

**TOWN OF BARRE
WASHINGTON COUNTY, VERMONT**

**AN ORDINANCE OF THE TOWN OF BARRE ADDING ARTICLE IV,
REGULATION OF JUNK, TO CHAPTER 5 OF THE BARRE TOWN
CODE OF ORDINANCES**

WHEREAS, the Town of Barre recently has adopted a new zoning bylaw; and

WHEREAS, the previous zoning bylaw included an article that regulated junk and junk motor vehicles; and

WHEREAS, the Town of Barre Planning Commission, during the zoning bylaw preparation, recommended junk and junk motor vehicles is better regulated, by authority granted in 24 V.S.A. §§ 1971, 2246, and 229,1 powers to adopt, amend, repeal, and enforce ordinances, and to manage and regulate outdoor storage of junk and junk motor vehicles within its boundaries; and

WHEREAS, The Town of Barre wishes to protect it’s citizens and the public’s health, safety and well being, and to promote the responsible use of resources and protection of the environment.

**NOW, THEREFORE, BE IT ORDAINED BY THE
BARRE TOWN SELECTBOARD THAT:**

SECTION 1.

Chapter 5, Public Safety, of the Barre Town Code of Ordinances is hereby amended by adding an Article IV, Regulation of Junk, to read as follows:

ARTICLE IV. REGULATION OF JUNK

Sec. 5-70 Definitions.

- a. **“Abandon”** means 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. A public highway shall not be a barrier with regard to abutting properties.
- c. **“Automobile hobbyist”** means a race car enthusiast who is not primarily engaged in the business of:

- (A) selling motor vehicles or motor vehicle parts; or
(B) accepting, storing, or dismantling junk motor vehicles.
- d. “Automobile graveyard” means a yard, field, or other outdoor area on a property owned or controlled by a person and used or maintained for storing or depositing four or more junk motor vehicles. “Automobile graveyard” does not include:
- (A) an area used by an automobile hobbyist to store, organize, restore, or display motor vehicles or parts of such vehicles, provided that the hobbyist’s activities comply with all applicable federal, state, and municipal law;
- (B) an area used for the storage of motor vehicles exempt from registration under chapter 7 of Title 23;
- (C) an area owned or used by a dealer registered under 23 V.S.A. § 453 for the storage of motor vehicles; or
- (D) an area used or maintained for the parking or storage of operational commercial motor vehicles, as that term is defined in 23 V.S.A. § 4103(4), that are temporarily out of service and unregistered but are expected to be used in the future by the vehicle operator or owner.
- e. “Enforcement Officer” means the Zoning Administrator or the Chief of Police.
- f. “Hazard free condition” A condition which shall include, but not necessarily limited to, the following:
1. Vehicles stored with tires in place, or with adequate blocking under the vehicle frame to secure the vehicle so as to not be a danger.
 2. Vehicles stored without leaking gas or without any other leaking automotive fluids.
 3. Vehicles stored without any exposed sharp metal or glass edges.
- g. “Household appliance” means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool and the like.
- h. “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 vehicles or parts thereof.
- i. “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.

- j. "Motor vehicle" shall include all vehicles propelled or drawn by power other than muscular power, except functional vehicles and equipment used for agricultural and construction operations.
- k. "Race car enthusiast" means the owner or person having control of a yard, field, or other outdoor area used to store up to 2 motor vehicles used for racing and one (1) motor vehicle considered to be a "parts" car for said race car(s) as long as said race cars have been registered and raced at a facility with an official sanctioning body within the last twelve (12) months or will be raced in the next racing season. Burden of proof with regard to whether the cars are or will be used for racing falls to the owner or person having control of the property.
- l. "Road" "public highway" or "public road" shall include all parts of any bridge, culvert, roadway, street, square, fairground or other place open temporarily or permanently to public or general circulation of motor vehicles, bicycles and pedestrians and shall include a way laid out under authority of law.
- m. "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. "Salvage yard" also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.
- n. "Stream/brook" means a watercourse having a source and a terminus, banks, and channel through which water flows at least periodically at a rate of more than 1.5 cubic feet per second or approx. 673 gallons per minute.
- o. "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.

Sec. 5-71 Requirements.

