

**TOWN OF WOODBURY  
ORDINANCE REGULATING OPEN BURNING AND INCINERATION  
OF SOLID WASTE**

**Section I. Authority.** This ordinance is adopted by the Select Board of the Town of Woodbury pursuant to the authority to adopt, amend, repeal, and enforce ordinances by 24 V.S.A. § 1971; to promote the public health, safety, and welfare by determining what constitutes public nuisances by 24 V.S.A. § 2291(14); to prohibit the burning of solid waste by 24 V.S.A. § 2201(a)(3); to manage and regulate solid waste disposal by 24 V.S.A. § 2202a; and to provide for penalties for violations of this ordinance 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 II. Purpose.** It is the purpose of this ordinance to regulate the disposal of solid waste through open burning and incineration in the Town of Woodbury in order to protect the public health, safety, and welfare, and to promote the responsible use of resources and protection of the environment. The disposal of solid waste through open burning and incineration is deemed a public nuisance.

**Section III. Definitions.** For the purposes of this ordinance, the following words and/or phrases shall apply:

- a. “Construction/demolition debris” means materials resulting from construction, demolition, or renovation of buildings, roads, bridges and other structures.
- b. “Enforcement officer” means the Town Forest Fire Warden, designated by the Select Board to enforce the provisions of this ordinance.
- c. “Hazardous waste” means any waste or a combination of waste that is identified as hazardous in, and regulated by, the Vermont Hazardous Waste Management Regulations including, any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat, or other means, which in the judgment of the Vermont Secretary of Natural Resources may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the State. This definition shall not include all special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014.
- d. “Incineration” means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator or similar device.
- e. “Natural wood” means the following, provided such material has not been treated, injected, or altered with any paints, stains, preservatives, oils, glues, or pesticides: trees, including logs, boles, trunks, branches, limbs, and stumps, lumber, including

timber, logs or slabs, especially when dressed for use, and pallets and skids. This definition shall not include other wood products such as sawdust, plywood, particle board, or press board.

- f. “Non-woody vegetation” means leaves, grass, yard trimmings, and other organic materials.
- g. “Open burning” means the burning of any type of combustible material in the open or in an open container where the products of combustion are emitted directly into the ambient air space without passing through a stack, chimney or other enclosure. Burning shall include ignition, permitting, or causing ignition and suffering, allowing and maintaining burning.
- h. “Recyclable material” means any type of refuse designated by the Town of Woodbury or by the local solid waste management district to be separated for recycling.
- i. “Solid waste” means any garbage, refuse, septage, sludge or other materials generated by residential, commercial, industrial, and community activities, including, tires and other rubber products, plastics, paper, and cardboard, any 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. This definition shall include recyclable material, hazardous waste, and construction/demolition debris, as defined in this ordinance. This definition shall 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 discharges which are point sources subject to permits under the Water Pollution Control Act, chapter 47 of title 10 of the Vermont Statutes Annotated. This definition shall also not include natural wood and non-woody vegetation, as defined in this ordinance.
- j. “Town Forest Fire Warden” means the appointed Forest Fire Warden pursuant to 10 V.S.A. § 2641. For the purposes of this ordinance, “Town Forest Fire Warden” includes any appointed deputy Forest Fire Warden.

#### **Section IV. General Prohibition on Open Burning and Incineration.**

- a. No person shall engage in any open burning or incineration of solid waste in the Town of Woodbury unless prior permission is obtained from the Vermont Department of Environmental Conservation.
- b. Any open burning or incineration not listed in Section V is prohibited by this ordinance.

#### **Section V. Permissible Open Burning.**

- a. Open burning or incineration is prohibited in the Town of Woodbury, unless a permit to kindle fire is first obtained from the Town Forest Fire Warden pursuant to Section VI of this ordinance. To the extent allowed by the Vermont Air Pollution Control Regulations, a permit may be granted by the town Forest Fire Warden,

provided no public nuisance is created, for the following types of open burning:

1. The open burning of natural wood fires in conjunction with holiday and festive celebrations, campfires, bonfires, or barbecue pits that do not meet the criteria found in Section V, Subsection (c)(1) of this ordinance.
  2. The open burning of natural wood and non-woody vegetation resulting from property maintenance, logging and clearing operations, agricultural improvements, or forest or wildlife management.
  3. After providing the required notice to the Vermont Department of Environmental Conservation, Air Quality and Climate Division, the burning of solid or liquid fuels or structures for bona fide fire training, provided materials other than natural wood are removed to the greatest extent possible prior to the training.
  4. With the prior approval of the Vermont Department of Environmental Conservation, Air Quality and Climate Division, the open burning of construction or demolition debris and commercial wastes such as pallets and skids that are natural wood items.
  5. With the prior approval of the Vermont Department of Environmental Conservation, burning authorized by the Select Board of the Town of Woodbury for the protection of public health or to thwart a hazard, which cannot properly be managed by any other means.
- b. The Select Board may authorize the burning of natural wood and non-woody vegetation at a designated location within the Town of Woodbury. Any burning authorized under this Subsection shall be in accordance with 10 V.S.A. § 565, and under the direction of the Forest Fire Warden. Burning at a designated place under this Subsection shall not require a permit to kindle fire.
- c. A permit to kindle fire is not required for the following:
1. The open burning of natural wood campfires, bonfires, or barbecue pits surrounded by a fire ring no greater than three (3) feet in diameter on private property that are not located within woodland, timberland, or a field containing dry grass or other flammable plant material contiguous to woodland for recreation or the preparation of food.
  2. The burning of natural wood or any virgin fuel in an outdoor fireplace, chimney, grill, furnace or other similarly enclosed container for recreation, heat, power, or the preparation of food.
  3. The burning of natural wood or non-woody vegetation in a location that is two hundred (200) feet or more from any woodland, timberland, or field containing dry grass or other flammable plan material contiguous to woodland.
  4. The burning of natural wood or non-woody vegetation where there is snow surrounding the open burning site.

