

## TOWN OF SWANTON

### Ordinance Regulating the Burning and Disposal of Solid Wastes

#### Subchapter I. Definitions

**5-101(35) “Forest Land Area”** -- means at least 25 acres of land that is at least 10% stocked with trees of any size.

**5-101(41) “Garbage”** -- waste resulting from distribution, preparation and serving of food.

**5-101(52) “Natural Wood”** -- for the purposes of these regulations, natural wood means trees, including logs, boles, trunks, branches, limbs, and stumps, lumber including timber, logs or slabs, especially when dressed for use. This definition shall also include pallets which are used for the shipment of various materials so long as such pallets are not chemically treated with any preservative, paint, or oil. This definition shall not extend to other wood products such as sawdust, plywood, particle board and press board.

**5-101(67) “Open Burning”** -- 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.

#### Subchapter II. Prohibitions

##### 5-201 OPEN BURNING PROHIBITED

1. No person shall engage in any open burning except in conformity with the provisions of Sections 5-201, 5-202 and 5-203
2. No person shall cause, suffer, allow or permit the open burning of garbage, tires, rubber plastics, waste oil, asphalt materials, materials containing asbestos, or pressure treated wood, except as may be allowed under subsections (3) and (7) of Section 5-202.

##### 5-202 PERMISSIBLE OPEN BURNING

When not prohibited by local ordinances or officials having jurisdiction such as local, state or federal fire wardens or other fire prevention officials, the following types of burning are permissible, provided no public or private nuisance is created.

1. Natural wood fires in conjunction with holiday and festive celebrations.
2. Campfires, out door grills, and fireplaces for recreation or preparing of food.

3. Burning of solid or liquid fuels or structures for the purpose of bona fide instruction and training of municipal, volunteer, and industrial firefighters in the methods of fighting fires when conducted under the direct control and supervision of qualified instructors. Said firefighters shall be residents of the State of Vermont or affiliated with the mutual aid systems within the State of Vermont. Notification by the fire training officer or the fire chief of the training exercise shall be made to the Air Pollution Control Officer on prescribed forms at least 14 days prior to the exercise.
4. Burning in forest land areas of brush, tree cuttings and slash where the cuttings accrue from logging or site clearing operations.
5. Burning for the purpose of weed abatement; disease, forest fire and pest prevention or control; and for the purpose of agricultural, forestry or wildlife habitat management.
6. On-premise burning of leaves, brush, deadwood, or tree cuttings accrued from normal property maintenance by the owner, his or her agent, or the lessee thereof.
7. Open burning, as follows, if prior approval in writing is obtained from the Air Pollution Control Officer. Approvals granted under this subsection shall be subject to such reasonable conditions as are necessary to avoid a nuisance or to protect the health, safety or comfort of the public. The requirement for approval in writing may be waived by the Air Pollution Control Officer and oral approval may be granted instead when, in his or her judgment, the impacts of the burning will be insignificant.
  - a. Burning in remote areas of highly explosive or other dangerous, or unusual materials for which there is no other feasible method of disposal.
  - b. Burning in remote areas of natural wood resulting from the construction or demolition of buildings and other structures, originating from within the state.
  - c. Fires to thwart a hazard which cannot properly be managed by any other means or that are necessary for the protection of public health.
  - d. Burning of other combustible materials for which there is no other feasible method of disposal.
8. Burning of natural wood in an area designated by the selectmen, with the permission of the selectmen of the municipality and the fire warden in the jurisdiction, and in conformance with the procedures outlined in Section 5-203 of these regulations.

**TOWN OF SWANTON  
CIVIL ORDINANCE  
REGULATING THE BURNING AND DISPOSAL OF SOLID WASTES**

WHEREAS, the Town of Swanton has, by virtue of authority granted in 24 V.S.A. 1971 and 24 V.S.A. 2202a(a), the powers to adopt, amend, repeal, and enforce ordinances, and to manage and regulate solid waste disposal 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 Swanton hereby adopts this ordinance to regulate the collection and disposal of solid waste in the Town of Swanton, Vermont.

**ARTICLE I  
DEFINITIONS**

- (a) "Air contaminants" means dust, fumes mist, smoke, other particulate matter, vapor, gas odorous substances, or any combination thereof.
- (b) "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.
- (c) "Emission" means a release into the outdoor atmosphere of air contaminants.
- (d) "Incineration" means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator or similar device.
- (e) "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.
- (f) "Open fire" means burning of solid waste in the open where the products of combustion are emitted directly into the atmosphere without passing through a stack, chimney, or other enclosure.
- (g) "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.
- (h) "Solid Waste" means any discarded garbage (ie. household trash), 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 or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, 10 V.S.A. Chapter 47. For the purposes of this ordinance, solid waste shall also include marketable recyclables.

- (i) "Solid Waste Facility" means any site or structure used for treating, storing, processing, recycling or disposing of solid waste which has been certified to receive solid waste by the Vermont Agency of Natural Resources under 10 V.S.A. Ch. 159. A facility may consist of a single or several treatment, storage, recycling, or disposal units.
- (j) "Natural wood" means any of the following, provided such material has not been chemically treated with preservatives, paint or oil.
  - 1) trees, including logs, boles, trunks, branches, limbs, and stumps,
  - 2) lumber, including timber, logs, or slabs dressed for use,
  - 3) pallets and skids.

