

Town of Fairfax, Vermont

CHAPTER TWO

ORDINANCE REGULATING OPEN BURNING AND INCINERATION

SECTION 1. Authority

This ordinance is adopted by the Selectboard of the Town of Fairfax, VT, pursuant to authority to adopt, amend, repeal, and enforce ordinances granted by 24 V.S.A. § 1971; to promote the public health, safety, and welfare by determining what constitutes public nuisances granted by 24 V.S.A. § 2291(14); to prohibit the burning of solid waste by 24 V.S.A. § 2201(a)(3); to manage and regulate solid waste disposal granted by 24 V.S.A. § 2202a; and to provide for penalties for violations of this ordinance granted by 24 V.S.A. § 2291(15). This ordinance shall be a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

SECTION 2. Purpose.

It is the purpose of this ordinance to regulate the disposal of solid waste through the open burning and incineration of waste in Fairfax in order to protect the public health, safety, and welfare, and to promote the responsible use of resources and protection of the environment. The disposal of solid waste through the open burning and incineration of waste is deemed a public nuisance.

SECTION 3. Definitions.

- a. "Air contaminants" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.
- b. "Camp Fire" means open burning of "Natural Wood" in a controlled manner for the purpose of cooking, providing warmth, or for recreational purposes. Open burning of brush, leaves, sticks, etc. for the purpose of yard clean-up is not considered a "Campfire" (section 5 b)
- c. "Construction/Demolition Debris" means materials resulting from construction, demolition, or renovation of buildings, roads, bridges and other structures.
- d. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of 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.
- e. "Emission" means a release of air contaminants into the ambient airspace.

FAIRFAX, VT ORDINANCE REGULATING OPEN BURNING AND INCINERATION

- f. “Enforcement Officer” means individual appointed or designated in the General Provisions Ordinance to enforce the provisions of this ordinance.
- g. “Fire Warden” means the town Forest Fire Warden, appointed by the Commissioner of the Department of Forests, Parks, and Recreation upon approval by the Selectboard.
- h. “Hazardous waste” means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat, or other means, which in the judgment of the Secretary may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the State. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition.
- i. “Incineration” means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator or similar device.
- j. “Natural wood” means the following, provided such material has not been treated, injected, or altered with any paints, stains, preservatives, oils, glues, or pesticides: trees, including logs, boles, trunks, branches, limbs, and stumps; lumber, including timber, logs or slabs, especially when dressed for use; and pallets and skids. This definition shall not include other wood products such as sawdust, plywood, particle board, fiber board, or press board.
- k. “Non-woody vegetation” means leaves, grass, yard trimmings, and other organic materials.
- l. “Open burning” means the burning of any type of combustible material in the open where the products of combustion are emitted directly into the ambient air space without passing through a stack, chimney, or other enclosure. Burning shall include ignition, permitting or causing ignition and suffering, allowing or maintaining burning.
- m. “Permit to kindle fire” means permission to conduct burning or incineration activities, as described by Sections 5 and 6 of this Ordinance and in 10 V.S.A. § 2645.
- n. “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;

- o. “Solid waste” means any garbage, refuse, septage, or other materials generated by residential, commercial, industrial, or community activities, including, tires and other rubber products, plastics, paper, and cardboard, 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 the Water Pollution Control Act, chapter 47 of title 10. This definition shall also not include natural wood and non-woody vegetation. This definition shall also include marketable recyclables, hazardous waste, and construction/demolition debris.

SECTION 4. General Prohibition on Open Burning and Incineration.

- a. No person shall engage in any open burning or incineration of solid waste in the Town of Fairfax.
- b. Any open burning or incineration not listed in Section 5 is prohibited by this ordinance.

SECTION 5. Permissible Burning.

- a. **Burning without pre-authorization.** The following types of burn activities are allowed within the Town of Fairfax without a permit from the fire warden, provided that no private or public nuisance is created:
 1. The burning of natural wood in a campfire or barbeque pit that is no greater than 3 feet in diameter.
 2. The burning of natural wood for the purpose of preparing food.
 3. The recreational burning of natural wood in an outdoor fireplace, chiminea, or other similar container that is no greater than 3 feet in diameter.
- b. **Burns that require a permit from the Fire Warden.** The following types of open burning and incineration are allowed within the Town of Fairfax, only after a permit to kindle fire is obtained from the Fire Warden / Assistant Fire Warden pursuant to Section 6 of this ordinance, and provided no private or public nuisance is created:
 1. The burning of natural wood and non-woody vegetation in a bonfire that is more than three feet in diameter.
 2. The open burning of grass, hay, straw, or leaves. A permit is required for these materials, regardless of size of fire planned.
 3. The open burning of natural wood and non-woody vegetation resulting from property maintenance, logging and clearing operations, agricultural improvements, or forest or wildlife management.
 4. After providing the required notice to the Vermont Department of Environmental Conservation, Air Quality and Climate Division, the burning of solid or liquid fuels or

structures for bona fide fire training, provided materials other than natural wood are removed to the greatest extent possible prior to the training.

