

TOWN OF MIDDLEBURY

An Ordinance For The Regulation of Outdoor Storage of Junk and Junk Vehicles

The Selectboard of the Town of Middlebury, pursuant to the authority of Sections 104(B), (C), (D), (E), and (J) of the Middlebury Town Charter, 24 V.S.A. §§ 1971 et seq., 2246, and 2291, and such other state laws as are applicable, does hereby enact the following ordinance:

ARTICLE I – PURPOSE

The purpose of this Ordinance is to protect the public health, safety and well being, and to promote the responsible use of resources and protection of the environment by regulating the outdoor storage of junk and junk motor vehicles.

ARTICLE II - DEFINITIONS

- a. "Abandon" means to 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 controls any real property abutting any portion of the property of another.
- c. "Enforcement Officer" means any police officer or other municipal official or officer appointed by the Selectboard to enforce the provisions of this Ordinance.
- d. "Highway" means any highway, road, street or other public way, regardless of classification.
- e. "Household appliance" means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool or other electronic, mechanical or powered device used for household purposes.
- f. "Interested Party" means a person residing at or owning property abutting the location of any junk or junk motor vehicle, or residing at or owning property in the immediate area from which the junk or junk motor vehicle is visible.
- g. "Junk" means old or 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 mined motor vehicle or parts thereof.
- h. "Junk motor vehicle" means a discarded, dismantled, wrecked, scrapped or mined 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 30 days from the date of discovery.

- i. "Salvage Yard" means any place of outdoor storage or deposit that is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or junk motor vehicles or as a scrap metal processing facility. However, the term does not include a private garbage dump or a sanitary landfill that is in compliance with 24 V.S.A. §§ 2201 et seq. and all other applicable state regulations, nor does it include a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.
- j. "Motor vehicle" means any vehicle propelled or drawn by power other than muscular power, including trailers. Functional vehicles and equipment used for agricultural and construction operations are excluded from this definition.
- k. "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.

ARTICLE III - REQUIREMENTS

- a. Within the areas of the Town specified below, it shall be unlawful to place, discard or abandon junk or any junk motor vehicle, or to allow any such item to be placed, discarded or abandoned, in a place where such item is visible from the traveled way of a highway or from any abutting property. Any such junk or junk motor vehicles so placed, discarded or abandoned is hereby declared to be a public nuisance and a violation of this Ordinance. The requirements of this Paragraph (a) shall apply to the following areas of the Town:
 - (1) The former Village of Middlebury area and Buttolph Acres, so-called, and Rogers Road area, all as described or shown on the attached Sketch Map #1; and
 - (2) The main village corridor of East Middlebury, as shown on the attached Sketch Map #2.
- b. Within any part of the Town of Middlebury, it shall be unlawful to place, discard or abandon junk or any junk motor vehicle upon the land of another without the consent of the owner. Any such item so placed, discarded or abandoned is hereby declared to be a public nuisance and a violation of this Ordinance.

ARTICLE IV – PERMITTING AND CERTIFICATE REQUIREMENTS

- a. It shall be unlawful to own or operate, or for a landowner within the Town of Middlebury to allow the operation of, a salvage yard on lands within Middlebury unless it is being operated in compliance with a license issued pursuant to 24 V.S.A. § 2261 et. seq. and a Certificate of Approved Location pursuant to 24 V.S.A. § 2251 and this Ordinance. Any

salvage yard operating without the necessary permit and approvals as herein specified is hereby declared to be a public nuisance and a violation of this Ordinance.

