

**Town of Waterford
Junk and Salvage Ordinance**

WHEREAS, the Town of Waterford has, by authority granted in 24 VSA §1971 et. seq., 2246 and 2291, the powers to adopt, amend, repeal, and enforce ordinances, and to manage and regulate outdoor storage of junk, junk motor vehicles and salvage yards within its boundaries;

NOW THEREFORE, to protect public health, safety and well-being, and to promote the responsible use of resources and protection of the environment, the Selectboard of Town of Waterford hereby adopts this ordinance to regulate the outdoor storage of junk, junk motor vehicles and salvage yards.

I. Definitions

"Abandon" means to leave without claimed ownership for 30 days or more.

"Abutting property owner" means any person or persons, corporation or other entity that owns, leases, or in any other way uses or controls the real property abutting any portion of the property of another.

"Highway" means any highway, road, street, or other public way, regardless of classification.

"Junk" means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof, or any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool and the like.

"Junk motor vehicles" means a discarded, dismantled, wrecked, scrapped or ruined motor vehicle, or parts thereof, an unregistered motor home not connected to water and/or sewer, or a vehicle other than on-premise utility vehicle which is allowed to remain unregistered for a period of forty-five (45) days from the date of discovery.

"Motor vehicle" means any vehicle propelled or drawn by power other than muscular power, including trailers. Functional vehicles and equipment used for agricultural or construction operations are excluded from this definition.

"Salvage yard" or "Junk yard" means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. "Salvage yard" also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs. (Note: The Legislature waived the fifteen year "safe harbor" for salvage yards. In order for a salvage yard to operate they must have a current Certificate of Approved Location issued by the Selectboard and a Certificate of Registration issued by the State. The State WILL NOT issue a Certificate of Registration unless the applicant has a Certificate of Approved Location from the municipality.)

"Solid waste" means any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include animal manure and absorbent bedding used for soil enrichment; high carbon bulking agents used in composting; or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act.

"Traveled way" means that portion of a public highway and right-of-way designed for the movement of a motor vehicle, shoulders, and roadside parking, rest, observation areas, and other areas immediately adjacent and contiguous to the traveled portion of the roadway.

II. Requirements

- A. It shall be unlawful to place, discard, or abandon junk or two or more junk motor vehicles in a place where it is visible from the traveled way of a highway or Town road, or where it is visible to an abutting landowner from that portion of the abutter's land used on a regular basis. Any such item so placed, discarded, or abandoned is hereby declared to be a public nuisance
- B. It shall be unlawful to place, discard or abandon junk or two or more junk motor vehicles upon the land of another with or without the consent of the owner, when any such item is visible from the traveled way of a highway or Town road, or visible to an abutting landowner from that portion of the abutter's land used on a regular basis. Any such item so placed, discarded or abandoned is hereby declared to be a public nuisance.
- C. A person shall not operate, establish, or maintain a salvage yard unless he or she holds a Certificate of Approved Location from the Town and holds a certificate of registration issued by the State to operate, establish, or maintain a salvage yard. The issuance of a certificate of registration by the State shall not relieve a salvage yard from the obligation to comply with existing state and federal environmental laws and to obtain all permits required under state or federal environmental law.

An application for a Certificate of Approved location shall be made in writing to the Selectboard. The application shall contain a complete description of the land to be included within the salvage yard, which description shall be by reference to permanent boundary markers. The procedures to be followed after an application has been made are those specified in 24 VSA §§ 2252 through 2264, as from time to time amended.

- D. Every person shall be responsible for proper disposal of his or her own solid waste. A person shall not throw, dump, deposit, cause, or permit to be thrown, dumped, or deposited any solid waste as defined in 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing outside a solid waste management facility. It shall be prima facie evidence that a person who is identifiable from an examination of illegally disposed solid waste is the person who violated a provision of this section.

- E. No person shall burn or cause to be burned in the open or incinerate in any container, furnace, or other device any solid waste without:
1. first having obtained all necessary permits from the Town; and
 2. complying with all relevant state and local regulations and ordinances.

III. Enforcement and Penalties

A. Any junk, junk motor vehicle or salvage discovered in violation of Section II of this Ordinance shall be removed or screened from the view of the traveled way of the highway or Town road, or from the view of an adjoining property from the approximate property line between the two properties, by the owner of the land on which it is located, within sixty days of receiving written notice from the Selectboard to do so.

B. Additional Provisions for Junk Motor Vehicles.

1. If the owner of the land on which a junk motor vehicle is discovered in violation of Section II of this ordinance does not hold title or disclaims title to the vehicle, and the true owner of the vehicle is known or can be ascertained, the true owner shall move, screen or dispose of the vehicle upon receiving said written notice
2. If the last known registered owner fails or refuses to reclaim the vehicle upon receiving said written notice, or if after an investigation the owner of the vehicle cannot be ascertained, the Selectboard may notify the Vermont Agency of Transportation
3. If the owner of the junk motor vehicles does not remove or screen the vehicle from view within forty-five (45) days from the date of mailing of the written notice by the Selectboard, the Selectboard may notify the Vermont Agency of Transportation.
4. Further procedures by the Agency of Transportation are specified in 24 VSA §2272

C. A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 VSA § 1974 et seq. A civil penalty of not more than \$50.00 per day may be imposed for violation of this ordinance, beginning thirty (30) days after the Selectboard mails written notification of violation. Fines under this Ordinance may be appealed to the Selectboard; based on the additional information provided, the Selectboard may waive or reduce the fines associated with the violation.

D. Violations of this ordinance may lead to superior court action seeking injunctive relief and civil penalties pursuant to 24 VSA §1974a.

IV. Severability

Each of the provisions of the ordinance is severable and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

V. Effective Date

This ordinance shall become effective sixty days after its adoption by the Waterford Selectboard. If a petition is filed under 24 VSA 1973, that statute shall govern the taking effect of the ordinance.

G. Pallone

1-9-12
Date

Number

B. Beck
Signatures

Adoption History

1. Agenda item at regular selectboard meeting held on 1-9-12.
2. Read and approved at regular selectboard meeting on 1-9-12 and entered in the minutes of that meeting which were approved on 2-13-12.
3. Posted in public places on 1-11-12.
4. Notice of adoption published in the Caledonian newspaper on 1-26-12 with a notice of the right to petition.
5. Other actions [petitions, etc.]

