

TOWN OF FAIR HAVEN
ORDINANCE REGULATING SOLID WASTE
#94-082

The Board of Selectmen (hereinafter called "Board") of the Town of Fair Haven, Vermont hereby adopts the following Ordinance regulating Solid Waste pursuant to the authority granted in Vermont Statutes Annotated, Title 24, Section 1971, et seq and Title 24, Section 2202, et seq. This ordinance is designated as a civil ordinance pursuant to 24 V.S.A. Section 1971.(b).

ARTICLE I
DEFINITIONS

For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. The word "shall" is always mandatory and not merely directory.

"Air Contaminants" shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances or combination thereof.

"Asbestos-Containing Wastes" shall mean any solid waste material that contains the asbestiform varieties of chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite); anthophyllite; tremolite and actinolite.

"Authorization" by the Town of Fair Haven shall mean authorized pursuant to a legal contract, license, or other written authorization entered into by the Town of Fair Haven and another person as defined herein.

"Construction/Demolition Debris" shall mean materials resulting from the construction, renovation, and demolition of buildings, roads and bridges, and other edifices in the Town.

"Emission" shall mean a release into the outdoor atmosphere of air contaminants.

"Exempt Small Quantity Generators" shall mean a generator, as defined by 40 CFR Section 261.5, who generates less than 100 kg (220 lbs) of hazardous waste or who generates less than 1 kg (2.2 lbs) of acute hazardous waste in one calendar month.

"Hauler" shall mean any person, corporation, partnership, association, organization, or institution authorized to collect solid waste (other than one's own) within the limits of the Town of Fair Haven.

"Hazardous Waste" shall include but is not limited to products that contain toxic, corrosive, reactive, explosive or flammable ingredients.

"Household Hazardous Waste" shall mean those wastes commonly found in the home that contain the same hazardous wastes produced by business and industry.

"Incineration" shall mean the burning of solid waste in an enclosed outdoor container.

"Non-Compactable Wastes" shall mean non-compactable items to include but not limited to appliances, tires and mattresses for whose disposal a fee may be collected.

"Open Fire" shall mean the 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.

"Person" shall mean any person, firm, partnership, association, corporation, company, organization or institution of any kind.

"Recyclables" shall mean the following items, prepared as stated:

Office paper - white and colored;

Newspaper - clean, dry;

Aluminum cans - rinsed, labels removed, crushed;

Steel Cans - rinsed, labels removed, crushed;

Clear Glass - rinsed, caps removed, (labels acceptable);

Green Glass - rinsed, caps removed, (labels acceptable);

Brown Glass - rinsed, caps removed, (labels acceptable);

HDPE #2 Milk-Type Jugs - rinsed, caps removed;

HDPE #2 Laundry -Type Containers - drained, rinsed, caps removed;

Clean wood;

Cardboard;

Tires - without rims;

Scrap metal (including appliances) - doors of appliances must be removed;

Used Motor Oil (including brake fluid, transmission fluid, hydraulic oil and motor oil) - free of any contaminants, neatly stored in tightly sealed recyclable plastic jugs.

"Regulated Waste Generator" shall mean any business which generates more than 220 pounds of hazardous waste material per month, or more than 2.2 pounds of acutely hazardous waste per month or more than 220 pounds of spill debris per month or accumulates more than 2200 pounds of hazardous waste at any time.

"Resident" shall mean any person whose principal place of residence is within the corporate limits of the Towns of Fair Haven and West Haven, including but not limited to homeowners, tenants, businesses, corporations, and institutions.

"Solid Waste" shall mean garbage, refuse, or other solid waste materials generated by normal residential, commercial, institutional, and community activities, which are destined for disposal. This definition includes recyclables, hazardous wastes, household hazardous wastes, non-compactable wastes, yard/garden debris, asbestos containing wastes, and construction/demolition debris, as defined in this ordinance. Septic, sludge, other non-solid wastes, and animal

manure are excluded from this definition.

"Town" shall mean the Town of Fair Haven or any community authorized by the Town of Fair Haven to use the Fair Haven Transfer Station.

"Transfer Station" shall mean the facility certified by the State of Vermont to store solid wastes of the town before transfer to a certified facility. Said facility is owned and operated by the Town of Fair Haven.

"Town Recycling Center" shall mean the facility certified by the State of Vermont to collect recyclables.

"Yard/Garden Debris" shall mean brush, lawn clippings, weeds, and other organic material accumulated during the normal maintenance of a yard and/or garden.

