copy of the determination shall be served either personally or by certified mail on the owner or owners responsible for such work. [§52.11 added by Local Law #8 of 1993, filed 11/10/93]

§52.12 **Performance of work**

If the Board of Trustees shall determine that work shall be performed by the Village of Avon, it shall cause same to be done either by Village employees or by contract. [§52.12 added by Local Law #8 of 1993, filed 11/10/93]

§52.13 **Completion of work; assessment and levy or charges**

A. Upon the completion of the work, the Zoning Enforcement Officer shall report to the Board of Trustees listing all costs chargeable to the owner or owners thereof as specified in §52.11(B)[4].

B. Action by Board of Trustees.

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1. Upon receipt of the report from the Zoning Enforcement Officer, the Board of Trustees shall cause a notice of a public hearing to be served in the same manner as provided in §52.11(A).
2. Contents of Notice. The notice shall contain the following information:

- a. The time, date and place of the public hearing.
- b. The amount to be assessed and levied against the premises where the work was performed as contained in the report of the Zoning Enforcement Officer.
- c. The owner or owners' proportional share.
3. Conduct of hearing. At the time, date and place of hearing, the Board of Trustees shall conduct the hearing and shall hear all interested persons. Adjournments may be made as provided in §52.11(C).
4. Assessment and levy. Upon conclusion of the public hearing or as soon thereafter as practicable, the Board of Trustees shall assess the owner or owners of the premises where the work was performed. It may notify and correct the same but no assessment shall be increased without notice to the owner and the opportunity to be heard. The assessment shall be filed in the office of the Village Clerk, and it shall publish notice of such completion and filing in the official paper, and any person deeming himself aggrieved thereby may, with fifteen (15) days after the filing of the assessment, apply to a court of record for an order of certiorari to review said assessments. The apportionment, the assessments and the determination shall be deemed final and conclusive unless such an application be made within such fifteen (15) days.
5. Collection. All assessments levied against real property or herein provided shall be collected pursuant to Section 5-518 of the Village Law.

In case the assessment together with Village tax remains unpaid after the lapse of thirty (30) days from the return of the treasurer, an action may be maintained pursuant to Section 1440 of the Real Property Tax Law and enforcement proceedings may also be taken in accordance with the provisions of Section 990 of the Real Property Tax Law. [§52.13 added by Local Law #8, filed 11/10/93]

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Historical Note

Chapter 52 was enacted by Local Law #10 of 1986 on December 18, 1986. It replaced Local Law #5 of 1983. This chapter was then amended by Local Law #8 of 1993, filed November 10, 1993.

Cross-reference:

Junk Dealers and Junk Yards. Chapter 15

References:

Aesthetic considerations: Municipality may enact regulations for aesthetic reasons as long as they are "reasonably related to the community policy sought to be implemented and are not unduly oppressive." People v Geordman, 31 NY2d 262, 266

Junk Automobiles: Prohibition of storage of vehicles which are "inoperable" is void for vagueness. People Scott, 26 NY2d 286