ORDINANCE REGULATING OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES
2005-10-25

TOWN OF FAIR HAVEN, VERMONT

Adopted: 10/25/05 Effective: 12/9/05

WHEREAS, the town of Fair Haven 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 Fair Haven hereby adopts this ordinance to regulate outdoor storage of junk and junk motor vehicles.

ARTICLE 1: 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 or law enforcement officer, appointed by the Selectboard to enforce the provisions of this ordinance.

D. "Highway" means any highway, road, street or 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 three or more junk motor vehicles which are visible from any portion of a public highway.

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 30 days from the date of discovery.

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.

ARTICLE 2: Requirements

A. It shall be unlawful to place, discard or abandon junk or one 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 one 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.

C. A person who wishes to operate a junkyard within the town of Fair Haven 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 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 Fair Haven. 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. § 2251-2256, as from time to time amended. The application shall be accompanied by a certificate from the Zoning Board of Adjustment 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 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 in natural colors 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 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 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 the 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, or, at its sole discretion, may cause such junk or junk motor vehicle(s) to be removed at the expense of the owner of the same.

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 by the owner of the land and is furnished to the Selectboard by that land owner, 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, or, at its sole discretion, may cause such vehicle to be removed. In all cases where junk vehicles are located on the land of the same owner, and the true owner of one or more such vehicles cannot be located after the landowner disclaims title to such vehicles, the owner of such land shall be conclusively deemed to be the owner of such vehicles and responsible for their removal, screening or disposal or for the expense of the removal of the same.

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 accordance with the provisions of 24 V.S.A. § 1974a and 1977 et seq. A civil penalty of not more than $500 per violation may be imposed for violation of this ordinance. A Vermont Municipal Complaint 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 the violation continues shall constitute a separate violation of this ordinance.

D. The town constables and law enforcement officers shall be designated enforcement officers. Said designees shall issue Vermont Municipal Complaint tickets and shall 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.

F. All fines, removal expenses and penalties provided for under this ordinance shall constitute a lien against the party against whom they are levied and, in the case of any land owner in the Town of Fair Haven, against such real property.

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 Fair Haven Board of Selectmen unless a petition requesting voter approval is submitted within forty-five (45) days following adoption as provided in 24 V.S.A. § 1973.

Adopted this 25 day of October 2005 By the Fair Haven Board of Selectmen

John Lulek, Chair

Ken Jones

Jim Coombs
Ron Adams

Will Dodge

Raymond Bunker