

TOWN OF LUDLOW VERMONT

SOLID WASTE MANAGEMENT ORDINANCE

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ARTICLE 1. AUTHORITY AND PURPOSE OF ORDINANCE

- 1.01 Pursuant to the authority of Title 24, Chapter 61, of the Vermont Statutes Annotated, the Town of Ludlow hereby adopts the following amended Ordinance for management and regulation of the collection, storage, and disposal of recyclables, solid waste, and junk.

ARTICLE 2. DEFINITIONS

For the purposes of this Ordinance, the following terms shall have the meanings stated:

- 2.1 "Abandon" means to leave without unclaimed ownership for one hundred twenty (120) consecutive days, or more;
- 2.2 "Acceptable Waste" means all household garbage, trash, rubbish, and refuse originating within the Town, or such other towns as approved by the Board of Selectmen, and shall not be deemed to include anything of value (as salvage, scrap, or recyclables) to any person in the form and at the location where it is generated, collected, or stored prior to collection;
- 2.3 "Authorization" means authorized pursuant to a permit, legal contract, or other written authorization entered into by the Town of Ludlow and a private third person as defined herein;

- 2.4 "Bulky Items" means couches, furniture, mattresses, and other large, nonmetallic items;
- 2.5 "Commercial hauler" means any person, business, or corporation who hauls materials to a transfer station, recycling facility, or landfill for others for a fee;
- 2.6 "Commercial Solid Waste" means any garbage, trash, rubbish, or refuse generated by normal business and institutional activities, within the Town, or such other towns as approved by the Board of Selectmen, and shall not be deemed to include anything of value (as salvage, scrap, or recyclables) to any person in the form and at the location where it is generated, collected, or stored prior to collection;
- 2.7 "Construction/Demolition Debris" means the refuse from the construction or demolition of any structure, but does not include any hazardous wastes or materials as defined by Vermont or Federal Statutes or Regulations;
- 2.8 "Facility" means a transfer station, recycling center, or any other solid waste management facility operated by or for the Town of Ludlow;
- 2.9 "Glass" means empty brown, clear, or green glass bottles and jars, but does not include ceramics, window glass, light bulbs, or glass utensils. All caps must be removed, but labels do not have to be removed;
- 2.10 "Highway" means any public highway, road, street, or way open to the general circulation of traffic;
- 2.11 "Household Appliance" means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool, or similar item;
- 2.12 "Industrial Waste" means any waste from any process or industry, manufacturing, trade, or business, but does not include any chemicals, oil, sludge, inflammable materials, or hazardous materials as defined by Vermont or Federal Statutes or Regulations;
- 2.13 "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 vehicles, or parts thereof;
- 2.14 "Junk Motor Vehicle" means any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle, or parts thereof, an unregistered motor home not connected to a water supply and wastewater disposal system, or a vehicle other than an on premise utility vehicle which is allowed to remain unregistered for a period of one hundred twenty (120) consecutive days from the date of discovery;
- 2.15 "Junkyard" means any place of outdoor storage or deposit which 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,

for storing, keeping, processing, buying, or selling junk. The term does not include a private transfer station or sanitary landfill which is licensed in compliance with the Vermont Statutes Annotated, nor does it mean a service station where wrecked or disabled motor vehicles are stored for less than ninety (90) consecutive days for inspection or repairs;

