

TOWN OF HARDWICK

WHEREAS, the **Town of Hardwick**, hereinafter sometimes referenced as **HARDWICK**, has, by virtue of the authority granted to it pursuant to the provisions of 24 V.S.A. §§ 1971 and 2202a(a), the power to adopt, amend, repeal and enforce ordinances, and the power to manage and regulate solid waste management and disposal within its boundaries;

NOW THEREFORE, HARDWICK, pursuant to the authority set forth above and the provisions of Title 24, Chapter 61 of the Vermont Statutes Annotated hereby adopts a Civil Ordinance entitled **TOWN OF HARDWICK, CIVIL ORDINANCE REGULATING THE CONTROL OF SOLID WASTE, GARBAGE, JUNK, JUNK MOTOR VEHICLES AND TRASH.**

PURPOSE: The purpose of this Ordinance is to require that within the Town of Hardwick, all solid waste, including, without limitation, solid waste, garbage, junk, junk motor vehicles and trash, be disposed of.

SECTION 1: DEFINITIONS.

(a) The following words and terms, when used in this Ordinance, shall for the purpose of this Ordinance, have the following meanings ascribed to them:

1. **ABATEMENT COST** means HARDWICK'S cost for labor, equipment, and supplies for, or the contract price of, and any charges to HARDWICK, with respect to the removal and disposal of solid waste, garbage, junk, junk motor vehicles and trash from a property.
2. **CONSTRUCTION SITE** means any residential, commercial, industrial or other area, lot or site at which construction or demolition of any type is conducted, including roads and traveled ways, at buildings, and at all other places actively being constructed, demolished, renovated, or repaired.
3. **CONSTRUCTION WASTE** means solid waste that is produced or generated during construction, demolition, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction wastes.
4. **DISCARDED** means a material that is delivered to a treatment, storage, recycling or disposal facility, abandoned, burned or incinerated, stored or placed in a manner that constitutes the discharge, injection, spilling, or leaking of material or any constituent thereof into or on any land or water or into the air.
5. **DISCHARGE** means the placing, depositing or emission of a waste directly or indirectly into or on any land or water or into the air.

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

7. **GARBAGE** means readily putrescible discarded materials composed of animal, vegetable, or other organic matter.

8. **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, textiles, rags, clothing, bedding, toys, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof. The provisions of this section shall not apply to JUNK utilized in connection with a bona fide agricultural operation.

9. **JUNK MOTOR VEHICLE** means a discarded, dismantled, wrecked, scrapped or ruined motor vehicle or 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 90 days from the date of discovery. Also includes any vehicle propelled or drawn by power other than muscular power, including trailers. Functional or nonfunctional vehicles and equipment with usable parts used for agricultural and construction operations are excluded from this definition.

10. **OWNER** means any person, corporation, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, representative, or group of individuals or entities of any kind that owns real estate.

11. **RECEPTACLE** means a container that is specifically designed, constructed, and placed for use as a depository for litter or solid waste.

12. **SOLID WASTE OR WASTE** means any garbage, refuse, rubbish, trash, or other discarded material, which include but are not limited to tires, old toys, furniture, clothes, but does not include solid or dissolved materials in domestic sewage, solid or dissolved materials in irrigation return flows, industrial discharges, or special nuclear or by-product materials.

13. **TRAVELED WAY** means that portion of a public highway designed for the movement of a motor vehicle and includes shoulders, roadside parking areas, rest areas, and observation areas, which are immediately adjacent and contiguous to the traveled portion of the roadway.

SECTION 2. ADMINISTRATION AND ENFORCEMENT.

(a) This Ordinance is designated as a civil ordinance pursuant to the provisions of 24 V.S.A. § 1971(b).

(b) The following civil penalties and waiver penalties are hereby imposed for violations of this Ordinance. Civil penalty amounts will be imposed in cases where violations are brought in the Vermont Judicial Bureau. Where the violation is admitted or not contested, the waiver penalty amounts will be imposed in lieu of the civil penalty amounts.

	<u>Civil Penalty</u>	<u>Waiver Penalty</u>
First Violation	Warning	Warning
Second Violation	\$100	\$50
Third Violation	\$200	\$100
Fourth & subsequent violations	\$500	\$250

(c) Actions by employees or agents of a corporation, limited liability company or partnership shall be deemed to be an action by the agent/employee and the corporation, limited liability company or partnership.

(d) Each violation of this Ordinance or any regulation adopted hereunder shall be considered a separate offense. HARDWICK may issue separate citations for each violation of this Ordinance.

SECTION 3. DUTY OF OWNERS.

