

TOWN OF HOLLAND, VERMONT

# SOLID WASTE AND JUNKYARD ORDINANCE

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**ARTICLE I**

**AUTHORIZATION AND PURPOSE**

SECTION 101 – AUTHORITY

This ordinance is adopted under 24 VSA, chapter 59 §§1971, 1974a and 1977 *et seq*, and chapter 61 §2202a. Section 1971 authorizes the Town of Holland to adopt, amend, repeal ordinances in general. Sections 1974a and 1977 *et seq* govern the enforcement of this ordinance. And Section 2202a requires the Town of Holland to manage and regulate the storage and collection of solid wastes within its boundaries.

SECTION 102 – PURPOSE

The purpose of this ordinance is to preserve the public health, prevent pollution and secure the protection of the environment. This ordinance is intended to ensure that solid waste is collected and disposed of in a manner which will promote sanitary and healthful conditions.

SECTION 103 – ENFORCEMENT OFFICER (S)

- A. The Enforcement Officer shall be the designated official with the authority to administer and enforce the provisions of this ordinance.
- B. The Enforcement Officer shall be appointed by the Selectboard. This person may also hold other duties within the Town, or may be local Sherriff's Office.
- C. In the event that the Enforcement Officer is absent or has a conflict of interest, the local Sherriff's Office shall perform the functions of the Enforcement Officer for such event.

SECTION 104 – GENERAL APPLICABILITY

- A. All solid waste shall be collected and disposed of in accordance with this ordinance. This ordinance shall not apply to property owned by the Town of Holland.
- B. Nothing in this ordinance shall be interpreted as affecting the operation or use of a solid waste management facility certified under 24 VSA chapter 159.

SECTION 105 – SEPARABILITY

- A. Should any section or provision of this ordinance be adjudicated unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole and all provisions not specifically deemed invalid shall continue in full force and effect.
- B. Whenever the provisions of this ordinance differ from those prescribed by any statute, ordinance or other regulations, state or local, the provision which imposes the greater restriction or higher standard shall govern.

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## ARTICLE II

### DEFINITIONS

#### SECTION 201 – DEFINITIONS

The definitions contained in 10 VSA chapter 159 §6602 as currently in force and as may be amended in the future, shall be applicable throughout this ordinance. Those definitions below and marked with an asterisk (\*) are repeated from §6602 for convenience. Furthermore, unless otherwise expressly state in this ordinance, the other terms defined shall, for the purpose of this ordinance, have the meaning contained herein.

#### SECTION 202 – RULES FOR THE CONSTRUCTION OF LANGUAGE

Words in the present tense include the future tense, the single number includes the plural and vice-versa unless the context clearly indicates the contrary. The word “shall” is always mandatory, and not directory. The word “may” is permissive.

#### SECTION 203 – WORDS DEFINED

Abandoned – To leave without claimed ownership for thirty (30) or more days.

Abutting Property Owner – Any person that legally owns the real property that shares a common boundary with any portion of the property of another. Abutting shall also include property that is across a road or highway from another property.

Air Contaminants – Dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

Day – Each calendar day.

Day, Business – Monday through Friday, except Holidays.

Disposal\* – The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste, waste or hazardous waste into or on any land or water so that such solid waste, waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.

Emission – A release of air contaminants into the outdoor atmosphere.

Enforcement Officer – The person designated to administer and enforce this ordinance.

Hauler, Residential – Any individual who collects, transports and disposes of residential solid waste, or waste or waste from their own individual residence that is located within the Town or a member community or organization.

Hazardous Waste\* – Waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including but not limited to those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat or other means. Hazardous waste is further defined in 10 VSA §6602.

Highway – Any road, street or other public, regardless of classification. A private road that serves as the deeded access to two or more properties shall be considered a “highway.”

Household Appliance – Any range, stove, refrigerator, washing machine, dishwasher, clothes dryer, water pump, power tool and the like.

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Junk – Any 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 item used in an accepted agricultural practice are excluded from this definition.

Junk Motor Vehicle – A discarded, dismantled, wrecked, scrapped or ruined motor vehicle or major 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 thirty (30) days from the date of discovery.

Junkyard – 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 four or more junk motor vehicles or an accumulation of junk and is located in public view. However, the term does not include a solid waste management facility that is certified under 24 VSA chapter 159, nor does it include an auto repair garage or auto-body shop where wrecked or disable motor vehicles are stored for less than ninety (90) days for inspection or repairs.

Motor Vehicle – 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.

Person\* – 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.

Public Hearing, Duly Warned – An open meeting whereby a notification of the meeting is published in a newspaper of general circulation in the Town and at least one (1) public places within the Town including in or near the Town Clerk’s office. Such notification shall include the date, time and place of the hearing, and the reason for the hearing.

Public View – A place or item that is visible from the traveled way of any highway or town road, or visible to an abutting landowner from that portion of the abutter’s land used on a regular basis.

Recyclable – Any type of waste designed by the Town to be collected and separated for reuse/recycling.

Solid Waste\* - Any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include animal manure and absorbent bedding used for soil enrichment or solid or dissolved materials in industrial discharges which are point sources subject of permits under the Water Pollution Control Act (10 VSA chapter 47).

Storage\* - The actual or intended containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes.

Town – Town of Holland, Vermont.

Traveled Way – That portion of a public highway or named private road 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.

VSA – Vermont Statutes Annotated.

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Waste\* - A material that is discarded or is being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or has served its original intended use and is normally discarded or is a manufacturing or mining by-product and is normally discarded.

**ARTICLE III**

**SOLID WASTE, WASTE  
STORAGE, COLLECTION and DISPOSAL**

SECTION 301 – STORAGE

Solid waste, waste, other than yard waste, may not be stored or otherwise left out of doors unless it has been placed in a proper waste container.

