

ORDINANCE REGULATING OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES

TOWN OF MOUNT HOLLY

WHEREAS, the Town of Mount Holly has, by authority granted in 24 V.S.A. §§ 19811 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 the public health, safety and well being and to promote the responsible use of resources and protection of the environment, the Select Board of the Town of Mount Holly hereby adopts this ordinance to regulate outdoor storage of junk and junk motor vehicles.

Article I: Definitions.

- a. "Abandon" means to leave without claimed ownership for 30 days or more.
- b. "Abutting property owner" means any person(s), 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 the officer(s) appointed by the Select Board and registered with the Vermont Judicial Bureau, 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, or any other machine that assists in household functions such as cooking, cleaning and food preservation.
- 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. Any of the above items used in a bona fide agricultural operation are excluded from this definition.
- g. "Junkyard" means any place of outdoor storage or deposit that 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 the storing or keeping of four or more junk motor vehicles that are visible from any portion of a public highway. The term does not apply to a private garbage dump or sanitary landfill that is in compliance with 24 V.S.A. §§ 2201 et seq and any applicable state regulations. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspections or repairs.
- h. "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 an on-premise utility vehicle which is allowed to remain unregistered for a period of 90 days from the date of discovery.

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- 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 and contiguous to the traveled portion of the roadway.

Article 2: Requirements.

- a. It shall be unlawful to place, discard or abandon junk or four or more junk vehicles in a place where any such item is visible from the traveled way of a highway, or visible to an abutting landowner. 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 four or more junk 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 visible to an abutting landowner. Any such item so placed, discarded or abandoned is hereby declared to be a public nuisance.
- c. A person who wishes to operate a junkyard within the Town is required to obtain a certificate of approval for the location of the junkyard and obtain a license to operate, establish or maintain a junkyard from the State of Vermont.
 - i. Application for a certificate of approved location shall be made in writing to the Select Board of the Town. The application shall contain a description of the land to be included within the junkyard, which 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 V.S.A. §§ 2252-2256, as from time to time amended.
 - ii. The procedures for obtaining a junkyard license from the State of Vermont are those specified in 24 V.S.A. §§ 2261-2264, 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 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 traveled way. Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view. Failure to provide screening

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as required herein shall be considered a violation of this ordinance.

Article 3: Enforcement and Penalties.

- a. Upon receiving written notice from the Select Board to do so, the owner of any junk or junk motor vehicle discovered in violation of this ordinance shall remove or screen the item(s) or vehicle(s) from the view of the traveled way or abutting landowner.
- b. If the owner of the junk or junk motor vehicle(s) does not remove or screen the items from view within 30 days from the date of mailing of the written notice, as indicated by the postmark date, the Select Board shall enforce the ordinance by asking the designated Enforcement Officer to issue a municipal ticket and penalty. Each 30-day period that the violation continues shall constitute a separate violation of this ordinance.
- c. Any violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau. A civil penalty of not more than \$800 per violation may be imposed for violation of this ordinance.

An Enforcement Officer is authorized to recover civil penalties in the following amounts, for each violation of this ordinance:

First offense	\$100 full penalty / \$50 waiver penalty
Second offense	\$200 full penalty / \$100 waiver penalty
Third offense	\$400 full penalty / \$200 waiver penalty
Subsequent offense	\$800 full penalty / \$400 waiver penalty

- d. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, the designated Enforcement Officer shall issue tickets and may be the appearing officer at any hearing. The municipal attorney may also be the appearing officer at the hearing at the direction of the Select Board.

Article 4: Additional Provisions for Junk Motor Vehicles

- a. 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 within 30 days of receiving notice from the Select Board.

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- b. If the last known registered owner fails or refuses to reclaim the junk motor vehicle within 30 days of receiving said written notice, or if after an investigation of the vehicle cannot be ascertained, the owner of land upon which a motor vehicle is left in violation of this ordinance may, without incurring any civil liability or criminal penalty to the owner or lienholders of such vehicle, cause the vehicle to be removed from the place where it is discovered to any other place on any property owned by him or her, or from the property, in accordance with 23 V.S.A. § 2152. The provisions of 23 V.S.A. chapter 21, subchapter 7 (abandoned motor vehicles) shall govern the identification, reclamation and disposal of such vehicles.

Article 5: Severability.

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

Article 6: Effective Date.

This ordinance shall become effective 60 days after its adoption by the Mount Holly Select Board. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Mark Turco, Chair

Date

Jeff Chase

Date

Diana Garrow

Date

ADOPTION HISTORY:

1. Agenda item at regular Select Board meeting held on _____.
2. Read and approved at regular Select Board meeting held on _____.
3. Posted in public places on _____.
4. Notice of adoption published in newspaper of record on _____ with a notice of the right to petition.

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5. Other actions (petitions, etc.) _____.