

TOWN OF BERLIN, VERMONT
NOTICE OF ADOPTION OF AMENDED CIVIL ORDINANCE
RELATING TO DISPOSAL OF SOLID WASTE THROUGH OPEN BURNING AND
INCINERATION

KNOW ALL PERSONS that the Town of Berlin Selectboard has adopted an ordinance related to the open burning and incineration of solid waste, designated as a civil ordinance, pursuant to the provisions of 24 V.S.A. §§ 1971, 1977, 2202(a) and such other statutes and regulations as may be applicable. The ordinance was adopted at a regular meeting of the Town of Berlin Selectboard, duly warned for such purpose, on June 16, 2002.

STATEMENT OF PURPOSE

The purpose of the ordinance is to regulate the disposal of solid waste through open burning and incineration and to provide for civil enforcement, through the Judicial Bureau, of violations of the provisions of the ordinance, thereby protecting the comfort, health, property, safety and general welfare of the citizens of the Town of Berlin. The ordinance creates a permit system for certain types of burning and provides monetary penalties for the burning or incineration of certain materials without a permit or in an unlawful manner.

PRINCIPAL PROVISIONS

The principal provisions of the amended ordinance regulate open burning and incineration of natural wood products, non-woody vegetation and solid waste and include permit requirements, prohibitions on the open burning and incineration of certain types of solid waste without a permit or otherwise in an unlawful manner and the enforcement mechanisms for violations of the ordinance.

LIST OF ARTICLE HEADINGS

- I. Purpose; Title
- II. Definitions
- III. Open Burning and Incineration
- IV. Penalties and Civil Enforcement
- V. Designation of Enforcement Personnel
- VI. Repeal of Inconsistent Provisions
- VII. Severability
- VIII. Effective Date

NOTICE TO BERLIN RESIDENTS

An ordinance adopted by a municipality may be disapproved by a vote of a majority of the qualified voters of the municipality voting on the question at an annual or special meeting duly warned for the purpose, pursuant to a petition signed and submitted by not less than 5% of the qualified voters of the municipality and presented to the Selectboard or the Clerk of the municipality within forty-four days of the date of adoption of the ordinance by the Selectboard, and all pursuant to 24 V.S.A. § 1973.

The full text of the ordinance may be examined at the office of the Town Clerk on Shed Road in the Town of Berlin. Questions about the ordinance may be directed to the Town's attorney, Rob Halpert, P. O. Box 1310, Montpelier, VT 05601; telephone number 223-1000.

Dated at Berlin, Vermont, this 17th day of June, 2002.

TOWN OF BERLIN SELECTBOARD

Paul Irons, Chair
Irving Lawrence, Jr.
Michael Pitonyak
Patricia McDonald
Laura Plude

TOWN OF BERLIN

CIVIL ORDINANCE

**REGULATING THE DISPOSAL OF SOLID WASTE
THROUGH OPEN BURNING AND INCINERATION**

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

WHEREAS, the Town of Berlin has determined that disposal of solid waste through open burning incineration practices prohibited by this Ordinance constitute public nuisances, and the Town of Berlin has the authority to regulate and prohibit such practices by virtue of the authority granted in 24 V.S.A. 2291 (14);

NOW, THEREFORE, to protect public health and safety and to promote the responsible use of resources and protection of the environment, the Select Board of the Town of Berlin hereby adopts this ordinance to regulate the open burning and incineration of solid waster in the Town of Berlin, Vermont.

**Article I
PURPOSE; TITLE**

Purpose: This ordinance is enacted to promote the health, safety and general welfare of the inhabitants of the Town of Berlin and to protect Solid Waste disposal practices that pose a danger to the public health and welfare and the environment or constitute a public nuisance.

Title: This ordinance shall be known and may be cited as the "Ordinance Regulating the Disposal of Solid Waste Through Open Burning and Incineration."

**Article II
DEFINITIONS**

- (a) "Construction/Demolition Debris" means materials resulting from construction, demolition, or renovation of buildings, roads, bridges and other structures.
- (b) "Incineration" means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator or similar device.
- (c) "Hazardous Waster" 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.

- (d) “Natural wood” means any of the following, provided such material has not been treated or injected with preservations, paint or oil;
1. trees and brush, including logs, boles, trunks, branches, limbs, roots and stumps;
 2. lumber, including timber, logs, dimensional lumber 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.

