

**TOWN OF NEW HAVEN
CIVIL ORDINANCE**

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

WHEREAS, the Town of New Haven 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 New Haven has determined that disposal of Solid Waste through Open Burning practices prohibited by this Ordinance constitute public nuisances, and the Town of New Haven 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 New Haven hereby adopts this ordinance to regulate the Open Burning of Solid Waste in the Town of New Haven, 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 New Haven 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 “Ordinance Regulating the Disposal of Solid Waste Through Open Burning”.

**Article II
Definitions**

- (a) “Construction/Demolition Debris” means materials resulting from construction, demolition, or renovation of buildings, roads, bridges and other structures.
- (b) “Hazardous Waste” means waste or a combination of 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.

- (c) “Natural Wood” means any of the following, provided such material has not been treated or injected with preservatives, 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, press board and pressure treated lumber; or any stained, painted or treated lumber.
- (d) “Non-Woody Vegetation” means leaves, grass, yard trimmings, and other organic materials.
- (e) “Open Burning” means the burning of any type of combustible material 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. Burning shall include ignition, permitting or causing ignition, or allowing and maintaining burning.
- (f) “Recyclable” means any type of refuse designated by the Town of New Haven or by the local solid waste management district to be separated for recycling.
- (g) “Solid Waste” means any garbage, refuse, 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.
- (h) “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).
- (i) “Waste” means any material that is discarded or is being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or has served its original intended use and is normally discarded or is a manufacturing or mining by-product and is normally discarded.

Article III
OPEN BURNING

- (a) The open burning of Solid Waste is prohibited in the Town of New Haven, 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 or wildlife management, or for festive celebrations.
 - 2. After providing the required notice to the 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. If the fire training involves a structure, filing a demolition notification form with the Department of Health is also required.
 - 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 that are Natural Wood items. If the burning involves Natural Wood derived from the demolition of a structure, filing a demolition notification form with the Department of Health is also required.
 - 4. With the prior approval of the Department of Environmental Conservation, burning authorized by the Selectboard of New Haven 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 New Haven 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; including a campfire or firepit.

- (f) Small fires (less than three feet in diameter, and with flames less than two feet high), that are contained in a fire ring, stone enclosure, chimenea, or other such appliance or area for the purpose of cooking, camping, or “mood”, are exempt from requiring a burn permit, provided that reasonable safety measures are taken (fire is not left unattended, and water or a fire extinguisher are available), and that only charcoal, briquettes, or untreated wood is burned.
- (g) Open Burning 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.
- (d) For each offense, a service fee shall also be payable to the New Haven Fire Department, in amounts to be set by that Department and published on the Town Website.

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 New Haven Fire Chief, Fire Warden or designee 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 for the Town of New Haven that are 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 date shown below.

Adopted this 24th day of October, 2017

Kathleen Barrett
Selectboard Chair, Kathy Barrett

[Signature]
Selectboard, Vice Chair, Steve Dupoise

[Signature]
Selectboard, Taborn Bruhl

[Signature]
Selectboard, John Roleau

[Signature]
Selectboard, Jim Walsh

Attest: Patricia Kingman