- 2.16 "Landfill" means a site licensed or permitted by the state where it is located for the disposal of solid waste by applying and compacting cover material over the waste;
- 2.17 "Metal Containers" means empty bimetallic, tin, steel, or aluminum containers of a size one (1) gallon or smaller. The containers must be empty and dry, but labels do not have to be removed;
- 2.18 "Metal Objects" means scrap metal of all kinds, i.e. automobile parts, pipe, wire, appliances, sheet metal, motors, tools, bed springs, etc.;
- 2.19 "Nonresident property owner" means a person, business, or corporation who owns a residential structure or commercial structure or operation within the corporate limits of the Town of Ludlow which is not their principal place of residence;
- a. "Paper" means all clean, dry paper, separated into the following categories:
 - b. Newspapers, not including magazines or 'glossy' papers;
 - c. Used corrugated cardboard;
 - d. Mixed office papers;
 1. Magazines (glossy paper only);
 2. Mixed miscellaneous papers;
- 2.20 "Person" means any resident or nonresident property owner of the Town of Ludlow, or person, firm, partnership, association, corporation, company, or organization of any kind approved by the Board of Selectmen;
- 2.21 "Resident" means any person whose principal place of residence is within the corporate limits of the Town of Ludlow, including, but not limited to homeowners and tenants;
- 2.22 "Recyclables" means any recyclable material as specifically identified in regulations promulgated by the Board of Selectmen;
- 2.23 "Recycling Facility" means a facility operated by the Town, or another licensed entity, for the source separation of reusable or recyclable materials;
- 2.24 "Respondent" means a person alleged to have violated this Ordinance;
- 2.25 "Solid Waste" means any discarded garbage, refuse, and other discarded materials including solid, liquid, semisolid, or contained gaseous materials resulting from residential, industrial, commercial, institutional, mining, or agricultural operations, and from community activities, but does not include animal manure and absorbent bedding used for soil enrichment and shall not be deemed to include anything of value (as salvage, scrap, or recyclables) to any person in the form and at the location where it is generated, collected, or stored prior to collection;

- 2.26 "Tires" means automobile, motorcycle, truck, and bicycle tires which have been removed from the wheel or rim, but excludes any heavy equipment tires or any tire having a diameter equal or exceeding twenty-two (22) inches;
- 2.27 "Transfer Station" means a facility operated by or for the Town for the central collection of solid waste and the subsequent transport of the waste to an approved disposal site;
- 2.28 "Yard Wastes" means grass, leaves, brush, trees, or any part thereof.

ARTICLE 3. DISPOSAL OF MATERIALS

- 3.01 It shall be unlawful to dispose of any hazard waste, except in a facility certified or permitted by the State of Vermont to accept such waste.
- 3.02 It shall be unlawful to deposit, dump, dispose, or allow the disposal of any waste on any land or into any waters, including, but not limited to, municipally or state owned lands or waters, except as permitted by this Ordinance.
- 3.03 It shall be unlawful to place, discard, or abandon junk, junk motor vehicles, or any form of solid waste in a place where it is visible from a highway, or where it is visible to an abutting landowner from a portion of the abutters land on a regular basis. Any such items or materials so placed, discarded, or abandoned is hereby declared to be a public nuisance.
- 3.04 It shall be unlawful to place, discard, or abandon junk, junk motor vehicles, or any form of solid waste upon the land of another, with or without the consent of the owner, in a place where it is visible from a highway, or where it is visible to an abutting landowner from a portion of the abutters land on a regular basis. Any such items or materials so placed, discarded, or abandoned is hereby declared to be a public nuisance.
- 3.05 Any junk or junk motor vehicle discovered in violation of the Ordinance shall be removed or screen from the view of the highway, or from the view of any adjoining properties, by the owner of the land on which is located, upon receipt of a written notice to do so from the Town.
- 3.06 If the owner of the land on which a junk motor vehicle is discovered, in violation 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.
- 3.07 If the last known registered owner fails or refuses to reclaim the vehicle upon receiving written notice, it shall be a violation of this Ordinance.
- 3.08 If the owner of the junk motor vehicle does not remove or screen the vehicle from public view within one hundred and twenty (120) days of receiving written notice, it shall be a violation of this Ordinance.

