

OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES

ARTICLE I. AUTHORITY

This Ordinance is adopted under the authority granted in 24 V.S.A. SS 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;

ARTICLE II. PURPOSE

The purpose of this Ordinance is 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 Westminster hereby adopts this ordinance to regulate outdoor storage of junk and junk motor vehicles.

ARTICLE III. DEFINITIONS

"Abandon" means to leave without claimed ownership for 30 days or more.

"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.

"Enforcement Officer" means any law enforcement officer, town manager or other official appointed by the Selectboard to enforce the provisions of this ordinance.

"Highway" means any public highway, road, street or public way, regardless of classification.

"Household appliance" means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool and the like.

"Issuing Municipal Official" means the Westminster Town Manager, any member of the Westminster Selectboard, and any member of the Windham County Sheriff's Office.

"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.

"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 three 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. SS 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.

"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 30 days from the date of discovery.

"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.

"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 IV. REQUIREMENTS

A. Visibility It shall be unlawful to place, discard or abandon junk or three 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. Standards It shall be unlawful to place, discard or abandon junk or three or more junk motor vehicles upon land of another with or without the consent of the owner, when any such item is visible from the traveled way of the 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.

All junkyards 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 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 is considered a violation of this ordinance.

C. Junkyards A person who wishes to operate a junkyard within the town of Westminster is required to:

- obtain all necessary local zoning permits
- obtain a certificate of approval for the location of the junkyard from the Selectboard, and
- obtain a license to operate, establish or maintain a junkyard from the State of Vermont.

Certificate of Approved Location. Application for a certificate of approved location shall be made in writing to the Selectboard of the town of Westminster. 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. SS 2252-2256, as from time to time amended.

State Junkyard License. The procedures for obtaining a junkyard license from the State of Vermont are those specified in 24 V.S.A. SS 2261 - 2264, as from time to time amended.

ARTICLE V. ENFORCEMENT & PENALTIES

A. Enforcement Responsibility The Issuing Municipal Official, as defined in Article III, is authorized to enforce this ordinance, and to issue and pursue a municipal complaint before the Traffic and Municipal Ordinance Bureau for any violations. The Issuing Municipal Official shall issue a written warning for a violation of this ordinance before issuing a municipal complaint for a first offense of this ordinance.

In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the Issuing Municipal Official is authorized to commence a civil action to obtain injunctive and appropriate relief, or to pursue any other remedy authorized by law.

B. Initial Notice Land owners discovered to be in violation of Article II of this ordinance shall be mailed a written notice via certified mail. Such notice shall inform the land owner of the nature of the violation, and shall instruct the landowner to, within 30 days from the date of mailing the notice, remove or screen the junk or junk motor vehicles from view of the traveled way of the highway or town road and from the view of an abutting landowner as seen from the portion of the abutter's land used on a regular basis.

C. Enforcement Options 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 the Issuing Municipal Official may:

1. Notify the appropriate state agency, or,
2. At his sole discretion, cause such junk or junk motor vehicle(s) to be removed at the expense of the owner of the same, or
3. Pursue enforcement of this ordinance under the provision of Title 24, VSA 1974a and 1977 et. seq.

D. Penalties Any person who violates any provision of this ordinance shall be subject to a civil penalty of up to \$200 per day for each day the violation continues.

1. Waiver Fee: An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and by the Waiver Fee:

First offense in any calendar year:	\$ 50.00
Second offense in any calendar year:	\$ 75.00
Third offense in any calendar year:	\$100.00
Fourth or more offenses in any calendar year:	\$150.00

2. Civil Penalties. An Issuing Municipal Official is authorized to recover civil penalties in the following amount for each violation:

First offense in any calendar year:	\$ 75.00
Second offense in any calendar year:	\$100.00
Third offense in any calendar year:	\$150.00
Fourth or more offenses in any calendar year:	\$200.00

Each day in which any violation continues or occurs shall be deemed a separate offense.

ARTICLE VI. ADMINISTRATION

A. Liability for Loss by the Town Due to Violation Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss, or damage occasioned by the Town, including reasonable legal expenses, by reason of such offense.

B. Severability The invalidity of any provision of this Ordinance shall not invalidate any other part thereof.

C. Date of Enactment Duly enacted and ordained by the Selectboard of the Town of Westminster, Windham County, State of Vermont, on this 25th day of October 2005 at a duly warned and duly held meeting of said Selectboard.

D. Effective Date This Ordinance shall become effective sixty (60) days from the date hereof, that is, on December 25, 2005.