

DRAFT
TOWN OF ROXBURY
ORDINANCE REGULATING THE DISPOSAL OF SOLID WASTE
AND THE OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES

SECTION 1. Authority

This ordinance is enacted pursuant to the authority granted to the Town of Roxbury to adopt, amend, repeal, and enforce ordinances by 24 V.S.A. §§ 1971 et seq.; to promote the public health, safety, and welfare, to regulate or prohibit the storage or dumping of solid waste, and to compel the cleaning of any premises in which the judgment of the Selectboard is dangerous to the health and safety of the public by 24 V.S.A. § 2291(12), (13), (14); the power to prohibit the throwing, depositing, burning, and dumping of refuse by 24 V.S.A. § 2201(b); the power to manage and regulate solid waste disposal within its boundaries by 24 V.S.A. § 2202a; the power to enforce a solid waste ordinance by 24 V.S.A. §§ 2297 et seq.; the power to regulate abandoned motor vehicles under 23 V.S.A. § 2157; to regulate salvage yards under 24 V.S.A. § 2246; and the power to provide for penalties for violations of any ordinance adopted by 24 V.S.A. § 2291(15).

This ordinance shall be a civil ordinance within the meaning of 24 V.S.A. chapter 59.

SECTION 2. Purpose

It is the purpose of this ordinance to regulate the disposal of solid waste, the location and outdoor storage of junk, junk vehicles, abandoned motor vehicles, and salvage yards in the Town of Roxbury in order to protect the public health, safety, and well-being of the public and to protect the environment.

SECTION 3. Definitions

For purposes of this ordinance, the following words and/or phrases shall apply:

- a. “Abandoned vehicle” means a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for more than 48 hours, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicles does not have a valid registration plate or the public vehicle identification number has been removed, destroyed, or altered.
- b. “Abutting property owner” means any person or persons that owns, leases, or in any other way uses or controls the real property abutting any portion of the property of another.
- c. “Disposal” shall mean the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste

or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.

- d. "Enforcement Officer" means any Selectboard member or any constable or police officer appointed by the Selectboard to enforce the provisions of this ordinance.
- e. "Hazardous waste" shall mean any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat, or other means, which in the judgment of the Secretary may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the State. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition.
- f. "Highway" means any highway as defined in 19 V.S.A. § 1(12). This definition shall include municipal trails as defined in 19 V.S.A. § 301.
- g. "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 vehicle or parts thereof.
- h. "Junk motor vehicle" means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days from the date of discovery.
- i. "Main traveled way" means the portion of a highway designed for the movement of motor vehicles, shoulders, auxiliary lanes, and roadside picnic, parking, rest, and observation areas and other areas immediately adjacent and contiguous to the traveled portion of the highway designated as a roadside area for the use of highway users and generally but not necessarily located within the highway right-of-way.
- j. "Motor vehicle" means any vehicle propelled or drawn by power other than muscular power, including trailers.
- k. "Notice" means written notice mailed by certified mail with return receipt requested. If the notice by certified mail is returned unclaimed, notice shall be provided by first class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure.

- l. "Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont, or any agency, department or subdivision of the state, federal agency, or any other legal or commercial entity.
- m. "Salvage yard" means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility as defined in 24 V.S.A. § 2241(12). "Salvage yard" also means any outdoor area used for operation of an automobile graveyard as defined in 24 V.S.A. § 2241(15). It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs, or a private transfer station or sanitary landfill which is licensed in compliance with the Vermont Statutes Annotated.
- n. "Secretary" means the Secretary of Natural Resources or the Secretary's designee.
- o. "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 operation 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, chapter 47 of title 10. For the purpose of this ordinance, solid waste shall also include marketable recyclables.
- p. "Solid waste order" means a directive issued by a Selectboard that the respondent take actions necessary to achieve compliance with the ordinance, to abate hazards created as a result of noncompliance, or to restore the environment to the condition existing before the violation and may include a civil penalty.
- q. "Waste" means a material that is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded or has served its original intended use and is normally discarded.

SECTION 4. Requirements

- a. **Hazardous Waste.** It shall be unlawful to dispose of any hazardous waste except for in a facility certified or approved by the State of Vermont to accept such hazardous wastes.
- b. **Solid (non-hazardous) Waste.** It shall be unlawful for any person or persons to dump, deposit, throw or leave solid waste, or to cause or permit the dumping, depositing, placing or leaving of solid waste on any public or private property or into any waters in the Town of Roxbury, except as follows:

1. The composting of organic material if authorized by the Vermont Solid Waste Management Rules provided no nuisance is caused;
2. The disposal of solid waste in a privately owned or maintained waste container with the express consent of the owner of the container;
3. The disposal of solid waste in a publicly-owned or maintained waste container in a public building, or on public grounds provided such solid waste was created or originated in a public building or on its grounds or generated during the use of said public building, or grounds on such grounds; or
4. The disposal of other materials as approved by the Vermont Department of Environmental Conservation, the Town of Roxbury Selectboard, and the Mountain Alliance Solid Waste Management Committee.

- c. **Waste not to accumulate except in enclosed suitable storage containers.** The occupants and/or owners of all properties shall place or cause to be placed all solid waste and recyclable material in suitable enclosed containers and shall not permit any accumulation or deposit of such substances in or about the premises except in such suitable containers.

Accumulation or depositing of solid waste and recyclables on properties shall constitute a violation of this ordinance.

- d. **Junk and Junk Vehicles.** It shall be unlawful to place, dispose, discard, or abandon junk or junk vehicles in a place where any such item is visible from the main traveled way of a highway or visible from an abutting property owner's land. Any such item so placed, discarded or abandoned is hereby declared to be a public nuisance and a violation of this ordinance.

