

**REGULATING OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES
TOWN OF BENSON, VERMONT**

WHEREAS, the town of Benson has, by authority granted in 24 V.S.A. §§ 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 the 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 Benson 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 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, health officer 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. 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 two or more junk motor vehicles which are visible from any portion of a public highway. However, the term does not include a private garbage dump or a 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 inspection 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.
- k. Risk to public health or the environment is defined as any toxic materials or liquids which may leach into the soil and/or water supply, including but not limited to oil, hydraulic fluid, transmission fluid, gasoline, diesel or other fuel.

ARTICLE 2. Requirements.

- a. It shall be unlawful to place, discard or abandon junk or two or more junk motor vehicles in a place where 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.
- 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 who wishes to operate a junkyard within the town of Benson is required to:
 - 1) obtain a certificate of approval for the location of the junkyard, and
 - 2) obtain a license to operate, establish or maintain a junkyard from the State of Vermont.

1. **Certificate of Approved Location.** Application for a certificate of approved location shall be made in writing to the Selectboard of the town of Benson. 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 V.S.A. §§ 2252-2256, as from time to time amended.

“The application shall be accompanied by a certificate from the DRB 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 V.S.A. §§ 2261-2264, as from time to time amended.

- d. All junkyards, scrap yards, and places of outdoor storage of junk motor vehicles shall be managed so as to eliminate, to the maximum extent practicable, any harm to the public’s health or the environment, and 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

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advertising signs or other displays which are visible from the 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.

ARTICLE 3. Enforcement and Penalties.

- a. Upon receiving written notice from the selectboard to do so, the owner of any junk or junk motor vehicle discovered in violation of Article 2 of this ordinance shall remove or screen the item(s) or vehicle(s) from the view of the traveled way of the highway or town road. Such items shall also be screened from the view of an abutting landowner as seen from that portion of the abutter's land used on a regular basis. 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 Selectboard, the Selectboard may notify the appropriate state agency.
- 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 Article 2 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 Selectboard
 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 appropriate state agency.
 3. Further procedures by the state agency are specified in 24 V.S.A. § 2272.
- c. A violation of this ordinance shall be a civil matter enforced in the Vermont Judicial Bureau in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. A civil penalty of not more than \$100.00 per violation may be imposed for violation of this ordinance. 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. Each day that the violation continues shall constitute a separate violation of this ordinance.
- d. The town Constable and health officer shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.
- e. A violation of this ordinance may lead to superior court action seeking injunctive relief and civil penalties pursuant to 24 V.S.A. § 1974a.

ARTICLE 4. 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.

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ARTICLE 5. Effective Date. This ordinance shall become effective 60 days after its adoption by the Benson Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Signatures

Date

ADOPTION HISTORY:

1. Agenda item at regular Selectboard meeting held on _____.
2. Read and approved at regular Selectboard meeting 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 [petitions, etc.]