

## Section 1005

## JUNK AND GARBAGE ORDINANCE

An Ordinance to regulate the storage and dumping of junk, rubbish and garbage within The Village of Enosburg Falls, to prohibit such storage except under certain conditions and to regulate the dumping of junk, rubbish and garbage at the Village of Enosburg Falls.

### Section 1. Legislative Findings.

It is hereby determined that there exists on public or private property or water within the Village of Enosburg Falls accumulations of junk, rubbish, and/or garbage and that such accumulation of junk, rubbish, and/or garbage constitutes a hazard to the public health, safety and welfare of the residents of the Village of Enosburg Falls for the reasons that they provide a habitat conducive to breeding and nesting of rats, mice and other vermin; further junk, rubbish and/or garbage contain objects with sharp edges and other hazards which could injure small children who would be attracted to play thereon without appreciating the danger thereof, and that junk, rubbish, and/or garbage diminish property values and that the regulations contained in this Ordinance are the minimum regulations required to eliminate the foregoing undesirable condition and protect the public health, safety and welfare.

### Section 2. Definitions.

A. Junk. As used in this Ordinance, 'junk' means any unused or unusable building materials, furniture, machinery, appliances, or parts thereof, including unused or unusable motor vehicles or parts thereof. Building materials shall include but shall be limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure. An unused or unusable motor vehicle includes, but is not limited, to a vehicle which, because of mechanical condition or missing parts cannot be driven, or a lack of current and proper license and/or registration, or a lack of insurance as required by Vermont statues for public roadway use, and is stored or parked for a period of thirty (30) or more consecutive days in one location.

B. Rubbish. As used in this Ordinance 'rubbish' means waste paper, tin ware or aluminum ware, tin or aluminum cans, tin or aluminum cuttings, boxes, glass, straw, shavings, barrels, lumber, paper cartons which do not constitute recyclable products contained entirely inside of an appropriately designated container for disposal at a recycling center, and any yard waste not included in the definition of "compost material".

C. Garbage. As used in this Ordinance 'garbage' means any accumulation of trash, refuse or litter, specifically including, but not limited to, containers once containing edible, drinkable or useable materials, as well as dead animals (or parts thereof) and discarded edible, drinkable or perishable items.

D. Yard Waste. Yard Waste includes but is not limited to logs, branches or cut limbs, brush, lawn cuttings, hedge trimmings, and leaves generated by clearing, maintenance and/or cleaning up of natural materials growing on the property.

E. Compost Material. As used in this Ordinance, Compost Material means yard waste composed of small diameter cut limbs, brush, lawn cuttings, hedge trimmings, and leaves, garden waste and vegetative waste, but shall not include garbage, pet waste, meat scraps, or other materials that may attract animals or vermin to the compost pile or which may provide an obnoxious odor.

F. Composting Containment Structure. A Compost Containment Structure shall be defined as a structure constructed of wood, wire mesh or a combination of wood and wire, or commercially fabricated compost bins designed to contain composting materials. Such structure shall include such screens, netting or other devices as may be necessary to prevent the infestation thereof by insects, rodents, birds, or other pests. A Compost Containment Structure shall be no more than five feet in height, and shall not exceed a maximum ground or base area of 100 square feet.

G. Recyclable Products. As used in this Ordinance, Recyclable Products include those articles comprised of tin, aluminum, cardboard, paper, or glass contained entirely inside of an appropriately designated container for disposal at a recycling center.

H. Public or Private Property or Water. The term "public or private property or water" includes but is not limited to, the right of way of a street, road or highway, a body of water or water course, or the shore or beach thereof, including the ice above the water; a park, playground, building, refuge, or conservation or recreation area; and residential or farm properties or timberlands.

### Section 3. Unlawful Acts.

A. Storing of Junk. No owner, occupant or possessor of land within the Village shall keep or allow to be kept at any two (2) times, not less than thirty (30) days apart, within any calendar month on such parcel any accumulation of junk thereon which has a total cumulative weight exceeding forty (40) pounds or a total cumulative dimension exceeding nine (9) cubic feet unless the same is within a completely enclosed building.

B. Storing of Rubbish and Garbage. No owner, occupant or possessor of land in the Village of Enosburg Falls shall keep or allow to be kept at any two (2) times, not less than four (4) days apart, within any calendar month on such parcel any rubbish or garbage unless the same is kept within a closely covered can or other metal, plastic or rubber container designed for same and sufficient to prevent entry by rats, mice and other vermin.