- b. A person who wishes to operate a salvage yard within the Town of Middlebury is required to:
 - (1) obtain a certificate of approval for the location of the salvage yard, and
 - (2) obtain a license to operate, establish or maintain a salvage yard from the State of Vermont.
- c. Certificate of Approved Location. Application for a certificate of approved location shall be made in writing to the Selectboard of the Town of Middlebury. The application shall contain a site plan which shall describe 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. §§ 2251-2256, as amended. The application shall be accompanied by a certificate from the Middlebury Zoning Board certifying that the proposed location is not within an established district restricted against such uses or otherwise contrary to such zoning ordinance.
- d. State Salvage Yard License. The procedures for obtaining a salvage yard license from the State of Vermont are those specified in 24 V.S.A. §§ 2261-2264, as amended.
- e. All salvage yards, scrap yards, and places of outdoor storage of junk shall be effectively screened from public view by a fence 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 highway. Any vegetation used for screening shall be of sufficient density so that it effectively screens the area from view. Failure to provide screening as required herein is hereby declared to be a public nuisance and a violation of this Ordinance.

ARTICLE V - ENFORCEMENT AND PENALTIES

- a. Before issuing a notice of violation or pursuing any enforcement action under this Ordinance, the Town shall require for its file a written complaint filed by an interested party, as defined in Article II. After investigating the complaint, if an Enforcement Officer determines that a violation of this Ordinance has occurred, the Enforcement Officer may mail or hand-deliver written notice of the violation to the person who is the owner of the junk or junk motor vehicle at issue or who has otherwise violated the Ordinance. A notice shall be deemed validly served as of the earlier of (i) the date it is mailed by first-class mail, certified mail, or overnight delivery, or (ii) the date it is actually received by the person. The person shall correct the violation no later than the deadline specified in the notice. The deadline shall be 30 calendar days from the date the notice is served, unless the Enforcement Officer determines that public health or safety

concerns or other exigent circumstances require an earlier deadline, in which case the deadline may be shortened to no less than 5 calendar days from the date the notice is served. If the person does not correct the violation by the specified deadline, the Enforcement Officer may issue the person a Vermont Municipal Violation Complaint and pursue the enforcement actions authorized by Paragraph (b).

- b. A violation of this Ordinance shall be a civil matter which shall be enforceable by the Town pursuant to 24 V.S.A. §1974a and any other applicable provision of law. Each week a violation continues shall constitute a separate offense. A person who violates any provision of this Ordinance shall be fined not more than \$800 for each violation, with a waiver fine of \$200 per violation. In addition, the Town shall have the right to obtain injunctive relief from any court of competent jurisdiction to enjoin, abate, or prevent any violation of this Ordinance.
- c. Nothing in this Ordinance shall preclude the Town from pursuing enforcement action under any other ordinance or statute, including but not limited to the issuance of health orders pursuant to Title 18, Chapter 3, V.S.A. and the enforcement of zoning violations pursuant to Title 24, Chapter 117, V.S.A.

ARTICLE VI – 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.

ARTICLE VII - EFFECTIVE DATE

This ordinance shall become effective 40 days after its adoption by the Selectboard. If a petition for a vote on this Ordinance is filed under Section 108(B) of the Middlebury Town Charter, the Ordinance shall not take effect until after the question of repeal is voted (Section 107 (D) of the Middlebury Town Charter).

ENACTED AND ORDAINED ON THIS _ DAY OF _ , 2015.

