

**CONFIDENTIAL DRAFT – JFC EDITS**  
**12/6/2017**

**TOWN OF CHESTER**  
**ORDINANCE REGULATING OUTDOOR STORAGE**  
**OF JUNK AND JUNK VEHICLES**

Pursuant to the provisions of 23 V.S.A. §2157 and Title 24 Vermont Statutes Annotated, Chapters 59 and 61 as amended, and such other special or general enactments as may be material thereto, to protect the public health, safety and well-being, and to promote the responsible use of resources and protection of the environment, it is hereby resolved and ordained by the Selectboard of the Town of Chester, that the following *Ordinance Regulating Outdoor Storage of Junk and Junk Vehicles* be adopted:

SECTION 1 - DEFINITIONS

As used in this ordinance the following terms shall have the following meanings:

A. “Abandon” means to leave Junk or any other item on public or private property or along a Highway without the consent of the owner or person in control of the property without a claimed of ownership for 30 days or more.

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B. “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.

A. —

B.C. “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.D. “Certificate of Approved Location” means a certification from the Town approving the location for a Salvage YardJunkyard, in conformance with this Ordinance and any applicable State law.

D.E. “Enforcement Officer” means any municipal official, police officer, health officer, or other individualete, appointed by the Selectboard to enforce the provisions of this ordinance.

E.F. “Highway” or “highways” means any highways, as defined in 19 V.S.A. §1(12) as amended, road, street or other public way, regardless of classification. This definition shall include town trails as defined in 19 V.S.A. §301(8).

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F.G. "Household Appliance" means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool or other electronic, mechanical, electricity or battery powered device used for household purposes.

G.H. "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 or plastic debris; waste; trash; construction debris; plumbing fixtures; or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, but specifically excluding any of the foregoing items that are stored for uses in a used-in-a bona fide and ongoing agricultural operation.

Commented [MMC1]: What is an agricultural operation?

H.I. "Junk Motor Vehicle" means (i) a discarded, abandoned, dismantled, wrecked, scrapped, permanently inoperable or ruined motor vehicle or parts thereof, (ii) an unregistered mobile home not connected to water (or well) and/or sewer (or septic), or (iii) any motorized vehicle (other than an on-premise utility vehicle) that is allowed to remain unregistered for a period of thirty (30) days from the date of discovery.

Commented [MMC2]: ?

I. ~~"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 2 or more Junk Motor Vehicles which are visible from any portion of a public Highway. "Junkyard" does not mean (i) 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; or (ii) a garage where wrecked or disabled Motor Vehicles are stored for less than ninety (90) days for inspection or repairs.~~

J. "Motor Vehicle" means any vehicle propelled or drawn by power other than muscular power, including trailers. Functional motorized equipment used for agricultural and construction operations are excluded from this definition.

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K. ~~"Salvage Yard" means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling Junk or 2 or more Junk Motor Vehicles 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.~~

Commented [CA3]: This definition has a four car threshold. I think we should add the option to lower that.

(15) "Automobile graveyard" means a yard, field, or other outdoor area on a property owned or controlled by a person and used or maintained for storing or depositing four or more junk motor vehicles. "Automobile graveyard" does not include:

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K.L. "Town" means the Town of Chester, Vermont.



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M. “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.

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N. “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.

L.

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**SECTION 2 - PROHIBITION**

A. No one may place, discard, or abandon a Junk Motor Vehicle or Junk in a place where any such item is visible from the main traveled way of a highway; nor may anyone abandon or discard any Junk Motor Vehicle or Junk upon the land of another with or without the consent of the landowner; nor may anyone abandon or discard any Junk Motor Vehicle or Junk along a highway. Any item so placed, discarded, or abandoned are hereby declared to be a public nuisance.

