

**CIVIL ORDINANCE PROHIBITING THE DISPOSAL OF SOLID WASTE
THROUGH OPEN BURNING AND INCINERATION**

TOWN OF BENSON

WHEREAS, the Town of Benson has, by virtue of the authority granted in 24 V.S.A. § 1971 (Title 24, Chapter 59, Section 1971), and 24 V.S.A. § 2202a(a) (Title 24, Chapter 61, Subchapter 8, Section 2202a), 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 Benson has determined that disposal of solid waste through open burning and incineration practices prohibited by this Ordinance constitute public nuisances, and the Town of Benson has the authority to regulate and prohibit such practices by virtue of the authority granted in 24 V.S.A. § 2291 (14) (Title 24, Part 2, Chapter 61, Subchapter 11, Section 2291);

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 Benson hereby adopts this ordinance to regulate the open burning and incineration of solid waste in the Town of Benson, 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 Benson and to prohibit 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 “Civil Ordinance Prohibiting 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 in the Town of Benson.
- b. “Incineration” means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator or similar device.
- c. “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.
- d. “Natural wood” means any of the following, provided such material has not been treated or injected with preservatives or oil; or has, at any time, been painted, stained or glued:

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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. “Open burning” means the burning of solid waste 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 Benson or by the local solid waste management district to be separated for recycling.
- h. “Solid Waste” means any garbage, refuse, hazardous waste or other solid materials generated by normal residential, commercial, industrial, and community activities. This definition does not include natural wood and non-woody vegetation, as defined in this Article. For the purposes of this ordinance, non-solid wastes including but not limited to septage, sludge and animal manure are excluded from the definition of solid waste.

Article III: OPEN BURNING AND INCINERATION

- a. Unless a permit is obtained pursuant to this ordinance the disposal of solid waste through open burning or incineration is prohibited in the Town of Benson.
- b. Prior to the open burning of solid waste, a 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 or 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 in the form of a Department of Environmental Conservation Burn Permit, the open burning of construction or demolition materials and

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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 Selectboard of the Town of Benson for the protection of public health or to thwart a hazard.

The open burning of natural wood and non-woody vegetation at a designated place within the municipality by the Town of Benson in accordance with 10 V.S.A. § 565 (Title 10, Part 1, Chapter 23, Section 565).

Any other open burning is prohibited by this ordinance including but not limited to the burning of hazardous wastes and recyclable materials.

- c. To obtain a Permit to Kindle Fire, 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. Permits to Kindle Fire must provide for the specific date, time and location of the burning and indicate the specific materials that the permittee is authorized to burn. Failure to meet the conditions of the Permit to Kindle Fire, once it has been issued, will render the permit invalid and subject the permittee to enforcement pursuant to this ordinance.
- 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 ENFORCMENT

- 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:

1st offense: Notice of Violation (written warning – demand to cease burning)		
	<u>Civil Penalty</u>	<u>Waiver Fee</u>
2nd offense:	\$100.00	\$50.00
3rd offense:	\$250.00	\$125.00
4th and subsequent offenses:	\$500.00	\$300.00

The waiver fee is paid by a violator who admits or does not contest the violation.

- c. Violators of this ordinance will be responsible for paying actual costs of Town equipment and personnel used to extinguish fires in violation of this ordinance.

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Article V: DESIGNATION OF ENFORCEMENT PERSONNEL

For the purposes of this ordinance, the Selectboard may designate any combination of the following persons as enforcement personnel: members of the Selectboard, the Town Health Officer, the Town Attorney, the Town Constable(s) and any official with law enforcement authority under Vermont law.

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.

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Article VIII: EFFECTIVE DATE

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

Adopted this ____ day of _____, 20__.

Selectboard

Selectboard

Selectboard

Selectboard

Selectboard

Attest: _____