5. With the prior approval of the Vermont Department of Environmental Conservation, Air Quality and Climate Division, the open burning of construction or demolition debris and commercial wastes such as pallets and skids that are natural wood items.

The smoke and/or flames resulting from the types of fire listed above may result in calls to 911 reporting of a fire or “smoke in the area”, which would in turn result in the Fire Department being dispatched by 911 Operators. Acquisition of a permit before kindling these fires will help reduce unneeded response by the Fire Department.

SECTION 6. Burning Permit Requirements.

- a. Prior to engaging in or allowing the types of burning described in Section 5b, above, a permit to kindle shall be obtained from the Town Fire Warden. To obtain a permit for open burning, 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.
- b. A permit issued by the Fire Warden shall specify the date, time, and location of the burning and indicate the specific materials that the permittee is authorized to burn. In granting a permit, the fire warden may attach reasonable conditions to the proposed burning, including location, size, and time of day. Failure to meet the conditions of a permit to kindle fire will render the permit invalid and subject the permittee to enforcement pursuant to this ordinance.
- c. A permit to kindle fire shall not be issued if the Fire Warden determines that the weather or the site conditions create a dangerous situation or that an open burn would create a nuisance. During periods of extreme fire hazard, the fire warden shall not issue permits to kindle fire.
- d. Permit holders shall attend the fire until extinguished, shall maintain control of the fire at all times and shall not allow it to spread beyond their property lines. Permit holders shall have sufficient means readily available to them to keep the burn under control and to extinguish the burn immediately.
- e. The Fire Warden may enter the property of the permit holder to investigate a fire and order the fire extinguished. If the permit holder refuses to extinguish, the Fire Warden may call the Fire Department to extinguish the fire. Any cost associated with the Fire Department extinguishing the fire is the responsibility of the permit holder. Fire Department shall issue an invoice utilizing hourly rates for personnel and apparatus established in Fire Department fee schedule.

SECTION 7. Enforcement and Penalties.

- a. This ordinance shall be a civil ordinance and violations may be enforced in the Judicial Bureau by any enforcement officer or in the Superior Court at the election of the Town of Fairfax.

FAIRFAX, VT ORDINANCE REGULATING OPEN BURNING AND INCINERATION

1. For purposes of enforcement in the Judicial Bureau, any enforcement officer shall have authority to issue tickets and represent the Town of Fairfax as the appearing officer at any hearing. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a et seq.
2. The Town of Fairfax or its designee(s) may initiate a civil action in Superior Court to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure.
3. Enforcement Officers for this Ordinance shall be identified in the Fairfax General Provisions Ordinance.

c. Civil Penalties

1. Current fines will be listed in the Fairfax General Provisions Ordinance.
2. Each day that a violation continues shall constitute a separate violation of this ordinance.
3. For purposes of determining the sequence of offenses, subsequent offenses shall be those that occur within a Twenty-four-month period of the anniversary day of the first offense. Any offense occurring after this Twenty-fourth-month period shall be considered a new first offense.

In the event the Fire Department responds and extinguishes a fire, both civil penalties and service reimbursement fees may be issued concurrently.

SECTION 8. Severability.

This ordinance and its various parts, sentences, sections, and clauses are severable. 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.

SECTION 9. Other Laws.

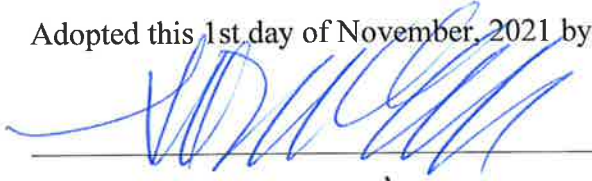
This ordinance is in addition to all other ordinances of the Town of Fairfax and all applicable laws of the State of Vermont. All ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 10. Effective date.

This ordinance shall become effective sixty (60) days after its adoption by the Fairfax Selectboard or at such time following the expiration of the 60 days from the date of its adoption as is determined by the Fairfax Selectboard per 24 V.S.A. § 1973. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

FAIRFAX, VT ORDINANCE REGULATING OPEN BURNING AND INCINERATION

Adopted this 1st day of November, 2021 by the Selectboard of the Town of Fairfax.




A handwritten signature in blue ink, appearing to be "Randy L. Deane", written over a horizontal line.

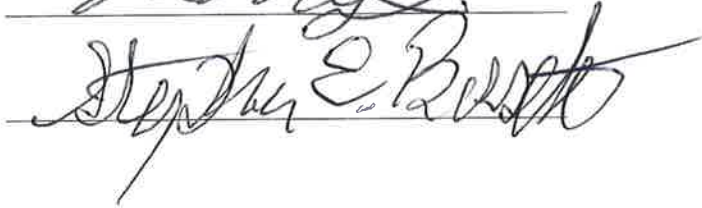
Randy L. Deane



A handwritten signature in blue ink, appearing to be "Duan Seung", written over a horizontal line.



A handwritten signature in black ink, appearing to be "M. G.", written over a horizontal line.



A handwritten signature in black ink, appearing to be "Stephen E. Burt", written over a horizontal line.