

ORDINANCE REGULATING THE DISPOSAL OF SOLID WASTE AND OUTDOOR STORAGE OF HOUSEHOLD TRASH

SECTION 1. Authority

This ordinance is enacted pursuant to the authority granted to the Town of Pownal to adopt, amend, repeal, and enforce ordinances by 24 V.S.A. §§ 1971 et seq.; to promote the public health, safety, and welfare, to regulate or prohibit the storage or dumping of solid waste, and to compel the cleaning of any premises in which the judgement of the legislative body is dangerous to the health and safety of the public by 24 V.S.A. § 2291(12), (13), (14); the power to prohibit the throwing, depositing, burning, and dumping of refuse by 24 V.S.A. § 2201(b); the power to manage and regulate solid waste disposal within its boundaries by 24 V.S.A. § 2202a; the power to enforce a solid waste ordinance by 24 V.S.A. §§2297; the power to license or regulate itinerant vendors, peddlers, door-to-door salesmen, and those selling goods, wares, merchandise or services who engage in a transient or temporary business, or who sell from an automobile, truck, wagon or other conveyance, excepting persons selling fruits, vegetable or other farm produce by 24 V.S.A § 2291 (9), and the power to provide for penalties for violations of any ordinance adopted by 24 V.S.A. § 2291 (15).

This ordinance shall be a civil ordinance within the meaning of 24 V.S.A.

Chapter 59.

SECTION 2. Purpose

It is the purpose of this ordinance to regulate the disposal of solid waste, the location and outdoor storage of waste, and household trash in the Town of Pownal in order to protect the public health, safety, and well-being and to protect the environment.

SECTION 3. Definitions

For purposes of this ordinance, the following words and/or phrases shall apply:

- a. “Abutting property owner” means any person or persons that owns, leases, or in any other way uses or controls the real property abutting any portion of the property of another.
- b. “Disposal” shall mean the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid 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.
- c. “Enforcement Officer” means any Health Officer, Zoning Administrator or police officer appointed by the Selectboard to enforce the provisions of this ordinance.
- d. “Highway” means any highway as defined in 19 V.S.A. §1(12). This definition shall include municipal trails as defined in 19 V.S.A. §301.
- e. “Notice” means written notice mailed by certified mail with return receipt requested or hand-delivered with signature proof of receipt.
- f. “Person” means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont, or an agency, department or subdivision of the state, federal agency, or any other legal or commercial entity.

- g. "Screening" means fencing, shrubs, trees or outbuildings so as to hide junk from the view of abutting households or traveled way.
- h. "Solid Waste" means 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 operation and from community activities but does not include animal manure and absorbent bedding used for soil enrichment; high carbon bulking agents used in composting; or solid or dissolved materials in industrial discharge which are point sources subject to permits under the Water Pollution Control Act, chapter 47 of title 10. For the purpose of this ordinance, solid waste shall also include marketable recyclables.
- i. "Traveled Way" means the portion of the highway designed for the movement of the motor vehicles, shoulders, auxiliary lanes, and roadside picnic, parking, rest, and observation areas and other areas immediately adjacent and contiguous to the traveled portion of the highway designated as a roadside area for the use of highway users and generally but not necessarily located within the highway right-of-way.
- j. "Waste" means 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 uses and is normally discarded.