ARTICLE II APPLICABILITY

All residents of the Town are affected by the requirements outlined in this Ordinance.

ARTICLE III SEPARATION, COLLECTION, AND DISPOSAL OF SOLID WASTE

The Board may set and assess fees for all aspects of the separation, collection, and disposal of any solid waste. The Board may with notice amend the list of mandated recyclables.

Separation of Waste

All recyclables generated within the Town shall be kept separate from other solid waste. Recyclables must be either:

- (1) Deposited at the Town Recycling Facility, as long as that facility remains open;
- (2) Collected by or delivered to haulers duly registered with the Town;
- (3) Transported to another duly certified recycling facility. Any persons who transports recyclables generated within the Town to a facility other than as designated in (1) and (2) above shall provide the Board with verification that said recyclables are not being disposed of as solid waste.
- (4) Any person who disposes of recyclables in any other fashion shall be in violation of this ordinance.

All hazardous wastes generated with the Town shall be kept separate from other solid waste, and must be disposed of in the following

manner:

- (1) Regulated Hazardous Waste Generators shall dispose of their wastes as required by state and federal regulations;
- (2) Exempt Small Quantity Generators must dispose of their wastes at a certified hazardous waste collection facility;
- (3) House-hold Hazardous Waste Generators shall save such waste until a collection event for such materials is held by the Town or some agent thereof;
- (4) Or, hazardous wastes can be disposed of through contract with a hazardous waste hauler permitted by the State of Vermont.

Any person who disposes of hazardous waste in any other fashion shall be in violation of this ordinance.

All materials entering the Town compactor for disposal shall be remaining waste, meaning that such waste shall be free of recyclables, hazardous wastes, house-hold hazardous waste, construction and demolition debris, asbestos-containing wastes, non-compactable waste and yard/garden debris. Improper separation or disposal of wastes constitutes a violation of this ordinance.

Collection and Disposal

The Board may employ or make contracts with persons for the separation, collection, or disposal of solid wastes. Contracts which are awarded pursuant to this authority shall be advertised or otherwise put to competitive bid. Contracts may be rejected or awarded at the sole discretion of the Board for any reasons which it deems appropriate.

In the event that the Board does not enter into contract for the separation, collection or disposal of any kind of solid waste, such materials must be separated, collected and disposed of as otherwise outlined in this ordinance.

ARTICLE IV HAULERS

All haulers of solid waste in the town shall be registered with the Board of Selectmen on forms supplied by the Town. The Board may set a fee for such registration. Registration shall indicate specifically which wastes the hauler may collect, and shall constitute authorization to collect only those wastes which are stated in the registration and transport those wastes to the certified disposal or recycling facilities stated in the registration. Registration implies understanding and agreement on the part of the hauler to abide by this ordinance and the Requirements of Registered Haulers as described herein. This registration does not relieve the hauler

of the obligation to meet state and federal regulations for the transport of solid waste. Authorization may be revoked for any infraction of this ordinance.

Requirements of Registered Haulers

- (1) All haulers operating within the Town must be registered with the Board of Selectmen on forms obtained from the Town Office. Failure to abide by this ordinance may cause suspension or revocation of said registration, and is punishable as established in this ordinance.
- (2) Waste routes, waste set out for collection, waste collected and waste transported to the transfer station are all subject to inspection by Agents of the Town at any time to ensure residents' and haulers' compliance with this ordinance.
- (3) No hauler shall deposit for disposal at the Town Transfer Station materials which have not been generated within the Town.
- (4) No hauler shall knowingly collect for disposal solid waste which contains recyclables, hazardous waste, or yard and garden debris. Any such mixed waste must be rejected by the hauler and the resident must be notified of the reasons for the rejection.
- (5) All bills incurred by haulers at the Town transfer station will be paid in full 30 days (or earlier) from the date of billing. Late bills will be charged 1.5% interest per month.

ARTICLE V ILLEGAL DUMPING

All solid waste must be separated, collected, and disposed of as outlined in Article III.

Without the consent of the owner, it shall be unlawful for any person to deposit, dump, or leave solid waste of any kind on private property in any privately owned or maintained disposal container (other than one's own).

It shall be unlawful to dispose of any solid waste (except yard/garden debris) on one's own property.

It shall be unlawful to deposit, dump, or leave solid waste of any kind on lands or easements of the public, including but not limited to parks, highways, or other municipally or state owned lands.

