

**TOWN OF JOHNSON ORDINANCE
REGULATING SOLID WASTE DISPOSAL
AND OPEN BURNING**

The Selectboard of the Town of Johnson hereby ordains:

SECTION 1. Authority. This ordinance is enacted pursuant to the authority granted to the Town to promote the public health, safety, welfare, and convenience by 24 V.S.A. § 2291 (12) and (14). 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 in the Town of Johnson in order to protect the public health, safety, and welfare, to promote the responsible use of resources and to protect the environment. Further, it is the purpose of the ordinance to regulate the throwing, depositing and dumping of refuse, including junk motor vehicles, which is deemed to be a public nuisance.

SECTION 3. Definitions.

- a. The definitions set forth in 10 V.S.A. § 6602 are hereby incorporated into this ordinance.
- b. "Person" shall mean an individual, corporation, partnership, association, and any other incorporated or unincorporated organization or group.
- c. "Junk" shall mean 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, plastic, paper, rubber debris, waste, garbage and trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof. Any of the above items used in connection with a bona fide agricultural operation are excluded from this definition. For the purposes of this ordinance, junk shall also include abandoned mobile homes, which are not being occupied for residential use or otherwise being used as a utilitarian structure for storage, etc.
- d. "Junk motor vehicle" shall mean a discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, an unregistered motor home not connected to water and/or sewer, or a vehicle other than an on-premise utility vehicle which is allowed to remain unregistered and un-inspected for a period of 90 days from the date of the discovery.
- e. "Construction/Demolition Debris" means materials resulting from construction, demolition, or renovation of buildings, roads, bridges and other structures in the Town of Johnson.
- f. "Incineration" means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator or similar device.
- g. "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.
- h. "Natural wood" means any of the following, provided such material has not been treated or injected with preservatives or oil; or has, at any time, been painted, stained or glued:

1. Trees and brush, including logs, boles, trunks, branches, limbs, roots, and stumps;
2. Lumber, including timber, logs, dimensional lumber 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.

- i. “Non-woody vegetation” means leaves, grass, yard trimmings, and other organic materials.
- j. “Open burning” means the burning of solid waste in the open or in an open container, including but not limited to a brush pile or a burn barrel, where the products of combustion are emitted directly into the atmosphere without passing through a stack, chimney or other enclosure.
- k. “Recyclable” means any type of refuse designated by the Town of Johnson or by the local solid waste management district to be separated for recycling.
- l. “Solid Waste” means any garbage, refuse, hazardous waste or other solid materials generated by normal residential, commercial, industrial, and community activities. This definition does not include natural wood and non-woody vegetation, as defined in this Article. For the purposes of this ordinance, non-solid wastes including but not limited to septage, sludge and animal manure are excluded from the definition of solid waste.
- m. “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.

SECTION 4. Throwing, Depositing and Dumping Refuse.

- a. A person shall not throw, place, deposit, dump, cause or permit to be thrown, placed, deposited or dumped, solid waste as defined in 10 V.S.A. § 6602 (2), hazardous waste as defined in 10 V.S.A. § 6602 (4), junk, junk motor vehicles, refuse of whatever nature, or any noxious thing on land, public or private, or into the waters of this state, or on the shores or banks thereof, or on or within view of a public body of water or public highway. Notwithstanding the above, a person may store on their own lands not more than two junk motor vehicles. It shall be prima facie evidence that a person who is identifiable from examination of refuse that is illegally dumped is the person who violated this ordinance. Similarly, if the throwing, placing, depositing or dumping was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, placing, depositing or dumping was done by the driver of the motor vehicle.
- b. The throwing, placing, depositing or dumping of refuse, junk, junk motor vehicles or other waste material, including solid waste and hazardous waste, is prohibited in the Town of Johnson, except at a facility approved for collection of such waste under the provisions of 10 V.S.A. Chapter 159 or 24 V.S.A. Chapter 61, Subchapter 10. A person owning or occupying land shall not throw, place, deposit or dump refuse, junk, junk motor vehicles (except as allowed under Section 4 (a)) or other waste on said land, nor shall any person allow waste

materials to be stored, stockpiled or to otherwise remain on land owned or occupied by them. This provision shall not prohibit the temporary storage of waste material in a container designed to prevent the release of such material.

- c. This ordinance shall not apply to the composting of organic materials as allowed under Solid Waste Management Rules, provided no nuisance is caused.
- d. 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 or on their grounds or highways or generated during the use of said 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.

SECTION 5. OPEN BURNING AND INCINERATION

a. Unless a permit is obtained pursuant to this ordinance the disposal of solid waste through open burning or incineration is prohibited in the Town of Johnson.

b. Prior to the open burning of solid waste, a Permit to Kindle Fire shall be obtained from the Town Forest Fire Warden. Such a permit may only be issued for the following types of open burning:

1. The open burning of natural wood and non-woody vegetation resulting from yard or property maintenance, logging and clearing operations, agricultural improvements, forest or wildlife management, or for festive celebrations.
2. After providing the required notice to the Vermont Department of Environmental Conservation, the burning of solid or liquid fuels, or structures for bona fide fire training provided that materials other than natural wood are removed to the greatest extent possible prior to the training.
3. With the prior approval in the form of a Department of Environmental Conservation Burn Permit, the open burning of construction or demolition materials and commercial wastes such as pallets and skids. These materials and wastes can only be “natural wood” items.
4. With the prior approval of the Department of Environmental Conservation, burning authorized by the Selectboard of Johnson for the protection of public health or to thwart a hazard.