C. Dumping or Littering of Junk, Rubbish and Garbage. No person, corporation, association or other legal entity shall either themselves or through their agents, dump, throw, litter, leave or deposit or permit the dumping, throwing, littering, leaving or depositing of any amount of junk, rubbish, garbage, or recyclable products as defined herein, on any public or private property or water, and/or in any trash container, dumpster, etc. owned or maintained by another, including property owned by the Federal

government, the State of Vermont, the Village of Enosburg Falls, or any other governmental and/or private entity unless prior permission is obtained.

D. Dumping of Yard Waste. No person, corporation, association or other legal entity shall either themselves or through their agents, dump, litter or deposit any amount of yard waste on any public or private property or water lands belonging to another and/or the Federal Government, the State of Vermont, the Village of Enosburg Falls, or any other governmental and/or private entity unless prior permission is obtained.

E. All persons who violate any provision of this ordinance, whether as owner, occupant, lessee, agent, servant, or employee shall be equally liable as principals.

F. No owner, occupant or possessor of land in the Village of Enosburg Falls shall keep Compost Materials on such land except in a Compost Containment Structure. A Compost Containment Structure shall not be placed in any required front yard as defined by the Village zoning ordinance, and shall be set back a minimum of ten feet from the side yard lot line, set back a minimum of twenty feet from any rear lot line, and shall not be located less than 30 feet from any neighboring residential dwelling structure. In no event shall a Compost Containment Structure be located in any side or rear yard drainage or utility easement.

#### Section 4. Prima Facie Proof.

A. In any litigation arising under Section 3 A of this Ordinance, testimony that any unused or unusable building materials, furniture, machinery, appliances, or parts thereof has been observed in the same place on at least two (2) separate dates, at least thirty (30) days apart, within any calendar month shall constitute prima facie proof that such machinery, appliance or parts thereof are inoperable, unused, or unusable as defined in Section 2 above.

B. In any litigation arising under Section 3 A of this Ordinance, testimony that any unused or unusable motor vehicle, or parts thereof have been observed in the same place for a period of thirty (30) consecutive days shall constitute prima facie proof that such motor vehicle or parts thereof are inoperable, unused or unusable as defined in Section 2 above.

#### Section 5. Penalty.

A. Any person who violates Sections 3 A through C of this Ordinance shall, upon conviction thereof, be punished by a fine not exceeding \$500.00.

B. Any person who violates Sections 3 D or E of this Ordinance shall be responsible for a municipal civil infraction. Civil sanctions under this section may include, without limitation, fines, damages, expenses and costs as authorized by Vermont law, subject to the following provisions:

1) Sanctions for a violation of a civil infraction shall be a civil fine in the amount of not less than \$75.00, plus other costs, damages, expenses and other sanctions for each infraction.

2) Increased civil fines may be imposed for repeat violations. The

increased fine for a first repeat offense shall be not less than \$250.00, plus costs. The increased fine for a second repeat or any subsequent repeat offense shall be not less than \$500.00, plus other costs.

3) A municipal civil infraction action may be commenced upon the issuance of a municipal civil infractions citation directing the alleged violator to appear in court.

4) Failure to answer a citation to appear in court for a municipal civil infraction is a misdemeanor violation punishable by a fine of not more than \$500, plus other costs, or by imprisonment for a term not to exceed 90 days, or both fine and imprisonment.

5) Failure to comply with an order, judgment or default in payment of a civil fine, costs, damages or expenses so ordered may result in enforcement actions, including, but not limited to, imprisonment, collections, placement of liens or other remedies as permitted by Vermont law.

6) A municipal civil infraction is not a crime under this ordinance, and is not a lesser included offence of a criminal offence or an ordinance violation that is not a civil infraction.

#### Section 6. Declaration of Nuisance.

A violation of any provision of this Ordinance is determined to be detrimental to the health, safety and general welfare of the residents, property owners and other persons within the town, and is hereby declared to be a nuisance per se. Any violation of this ordinance shall constitute a basis for injunctive relief against the violator or land owner to restrain and prohibit the violator or owner from continuing the violation, in addition to any other relief or penalty provided by this ordinance or allowed by law. The Village or any owner or owners of real estate within the Village may bring an action to enjoin such alleged violation activity.

#### Section 7. Enforcement

The Village Zoning Administrator will be the main enforcement official for the Junk and Garbage Ordinance. The Health Officer, Village Manager, or other designee of the Village of Enosburg Falls Board of Trustees may also serve as the enforcing agent under this ordinance.

Village of Enosburg Falls

Junk and Garbage Ordinance

Adopted January 26, 2010

  
Richard Roberge, Chair