It shall be unlawful for any person to enter the Town Transfer Station or Recycling Center when said facility is not open unless prior arrangement has been made with the Selectboard; nor shall any person deposit, dump, or leave solid waste of any kind in any such facility or adjacent thereto, when said facility is not open.

Actions as above shall constitute a violation of this Ordinance and are punishable as hereinafter provided.

ARTICLE VI
OPEN FIRES AND INCINERATION

It shall be prohibited in the Town of Fair Haven to kindle ANY fire out-of-doors in violation of Section 6-302(a) of the Solid Waste Management rules adopted under the authority of the Vermont Waste Management Act, Title 10 VSA, Chapter 159. This prohibition includes the use of burn barrels and similar containers.

Permits for out-of-doors burning of untreated wood, brush, and leaves may be issued by the Fire Warden in accordance with Vermont Air Pollution Control Regulations, Chapter 5, Subchapter 2, Sec. 5-202.

Reports of violations of this ordinance will be investigated by the Police Department or the Fire Department. Violators shall be subject to a written warning for the first offense, then subject to a fine as hereinafter provided.

Those violations to which Fire Apparatus must respond to extinguish will subject the violator to a fine of \$150.00 per hour.

Permits which are issued under the provision of this ordinance shall be for a specified date, time, and location and only for specified materials. The Board may establish a fee for the issuance of such permits.

As authorized by the State of Vermont, the Town reserves the right to burn yard and garden debris including trees, stumps, brush, untreated wood, dry lawn clippings, and leaves under the conditions set out in State of Vermont Air Pollution Control Regulations, Section 5-202 (9) and 5-203.

ARTICLE VII
PENALTIES AND ENFORCEMENT

Any person in violation of any provision of this Ordinance shall be subject to the following fines:

Name of Offense	Fine
Illegal Dumping	\$ 500.00
Open Fires:	
First offense	Warning
Second offense	\$ 15.00
Third & subsequent offense	\$ 50.00

Incineration:

First offense	Warning
Second offense	\$ 25.00
Third & subsequent offense	\$ 50.00

Waiver fees shall be one half the spectified fine in lieu of court appearance.

The Town, or its designated Agent(s), reserves the right to refuse acceptance of any solid waste at the Town Transfer Station or Recycling Center until the procedures for separation, collection, and disposal have been met, both as outlined in Article III and according to the Definitions of this Ordinance.

Enforcement Procedures

Spot checks shall be made periodically by employees of the Town at facilites operated by the Town to determine if recyclables are properly separated from solid waste, and to determine if recyclables are properly prepared for receiving at the Town recycling facility. Adequate separation and preparation shall also be policed by licensed commercial haulers to ensure that their customers are complying with the provisions of this ordinance. When an employee of the town, or a licensed commercial hauler, determines that a violation of this ordinance has occurred, written notice on forms prescribed by the town shall be provided to the violator, said notice to state the nature of the violation and the means by which compliance with this ordinance can be attained. Copies of all such written notices shall be submitted to the Town Manager within five (5) working days of service.

The Town Manager, or his/her designee shall be responsible for enforcement and shall levy penalties as listed in the Ordinance. The Board of Selectmen shall act as appeal Board for all appeals that are not resolved after appeal to the Town Manager.

The Town will undertake an education/awareness plan to minimize misunderstanding and to promote full compliance with this Ordinance. However, any violation of any part of this Ordinance, as witnessed by designated employees of the Town, is punishable by fine as authorized herein. The procedure will be as follows:

First Offense: Following documentation listed above, a written warning will be sent to the person in violation of this Ordinance.

Second and Subsequent Offense: Following documentation listed above, a written citation (itemizing the amount of the fine) will be sent to the person in violation of this ordinance via certified mail (or delivered in person). Failure to pay the fine or complete the community service will result in court action against the person against

the person in violation of this Ordinance.

In addition to any penalty assessed in the citation, the person in violation of this Ordinance whose legal duty it was to comply with this Ordinance will be responsible for any Court fees incurred.

ARTICLE VIII
INCONSISTENT REPEAL

All ordinances or parts of ordinances, rules, resolutions, regulations or other documents inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

ARTICLE IX
SEVERABILITY

This Ordinance and its various parts, sentences, sections and clauses thereof are hereby declared to be severable. If any part, sentence, section, or clause is adjudged invalid, it shall hereby be provided that the remainder of this Ordinance shall not be affected thereby.

ARTICLE X
EFFECTIVE DATE

Adopted by the Fair Haven Board of Selectmen at its duly warned meeting of February 14, 1995.

Effective sixty (60) days: April 14, 1995