The open burning of natural wood and non-woody vegetation at a designated place within the municipality by the Town of Johnson in accordance with 10 V.S.A. § 565 (Title 10, Part 1, Chapter 23, Section 565).

Any other open burning is prohibited by this ordinance including but not limited to the burning of hazardous wastes and recyclable materials.

- c. To obtain a Permit to Kindle Fire, 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. Permits to Kindle Fire must provide for the specific date or range of dates, time and location of the burning and indicate the specific materials that the permittee is authorized to burn. Failure to meet the conditions of the Permit to Kindle Fire, once it has been issued, will render the permit invalid and subject the permittee to enforcement pursuant to this ordinance.
- 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.

SECTION 6. Enforcement.

- a. The Judicial Bureau: Any person who violates any provision of Section 4 and Section 5 of this ordinance shall be subject to a civil penalty of up to \$500.00. Each day the violation continues shall constitute a separate violation. Section 4 of this Ordinance may be enforced by The town attorney, solid waste management district attorney, grand juror, designee of the Town’s legislative body, or any duly authorized law enforcement officer may act as an issuing municipal official and issue and pursue before the Judicial Bureau a municipal complaint for a violation of Section 4 of this ordinance, under authority of 24 V.S.A. Chapter 59. Section 5 of this Ordinance may be enforced by the afore named persons and the Town Forest Fire Warden, Village Fire Chief and Asst Chief.
- b. Solid waste order and enforcement for Section 4 provisions: The Town may also use the procedures set forth in 24 V.S.A. Chapter 61, Subchapter 12. Under that statute, the Town may issue and enforce a solid waste order. Such order may include civil penalties for each violation and, in the case of a continuing violation, a penalty for each succeeding day. After proper notice, hearings, issuance of orders and imposition of penalties, the Town may commence a civil action in a court of competent jurisdiction to enforce said order and collect such penalties, or the Town may pursue any other remedy authorized by law.

SECTION 7. Penalties.

- a. Civil penalty from municipal complaint: An issuing municipal official is authorized to recover civil penalties in the following amounts, or as established by the Judicial Bureau, for each violation of this ordinance.

1st offense	\$100.00
2nd offense	200.00
3rd or subsequent offense	500.00

- b. Waiver fee for ordinance violation: An issuing municipal official is authorized to recover civil penalties in the following amounts for each violation of this ordinance.

1st offense	\$50.00
2nd offense	100.00
3rd or subsequent offense	250.00

SECTION 8. Severability. If any portion of this ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected and shall remain in full force and effect. If any statute referred to in this ordinance shall be amended, this ordinance shall be deemed to refer to such amended statute.

SECTION 9. Notice. This ordinance shall be entered into the minutes of the town records and shall be posted in at least 5 conspicuous places in town. A concise summary [or the entire ordinance] shall be published in [newspaper of record] within 14 days of its adoption, accompanied by information as to where the full text of it may be examined, the right of voters to petition for a vote, and the name, address and telephone number of a person who is available to answer questions about it.

SECTION 10. Effective date. This ordinance shall take effect 60 days following adoption by the selectboard, unless a petition requesting voter approval is submitted within 44 days following adoption as provided in 24 V.S.A. § 1973.

Adopted this 21st day of June, 2010.

Attest: Rosemary Audibert
Rosemary Audibert, Clerk

Town of Johnson Selectboard

Eric T. Orsmond
[Signature]
Douglas M. Kelly
Franklin Hoop

**PUBLIC NOTICE
OF TOWN OF JOHNSON
SELECTBOARD**

In accordance with the provisions of 24 VSA Chapter 59, The Town of Johnson Select Board hereby gives notice that on June 21st, 2010, at their regular meeting the Board adopted an Ordinance henceforth known as the: Town of Johnson Ordinance Regulating Solid Waste Disposal and Open Burning.

The purpose of the ordinance is to protect the health, safety and welfare of the inhabitants of the Town of Johnson and to regulate the disposal of solid waste and protect the environment.

The full text of the ordinance may be viewed at the Town/Village Clerk's Office during normal office hours (7:30 a.m. to 4:00 p.m.). The ordinance may also be viewed on the town webpage @ www.townofjohnson.com. Persons having questions pertaining to this Ordinance may contact Duncan Hastings, Municipal Administrator, at 635-2611 or by going to the office.

This Ordinance shall go into effect 60 days after date of adoption (8/20/10) unless repealed by vote of the legal voters of the Town of Johnson as per requirements of 24 VSA Section 1973. When a petition requesting a vote to disapprove the Ordinance has been signed by at least five percent of the legal voters of the Town of Johnson and submitted to the Clerk within forty four (44) days of the adoption by the Selectboard (8/4/10), they shall call a Special Meeting within sixty (60) days of receipt of petition, to determine whether or not the voters shall disapprove the Ordinance as adopted by the Selectboard.

The following is a list of headings of the ordinance:

- Section 1: Authority.
- Section 2: Purpose.
- Section 3: Definitions.
- Section 4: Throwing, Depositing and Dumping Refuse.
- Section 5: Open Burning and Incineration.
- Section 6: Enforcement.
- Section 7: Penalties.
- Section 8: Severability.
- Section 9: Notice.
- Section 10: Effective date.

Notice given this 23rd day of June, 2010 by Duncan Hastings Municipal Administrator 802-635-2611.

Notice Posted in the following locations: Town/Village Offices, Johnson Post Office, Grand Union, Merchants Bank, DJ's Store. Town of Johnson Webpage

Notice Published in the News and Citizen on June 29, 2010.

Signed:

