

Open Burning Ordinance

An Ordinance Prohibiting the Disposal of Solid Waste Through Open Burning and Incineration in The Town of Hartland

WHEREAS, the Town of Hartland 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 Hartland has determined that the disposal of solid waste through open burning and the incineration practices prohibited by this Ordinance constitute public nuisances, and the Town of Hartland 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 Hartland hereby adopts this ordinance to regulate the open burning and incineration of solid waste in the Town of Hartland, Vermont.

Article I: PURPOSE AND TITLE

Purpose	This ordinance is enacted to promote the health, safety, and general welfare of the inhabitants of the Town of Hartland and to prohibit solid waste disposal practices that pose a danger to the public health and welfare and the environment or that constitute a public nuisance.
Title	This ordinance shall be known and may be cited as the “Ordinance Prohibiting the Disposal of Solid Waste Through Open Burning and Incineration.”

Article II: DEFINITIONS

- a. “Campfire” means a small fire for cooking, two feet or less in diameter, well contained by non-flammable material and burning only natural wood.
- b. “Construction/Demolition Debris” means materials resulting from construction, demolition, or renovation of buildings, roads, bridges and other structures in the Town of Hartland.
- 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. “Incineration” means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator, or similar device.
- e. “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:
 - 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, particleboard, fiberboard, and press board.

- f. “Non-woody vegetation” means leaves, grass, yard trimmings, and other organic materials.
- g. “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.
- h. “Recyclable” means any type of refuse designated by the Town of Hartland or by the local solid waste management district to be separated for recycling.
- i. “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

Open burning except as described in provisions (a) through (e) below is prohibited by this ordinance. Prohibition includes but is not limited to the burning of hazardous wastes and recyclable materials. During a burn ban period, no fire of any kind shall be kindled, and no permits will be issued.

- 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 Hartland.
- b. Prior to the open burning of solid waste, a Permit to Kindle Fire shall be obtained from the Town Forest Fire Warden or his or her designee. Such a permit may only be issued for the types of open burning as follows:

1. The burning of natural wood and non-woody vegetation at a designated place within the municipality by the Town of Hartland in accordance with 10 V.S.A. § 565 (Title 10, Part 1, Chapter 23, Section 565).
 2. The burning of natural wood and non-woody vegetation resulting from yard or property maintenance, logging and clearing operations, agricultural improvements, and forest or wildlife management, or for festive celebrations.
 3. 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, and only after providing the required notice to the Vermont Department of Environmental Conservation.
 4. The burning of construction or demolition materials and commercial wastes such as pallets and skids, with prior approval in the form of a Department of Environmental Conservation Burn Permit. These materials and wastes can only be “natural wood” items.
 5. Burning authorized by the Selectboard of Hartland for the protection of public health or to thwart a hazard, with the prior approval of the Department of Environmental Conservation.
- 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. Campfires require a permit, provided conditions are safe for open burning.
- e. 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

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

First offense: Notice of Violation (written warning—demand to cease burning). No penalty.

	<u>Civil Penalty</u>	<u>Waiver Fee</u>
Second offense:	\$100.00	\$50.00
Third offense:	\$250.00	\$125.00
Fourth and subsequent offenses:	\$500.00	\$300.00

Article V: DESIGNATION OF ENFORCEMENT PERSONNEL

For the purposes of this ordinance, the Selectboard may designate any of the following persons as enforcement personnel: members of the Selectboard, the Town Health Officer, the Town Manager, the Town Constable, 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.

Article VIII: EFFECTIVE DATE

This ordinance shall become effective 60 days after its adoption by the Town of Hartland Selectboard.

Gordon Richardson, Chair

Mary T. O'Brien, Vice-Chair

Thomas M. White

Richard D. Waddell

Martha McGlinn

Date

Copies of this ordinance can be found in the Town Clerk's office during regular business hours. For information, please call (802) 436-2119, email hartlandtm@hotmail.com, or write to Town Manager, PO Box 349, Hartland, VT 05048.

Unless a petition is signed by 5% of the legal voters and is received by the Town Clerk on or before July 3, 2013, this ordinance will be effective on July 19, 2013.