

TOWN OF FAIRFAX CIVIL ORDINANCE

REGULATION OF OPEN FIRES AND INCINERATION

WHEREAS, the Town of Fairfax has by virtue of 24 VSA 1971, 24 VSA 2291 (12), 18 VSA 613 and 24 VSA 2202 (a), the power to amend, repeal, and enforce ordinances, and to manage and regulate health risks 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 Fairfax, hereby adopts this ordinance to regulate open burning and incinerations in the Town of Fairfax, Vermont.

ARTICLE I DEFINITIONS

1. "Air contaminants" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.
2. "Emission" means a release into the outdoor atmosphere of air contaminants.
3. "Incineration" means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator, or similar device.
4. "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.
5. "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.
6. "Solid waste" means any discarded garbage, refuse, septage, sludge from a waste water 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 VSA Chapter 47. For the purposes of this ordinance, solid waste shall also include marketable recyclable.
7. "Natural wood" means any of the following, provided such material has not been chemically treated with preservatives, paint or oil:
 - A). trees, including logs, boles, trunks, branches, limbs and stumps;
 - B). lumber, including timber logs, or slabs, dressed for use;
 - C). pallets and skidsThis definition does not include processed wood products such as particleboard, fiberboard, and pressboard.
8. "Vermont Air Pollution Control Regulations" means rules adopted by the Agency of Natural Resources as authorized by 10 VSA Chapter 159.

ARTICLE II
OPEN FIRES AND INCINERATION

1. Except as provided by this article, the burning of solid waste either by open fire or in a furnace, stove or other device is prohibited in the Town of Fairfax unless the practice has been approved by the Department of Environmental Conservation.
2. 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:
 - A. 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.
 - B. The open burning of natural wood, grass, leaves and similar materials for agricultural improvement, forest or wildlife habitat management or festive celebrations.
 - C. 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.
 - D. With the prior approval of the Department of Environmental Conservation, burning authorized by the Selectboard as necessary for the protection of public health or to thwart a hazard.
 - E. 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.
3. The Fire Warden shall not issue a permit unless satisfied that no hazardous conditions will be created by such burning and air contaminants will not create a danger to the health and property of the citizens of the Town of Fairfax. Permits, which are issued under the provisions of this ordinance, shall be for a specified date, time and location, and only for specified materials.
4. The provisions of this ordinance shall not apply to the burning of natural wood or any virgin fuel to produce heat or for the purpose of preparing food.

**ARTICLE III
PENALTIES AND CIVIL ENFORCEMENT**

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

- 1) A civil penalty of not more than \$500.00 may be imposed for a single violation of this ordinance. Each day the violation continues shall constitute shall constitute a separate violation.
- 2) A Waiver Fee for a Municipal Complaint issued by a Town of Fairfax, Issuing Officer, to recover civil penalties using the **Schedule A**

Schedule A Waiver Fee Penalties See Fairfax Fee Schedule

- 3) In accordance with the procedure of the Traffic and Municipal Ordinance Bureau, a waiver fee of up to 75% of the civil penalty established using Subsection (2) of this article to which a violator of this ordinance is subject shall be assessed for those violators who admit or do not contest the ordinance violation and pay the waiver fee which amount and the date or the acceptance of the waiver fee shall be affixed to the complaint or notice.
- 4) 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 Vermont Superior Court.
- 5) The Municipal Ordinance Bureau Hearing Officer, on application of the Town of Fairfax, may order that the ordinance violation cease.
- 6) The Fairfax Fire Wardens, Fairfax Fire Chief, Fairfax Constable and/or the Fairfax Selectboard will be responsible for the revocation of an issued Burning Permit if a violation is cited.

**ARTICLE IV
DESIGNATION OF AUTHORITY OF ENFORCEMENT PERSONNEL**

For the purposes of this ordinance, the Selectboard designates the following persons as enforcement officers: members of the Selectboard, the Town Health Officer, the Fire Warden, and the Constable. From these positions, the Selectboard will designate primary and backup enforcement officers and the

issuing and appearing of officials as required by the Traffic and Municipal Ordinance Bureau. Enforcement Officers are authorized and required to investigate complaints, seek correction of violations and to otherwise enforce this ordinance. These officers are authorized to enter onto private property if necessary to complete an investigation. They will make a reasonable attempt to contact the owner or occupant of the property before entering it.

**ARTICLE V
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.

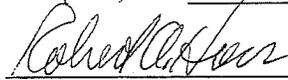
**ARTICLE VI
SEVERABILITY**

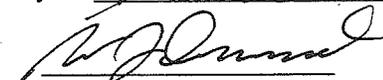
This ordinance and its various parts, sentences, sections and clauses are hereby declared to be severable. If any part, sentence, section, or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected hereby.

**ARTICLE VII
EFFECTIVE DATE**

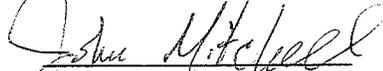
This ordinance shall become effective 60 days after the adoption date shown below.

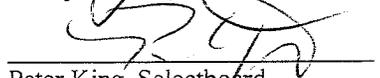
Adopted, this 22nd day of November 2010.

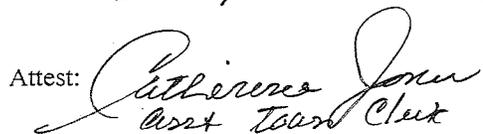

Robert A. Horr, Chairman, Selectboard


William Ormerod, Selectboard


Randy DeVine, Selectboard


John Mitchell, Selectboard


Peter King, Selectboard

Attest: 
Catherine Jones
Asst. Town Clerk