/s/
Nick Artim

/s/
Dean George

/s/
Laura Asermily

/s/
Gary Baker

/s/
Brian Carpenter

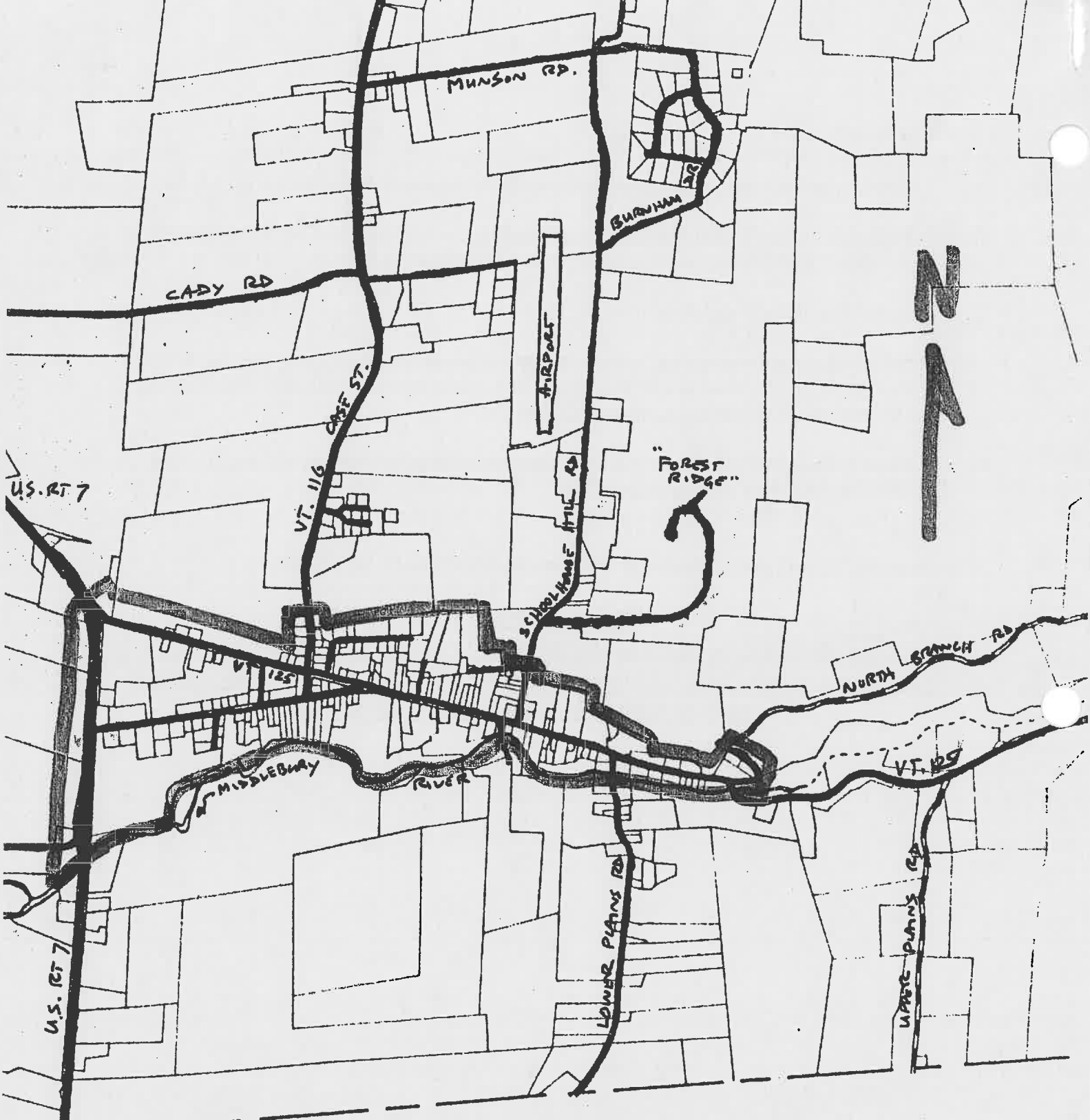
/s/
Donna Donahue

/s/
Susan Shashok

MIDDLEBURY SELECTBOARD

ADOPTION HISTORY:

- 1 Adopted: May 9, 2006
- 2 Effective: June 19, 2006
3. Amended: May 12, 2015
4. Effective: June 22, 2015