SECTION 302 – HAZARDOUS WASTE

- A. It shall be unlawful to dispose of any hazardous waste except in a facility certified or approved by the State of Vermont to accept such hazardous wastes.
- B. Except as provided for above, household hazardous waste may be disposed of as directed by the Town during its designated “household hazardous waste day.”

SECTION 303 – ILLEGAL DISPOSAL

- A. It shall be unlawful to deposit, dump or leave solid waste, or waste of any kind at the Town’s recycling facility or Town Garage.
- B. It shall be unlawful to deposit in a municipally-owned or maintained disposal container any solid waste, or waste, other than that created or originated in any public building or on any public grounds or highways, or on the person utilizing said building or grounds. It shall be unlawful for any person to deposit any solid waste, or waste, in any privately-owned or maintained disposal container other than their own without the consent of the owner. The owner of such shall be responsible for all solid waste or waste deposited with their consent.
- C. Except as provided herein, it shall be unlawful for any person to deposit, dump, dispose of, or allow the disposal of any solid waste or waste on any land or into any waters within the Town, public or private.

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**ARTICLE IV**

**JUNK MOTOR VEHICLES AND JUNKYARDS**

SECTION 401 – JUNK MOTOR VEHICLES

- A. A property that has four or more junk motor vehicles shall be considered a junkyard and shall meet the requirements for such herein, the state statutes.
- B. A property may have up to three junk motor vehicles. However, if more than one (1) junk motor vehicle is on a property, all such vehicles shall be kept out of public view, as defined herein.

SECTION 402 – JUNKYARDS

- A. A person who wishes to operate a junkyard shall obtain a state license pursuant to 24 VSA §§2261 – 2264.
- B. In addition to the requirements of the above-references statutes and regulations, all junkyards, scrap yards and places of outdoor storage of junk shall be effectively screened from public view, as defined herein, by a fence or vegetation and the following screening requirements shall apply:
  - 1. Any fence or vegetation shall be at least eight (8) feet in height when installed or planted.
  - 2. 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.
  - 3. Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view year-round.
  - 4. Any vegetation shall be maintained in a healthy and living condition. Any gaps in the vegetation caused by poor health of the plantings or dead trees shall be replaced or new vegetation shall be planting that covers the gaps and provides a continuous screening of the junkyard.
- C. Failure to provide screening as required above shall be considered a violation of this ordinance.

**ARTICLE V**

**ENFORCEMENT**

SECTION 501 - ENFORCEMENT

- A. Each day a property owner neglects or refuses to comply with the provisions of this ordinance shall be a violation. A violation of this ordinance shall be a civil matter which may be enforced in accordance with the provisions of 24 VSA S. 1974a and S. 1977 and as described herein. The Enforcement Officer shall be authorized to act as the Issuing Municipal Official to issue and pursue a

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municipal complaint before the Traffic and Municipal Ordinance Bureau.

- B. Once the Enforcement Officer has determined that a violation exists, the Officer may issue a Notice of Violation before issuing a municipal complaint for a first offense of this ordinance in any calendar year. Said Notice shall include, as a minimum, the following:
1. The date the violation was first observed.
  2. The nature of the violation.
  3. What needs to be done to cure the violation.
  4. The date by which the violation must be cured.
  5. Notification that if the violation is not cured by the date set forth in item 4, then a Vermont Municipal Complaint ticket may be issued or the Selectboard may seek injunctive relief.
  6. The fines and waiver fees associated with the ticket.
  7. Notification of the violator's right to appeal, as provided for herein.

- C. If a violator fails to cure the violation by the date specified in the Notice of Violation, fails to appeal the Enforcement Officer's Notice of Violation as provided for herein, or if the Selectboard, upon appeal and following the procedure set forth herein, decides that a violation exists, the Enforcement Officer shall either:

1. Issue a Vermont Municipal Complaint ticket with a civil penalty in the following amounts for each violation:

First offense	\$ 50
Second offense	100
Third offense	150
Fourth offense	200
Fifth offense	250
Sixth offense	300
Seventh offense	350
Eighth offense	400
Ninth offense	450
Tenth and subsequent offenses	500

Offenses shall be counted on a calendar year basis.

2. With Selectboard approval and on its behalf, shall enforce this matter pursuant to 24 VSA Ch. 59 and commence civil action to obtain injunctive and other appropriate relief or to pursue any other remedy authorized by law.

- D. Enforcement Officer 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 pays the waiver fee for each violation:

First Offense	\$ 25
Second offense	50
Third offense	75
Fourth and subsequent offenses	100

Offenses shall be counted on a calendar year basis.



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SECTION 502 - APPEALS

A. Rights and Time Frames for Appeals

1. The issuance of a Notice of Violation may be appealed within 15 days of such issuance by the person to whom the Notice was issued.
2. Such an appeal shall be made in writing to the Clerk of the Selectboard within 15 days of such issuance. The Notice of Appeal shall include, as a minimum, the nature of the alleged violation as determined by the Enforcement Officer and the reason and basis of the appeal. A copy of the appeal shall be sent to the Enforcement Officer.
3. In the interest of creating finality of decisions, the time frames for filing an appeal established in this subsection shall be final and not extended. No appeals shall be considered if these time frames are not met.

B. Action by the Selectboard

1. The Selectboard shall hold a duly warned public hearing within 45 days of receipt of an appeal and shall render a decision within 15 days after the close of the final hearing.
2. All time frames established in this subsection B are guidelines. Every effort shall be made to meet these time frames. It is understood that, in rare circumstances, these time frames may not be met. Failure to meet these time frames shall have no effect on any outcome and shall not create deemed approval of the appeal.
3. The All decisions resulting from this subsection B shall be in writing and shall include findings of facts and conclusions and shall be final.