- a. Any motor vehicle stored for any purpose shall be kept in a hazard-free condition at all times.
- b. Any vehicle classified as a junk motor vehicle, including cars used by race car enthusiast, shall maintain a minimum setback of 50 feet from the high-water mark of all streams and brooks.
- c. It shall be unlawful to place, discard or abandon junk or 2 or more junk motor vehicles in a place where any such item is visible from the traveled way of a road, or visible to an abutting landowner. Any such item so placed, discarded or abandoned, except if considered an automobile hobbyist, is hereby declared to be a public nuisance.

- d. It shall be unlawful to place, discard or abandon junk or junk motor vehicles upon the land of another with or without the consent of the owner, where any such item is visible from the traveled way of a road, or visible to an abutting landowner. Any such item so placed, discarded or abandoned, except if considered an automobile hobbyist is hereby declared to be a public nuisance.
- e. A person who wishes to operate a salvage yard within the Town of Barre is required to:
- obtain a Certificate of Approved Location for the site of the salvage yard, and
 - obtain a Certificate of Registration for a salvage yard 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 Barre. 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 procedures to be followed after an application has been made are those specified in 24 V.S.A. §§ 2252-2256, as from time to time amended. Any person(s) seeking a certificate of approved location shall obtain site plan and conditional use approval in conformance with the Town of Barre Zoning Bylaw, Article 4, Sec. 4.19. A salvage yard may not be considered if it is proposed to be located in a location within town that is not allowed by zoning.
2. **Certificate of Registration.** The procedures for obtaining a Certificate of Registration from the State of Vermont are those specified in 24 V.S.A. §§ 2261-2264, as from time to time amended.
- f. All salvage yards, scrap yards, and places of outdoor storage of junk shall be effectively screened from public view by a fence and/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 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 public highway. Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view. Failure to provide and maintain screening as required herein shall be considered a violation of this ordinance.

Sec 5-72 Enforcement and Penalties.

- a. Upon receiving written notice from the enforcement officer by certified mail or by service in accordance with Rule 4, Vermont Rules of Civil Procedure if Certified Mail is refused or otherwise undeliverable, the owner of any junk or junk motor vehicle discovered in violation of Sec. 5-71 of this ordinance shall come into compliance with this article. If the owner of the junk or junk motor vehicle(s) does not come into compliance within 30 days from the date of mailing of the written notice by the enforcement officer, the enforcement officer may issue a civil citation.
- 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 Sec. 5-71 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. 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.
3. Procedures for taking title to unclaimed motor vehicles are specified in 24 V.S.A. § 2272.

c. A violation of this ordinance shall be a civil matter which shall be enforced in the Vermont Judicial Bureau or if so approved by the legislative body in Washington County Superior Court.

1. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. Violators shall be issued the following fines as a civil penalty in the following amounts.

	Fine	Waiver fee
1 st offense	\$ 100.00	\$ 50.00
2 nd offense*	\$ 150.00	\$ 100.00
3 rd offense*	\$ 200.00	\$ 150.00

* if occurring within 6 months of the previous offense

For each subsequent offense within a six month period of the previous offense, the fine and waiver shall increase by \$ 50.00. Each day that the violation continues shall constitute a separate violation of this ordinance, and shall be subject to a fine of not less than \$ 5.00 nor more than \$ 50.00 per day.

I) Municipal ticket will be issued 30 days after written notification of the violation is mailed by the enforcement officer, if the violation has not been corrected in accordance with this ordinance.

II) For purposes of enforcement in the Judicial Bureau, the town Zoning Administrator or Chief of Police shall be the designated enforcement officer. Said designee shall issue tickets and may be the appearing officer at any hearing.

2. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. At the direction of the legislative body, the enforcement officer may pursue all appropriate injunctive relief. In addition, a civil penalty of not more than \$ 500.00 per violation may be imposed for violation of this ordinance. A civil action may be initiated 30 days after written notification of violation is mailed 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, and shall be subject to a fine of not less than \$ 5.00 nor more than \$ 50.00 per day.

Sec 5-73 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.

SECTION 2.

This ordinance shall become effective 15 days after its adoption by the Barre Town Selectboard.

ADOPTED this ____ day of _____, 2010.

By Barre Town Selectboard:

ATTEST:

Jeffrey A. Blow, Chairman

Donna J. Kelty, Town Clerk-Treasurer