

Regulating The Burning and Disposal of Solid Wastes

WHEREAS, the Town of Waterford has, by virtue of authority granted in 24 V.S.A. § 1971 and 24 V.S.A. § 2202(a), the powers to adopt, amend, repeal, and enforce ordinances, and to manage and regulate solid waste disposal within its boundaries;

AND WHEREAS, the Town of Waterford has, by virtue of authority granted in 24 V.S.A. Section § 1974a, the power to enforce civil ordinance violations;

NOW, THEREFORE, to protect public health and safety and to promote the responsible use of resources and protection of the environment, the Selectboard of the Town of Waterford hereby adopts this ordinance to regulate the collection and disposal of solid waste in the Town of Waterford.

ARTICLE I

DEFINITIONS

(a) “Air contaminants” means dust fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

(b) “Disposal” means 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) “Emission” means a release into the outdoor atmosphere of air contaminants.

(d) “Incineration” means the burning of solid waste in a container, such as a furnace, stove, incinerator or similar device whereupon the products of combustion are emitted into the atmosphere, in whole or in part, after passing through a stack, chimney, or other enclosure.

(e) “Hazardous waste” means waste that is identified as hazardous in, and regulated by, the Vermont Hazardous Waste Management Regulations including, but not limited to, waste that contains toxic, corrosive, reactive, explosive, or flammable ingredients.

(f) “Open fire” means burning of solid waste in the open where the products of combustion are emitted, in whole or in part, directly into the atmosphere without passing through a stack, chimney, or other enclosure.

(g) “Person” means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont or any agency, department or subdivision of the state, federal agency, or any other legal or commercial entity.

(h) “Recyclable” means any type of refuse designated by the Town of Waterford Selectboard or by the local solid waste management district to be separated for recycling.

(i) “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 operations and from community activities but does not include animal manure and absorbent bedding used for soil enrichment or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, 10 V.S.A. Chapter 47. For the purposes of this ordinance, solid waste shall also include marketable recyclables.

(j) “Solid Waste Facility” means any site or structure used for treating, storing, processing, recycling or disposing of solid waste which has been certified to receive solid waste by the Vermont Agency of Natural Resources under 10 V.S.A. Chapter 159. A facility may consist of a single or several treatment, storage, recycling or disposal units.

(k) “Natural Wood” means any of the following, provided such material has not been chemically treated with preservatives, paint or oil.

- 1) trees, including logs, boles, trunks, branches, limbs, and stumps;
- 2) lumber, including timber, logs, or slabs dressed for use;
- 3) pallets and skids;

This definition does not include processed wood products such as plywood, particle board, fiber board, and press board.

ARTICLE II

ILLEGAL DUMPING

(a) It shall be unlawful to dispose of any hazardous waste except for in a facility certified or approved by the State of Vermont to accept such hazardous wastes.

(b) It shall be unlawful to deposit, dump, dispose of, or allow the disposal of, any solid waste on any land or into any water, public or private, including, but not limited to, municipally owned or state-owned lands and waters except as follows:

1. The composting of organic material if authorized by the Vermont Solid Waste Management Rules, provided no nuisance is caused;
2. Open burning or incineration as allowed by Article III;

3. The disposal of solid waste in a privately owned or maintained disposal container with the express consent of the owner of the container;

4. Disposal of other materials as approved by the Vermont Department of Environmental Conservation, the Waterford Selectboard, and the Northeast Kingdom Waste Management District.;

(c) Further, it shall be unlawful to deposit, dump or leave solid waste in any publicly owned or maintained waste container other than solid waste created or originating in public buildings or on their grounds or highways or generated during the use of said public building, grounds or highways.

(d) It shall be unlawful to accumulate solid waste on one's own property to the extent it becomes a health hazard, a violation of zoning bylaw, or a public nuisance.

(e) Nothing in this article shall be interpreted as affecting the operation or use of a licensed junkyard as defined in 24 V.S.A. §§ 2241-2291 or a solid waste disposal facility certified under 10 V.S.A. Chapter 159.

(f) Any person who violates the prohibitions contained in this article shall immediately remove the solid waste so deposited or left. Each day including the day of the prohibited act, during which the solid waste is not removed, shall constitute a separate violation of this ordinance.

