

**TOWN OF CAVENDISH
MUNICIPAL ORDINANCE**

OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES

WHEREAS, the Town of Cavendish 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 Board of Selectmen of the Town of Cavendish hereby adopts this ordinance to regulate outdoor storage of junk and junk motor vehicles.

ARTICLE I. Definitions.

1. "Abandon" means to leave without claimed ownership for 30 days or more.
2. "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.
3. "Enforcement Officer" means any municipal official, police officer, constable, health officer, etc. appointed by the selectboard to enforce the provisions of this ordinance.
4. "Highway" means any highway, road, street or other public way, regardless of classification.
5. "Household appliance" means any range, stove, refrigerator, washing machine, microwave, computer, clothes dryer, water pump, power tool and the like.
6. "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.
7. "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. §§ 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.

8. "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.
9. "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.
10. "Traveled way" in this ordinance refers to 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.

1. 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.
2. For safety reasons, the owner of any junk motor vehicle or household appliance must secure the same so as to disallow unauthorized entry by other persons, especially children.
3. It shall be unlawful to place, discard or abandon junk or three or more junk motor vehicles upon the land of another with or without the consent of the landowner, 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.
4. A person who wishes to operate a junkyard within the Town of Cavendish 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 Agency of Transportation.
 1. Certificate of Approved Location. Application for a certificate of approved location shall be made in writing to the selectboard of the Town of Cavendish. 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.

2. State Junkyard License. The procedures for obtaining a junkyard license from the State Agency of Transportation are those specified in 24 V.S.A. §§ 2261-2264, as from time to time amended.
5. 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 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 during all seasons. Failure to provide screening as required herein shall be considered a violation of this ordinance.

ARTICLE 3. Enforcement and Penalties.

1. 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 designated enforcement officer may pursue an enforcement action pursuant to Article 3.3 of this ordinance, and may notify the Agency of Transportation.
2. 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 via certified mail or personal service.
 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 Agency of Transportation.
 3. Further procedures by the Agency of Transportation are specified in 24 V.S.A. § 2272.
3. A violation of this ordinance shall be a civil matter enforced in the Vermont Judicial Bureau or in the Windsor County Superior Court, at the election of the selectboard.
 1. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§1974a and 1977 et seq. Violations enforced in the

Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. For purposes of enforcement in Superior Court, the selectboard may pursue all appropriate equitable relief. For purposes of enforcement in either the Judicial Bureau or the Superior Court, a civil penalty of \$100 shall be imposed for the initial violation of this civil ordinance. The penalty for the second offense within a six-month period shall be \$250, and the penalty for each subsequent offense within a six-month period shall be \$500.

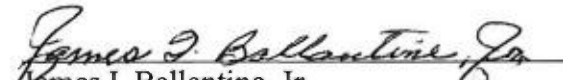
2. The waiver fee shall be set at \$50 for the first offense, \$75 for the second offense within a six-month period, and \$150 for each subsequent offense within a six-month period.
3. A municipal ticket will be issued 15 days after written notification of violation is mailed or delivered by the selectboard 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.
4. For purposes of enforcement in the Judicial Bureau, the Town zoning administrator, if one exists, the Town manager, constable, any sheriff, police officer, or other law enforcement official shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.

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.

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

ENACTED AND ORDAINED ON THIS 9 DAY OF Jan., 2006.


George Timko, Chair


James I. Ballantine, Jr.


Daniel Churchill

Robert W. Glidden

Suzanne Meaney

ADOPTION HISTORY:

1. Agenda item at regular Selectboard meetings held on 9/12/05, 10/17/05, 11/14/05, 12/12/05 & 1/09/06.
2. Read and approved at regular Selectboard meeting on 12/12/05 and entered in the minutes of that meeting which were approved on 1/09/06.
3. Re-adopted at Selectboard meeting on 1/09/06 and entered in the minutes of that meeting which were approved on 2/13/06.
4. Posted in public places on 1/19/06.
5. Notice of adoption published in the Eagle Times newspaper on 1/22/06 and 1/23/06 and the Message of the Week newspaper on 1/25/06 with a notice of the right to petition.
6. Other actions [petitions, etc.)

This ordinance is available for review at the Town Clerk's Office at 37 High Street in Cavendish. Questions concerning this ordinance may be directed to the Town Manager, Town of Cavendish Municipal Offices, 37 High Street, Cavendish, VT 05142 or call (802) 226-7291.