All places of outdoor storage of junk and junk vehicles shall be effectively screened from public view by a fence or vegetation at least six feet high. Any fence shall be of sound construction, 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 which are visible from the main traveled way of a highway. Any vegetation used for screening shall be of sufficient density to effectively screen the area from view. Failure to provide screening as required herein shall be considered a violation of this ordinance.

1. Screening Required. All salvage yards shall be effectively screened from public view by a fence or vegetation at least six feet high. Any fence shall be of sound construction, 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 which are visible from the main traveled way of a highway. Any vegetation used for screening shall be of

sufficient density to effectively screen the area from view. Failure to provide screening as required herein shall be considered a violation of this ordinance.

2. Permits Required. It shall be unlawful for a landowner within the Town to own or operate or allow the operation of a salvage yard on land within the municipality unless it is being operated in compliance with 24 V.S.A. Chapter 61 and this ordinance. Any salvage yard operating without the necessary permit and approvals as herein specified is declared to be a public nuisance and a violation of this ordinance.

A person who wishes to operate a salvage yard within the municipality is required to obtain a certificate of approval for the location of the salvage yard from the Selectboard of the Town of Roxbury and obtain a certificate of registration issued by the Secretary to operate, establish, or maintain a salvage yard pursuant to 24 V.S.A. §§ 2241 et seq.

- i. **Local 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 salvage yard, which description shall be by reference to so-called permanent boundary markers. The certificate of approved location is valid for one year. The conditions and procedures to be followed after an application has been made are those specified in 24 V.S.A. §§ 2251-2257, as from time to time amended.
- ii. **State Salvage Yard Certification.** The procedures for obtaining a salvage yard certification from the Secretary are those specified in 24 V.S.A. Chapter 61, as from time to time amended.

SECTION 5. Enforcement and Penalties

a. Violation of Screening Requirements.

Upon receiving written notice from the Enforcement Officer to do so, the owner of any junk, junk motor vehicle, or abandoned motor vehicle discovered in violation of Section 4 of this ordinance shall remove any such items or vehicles from the property or screen the item(s) or vehicle(s) from the view of the main traveled way of the highway. 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 by the Enforcement Officer, the Enforcement Officer may notify the appropriate state agencies. Failure to remove or screen the items from view within 30 days from the date of mailing of the written notice by the Enforcement Officer shall be a violation of this ordinance.

If the owner of the land on which a junk motor vehicle is discovered in violation of Section 4 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 written notice from the Enforcement Officer.

b. Abandoned Motor Vehicles.

1. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from public property and may contract a towing service for removal of such motor vehicle, based upon personal observation by the officer that the vehicle is abandoned, as defined in 23 V.S.A. § 2151.
2. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from private property and may contact a towing service for removal from private property of such vehicle, based upon complaint from the owner or agent of the property on which the vehicle is located that the vehicle is abandoned.
3. An owner or agent of an owner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property and may contact a towing service for removal from that property of an abandoned vehicle. If an owner or agent of an owner removes or causes removal of an abandoned motor vehicle, the owner or agent shall immediately notify the Vermont State Police. Notification shall include identification of the registration plate number, the vehicle identification number, make, model, and color of the vehicle. The owner or agent of an owner of property upon which a motor vehicle is abandoned may remove the vehicle from the place where it is discovered to any other place on any property owned by him or her, or cause the vehicle to be removed by a towing service without any civil liability to the owner of the abandoned vehicle.

c. Other violations. Any other violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Superior Court, at the election of the Selectboard. Each day that the violation continues shall constitute a separate violation of this ordinance.

1. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. A civil penalty of not more than \$800 per violation may be imposed for violation of this ordinance.

A. A municipal ticket will be issued by the Enforcement Officer if the violation has not been corrected in accordance with this ordinance.

B. 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 Selectboard.

2. An Enforcement Officer is authorized to recover civil penalties in the following amounts, or as established by the Judicial Bureau, 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

3. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Enforcement Officer or Selectboard may pursue all appropriate injunctive relief. In addition, a civil penalty of not more than \$800 per violation may be imposed for violation of this ordinance.

d. **Solid Waste Order and Enforcement.** For any violations of this ordinance not including salvage yards, or screening requirements, the Selectboard may also use the procedures set forth in 24 V.S.A. Chapter 61, Subchapter 12 to issue a solid waste order to enforce any of the provisions of this ordinance. Such order may include civil penalties for each violation and, in the case of a continuing violation, a penalty for each succeeding day.

1. The Selectboard may seek enforcement of a final solid waste order in the superior court or before the Environmental Division. If a penalty is imposed and the respondent fails to pay the penalty within the time prescribed, the selectboard may bring a collection action in the superior court.

2. Imposition of a penalty by the Town of Roxbury through a solid waste order under 24 V.S.A. Chapter 61, Subchapter 12 precludes imposition by the Town of Roxbury of any other administrative or civil penalty under any other provision of law for the same violation.

SECTION 6. Other Laws. This ordinance is in addition to all other ordinances of the Town of Roxbury and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 7. 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. If any statute referred to in this ordinance shall be amended, this ordinance shall be deemed to refer to such amended statute.

SECTION 8. Effective Date. This ordinance shall become effective 60 days after its adoption by the Selectboard or at such time following the expiration of the 60 days from the date of its

adoption as is determined by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Adopted this _____ day of _____, 20__.

Selectboard for the Town of Roxbury

Date _____

ADOPTION HISTORY:

1. Agenda item at a _____ meeting of the Selectboard held on _____.
2. Read and approved at that meeting of the Selectboard on _____ and entered in the minutes of that meeting which were approved on _____.
3. Posted in public places on _____.
4. Notice of adoption published in the _____ newspaper on _____ with a notice of the right to petition.
5. Other actions