This definition does not include processed wood products such as plywood, particle board, fiber board, and press board.

## **ARTICLE II ILLEGAL DISPOSAL OF SOLID WASTE**

- (a) It shall be unlawful to dispose of any hazardous waste except for in a facility certified or approved by the State of Vermont to accept such hazardous wastes.
- (b) It shall be unlawful to deposit, dump, dispose of, or allow the disposal of, any solid waste( ie. household garbage), on any land or into any water, public or private, including, but not limited to, municipally or state owned lands and waters except as follows:
  - 1. The composting of organic material if authorized by the Vermont Solid Waste Management Rules, provided no nuisance is caused.
  - 2. Open burning or incineration as allowed by Article III.
  - 3. The disposal of solid waste in a privately owned or maintained disposal container with the express consent of the owner of the container.
- (c) Further, it shall be unlawful to deposit, dump or leave solid waste in any publicly owned or maintained waste container other than solid waste created or originating in public

buildings, grounds or highways.

- (d) Nothing in this article shall be interpreted as affecting the operation or use of a licensed junkyard as defined in 24 VSA Section 2241-2291 or a solid waste disposal facility certified under 10 VSA Chapter 159.
- (e) Any person who violates the prohibitions contained in this article shall immediately remove the solid waste so deposited or left. Each day including the day of the prohibited act, during which the solid waste is not removed, shall constitute a separate violation of this ordinance.

### **ARTICLE III OPEN FIRES AND INCINERATION**

- (a) Except as provided by this article, the burning of any solid waste either by open fire or in a furnace, stove or other device is prohibited in the Town of Swanton unless the practice has been approved by the Department of Environmental Conservation.
- (b) To the extent allowed by the Vermont Air Pollution Control Regulations, a specific permit may be granted by the Fire Warden for the following types of open burning.
  1. The open burning of leaves, brush, garden wastes, slash, slab wood and other such natural wood wastes resulting from property maintenance, logging operations and clearing operations.
  2. The open burning of natural wood, grass, leaves and similar materials for agricultural improvement, forest or wildlife habitat management or festive celebrations.
  3. After providing notice to the Vermont Department of Environmental Conservation, the burning of solid or liquid fuels or structures for bona fide for training provided that materials other than natural wood are removed from any structures to the greatest extent possible prior to the training.
  4. With the prior approval of the Department of Environmental Conservation burning authorized by the Selectmen as necessary for the protection of public health or to thwart a hazard.
  5. Burning of natural-wood demolition or construction materials and natural-wood commercial wastes such as pallets or skids, provided such burning is approved by the Department of Environmental Conservation.
  6. The open burning of natural wood by the Town of Swanton in accordance with 10 VSA Section 565.
- (c) The Fire Warden shall not issue a permit unless he/she is satisfied that no hazardous

condition will be created by such burning and the emission of air contaminants will not create a danger to the health and property of the citizens of the Town of Swanton. Permits which are issued under the provisions of this ordinance shall be for a specified date, time and location, and only for specified materials. (The Selectboard may establish a fee for the issuance of such permits.)

- (d) 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**

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

- (a) A civil penalty of not more than \$500.00 may be imposed for a violation of this ordinance. Each day the violation continues shall constitute a separate violation.
- (b) 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 superior court.

Partial Penalty Schedule:

	First Violation	Repeat Violation
Burning Solid Waste from a Home	\$100	\$150
Burning Solid Waste from a Business	\$250	\$500
Illegal Dumping of Solid Waste	\$250	\$500

**ARTICLE V  
DESIGNATION OF ENFORCEMENT PERSONNEL**

For purposes of this ordinance, the Selectboard may designate any combination of the following persons as enforcement officers: members of the Selectboard, the Town Health Officer, Deputy Health Officer, Town Attorney, and Law Enforcement Officials.

**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 is hereby entered in the minutes of the Selectmen of the Town of Swanton and shall be posted in at least five conspicuous places within The Town of Swanton. Furthermore, a summary of it shall be published in the St. Albans Messenger within fourteen days of this date of adoption.

Unless a petition is filed pursuant to 24 V.S.A. Section 1973, this ordinance shall become effective sixty days after this date of adoption. If such petition is filed, this ordinance shall become effective at the conclusion of the meeting called for that purpose. Adopted at Swanton, Vermont this **11th** day of **July, 2000**.

  
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Selectmen, Town of Swanton

I hereby certify that the foregoing ordinance was posted in five (5) public places in the Town of Swanton on the 12th day of July, 2000 to wit: Town Clerk's Office, Zoning an Planning Office, Swanton Post Office, Chittenden Bank and Grand Union and was published in the St. Albans Messenger, a newspaper having general circulation in the Town of Swanton on the 17th day of July, 2000, and was recorded in the Ordinance Records of the Town of Swanton on the 11<sup>th</sup> day of September, 2000.

ATTEST Doris H. Raleigh  
Doris H. Raleigh, Town Clerk