

MIDDLETOWN SPRINGS CIVIC ORDINANCE REGULATING THE OUTDOOR STORAGE OF JUNK AND JUNK VEHICLES

SECTION 1. Authority. This ordinance is adopted by the Selectboard of the Town of Middletown Springs under authority of 23 V.S.A. § 2157, 24 V.S.A. §§ 2246 and 2291(14), and 24 V.S.A. Chapter 59, by vote of the townspeople on March 7, 2017.

SECTION 2. Purpose. It is the purpose of this ordinance to regulate the outdoor storage and disposal of junk, junk vehicles, regulate abandoned motor vehicles, and to regulate salvage yards in the Town of Middletown Springs in order to protect the public health, safety, and well being of the public and to protect the environment.

SECTION 3. Definitions. For purposes of this ordinance, the following words and/or phrases shall apply:

- a. “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.
- b. “Abutting property owner” means any person or persons 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, Rutland County Sheriff’s Deputy, or other agent appointed by the Selectboard to enforce the provisions of this ordinance.
- d. “Highway” means any highway as defined in 19 V.S.A. § 1(12).
- e. “Junk” means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material including, but not limited to, rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof.
- f. “Junk motor vehicle” means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of 90 days from the date of discovery.
- g. “Motor vehicle” means any vehicle propelled or drawn by power other than muscular power, including trailers.
- h. “Notice” means written notice mailed by certified mail with return receipt requested.

- i. “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.
- j. “Salvage yard” means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk 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. 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.
- k. “Secretary” means the Secretary of Natural Resources or the Secretary’s designee.
- l. “Main traveled way” means the portion of a highway designed for the movement of motor vehicles, shoulders, auxiliary lanes, and roadside picnic, parking, rest, and observation areas and other areas immediately adjacent and contiguous to the traveled portion of the highway and designated by the Transportation Board as a roadside area for the use of highway users and generally but not necessarily located within the highway right-of-way.

SECTION 4. Requirements.

- a. It shall be unlawful to place, discard, or abandon three or more junk motor vehicles or junk in an outdoor place where any such item is visible from the main traveled way of a highway or visible from an abutting property owner’s land at any season of the year. 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 three or more junk motor vehicles or junk upon the land of another with or without the consent of the owner, when any such item is visible from the main traveled way of a highway or visible from an abutting property owner’s land at any season of the year. Any such item so placed, discarded, or abandoned is hereby declared to be a public nuisance and in violation of this ordinance.
- c. It shall be unlawful for a landowner within the Town to own or operate or allow the operation of a salvage yard on land within Town unless it is being operated in compliance with 24 V.S.A. §§ 2201 et seq. and this ordinance. Any salvage yard operating without the necessary permit and approvals as herein specified is declared to be a public nuisance and a violation of this ordinance.
- d. A person who wishes to operate a salvage yard within the Town is required to obtain a certificate of approval for the location of the salvage yard from the Selectboard of the Town and obtain a certificate of registration issued by the Secretary to operate, establish, or maintain a salvage yard.

1. **Certificate of Approved Location.** 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 certificate of approved location is valid for three years. The conditions and procedures to be followed after an application has been made are those specified in 24 V.S.A. §§ 2251-2257, as from time to time amended.
 2. **State Salvage Yard Certification.** The procedures for obtaining a salvage yard certification from the Secretary are those specified in 24 V.S.A. Chapter 61, as from time to time amended.
- e. All salvage yards and places of outdoor storage of junk and junk vehicles shall be effectively screened from public view by a fence or vegetation at least six feet high. Any fence shall be of sound construction, 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 main traveled way of a highway. Any vegetation used for screening shall be of sufficient density to effectively screen the area from view. Failure to provide screening as required herein shall be considered a violation of this ordinance.

SECTION 5. Enforcement and Penalties.

