

**Please see the advisory notice following this model ordinance.**

**TOWN OF \_\_\_\_\_**  
**CIVIL ORDINANCE**  
**REGULATING THE BURNING AND DISPOSAL OF SOLID WASTES**

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

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 \_\_\_\_\_ hereby adopts this ordinance to regulate the collection and disposal of solid waste in the Town of \_\_\_\_\_, Vermont.

**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 an enclosed container, such as a furnace, stove, incinerator or similar device.
- (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 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 \_\_\_\_\_ Selectboard or by the local solid waste management district to be separated for recycling.

**OVER**

- (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. Ch. 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 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 \_\_\_\_\_ Selectboard, and the \_\_\_\_\_ Solid

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 buildings, grounds or highways.
- (d) Nothing in this article shall be interpreted as affecting the operation or use of a licensed junkyard as defined in 24 VSA Section 2241-2291 or a solid waste disposal facility certified under 10 VSA Chapter 159.
- (e) 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) 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 \_\_\_\_\_ unless the practice has been approved by the Department of Environmental Conservation.
- (b) 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 improvement, 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 structures 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

**OVER**

Environmental Conservation.

6. The open burning of natural wood by the Town of \_\_\_\_\_ in accordance with 10 VSA Section 565.
- (c) 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 \_\_\_\_\_. Permits which are issued under the provisions of this ordinance shall be for a specified date, time and location, and only for specified materials. (The Selectboard may establish a fee for the issuance of such permits. - *Consult your Town Attorney regarding the authority to establish and collect fees.*)
- (d) The provisions of this ordinance shall not apply to the burning of natural wood or any virgin fuel in a furnace 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. Sec. 1974a including but not limited to:

- (a) A civil penalty of not more than \$500.00 may be imposed for a violation of this ordinance. Each day the violation continues shall constitute a separate violation.
- (b) Violations of this ordinance where the penalty is \$500.00 or less shall be brought before the traffic and municipal ordinance bureau. If the penalty for all continuing violations is greater than \$500.00, or injunctive relief, other than as provided in subsection (c), is sought, the action shall be brought in superior court.
- (c) The municipal ordinance bureau hearing officer, on application of the Town of \_\_\_\_\_ may order that the ordinance violation cease.

#### **ARTICLE V DESIGNATION OF ENFORCEMENT PERSONNEL**

For purposes of this ordinance, the Selectboard may designate any combination of the following persons as enforcement officers: members of the Selectboard, their appointed representative to the board of Supervisors of the local Solid Waste Management District, the Town Health Officer, Town Attorney, Constable and law enforcement officials.

#### **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 shown below.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

Attest: \_\_\_\_\_

**Important Note To Local Officials:**

This model ordinance is just a starting point. You should tailor this ordinance to the needs and circumstances of your own town or municipality. We recommend that you consult your Town Attorney and local solid waste management district before enacting any solid waste ordinance into law. Comments or questions regarding this document should be addressed to the Vermont Department of Environmental Conservation, Air Pollution Control Division, 103 South Main Street, Waterbury, VT 05671-0402.