~~A. It shall be unlawful to place, discard or Abandon Junk or 2 or more Junk Motor Vehicles in any place in the Town where any such item is either (i) visible from the Traveled Way of a Highway or Town road, or (ii) visible to an Abutting Landowner from any 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 and a violation of this Ordinance.~~

~~B. It shall be unlawful to place, discard or Abandon Junk or 2 or more Junk Motor Vehicles upon the land of another, with or without the consent of the owner, when any such item is either (i) visible from the Traveled Way of a Highway or Town road, or (ii) visible to an Abutting Landowner from any 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 and a violation of this Ordinance.~~

C. B. It shall be unlawful to have, own or operate, or for a landowner within the Town to allow the operation of, a Salvage Yard Junkyard on lands within the Town unless it is being operated as a State-approved Salvage Yard pursuant to 24 V.S.A., Chapter 61-§2241 et seq. and this Ordinance. Any Junkyard Salvage Yard operating without the necessary permits and approvals as herein specified is hereby declared to be a public nuisance and a violation of this Ordinance.

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SECTION 3 - PERMITTING AND CERTIFICATE REQUIREMENTS

- A. A person who wishes to operate a Salvage Yard within the Town is required to:
- i. obtain a Certificate of Approved Location from the Town for the location of the Junkyard, and
  - ii. obtain a license to operate, establish or maintain a Salvage Yard from the State of Vermont.
- B. Certificate of Approved Location.
- i. Application for a Certificate of Approved Location shall be made in writing to the Selectboard of the Town. 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 procedures to be followed after an application has been made are those specified in 24 V.S.A. §§ 2251-2256, as from time to time may be amended.
  - ii. The application shall be accompanied by a certificate from the Town ~~Enforcement Officer~~ Selectboard or DRB/Planning Commission/Zoning Administrator certifying that the proposed location is (a) not within an established district restricted against such uses under the Chester Unified Development Bylaws, as amended, and (b) is not otherwise contrary to the dimensional requirements or prohibitions of the Chester Unified Development Bylaws ~~any zoning bylaw~~ or other municipal ordinance, and (c) that any necessary land use permits in connection with the proposed Salvage Yard have been obtained.
- C. State Salvage Yard License. The applicant must obtain the necessary approvals from the State of Vermont. The procedures for obtaining a Salvage Yard License from the State of Vermont are those specified in 24 V.S.A. §§ 2261 *et seq.*, as from time to time amended.
- D. Screening Requirements. All ~~Junkyards, scrap yards,~~ Salvage Yards, and approved places of outdoor storage of Junk or Junk Motor Vehicles shall, in addition to being properly registered, licensed and operated within an approved location, be effectively screened from both public view and from the view of Abutting Property Owners by a fence or vegetation at least eight (8) feet in height. Any such fence shall be constructed and placed in compliance with Chester's Uniform Development Bylaws, as amended, and any land use permits issued pursuant to said Bylaws. 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 at all times. Such fence shall not be used for advertising signs or

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other displays which are visible from the Traveled Way of a Highway or Abutting Property Owners. 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.

**SECTION 4 - ENFORCEMENT**

- A. If an Enforcement Officer determines that a violation of this Ordinance has occurred, the Enforcement Officer may institute enforcement under this Ordinance by serving~~may serve~~ via certified mail or overnight courier, or by service in hand, written notice of the violation to (i) the person who is operating an unlicensed or improperly operated Salvage Yard or who is the owner of the Junk or Junk Motor Vehicle at issue, or (ii) the person listed in the Town Grand List as the owner of the real property on which the Junk or Junk Motor Vehicle is located, or (iii) any person who has otherwise violated the Ordinance, or (iv) any combination of the above.
- B. A Notice of Violation shall be deemed validly served as of the earlier of (i) the date it is mailed by certified mail or overnight delivery, or (ii) the date it is actually received via hand-delivery or other form of by the subject of the Notice.
- C. No more than thirty (30) days of receipt of a Notice of Violation, the recipient shall ~~(i) remove the offending Junk and Junk Motor Vehicles from the property;~~ or (ii) install screening as set forth in Section 3(D) above; Notwithstanding the maximum 30-day deadline set forth above, the Enforcement Officer may determine that public health or safety concerns or other exigent circumstances require ~~an~~ shorter deadline for compliance, in which case the deadline may be shortened to no less than five (5) calendar days from the date the Notice is served. If the recipient of the Notice does not correct the violation by the specified deadline, the Enforcement Officer may issue the person a municipal violation ticket and/or pursue all other enforcement actions authorized by this Section, state law or common law.
- D. A violation of this Ordinance shall be a civil matter, enforceable by the Town pursuant to 24 V.S.A. §§ 1974a and 1977 and in addition, to all other remedies, the Town shall have the right to obtain injunctive relief, civil penalties in excess of the Judicial Bureau's jurisdiction and contempt from any court of competent jurisdiction to enjoin, abate, or prevent any violation of this Ordinance under any applicable law.
- E. Nothing in this Ordinance shall preclude the Town from pursuing relief or enforcement action under and in conformance with any other ordinance or statute, including but not limited to the issuance of health orders pursuant to 18 V.S.A. Chapter 3; the enforcement of zoning violations pursuant to 24 V.S.A Chapter 117; obtaining injunctions against public nuisance pursuant to 24 V.S.A. § 2121;