- 3.09 All solid waste material generated or collected within the Town shall be disposed of in a manner and at a location approved of by the Board of Selectmen.
- 3.10 Only material generated or collected within the limits of the Town of Ludlow, or such other towns as approved by the Board of Selectmen, shall be disposed of at the Town Transfer Station or Recycling Facility.
- 3.11 It shall be unlawful for any person to deposit, dump, or leave solid waste in any privately owned or maintained disposal container other than their own, or upon any other private property, without the consent of the owner.
- 3.12 It shall be unlawful to deposit in any municipally owned or maintained disposal container, except those located at the Transfer Station or Recycling Facility, any solid waste other than that generated in a public building, grounds, highway, or on the person of anyone using said public buildings, grounds, or highways.
- 3.13 Each day, including the day of the prohibited act, during which the waste is not removed shall constitute a separate violation of this Ordinance.

ARTICLE 4. STORAGE OF SOLID WASTE

- 4.01 No person shall set out or receive solid waste, trash, or garbage except that which is generated by and within the immediate property.
- 4.02 Any solid waste placed or stored outside a structure shall be enclosed in a secure container which has been designed for the purpose of collecting solid waste, rubbish, or garbage. This container must be proof against animal intrusion. Such containers shall fully surround the solid waste, and be constructed so as to confine odors and block the materials from public view.

ARTICLE 5. OPEN FIRES AND INCINERATION

- 5.01 Burning of paper, cardboard, tires, other rubber products, treated, painted, or finished wood, plastics, garbage, or waste within the Town of Ludlow is prohibited pursuant to Vermont Statutes Annotated and the Code of Federal Regulations.
- 5.02 A specific written permit must be obtained from the Ludlow Fire Warden or Town Clerk for the open burning or yard and garden debris, including trees, stumps, brush, untreated wood, lawn clippings, and leaves, provided the Fire Warden is satisfied that no hazardous conditions will be created by such burning.
- 5.03 The provisions of this Ordinance shall not apply to the burning of natural wood or any virgin fuel in a furnace or stove to produce heat or for the purpose of preparing food.

ARTICLE 6. JUNKYARDS

- 6.01 Any person who wishes to operate a junkyard within the Town of Ludlow is required to
 - a. Obtain a Certificate of Approval for the location of the junkyard, and

- b. Obtain a license to operate, establish, or maintain a junkyard from the State of Vermont.
- 6.02 Application of a Certificate of Approval shall be made in writing to the Board of Selectmen. The application shall be on a form adopted by the Board, and shall contain a description of the land to be included in the junkyard, which shall be by reference to permanent boundary markers. The procedures for consideration of this application shall be those specified in the Vermont Statutes Annotated.
- 6.03 All junkyards, scarp yards, and places of outdoor storage of junk shall be effectively screened from public view by a fence or vegetation at least eight (8) feet high. 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 fence shall not be used for advertising signs or other displays which are visible from 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.

ARTICLE 7. Permits Required

- 7.01 The Town Transfer Station and Recycling Facility will be open for use by any authorized person as defined within this Ordinance.
- 7.02 Admission to these facilities will be only by permit issued by the Town, upon application by an appropriate person as described within this Ordinance. All permits remain the property of the Town.
- 7.03 All persons or business engaged in the commercial hauling of rubbish, materials, or solid waste must first obtain a permit from the Town after the payment of the appropriate fees;
- 7.04 Any person engaged in the hauling or disposal of commercial solid waste shall be subject to the requirements and fees as in section (c) of this article.
- 7.05 Any permits issued subsequent to this section shall be permanently affixed to the vehicle for which they are issued. Failure to comply with this subsection shall be grounds for immediate revocation of the permit and other enforcement actions as necessary to uphold the intent of this Ordinance.

ARTICLE 8. UNACCEPTABLE WASTE MATERIALS

- 8.01 The following materials will not be acceptable at the Town Transfer Station and Recycling Facility:
 - a. Harmful, Hazardous, or Toxic Substances, including but not limited to those defined by Vermont or Federal Statutes, Codes, or Regulations;
 - 1. Septic Waste or Sludge;
 - 2. Junk Motor Vehicles;
- 8.02 Any material which, in the opinion of the authorized Town representative or facility attendant, constitutes a serious hazard to the other users of the facility, to

the property of the Town, or the operation of the facility.