- a. Upon receiving written notice from the Enforcement Officer to do so, the owner of any junk or junk motor vehicle discovered in violation of Section 4 of this ordinance shall remove or screen the item(s) or vehicle(s) from the view of the main traveled way of the highway. Junk and/or junk motor vehicles shall be effectively screened from the view from any abutting property owner's land year-round. 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 Enforcement Officer, the Enforcement Officer may notify the appropriate state agencies. Failure to remove or screen the items from view within 30 days from the date of mailing of the written notice by the Enforcement Officer shall be violation of this ordinance.
- 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 4 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 Enforcement Officer.
 2. A person who violates Section 4, subsection e of this Ordinance shall be fined \$20 for each day a violation exists, pursuant to 24 V.S.A. § 2282.
- c. Additional Provisions for Abandoned Motor Vehicles.

1. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from public property and may contract a towing service for removal of such motor vehicle, based upon personal observation by the officer that the vehicle is abandoned, as defined in 23 V.S.A. § 2151.
 2. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from private property and may contact a towing service for removal from private property of such vehicle, based upon complaint from the owner or agent of the property on which the vehicle is located that the vehicle is abandoned.
 3. An owner or agent of an owner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property and may contact a towing service for removal from that property of an abandoned vehicle. If an owner or agent of an owner removes or causes removal of an abandoned motor vehicle, the owner or agent shall immediately notify the Middletown Springs Selectboard. Notification shall include identification of the registration plate number, the vehicle identification number, make, model, and color of the vehicle. The owner or agent of an owner of property upon which a motor vehicle is abandoned may remove the vehicle from the place where it is discovered to any other place on any property owned by him or her, or cause the vehicle to be removed by a towing service without any civil liability to the owner of the abandoned vehicle.
- d. A violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Superior Court, at the election of the Selectboard. Each day that the violation continues shall constitute a separate violation of this ordinance.
1. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. A civil penalty of not more than \$20 per each day of violation may be imposed for violation of this ordinance, except for violations of Section 4, subsection e.
 - A. A municipal ticket will be issued by the Enforcement Officer 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.
 - B. For purposes of enforcement in the Judicial Bureau, the designated Enforcement Officer shall issue tickets and may be the appearing officer at any hearing. The municipal attorney may also be the appearing officer at the hearing at the direction of the Selectboard for violations other than those in Section 4, subsection e.
 2. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Enforcement Officer or Selectboard may pursue all appropriate injunctive relief. In addition, a civil penalty of not more than \$500 per violation may be imposed for violation of this ordinance. A civil action may be initiated if the violation has not been corrected in accordance with this ordinance, other than those in Section 4, subsection e.

SECTION 6. Other laws. This ordinance is in addition to all other ordinances of the Town of Middletown Springs and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 7. 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. If any statute referred to in this ordinance shall be amended, this ordinance shall be deemed to refer to such amended statute.

SECTION 8. Effective Date. This ordinance shall become effective 60 days after its adoption by the Selectboard or at such time following the expiration of the 60 days from the date of its adoption as is determined by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Adopted this 9th day of March, 2017.

Town of Middletown Springs Selectboard

_____ (Chair)

ADOPTION HISTORY:

1. Caused to be considered by the voters of the Town of Middletown Springs at Town Meeting 2016, through the passage by 215 votes in favor to 161 opposed of the following ballot item:
 - *Shall the voters of the Town of Middletown Springs be allowed to vote for the Select Board to enact zoning for regulating outdoor storage of junk and junk vehicles?*
2. Sole agenda item at special Selectboard meeting held on May 3, 2016.
3. Read and approved at regular Selectboard meeting on December 22, 2016 and entered in the minutes of that meeting which were approved on January 12, 2017.
4. Agenda item at special Selectboard meeting held on January 14, 2017.
5. Posted in public places on January 16, 2017.
6. The following ballot item was part of the warned Town Meeting for 2017, as formally approved by the Middletown Springs Selectboard on January 12, 2017:
 - *Shall the Voters of the Town of Middletown Springs request that the Selectboard adopt an ordinance regulating the outdoor storage of junk and junk vehicles?*
7. Notice of adoption published in the Rutland Herald newspaper on March 10, 2017 with a notice of the right to petition.