

TOWN OF WHITINGHAM

ORDINANCE REGULATING OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES

WHEREAS, the Town of Whitingham has, by authority granted in 24 VSA, Sections 1971 et seq., 2246, and 2291, the powers to adopt, amend, repeal, and enforce ordinances, and to manage and regulate outdoor storage of junk and junk motor vehicles 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 the Town of Whitingham hereby adopts this ordinance to regulate outdoor storage of junk and junk motor vehicles.

Section 4701. DEFINITIONS.

- A. "Abandon" means to leave without claimed ownership for 30 days or more.
- B. "Highway" means any highway, road, street, or other public way, regardless of classification.
- C. "Household appliance" means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool and the like.
- D. "Junk" means old or discarded scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof. Any of the above items used in a bona fide agricultural operation are excluded from this definition.
- E. "Junkyard" means any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or as a scrap metal processing facility. "Junkyard" also means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping four or more junk motor vehicles that are visible from any portion of a public highway. However, the term does not include a private garbage dump or Transfer Station that is in compliance with 24 VSA Section 2202 and the regulations of the secretary of human services. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.
- F. "Junk motor vehicle" 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 thirty (30) days from the date of discovery.

G. "Traveled way" means that portion of a public highway 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.

H. "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.

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

Section 4702. 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 any 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. Any person who wishes to operate a junkyard within the Town of Whitingham is required to (1) obtain a certificate of approval for the location to the junkyard, and (2) obtain from the State of Vermont a license to operate, establish, or maintain a junkyard.

(1) Certificate of Approved Location. Application for a certificate of approved location shall be made in writing to the Selectboard. The application shall contain a description of the land to be included within the junkyard, which description shall be by reference to so-called permanent boundary markers. The procedures to be followed after an application has been made are those specified in 24 VSA Sections 2252 through 2264, as from time to time amended.

(2) State Junkyard License. The procedures for obtaining a junkyard license from the State of Vermont are those specified in 24 VSA Sections 2261 through 2264, as from time to time amended.

D. All junkyards, scrap yards, and places of outdoor storage of junk shall be effectively screened from public view by a fence or vegetation at least eight (8) feet in height. Any fence shall be of sound construction and of solid vertical board or "stockade" type construction, and shall be maintained yearly and in good repair. Such a fence shall not be used for advertising signs or other displays that are visible from the main traveled way of a highway. Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view. Failure to provide screening as required herein shall be considered a violation of this ordinance.

Section 4703. ENFORCEMENT AND PENALTIES.

A. Any junk or junk motor vehicles discovered in violation of Section 4702 of this ordinance shall be removed or screened from the view of the traveled or Town road, or from the view of an adjoining property from the approximate property line between the two properties, by the owner to the land on which it is located, upon 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 to Section 4702 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 vehicle does not remove or screen the vehicle from view within thirty (30) days from the date of mailing of the written notice by the Selectboard, the Selectboard may notify the Vermont Agency of Transportation.

(4) Further proceedings by the Agency of Transportation are specified in 24 VSA Section 2272.

C. A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 VSA Sections 1974a and 1977 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. The waiver fee shall be set at \$20.00 for the first offense, \$30.00 for the second offense within a six-month period, and \$40.00 for all subsequent offenses within a six-month period. Each day that the violation continues shall constitute a separate violation of this ordinance.

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

Section 4704. 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.

Section 4705. EFFECTIVE DATE.

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

ADOPTED THIS 3RD DAY OF OCTOBER, 2001

SELECTBOARD, TOWN OF WHITINGHAM

Norman O. Stevens, Chair *Norman O. Stevens*

Steven A. Morse *Steven A. Morse*

Keith A. Bronson *Keith A. Bronson*

Allan L. Twitchell *Allan L. Twitchell*

Blanche F. Mills *Blanche F. Mills*