ARTICLE 9. SEPARATION OF MATERIALS

9.01 All material brought to the facilities for disposal shall be separated into the indicated categories and deposited into designated containers or locations as the transfer station or recycling center facility attendant directs.

ARTICLE 10. SUPERVISION

10.01 The transfer station or recycling center facility attendant shall have the right to refuse the use of the facilities to any person, business, institution, or other user who is misusing the facilities, or is violating this Ordinance, or who does not have the proper permit.

10.02 Any person, business, institution, or other user who deposits unacceptable materials as defined in this Ordinance or materials not collected within the Town of Ludlow, or such other towns as approved by the Board of Selectmen, may be ordered to remove such materials from the Town facilities by either the facility attendant or an authorized Town representative.

10.03 It shall be illegal to deposit, dump, or leave solid waste of any kind in the Transfer Station or Recycling Center or adjacent thereto, except as directed by the facility attendant.

10.04 For any violation(s) of this Ordinance, the Town may suspend or revoke the privilege of any person, business, institution, or other user to use the Town Transfer Station or Recycling Facility. Suspension or revocation shall be after notice, in writing, to the permittee of said suspension or revocation and the reason(s) therefore. The permittee, within fifteen (15) days after the date of said notice, may appeal said suspension or revocation to the Board of Selectmen in writing.

ARTICLE 11. MISCELLANEOUS REGULATIONS

11.01 No burning shall be allowed at the transfer station or recycling center facility, except at the direction and supervision of the authorized Town representative.

11.02 The discharge of firearms is prohibited at the facility.

11.03 At no time will scavenging of materials be allowed.

ARTICLE 12. COLLECTION OF FEES

12.01 The Board of Selectmen shall set annually the fees for disposal of any solid waste materials at the Town facilities. These fees shall be set at the time of the Town's budgetary process, and shall be effective on the same date as the budget. Such fees shall be paid to the Municipal Offices prior to the delivery of any solid waste materials to the Town facilities.

12.02 All permits shall be issued by the Town to a specific person, business, or institution. Each permit must be permanently attached to the assigned vehicle and displayed to the facilities attendant upon entrance to the Town facilities. By accepting the permit and in consideration of the Town allowing the holder of the permit to use the Transfer Station or Recycling Facility, the registered holder of the permit agrees to pay all assessed fees and be bound by the conditions of this "Solid Waste Management Ordinance."

ARTICLE 13. EXEMPTION

13.01 In special circumstances, any permit or disposal fees assessed under this Ordinance may be waived or abated by the Board of Selectmen.

ARTICLE 14. TRESPASS

14.01 The transfer station or recycling center facility gate will be locked at all times when the Transfer Station and Recycling Facility are not open to the Public. Anyone entering the facility when the gate is locked shall be guilty of "Unlawful Trespass," and shall be charged with a violation of the Vermont Statutes or this Ordinance.

ARTICLE 15. ENFORCEMENT

15.01 This Ordinance is designated as a Civil Ordinance, pursuant to 24 V.S.A. 1971 (b). This Ordinance may be enforced by any issuing municipal official, by issuing a Municipal Complaint under 24 V.S.A. 1977 (a).

15.02 Prosecution of any violation of this Ordinance shall be undertaken by either the enforcement officer or a representative designated by the Town of Ludlow in the Vermont Municipal Traffic and Ordinance Bureau.

ARTICLE 16. PENALTIES

16.01 Any person, business, or institution determined to have violated any provision of this Ordinance may be punished by a civil fine not to exceed Five Hundred Dollars (\$500.00) for each violation and, in the case of a continuing violation, not more than One Hundred Dollars (\$100.00) for each succeeding day for each violation, as specified by Vermont Statutes.