- (e) “Non-woody vegetation” means leaves, grass, yard trimmings, and other organic materials.
- (f) “Opening burning” means any burning in the open or in an open container, including but not limited to a brush pile or a burn barrel, where the products of combustion are emitted directly into the atmosphere without passing through a stack, chimney or other enclosure.
- (g) “Recyclable” means any type of refuse designated by the Town of Berlin or by the local solid waste management district to be separated for recycling.
- (h) “Solid Waste” means any garbage, refuse, hazardous waste or other materials generated by residential, commercial, industrial, and community activities. This definition does not include natural wood and non-woody vegetation, as defined in this Article.
- (i) “State Permit to Kindle Fire” means the written document giving permission to burn at a specific time and place, with the authority to set special conditions, in accordance with Vermont State Forest Fire Laws, 10 V.S.A. 2645 (Title 10, Chapter 83, Section 2645).

Article III OPEN BURNING AND INCINERATION

- (a) The open burning or incineration of solid waste is prohibited in the Town of Berlin, unless prior permission is obtained from the Department of Environmental Conservation.
- (b) Prior to open burning, a State Permit to Kindle Fire shall be obtained from the Town Forest Fire Warden. Such a permit may only be issued for the following types of open burning:

1. The open burning of Natural wood and Non-woody vegetation resulting from yard or property maintenance, logging and clearing operations, agricultural improvements, forest and wildlife management, or for festive celebrations.
 2. After providing the required 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 to the greatest extent possible prior to the training.
 3. With the prior approval of the Department of Environmental Conservation, the open burning of construction or demolition materials and commercial wastes such as pallets and skids. These materials and wastes can only be "Natural wood" items.
 4. With the prior approval of the Department of Environmental Conservation, burning authorized by the Select Board of Berlin for the protection of public health or to thwart a hazard, which cannot properly be managed by any other means.
- (c) The open burning of Natural wood and Non-woody vegetation is allowed at a designated place within the municipality by the Town of Berlin in accordance with 10 V.S.A. 565 (Title 10, Part 1, Chapter 23, Section 565), and under the direction of the Town Forest Fire Warden.
 - (d) Any open burning not listed in paragraphs (b) and (c) is prohibited by this ordinance including but not limited to the burning of hazardous wastes and recyclable materials.
 - (e) The provisions of this Ordinance shall not apply to the burning of natural wood or any virgin fuel in a furnace or other enclosed container to produce heat, power or for the purpose of preparing food.
 - (f) Combustion of solid waste in an incinerator is prohibited unless the incinerator meets all the requirements of the Vermont Air Quality Regulations and Solid Waste Management Rules.
 - (g) Open burning or incineration in violation of this ordinance may result in enforcement actions as described in Article IV.

**Article IV
PENALTIES AND CIVIL ENFORCEMENT**

- (a) This ordinance is a civil ordinance and enforcement shall be brought in the judicial bureau in accordance with 24 V.S.A. 1974a et seq.

- (b) The penalties for violating this ordinance are as follows:

	<u>Civil Penalty</u>	<u>Waiver Fee</u>
First Offense: No Penalty	Written warning – demand to cease burning	
Second Offense:	\$100.00	\$ 50.00
Third Offense:	\$250.00	\$125.00
Fourth and Subsequent Offenses:	\$500.00	\$300.00

- (c) For each offense, a written notice of violation will be issued. The waiver fee is paid by a violator who admits or does not contest the violation.

**Article V
DESIGNATION OF ENFORCEMENT PERSONNEL**

For the purposes of this ordinance, the Selectboard designates the Berlin Police Department and the Berlin Town Attorney as enforcement personnel.

**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.

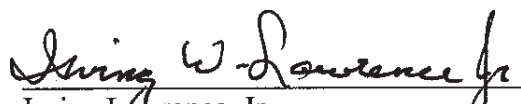
Article VIII
EFFECTIVE DATE

This ordinance shall become effective sixty (60) days after the adoption dated shown below:

Adopted this ~~17~~¹⁹th day of June, 2002.



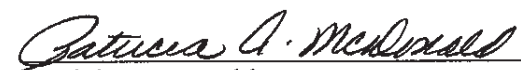
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