

Town of Arlington

Junk Ordinance

REGULATING OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES

WHEREAS, the Town of Arlington 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 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 Arlington hereby adopts this ordinance to regulate outdoor storage of junk and junk motor vehicles.

DEFINITIONS

- A. "Abandon" means to leave without claimed ownership for 30 days or more.
- B. "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.
- C. "Enforcement Officer" means any constable, law enforcement officer, zoning administrator, appointed by the Selectboard to enforce the provisions of this ordinance.
- D. "Highway" means any highway, road, street, or other public way, regardless of classification.
- E. "Household appliance" means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool and the like.
- F. "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.
- G. "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, uninspected and uninsured for a period of thirty (30) days from the date of discovery.

H. "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 two 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 sanitary landfill that is in compliance with 24 VSA §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.

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.

J. "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 to the traveled portion of the roadway.

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 recreational waterways, or where it is visible from an adjoining property. 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 recreational waterways, 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. Any person who wishes to operate a junkyard within the Town of Arlington is required to (1) obtain a certificate of approval for the location of 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 §§ 2252 through 2264, as from time to time amended. The application shall be accompanied by a certificate from the ZBA that the proposed location is not within an established district restricted against such uses or otherwise contrary to such zoning ordinance.

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

D. All junkyards 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 neatly 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.

ENFORCEMENT AND PENALTIES.

A. Any junk or junk motor vehicle discovered in violation of this ordinance shall be removed or screened from the view of the traveled way of the highway or Town road or recreational waterways, or from the view of an adjoining property by the owner of 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 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, or, at its sole discretion, may cause such vehicle to be removed. In all cases where junk vehicles are located on the land of the same owner, and the true owner of two or more such vehicles cannot be located after the landowner disclaims title to such vehicles, the owner of such land shall be conclusively deemed to be the owner of such vehicles and responsible for their removal, screening or disposal or for the expense of the removal of the same.

(3) If the owner of the junk motor vehicles 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 procedures by the Agency of Transportation are specified in 24 VSA §2272.

(5) The Selectboard may, in its sole discretion, cause said junk motor vehicles to be removed at the expense of the owner of the same.

C. A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 VSA §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. A municipal ticket will be issued 30 days after written notification of violation is mailed by the Selectboard if the violation has not been corrected in accordance with this ordinance. 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 §1974a.

E. All fines, removal expenses and penalties provided for under this ordinance shall constitute a lien against the party against whom they are levied and, in the case of any land owner in the Town of Arlington, against such real property.

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.

EFFECTIVE DATE.

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

Adopted this 13 day of JUNE, 2005.
By the Arlington Board of Selectmen