SECTION 4. Duty of Owners and Occupants

- a. General Requirement: It shall be the responsibility of each owner, agent, occupant, or lessee to keep his or her property free of litter, refuse, garbage, solid waste and trash. She or he shall be responsible for removing litter, refuse, garbage, solid waste or trash accumulating on said property.
- b. Litter Prohibited: No owner, agent, occupant or lessee of any property shall allow the storage or accumulation of litter, refuse, garbage, waste 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 contents therein. Since plastic bags, even when tied, are subject to animal invasion and/or degradation by weather, they do not constitute as a covered and secured receptacle. Accordingly, exterior accumulation of the bags containing trash is not permitted. This requirement shall not apply to an area designated and approved by the town as a permitted disposal site.
- c. Litter Prevention and Control in Adjacent and Immediately Surrounding Areas: It shall be the responsibility of each proprietor and each operator of any business, industry, or institution to keep their property free of litter, refuse, garbage, solid waste or trash. Surrounding areas include: sidewalks, roads and alleys, grounds, parking lots, loading and unloading areas and all vacant lots leased by such establishments or institutions. Any accidentally blown or spilled litter or trash shall be promptly removed to a covered receptacle. Removal of said trash shall be performed in accordance with this ordinance.
- d. Screening: If owner, agent, occupant, or lessee deems above-named material to be of use or value, she or he is required to screen it from view of traveled way and abutting property occupants.
- e. Outdoor Sales: Outdoor Sales (such as tag sales or flea markets) shall not have goods or debris left outside longer than 3 consecutive days. Seller shall remove all evidence of sale and merchandise by dusk of the day following close of sale, and between all sales. Covering merchandise with a tarpaulin does not fulfill this requirement. Items being put out as free must be

removed within tow days if not taken. This ordinance does not apply to farm stands and outdoor sale of agricultural products.

SECTION 5. Enforcement and Penalties.

Violation of Screening Requirements.

Any violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau pr in the Superior Court, at the election of the Town of Pownal Select Board. Each day that the violation continues shall constitute a separate violation of this ordinance.

- a. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. A civil penalty of not more than \$800 per violation may be imposed for violation of this ordinance.
 1. A municipal ticket will be issued by the Enforcement Officer if the violation has not been corrected in accordance with this ordinance.
 2. For purposes of enforcement in the Judicial Bureau, the designated Enforcement Officer shall issue tickets and may be the appearing officer at any hearing. The municipal attorney may also be the appearing officer at the hearing at the direction of the Town of Pownal Select Board.
- b. An Enforcement Officer is authorized to recover civil penalties in the following amounts, or as established by the Judicial Bureau, for each violation of this ordinance:

First Offense \$50 full penalty / \$25 waiver penalty

Second Offense \$100 full penalty / \$50 waiver penalty

Third Offense \$200 full penalty / \$100 waiver penalty

Fourth Offense \$400 full penalty / \$200 waiver penalty

Subsequent Offense \$800 full penalty / \$400 waiver penalty
- c. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Enforcement Officer or Town of Pownal Select Board may pursue all appropriate injunctive relief. In addition, a civil penalty of not more than \$800 per violation may be imposed for violation of this ordinance.
- d. Solid Waste Order and Enforcement. For any violations of this ordinance not including salvage yards, or screening requirements, the Town of Pownal Select Board may also use the procedures set forth in 24 V.S.A. Chapter 61, Subchapter 12 to issue a solid waste order to enforce any of the provisions of this ordinance. Such order may include civil penalties for each violation and, in the case of a continuing violation, a penalty for each succeeding day.

The Town of Pownal Select Board may seek enforcement of a final solid waste order in the superior court or before the Environmental Division. If a penalty is imposed and the respondent fail to pay the penalty within the time prescribed, the Select Board may bring a collection action in the superior court.

Imposition of a penalty by the Town of Pownal Select Board through a solid waste order und 24 V.S.A. Chapter 61, Subchapter 12 precludes imposition by Town of Pownal Select Board of any other administrative or civil penalty under any other provision of law for the same violation.

SECTION 6. Other Laws.

This ordinance in addition to all other ordinances of the Town of Pownal and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 7. 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. If any statute referred to in this ordinance shall be amended, this ordinance shall be deemed to refer such amended statute.

SECTION 8. Effective Date.

This ordinance shall become effective 60 days after its adoption by the select board or at such time following the expiration of the 60 days from the date of its adoption as is determined by the Town of Pownal Select Board. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

The full ordinance is available on our regularly updated website at townofpownal.org . For more information contact Tara Parks, Town of Pownal Executive Assistant, at (802)823-0116 x 110 or executive.assistant@townofpownal.org

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