16.02 In determining the amount of civil penalty to be ordered, the Court shall consider the following:

- a. the degree of actual or potential impact on public health, safety, welfare, and the environment resulting from the violation;
- b. whether the respondent has cured the violation;
- c. the presence of mitigating circumstances;
- d. whether the respondent knew, or had cause to know, the violation existed;
- e. the respondent's record of compliance;
- f. the economic benefit gained from the violation;
- g. the deterrent effect of the penalty;
- h. the costs of enforcement;

i. the length of time the violation existed.

16.03 The waiver fee shall be set at Fifty Dollars (\$50.00) for the first offense, Two Hundred Dollars (\$200.00) for the second offense, and at Five Hundred Dollars (\$500.00) for each subsequent offense. Each day the violation continues shall constitute a separate violation of this Ordinance.

ARTICLE 17. INCONSISTENT ORDINANCES REPEALED

17.01 This Ordinance shall replace the Town of Ludlow's "Solid Waste Management Ordinance" adopted by the Select Board. Any provisions of any Ordinance of the Town of Ludlow in effect at the time of enactment of this amended Ordinance governing any activity included in this amended Ordinance is hereby revoked. Any permits currently in effect under such revoked provisions are also hereby revoked. Any fees paid for such permits will be credited to the payment of fees for permits called for herein on a prorated basis, but in no case shall fees be refunded.

ARTICLE 18. SEVERABILITY

18.01 If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.

18.02 The Select Board hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional or ineffective.

ARTICLE 19. PUBLICATION AND EFFECTIVE DATE

19.01 No section of this Ordinance shall be construed to supersede or replace any Vermont statute.

19.02 This amended Ordinance shall be entered in the minutes of the Select Board's meeting, and posted in at least five (5) conspicuous places with the Town of Ludlow and published in a newspaper circulating in the Town on a day not more than fourteen (14) days following the date when the Ordinance is adopted.

19.03 This amended Ordinance will become effective on March 13, 1997, sixty (60) days after the date of its adoption by the Selectmen, unless a petition is filed with the Town Clerk by February 25, 1997, forty-four (44) days after the date of its adoption. The petition should be addressed to the Selectmen, should be signed by at least five per cent (5%) of the qualified voters of this municipality, and should ask for a special meeting to be called on the question of disapproving the amended Ordinance.

Questions about the amended Ordinance may be directed to the Municipal Offices, Ludlow, Vermont, or by calling telephone number (802) 228-2841.

The foregoing amended Ordinance is hereby adopted by the Selectmen of the Town of Ludlow, Vermont, this thirteenth day of January, 1997.

TOWN OF LUDLOW, VERMONT
SELECT BOARD

Robert W. Tofferi, Chairman
Howard R. Barton, Jr., Vice-Chairman
Robert N. Cappiello, Sr., Clerk
Jean S. Morrill
Jerry R. Tucker

ARTICLE 19 above is amended to read:

- 19.01 No section of this Ordinance shall be construed to supersede or replace any Vermont statute.
- 19.02 This amended Ordinance shall be entered in the minutes of the Select Board's meeting, and posted in at least five (5) conspicuous places with the Town of Ludlow and published in a newspaper circulating in the Town on a day not more than fourteen (14) days following the date when the Ordinance is adopted.
- 19.03 This amended Ordinance will become effective on April 4, 2008, sixty (60) days after the date of its adoption by the Selectmen, unless a petition is filed with the Town Clerk by March 19, 2008, forty-four (44) days after the date of its adoption. The petition should be addressed to the Selectmen, should be signed by at least five per cent (5%) of the qualified voters of this municipality, and should ask for a special meeting to be called on the question of disapproving the amended Ordinance.

The foregoing ordinance is hereby re-adopted by the Select Board of the Town of Ludlow, Vermont on this fourth day of February, 2008.

TOWN OF LUDLOW, VERMONT
SELECT BOARD

Howard Barton, Jr., Chair

John Neal, Vice Chair

Brett Sanderson

Bruce Schmidt

Earl Washburn