

TOWN OF FAIRLEE, VERMONT
SOLID WASTE DISPOSAL and BURNING ORDINANCE

1. *Purpose and Authority*

This Ordinance is adopted by the Selectboard of the Town of Fairlee under the authority of 24 V.S.A. § 2202a (a), 24 V.S.A. § 2297-2297b, and 24 V.S.A. § 2291(12)-(15). The purpose of this Ordinance is to require the proper disposal of waste, protect the health, safety, and welfare of Fairlee residents, and to promote the responsible use of resources and protection of the environment. This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59: Adoption and Enforcement of Ordinances and Rules.

2. *Definitions*

For purposes of this Ordinance, the following words and phrases shall apply:

Construction and Demolition Material means material resulting from the construction, demolition, or renovation of buildings and other structures.

Dispose means to store, throw, place, deposit, dump, discharge, inject, spill, leak, or place any Solid Waste or Hazardous Waste into or on any land or water so that such Solid Waste or Hazardous Waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.

Enforcement Officer means primarily an Administrative Officer appointed by the Selectboard or any other law enforcement officer, Police Chief, Fire Chief, Health Officer or any other Enforcement Officer designated by the Selectboard.

Incineration means the burning of Solid Waste in an enclosed container, such as a furnace, stove, incinerator or similar device.

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.

Junk means old or scrap ferrous or non-ferrous metals, and other old or scrap material, including, but not limited to: rope, rags, batteries, glass, bottles, crockery, cans, scrap metal, plastic, paper, rubber debris, waste, refuse of whatever nature, garbage and trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles, boats, or trailers, or parts thereof.

Junk Vehicle means a discarded, dismantled, wrecked, scrapped, or ruined vehicle or trailer, or parts thereof, an unregistered motor home or travel trailer not connected to water and/or septic disposal systems, or a vehicle or trailer which is allowed to remain unregistered and uninspected for a period of 90 days from the earlier of the date of placement or discovery on site. "Junk vehicle" shall not include an operable, off road, utility motor vehicle used on premises. Junk vehicle shall not include one unregistered vehicle being used for parts, providing that vehicle is screened from public view and

limited to one vehicle.

Natural Wood means trees, including logs, boles, trunks, branches, limbs, and stumps; lumber, logs or slabs dressed for use; and pallets and skids but not including processed wood products such as plywood, particle board, fiber board, and press board, or any material treated or coated with preservative, paint or oil.

Non-Woody Vegetation means vegetative ground cover, leaves, grass, yard trimmings, and other organic material.

Open Burning means burning of Solid Waste in the open or in an open container, where the products of combustion are emitted directly into the atmosphere without passing through a stack, chimney or other enclosure.

Person means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont or any agency, department or subdivision of the State, Federal agency or any other legal or commercial entity.

Salvage Yard means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. "Salvage yard" also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

Solid Waste means any discarded 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, but does 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 V.S.A. Title 10: Conservation and Development, Chapter 47: Water Pollution Control.

3. *Disposal of Solid Waste*

(A) A Person owning or occupying land shall not Dispose or permit to be Disposed, any Solid Waste, Junk, or Junk Vehicle on said land, nor shall any Person allow any Solid Waste, Junk, or Junk Vehicle to be stored, stockpiled, or to otherwise remain on land owned or occupied by that Person.

(B) A Person shall not Dispose, or permit to be Disposed, any Solid Waste, Junk, or Junk Vehicle on the land of others or within three hundred (300) feet of the land of others, or within view of a public body of water or public highway or within view from an adjacent landowner's residence or camp.

(C) A Person shall not Dispose of any Hazardous Waste except in a facility certified or approved by the State of Vermont to accept such Hazardous Wastes.

(D) Any Person who violates the prohibitions contained in this Section shall immediately remove the Solid Waste, Junk, Junk Vehicle, or Hazardous Waste so deposited or left. Each day including the day of the prohibited act, during which the Solid Waste, Junk Vehicle, or Hazardous Waste is not removed, shall constitute a separate violation of this Ordinance.

(E) **This Section shall not prohibit:**

1. The temporary storage of Solid Waste in a container approved and designed to prevent the release of such material. Such temporary storage may extend to the next date for scheduled collection of such material unless applicable law or regulation mandate earlier off-site disposal.
2. The composting of organic material, if authorized by the Vermont Solid Waste Management Rules, provided no nuisance is created.
3. Disposal of other materials as approved by the Vermont Department of Environmental Conservation (DEC), the Fairlee Selectboard, and the Solid Waste Management District.

(F) Nothing in this Section shall be interpreted as affecting the operation or use of a salvage yard licensed pursuant to 24 V.S.A. Chapter 061: Regulatory Provision; Police Power of Municipalities §2242: Requirement for Operation or Maintenance, or the operation of a solid waste disposal facility certified under 10 V.S.A. Chapter 159: Waste Management.

4. *Open Burning and Incineration*

(A) Open Burning and Incineration of Solid Waste is prohibited.