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or enforcement against the illegal deposit of rubbish or garbage pursuant to 24 V.S.A. § 2201 *et seq.*

- F. Additional Provisions for Junk Motor Vehicles. If the owner of the property 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 written notice from the Town. 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. Further procedures by the state agency are specified in 24 V.S.A. § 2272.

SECTION 5 - PENALTIES

- A. Each ~~week~~ day a violation continues shall constitute a separate offense.
- B. A civil penalty of ~~not more than~~ ~~can be up to~~ \$800 per violation may be imposed for violation of this ordinance. ~~The Selectboard may, from time to time, adopt and amend a schedule of civil penalties and waiver fees for violations of this Ordinance which, upon adoption, shall become appended to and made a part of this Ordinance.~~ NOTE: Some towns have progressive enforcement as follows: A civil penalty of \$100 for the initial violation; \$250 for the second offense within a six-month period, and \$500 for each subsequent offense within a six-month period. The waiver fee is \$50 for the first offense, \$75 for the second offense within a six-month period, and \$150 for each subsequent offense within a six-month period.

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SECTION 6 - REPEAL OF PRIOR INCONSISTENT ORDINANCES

All prior ordinances in conflict herewith are hereby repealed to the extent of such conflict except that this repeal shall not affect, or prevent the prosecution of any person for an act done or committed prior to the effective date of this ordinance.

SECTION 7 - SEPARABILITY

The provisions of this ordinance are hereby declared to be separable and if any thereof be adjudged invalid, the invalidity of any part shall not affect the remainder thereof.

SECTION 8 - AMENDMENTS

This ordinance may be amended by a majority vote of the Selectboard at a meeting called for the purpose of considering such amendments and pursuant to 24 V.S.A. §1976, as amended.

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SECTION 9 - PUBLICATION, RECORDING AND EFFECTIVE DATE

This ordinance shall be entered into the minutes of the municipality and posted in at least five (5) conspicuous places within the Town, and published in a newspaper circulating in the Town on a day not more than fourteen (14) days following the date when the proposed ordinance is adopted. This ordinance shall become effective at the expiration of sixty (60) days from the date of its adoption by the Selectboard unless a petition is sooner filed pursuant to 24 V.S.A. §1973 in which event this Ordinance shall become effective as provided in 24 V.S.A. §1973(e).

\* \* \*

This ordinance is adopted by the undersigned legislative body of the Town of Chester on the \_\_\_\_th day of \_\_\_\_\_, 20\_\_\_\_, and entered into the minutes of the said Town on that date, shall become effective on the \_\_\_\_th day of \_\_\_\_\_, 20\_\_\_\_.

TOWN OF CHESTER SELECTBOARD

/s/ \_\_\_\_\_

/s/ \_\_\_\_\_

/s/ \_\_\_\_\_

/s/ \_\_\_\_\_

Filed for record in the Town Act Book on \_\_\_\_\_.

Attest: \_\_\_\_\_ Town Clerk