(a) General Requirement. It shall be the responsibility of each OWNER thereof, to keep his, her, their, or its property free of solid waste, garbage, junk, junk motor vehicles, or trash as defined in this ordinance. The OWNER of any property shall be responsible for removing solid waste, garbage, junk, junk motor vehicles, or trash accumulating on said property.

(b) Solid Waste Prohibited. Receptacles as defined above, can remain onsite, but must contain all of the wastes within the unit. No OWNER of any property shall allow the storage or accumulation of solid waste; garbage, junk, junk motor vehicles, or trash on the exterior of said property outside of a receptacle that is covered, secured, and maintained so as to prevent blowing, spilling, scattering, or leaking of the constituents listed herein, except that this requirement shall not apply to an area designated and approved by Hardwick as a permitted disposal site.

(c) The provisions of this Section shall not apply to JUNK utilized in connection with a bona fide agricultural operation.

SECTION 4. NOTICE OF VIOLATION: SUMMONS OR WARRANT.

(a) Notice of Violation. HARDWICK may commence enforcement of any provision of this chapter by notifying in writing the OWNER of a property, of the existence of an unlawful condition on such property or premises. Such written notice shall be sent to the OWNER of a property by first class certified mail, return receipt requested, or may be served by the Police Department, to the last known address of the OWNER indicated in the current HARDWICK real estate tax assessment records. Such notice shall be a description of the nature of the violation; any corrective action needed to be taken by such person to come into compliance with this Ordinance; and the time frame within which such corrective action shall be completed. The amount of time allowed to abate, correct, or eliminate the unlawful condition shall not exceed fifteen (15) days.

SECTION 5. REMOVAL OF SOLID WASTE, GARBAGE, JUNK, OR TRASH BY TOWN.

(a) Abatement Required. After receipt of a written notice of violation, it shall be unlawful for the OWNER in possession of a property or premises on which the unlawful condition exists to fail to abate, correct, or eliminate such condition within the timeframe as such written notice requires.

(b) Removal by HARDWICK. Fifteen (15) days after notice is given to any OWNER of any property, business, industry, institution, or construction site to remove solid waste, garbage, junk, junk motor vehicles, or trash from the premises, HARDWICK is authorized to clean up such property, by use of HARDWICK employees or by employing an agent of HARDWICK. HARDWICK will give the OWNER 72 hours of notice of any impending action to remove solid waste, garbage, junk, junk motor vehicles, or trash from a property.

(c) HARDWICK will bill such OWNER for the abatement costs thereof. Execution of the notice to remove solid waste shall be in writing and shall be in the form of a first class, certified letter, return receipt requested. Nothing in this section shall be deemed to bar the prosecution of any person for violation of this Ordinance.

SECTION 6. PENALTY.

If an OWNER does not comply with the removal of the solid waste, garbage, junk, junk vehicles or trash from the premises in the specified time frame, and Hardwick or an agent of HARDWICK must remove the materials from the property, the OWNER of the property will then be billed the cost of removal, plus an 8% penalty, and interest of 1% per month for the first 3 months and 1 ½% per month thereafter on the unpaid balance. The billing period will follow the normal property tax billing period and will be included in the annual property tax bill. Such billing, upon recording in the land records, shall constitute a lien against the property on parity with liens for unpaid taxes. HARDWICK may seek other penalties or actions such as necessary to enforce this Ordinance, including but not limited to, enforcement as a civil matter, which may be enforced in the Vermont Judicial Bureau or in the Caledonia County Superior Court, at the election of the HARDWICK Select Board.

SECTION 7. APPEAL OF NOTICE OF VIOLATION OR PENALTY.

A person aggrieved by a Notice of Violation may appeal such Notice of Violation to the HARDWICK Select Board within fifteen (15) days of service of the Notice of Violation. The notice of an appeal shall be in writing and shall set forth a brief statement of the basis of the appeal.

Within thirty (30) days of service of the notice of appeal, the BOARD shall hold a hearing on the appeal. The BOARD shall issue a written decision within fifteen (15) days of the close of the hearing. The decision may reverse or sustain the Town Manager and/or agent of HARDWICK'S order and may add such additional requirements as the BOARD deems necessary and appropriate to implement the purpose of this Ordinance.

SECTION 8. 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.

This Ordinance shall be effective sixty (60) days after the date of its adoption unless a petition pursuant to 24 V.S.A. Section 1973 is presented to HARDWICK Officials within forty-four (44) days of adoption. Such petition, if signed by five (5) percent of the voters, shall call for a special public meeting at which voters may disapprove the ordinance.

Adopted and signed this 3rd day of November, 2016 by the Select Board of the Town of Hardwick, Vermont:

Eric Remick, Chair

Kathleen Hemmens, Vice Chair

Shari Cornish

Elizabeth Dow

Kory Barclay

Attested to by Town Clerk, Hardwick, VT

Alberta Miller