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TOWN OF FAIRFAX
CIVIL ORDINANCE

REGULATING CONSTRUCTION/DEMOLITION WASTE DISPOSAL

WHEREAS, The Town of Fairfax has by virtue of 24 V.S.A. S1971, 24 V.S.A. S2291(12), and 13 V.S.A. 7251, 24 V.S.A. S2202, the powers to adopt, amend, repeal, and enforce ordinances, and to manage and regulate construction waste disposal and to manage health risks within its boundaries;

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 Fairfax hereby adopts this ordinance to regulate the disposal of construction/demolition waste and to reduce the risk of hazardous materials release in the Town of Fairfax, Vermont.

ARTICLE I
DEFINITIONS

- 1) "**Construction/Demolition Waste**" means waste resulting from construction or demolition projects including bricks, concrete rubble, gypsum board, treated lumber, sheetrock, roofing materials, fixtures (such as bath tubs, shower stalls, sinks and toilets) and remodeling debris (such as cabinets, ceramic tile, Formica, and similar items).
- 2) "**Contractor**" means the person who has obtained a Town of Fairfax Building Permit and includes the property owner, property Lessee, builder, electrician, mechanical contractor, plumber, roofer, or other member of a construction trade. This definition includes subcontractors of the contractor and the employees of the contractor and subcontractor.
- 3) "**Disposal**" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any construction waste into or on any land or water so that such construction 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.
- 4) "**Disposal Container**" means a container or roll-off container, a mobile containment truck and/or trailer, which holds more than one(1) cubic yard, used to store construction waste until it is collected for disposal.
- 5) "**Incineration**" means the burning of construction/demolition waste in an enclosed container, such as a furnace, stove, incinerator or similar device.

- 6) "Open Fire" means burning of construction/demolition waste in the open where the products of combustion are emitted directly into the atmosphere without passing through a stack, chimney, or other enclosures.

ARTICLE II

ILLEGAL DISPOSAL OF CONSTRUCTION WASTE

- 1) It shall be unlawful to deposit, dump, dispose of, or authorize the disposal of, any construction/demolition waste on any land or into any water, public or private, including, but not limited to, municipally or state owned lands and waters except that certain materials may be approved for disposal on land. Such approvals must be granted by the Fairfax Selectboard and the Vermont Department of Environmental Conservation.
- 2) The disposal of construction/demolition waste into a privately owned or maintained disposal container with the express consent of the owner of the container is lawful under this ordinance.
- 3) It shall be unlawful to deposit, dump or leave construction/demolition waste in any publicly owned or maintained solid waste container other than construction/demolition waste created or originating in public building or on grounds or highways or generated during the use of said public buildings, grounds or highways.
- 4) Any person who violates the prohibitions contained within this article shall be subject to the revocation of the Fairfax Building Permit issued to the work site, the forfeiture of any and all fees paid in conjunction with that permit. With a required reapplication for construction to continue, these same fees must be paid again.

ARTICLE III

OPEN FIRES AND INCINERATION

- 1) The burning of any construction/demolition waste is prohibited in the Town of Fairfax unless the practice has been approved by the Fairfax Fire Warden.
- 2) This section of this ordinance excludes the burning of grass clippings, natural vegetation and untreated wood which requires the approval of the Fairfax Fire Warden, or his assistant and with the issuance of a burning permit.

**ARTICLE IV
DISPOSAL CONTAINERS REQUIRED**

Before any building construction/demolition begins, each Contractor or constructor/demolition site owner shall have in place, on the work site, refuse containers, mobile containment truck and/or trailer, in order to keep the construction site clean and to prevent litter or refuse from being blown off the construction/demolition site. The Contractor or construction/demolition site owner shall furnish additional containers as needed, to control the unwanted distribution of, and contain the construction/demolition waste generated on the work site.

**ARTICLE V
PENALTIES AND CIVIL ENFORCEMENT**

This ordinance is a civil ordinance and enforcement shall follow the procedures described in 24 V.S.A. S 1974 (a) including, but not limited to:

- 1) A civil penalty of not more than \$500.00 may be imposed for a single violation of this ordinance. Each day the violation continues shall constitute a separate violation.
- 2) A Waiver Fee for a Municipal Complaint issued by an Town of Fairfax, Issuing Official, to recover civil penalties using the Schedule A

Schedule A Waiver Fee Penalties

* The current Court Administration fees must be added to the fine amount.

Violation	First Violation	Repeat Violation
Article II. The Illegal disposal of Construction/Demolition Waste	* \$ 125.00	* \$ 250.00
Article III. Illegal burning of Construction/Demolition Waste	* \$ 125.00	* \$ 250.00
Article IV. Disposal Containers Required	* \$ 125.00	* \$ 250.00

- 3) In accordance with the procedure of the Traffic and Municipal Ordinance Bureau, a waiver fee of up to 75% of the civil penalty established using Subsection (2) of this article to which a violator of this ordinance is subject shall be assessed for those violators who admit or do not contest the ordinance violation and pay the waiver fee which amount and the date or the acceptance of the waiver fee shall be affixed to the complaint or notice.

- 4) Violations of this ordinance where the penalty is \$500.00 or less shall be brought before the Traffic and Municipal Ordinance Bureau. If the penalty for all continuing violations is greater than \$500.00, or injunctive relief, other than as provided in subsection (c), is sought, the action shall be brought in Vermont Superior Court.
- 5) The Municipal Ordinance Bureau Hearing Officer, on application of the Town of Fairfax, may order that the ordinance violation cease.
- 6) The Fairfax Zoning Administrator and/or the Fairfax Selectboard will be responsible for the revocation of an Building Permit if a violation is cited.

ARTICLE VI

DESIGNATION AND AUTHORITY OF MUNICIPAL ISSUING OFFICIAL

For purposes of enforcing this ordinance, the Town of Fairfax Selectboard may designate the following Town Officials as Municipal Issuing Officials:

- 1) Fairfax Selectboard;
 - 2) Fairfax Constables;
 - 3) Fairfax Forest Fire Wardens;
 - 4) Fairfax Zoning Administrator
 - 6) Fairfax Fire Department Chief Officer
 - 7) Any State of Vermont Certified Law Enforcement Officer
- Issuing Officials are authorized and required to investigate complaints, seek correction of violations and to otherwise enforce this ordinance. These Issuing Officials are authorized to enter onto private property, if necessary, to complete an investigation. They will make a reasonable attempt to contact the owner or occupant of the property before entering it.

ARTICLE VII

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 VIII
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 IX
EFFECTIVE DATE**

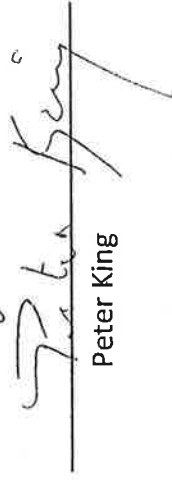
This ordinance shall become effective thirty (30) calendar days after the adoption date shown below.


Adopted this 19th day of April, 2010

Selectboard Members:


Robert Horr - Chair


Randy Devine


Peter King


Bill Ormerod

John Mitchell

FAIRFAX TOWN OFFICE
Received and recorded on

September 2010 at 10:00 AM
a true copy

Attest 
TOWN CLERK