(B) A Burning Permit may be granted by the Fairlee Fire Warden or his/her authorized designee for the following:

1. The Open Burning of Natural Wood and Non-Woody Vegetation from property maintenance, logging operations, agricultural improvement, forest or wildlife habitat management, and land clearing operations.
2. The Open Burning of Natural Wood Construction and Demolition Material provided such burning is approved by the Fairlee Fire Warden.
3. With the prior approval of the DEC, burning authorized by the Selectboard as necessary for the protection of public health or to thwart a hazard.
4. Open Burning of Natural Wood by the Town of Fairlee in accordance 10 V.S.A. § 565: Burning Wood Within Municipality.

(C) The Fire Warden shall not issue a Burning Permit unless he/she is satisfied that

no hazardous condition will be created by such burning and the burning will not create a danger to the health and property of the residents of the Town of Fairlee.

(D) A Burning Permit issued under this Ordinance shall be for a specified date, time and location, and only for specified materials. The Person holding the Burning Permit must at all times have sufficient help, water, and tools present to control the fire. The fire may not be left unattended until entirely extinguished. No gasoline, kerosene, diesel fuel, fuel oil, or other flammable or explosive liquid or material may be used to ignite the fire. The Fire Warden may attach such conditions to a Burning Permit as necessary to protect the public health, safety, and welfare.

(E) The failure to obtain a Burning Permit in accordance with this Section, or to control a fire for which a Burning Permit has been issued presents a hazard to the safety and welfare of Fairlee residents, causes necessary expense to the Town of Fairlee and is hereby declared a public nuisance under 24 V.S.A. § 2291 (14). Such fires may be immediately extinguished by the Fairlee Fire Department. To abate the public nuisance, and reimburse the Town for the expense of responding to and extinguishing fires kindled without a Burning Permit and/or allowed to burn without control, a Fire Response Charge shall be assessed to the property owner where such fire was kindled.

(F) The provisions of this Section 4 shall not apply to the burning of Natural Wood or virgin fuel in a furnace to produce heat or for the purpose of preparing food, nor to recreational campfires thirty (30) inches or less in diameter.

5. *Civil Penalty; Other Enforcement*

(A) Any Person who violates a provision of this Ordinance or who violates any condition of a Burning Permit issued under this Ordinance shall be subject to a civil penalty as detailed in the Town of Fairlee Fee Schedule; Solid Waste & Burning. An Enforcement Officer shall be authorized to act as an issuing municipal official to issue and pursue before the Vermont Judicial Bureau a municipal complaint. Each day a violation continues shall constitute a separate violation. An Enforcement Officer is authorized to recover Civil Penalties and Waiver Fees, as stated in the Town of Fairlee, Solid Waste & Burning Fee Schedule, for each violation. If the penalty for all continuing violations is greater than \$800.00, or injunctive relief is sought, the action shall be brought in the Criminal Division of the Superior Court.

(B) In addition to the enforcement procedures available under 24 V.S.A § 1974a: Enforcements of Civil Ordinance Violations, the Selectboard may issue and enforce a solid waste order in accordance with 24 V.S.A. § 2297a: Enforcement of Solid Waste Ordinance by Town, City, or Incorporated Village.

6. *Other Laws*

This Ordinance is in addition to all other ordinances of the Town of Fairlee and all applicable laws of the State of Vermont, including 24 V.S.A. § 2201: Throwing, Depositing, Burning, and Dumping Refuse; Penalty; Summons and Complaint.

7. *Severability*

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.

8. Adoption

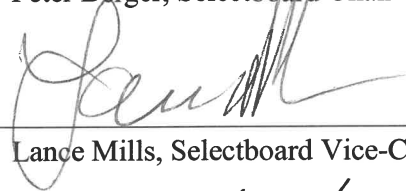
This Ordinance shall become effective sixty (60) days after adoption by the Town of Fairlee Selectboard. If a petition is filed under 24 V.S.A. §1973: Permissive Referendum, that statute shall govern the taking effect of this Ordinance.



Peter Berger, Selectboard Chair

04/29/2024

Date



Lance Mills, Selectboard Vice-Chair

Date



Miranda Clemson, Selectboard

4.29.2024

Date

Adoption History

Agenda item at regular selectboard meeting held on 1/22/2024

Agenda item at regular selectboard meeting held on 2/5/2024

Agenda item at regular selectboard meeting held on 2/12/2024

Agenda item at regular selectboard meeting held on 2/20/2024

Agenda item at regular selectboard meeting held on 2/26/2024 (Tabled)

Agenda item at regular selectboard meeting held on 3/4/2024

Agenda item at regular selectboard meeting held on 3/11/2024

Read and approved at selectboard meeting on 3/11/2024

Entered in the minutes of that meeting which were approved on 03/11/2024

Posted in public places on 03/12/2024

Notice of adoption published in the newspaper on 3/20/2024 with a notice of the right to petition.

Petition Period Ended on 4/25/24

Signed on 4/29/24