ARTICLE III

OPEN FIRES AND INCINERATION

(a) The following persons are strictly liable for unauthorized burning in violation of this rule:

1. Each person who is in ownership or custody of the real property on which the burning occurs, including any tenant thereof;

2. Each person who is in ownership, control or custody of the material that is burned; or

3. Any person who causes or allows the burning to be initiated or maintained.

(b) Except as provided by this article, the burning of any solid waste either by open fire or in a furnace, stove or other device is prohibited in the Town of Waterford unless the practice has been approved by the Department of Environmental Conservation.

(c) To the extent allowed by the Vermont Air Pollution Control Regulations, a specific permit may be granted by the Fire Warden for the following types of open burning:

1. The open burning of leaves, brush, garden wastes, slash, slabwood and other such natural wood wastes resulting from property maintenance, logging operations and clearing operations.

2. The open burning of natural wood, grass, leaves and similar materials for agricultural improvements, forest or wildlife habitat management or festive celebrations.
3. After providing notice to the Vermont Department of Environmental Conservation, the burning of solid or liquid fuels or structure for bona fide fire training provided that materials other than natural wood are removed from any structures to the greatest extent possible prior to the training.
4. With the prior approval of the Department of Environmental Conservation burning authorized by the Selectmen as necessary for the protection of public health or to thwart a hazard.
5. Burning of natural wood demolition or construction materials and natural-wood commercial wastes such as pallets or skids, provided such burning is approved by the Department of Environmental Conservation.
6. The open burning of natural wood by the Town of Waterford in accordance with 10 V.S.A. Section 565.
 - (d) The Fire Warden shall not issue a permit unless he/she is satisfied that no hazardous condition will be created by such burning and the emission of air contaminants will not create a danger to the health and property of the citizens of the Town of Waterford. Permits which are issued under the provisions of this ordinance shall be for a specified date, time and location, and only for specified materials.
 - (e) Notwithstanding Section (b) above, the Fire Warden shall not issue a permit for any open burning, and no open burning shall occur, from June 1 to October 1 in any area designated as "Summer No-burn Zone". Should an area be designated as a "Summer No-burn Zone", a map of said zone shall be attached and labeled as an Appendix to this ordinance. The single exception to this prohibition is for burning authorized by the Selectmen, with the prior approval of the Department of Environmental Conservation, as necessary for the protection of public health or to thwart a hazard.
 - (f) The provisions of this ordinance shall not apply to the burning of natural wood or any virgin fuel in a furnace or in a small campfire to produce heat or for the purpose of preparing food.

ARTICLE IV

PENALTIES AND CIVIL ENFORCEMENT

This ordinance is a civil ordinance and enforcement shall follow the procedures described in 24 V.S.A. § 1974a including but not limited to:

- (a) A civil penalty of not more than \$600 shall be given for the first violation of this ordinance. A civil penalty of not more than \$700 shall be imposed for the second violation of this ordinance. The penalty for each subsequent offense shall be \$800. A waiver fee of \$500 is set for the first

offense and \$600 for each subsequent offense. Each day the violation continues shall constitute a separate violation.

(b) Violations of this ordinance where the penalty is \$800 or less shall be brought before the Judicial Bureau. If the penalty for all continuing violations is greater than \$800.00, or injunctive relief, other than as provided in subsection (c), is sought, the action shall be brought in superior court.

(c) The Judicial Bureau hearing officer, on application of the Town of Waterford, may order that the ordinance violation cease.

(d) Notwithstanding the foregoing, the Town of Waterford may bring a civil action to recover actual damages including, but not limited to, the Town's out-of-pocket costs incurred in order to extinguish or otherwise ameliorate an unauthorized burning. The Town of Waterford further reserves any and all rights it may have under the Service Reimbursement Ordinance.

ARTICLE V

DESIGNATION OF ENFORCEMENT PERSONNEL

For purposes of this ordinance, any (a) certified and duly appointed Constable, (b) duly appointed zoning enforcement officer, and/or (c) attorney appointed by the Selectboard is authorized as the Custodial Official, Issuing Officer and/or Appearing Officer before the Judicial Bureau to pursue a municipal complaint.

ARTICLE VI

REPEAL OF INCONSISTENT PROVISIONS

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.

ARTICLE VII

SEVERABILITY

This ordinance and its various parts, sentences, sections and clauses are hereby declared to be severable. If any part, sentence, section, or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

ARTICLE VIII

EFFECTIVE DATE

This ordinance shall become effective sixty (60) days after the adoption date of January 22, 2015.