5. The burning of natural wood fires built in stone arches, outdoor fireplaces, or existing fire rings at State recreational areas that are not located within woodland, timberland, or a field containing dry grass or other flammable plant material contiguous to woodland.

#### **Section VI. Open Burning Permit Requirements.**

- a. Prior to open burning, a permit to kindle shall be obtained from the Town Forest Fire Warden. To obtain a permit for open burning, the applicant shall establish that no hazardous or nuisance situations will be created by open burning at the time the permit is issued, and that the application is for open burning that is permitted under this ordinance. An issued permit by the Forest Fire Warden shall specify the date, time, and, location of the burning and indicate the specific materials that the permittee is authorized to burn. Whenever permission is granted according to this section, the Forest Fire Warden, within 12 hours, shall issue a written "permit to kindle" for record purposes stating when and where such fire may be kindled.
- b. In granting a permit, the Forest Fire Warden may attach reasonable conditions to the proposed burning, including location, size, and time of day. Failure to meet the conditions of a permit to kindle fire will render the permit invalid and subject the permittee to enforcement pursuant to this ordinance.
- c. A permit to kindle fire shall not be issued if the Forest Fire Warden determines that the weather or the site conditions create a dangerous situation or that an open burn would create a nuisance. During periods of extreme fire hazard, the Forest Fire Warden shall not issue permits to kindle fire.
- d. There shall be no charge to obtain a burning permit to kindle fire and permit holders must have the permit to kindle fire on their person during the burn. Permit holders shall attend the fire until extinguished and shall maintain control of the fire at all times and not allow it to spread beyond their property lines. Permit holders shall have sufficient means readily available to them to keep the burn under control and to extinguish the burn immediately.
- e. The Forest Fire Warden may enter the property of the permit holder to investigate a fire and order the fire extinguished. If the permit holder refuses to extinguish, the Forest Fire Warden may call the fire department to extinguish the fire. Any cost associated with the fire department extinguishing the fire is the responsibility of the permit holder.
- f. Any fire reported to the fire department that is deemed unattended, out of control, or a violation of this ordinance by the highest-ranking fire department official responding to the call will be extinguished, whether or not the person responsible for the fire had a permit to kindle fire.

#### **Section VII. Enforcement and Penalties.**

- a. This ordinance shall be a civil ordinance and violations may be enforced in the Judicial Bureau by any enforcement officer or in the Superior Court at the election of the Selection.

1. For purposes of enforcement in the Judicial Bureau, any enforcement officer shall have authority to issue tickets and represent the Town as the appearing officer at any hearing. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a et seq.
  2. The Select Board or its designee(s) may initiate a civil action in Superior Court to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure.
- b. The enforcement officer is authorized to recover civil penalties or waiver fees in the following amounts for each violation of this ordinance:
1.

	<u>Civil penalty</u>	<u>Waiver Fee</u>
First offense	No penalty / written warning	
Second offense	\$100.00	\$50.00
Third offense	\$250.00	\$125.00
Fourth and subsequent offenses	\$500.00	\$300.00
  2. Each day that a violation continues shall constitute a separate violation of this ordinance.
  3. A waiver fee is in lieu of a civil penalty paid by a violator who admits or does not contest the violation.
  4. Any fire extinguished by the fire department under Section VI, Subsections (e) and (f) shall be treated as a third offense under this Section and the individual responsible shall be given a civil penalty of \$250 or waiver fee of \$125.
  5. For purposes of determining the sequence of offenses, subsequent offenses shall be those that occur within a 12-month period of the anniversary day of the first offense. Any offense occurring after this 12-month period shall be considered a new first offense.

**Section VIII. Other Laws.** This ordinance is in addition to all other ordinances of the Town of Woodbury and all applicable laws of the State of Vermont. All ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Section IX. Severability.** This ordinance and its various parts, sentences, sections, and clauses are severable. 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.

**Section X. Effective Date.** This ordinance shall become effective sixty (60) days after its adoption by the Select Board. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

**Adopted this 11th day of September, 2017 by the Select Board of the Town of Woodbury.**

Michael Gray-Select Board Chair \_\_\_\_\_/S/\_\_\_\_\_

Guy Rouelle-Select Board Member \_\_\_\_\_/S/\_\_\_\_\_

Thomas Lindsay-Select Board Member \_\_\_\_\_/S/\_\_\_\_\_

Adoption History:

1. Agenda item at the regular meeting of the Select Board held on 9/11/2017.
2. Read and approved at regular meeting of the Select Board on 9/11/2017 and entered into the minutes of that meeting, which were approved, on 9/18/2017.
3. Posted in five (5) public places on 9/12/2017.
4. Notice of adoption published in the Hardwick Gazette newspaper on 9/14/2017, within 14 days of adoption along with the name of the municipality; name of the municipality's website, the title or subject of the ordinance; the name, telephone number, and mailing address of the a municipal official designated to answer questions and receive comments on the ordinance; location where the full text can be examined; and notice of the citizens' rights to petition for a vote to disapprove the ordinance.