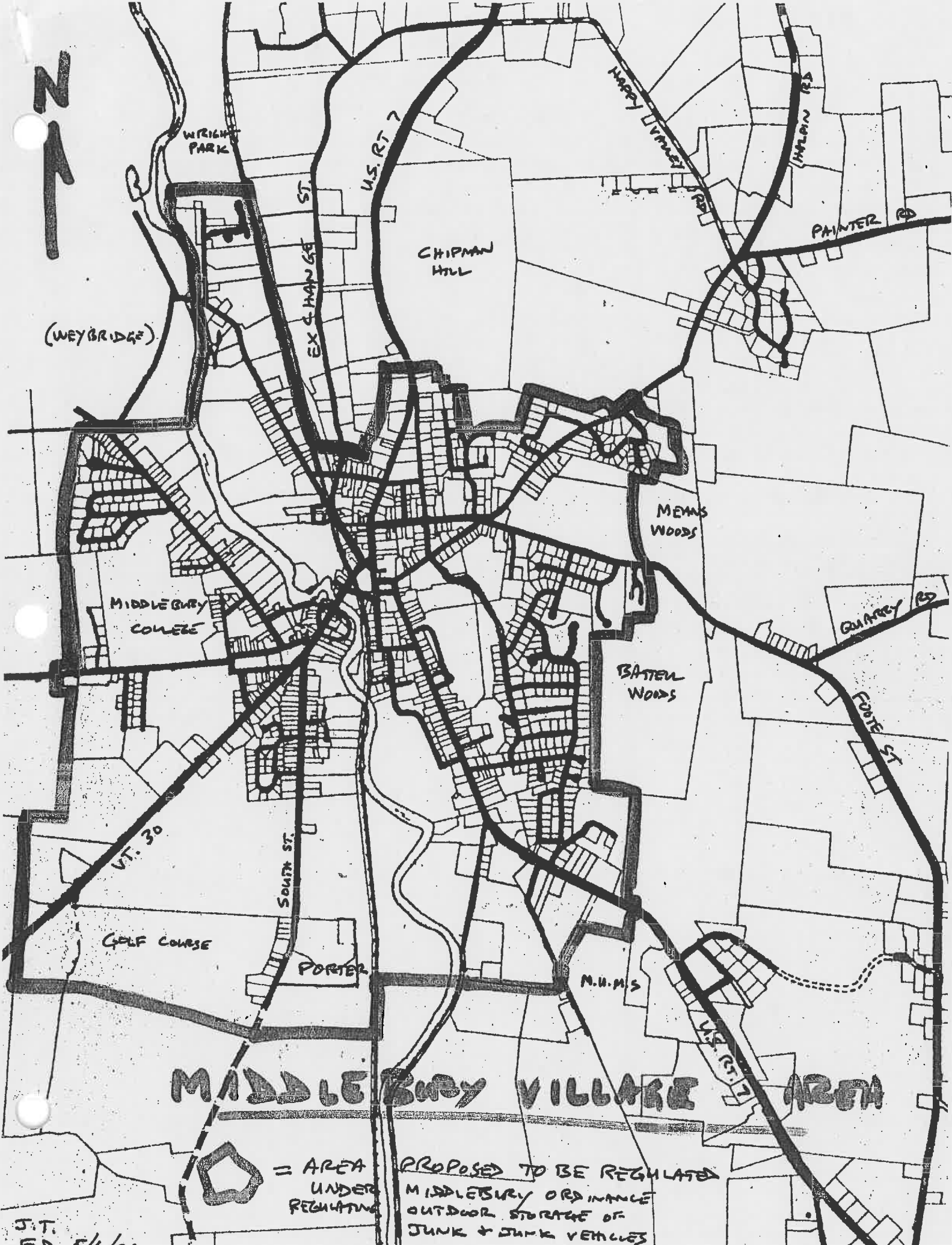


EAST MIDDLEBURY AREA



= AREA PROPOSED TO BE REGULATED UNDER
 MIDDLEBURY ORDINANCE REGULATING OUTDOOR
 STORAGE OF JUNK & JUNK VEHICLES

J.T
 F.D. 5/9/06



(WEYBRIDGE)

WRIGHT PARK

U.S. RT 7

EXCHANGE ST

CHIPMAN HILL

HAPPY VALLEY RD

MALIN RD

PAINTER RD

MIDDLEBURY COLLEGE

MENAS WOODS

QUARRY RD

BATEN WOODS

FOTE ST

GOLF COURSE

SOUTH ST

PORTER

M.U.M.S

MIDDLEBURY VILLAGE AREA

= AREA PROPOSED TO BE REGULATED
 UNDER MIDDLEBURY ORDINANCE
 REGULATING OUTDOOR STORAGE OF
 JUNK + JUNK VEHICLES

J.T. ED 5/4/02