

July 6, 2020

**ORDINANCE REGULATING THE DISPOSAL OF SOLID WASTE THROUGH OPEN BURNING
CIVIL ORDINANCE
Town of Londonderry, Vermont**

WHEREAS, the Town of Londonderry, Vermont has, by virtue of the authority granted in 24 V.S.A. 1971 (Title 24, Chapter 59, Section 1971), and 24 V.S.A. 2202a(a) (Title 24, Chapter 61, Subchapter 8, Section 2202a), the power to adopt, amend, repeal, and enforce ordinances, and to manage and regulate the Solid Waste disposal within its boundaries; and

WHEREAS, the Town of Londonderry has determined that disposal of Solid Waste through Open Burning practices prohibited by this Ordinance constitute public nuisances, and the Town of Londonderry has the authority to regulate and prohibit such practices by virtue of the authority granted in 24 V.S.A. 2291 (14) (Title 24, Part 2, Chapter 61, Subchapter 11, Section 2291);

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 Londonderry hereby adopts this ordinance to regulate the Open Burning of Solid Waste in the Town of Londonderry, Vermont.

ARTICLE I. Purpose; Title

Purpose: This ordinance is enacted to promote the health, safety and general welfare of the inhabitants of the Town of Londonderry and to prohibit Solid Waste disposal practices that pose a danger to the public health and welfare and the environment or constitute a public nuisance.

Title: This ordinance shall be known and may be cited as the "Ordinance Regulating the Disposal of Solid Waste Through Open Burning".

ARTICLE II. Definitions

"Construction/Demolition Debris" means materials resulting from construction, demolition, or renovation of buildings, roads, bridges and other structures.

"Hazardous Waste" means waste or a combination of 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.

"Incineration" means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator, or similar device.

“Natural Wood” means any of the following, provided such material has not been treated or injected with preservatives, paint or oil.

- trees and brush, including logs, boles, trunks, branches, limbs, roots, and stumps;
- lumber, including timber, logs, dimensional lumber or slabs dressed for use;
- pallets and skids

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

“Non-Woody Vegetation” means leaves, grass, yard trimmings, and other organic materials.

“Open Burning” means the burning of any type of combustible material 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. Burning shall include ignition, permitting or causing ignition, or allowing and maintaining burning.

“Recyclable” means any type of refuse designated by the Town of Londonderry or by the local solid waste management district to be separated for recycling.

“Solid Waste” means any garbage, refuse, or other materials generated by residential, commercial, industrial, and community activities. This definition does **not** include Natural Wood and Non-Woody Vegetation, as defined in this Article.

“State Permit to Kindle Fire” means the written document giving permission to burn at a specific time and place, with the authority to set special conditions, in accordance with Vermont State Forest Fire Laws, 10 V.S.A. 2645 (Title 10, Chapter 83, Section 2645).

“Waste” means any material that is discarded or is being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or has served its original intended use and is normally discarded or is a manufacturing or mining by-product and is normally discarded.

ARTICLE III. OPEN BURNING AND INCINERATION

- A. The open burning or incineration of Solid Waste is prohibited in the Town of Londonderry, unless prior permission is obtained from the Vermont Department of Environmental Conservation.
- B. Prior to open burning, a State Permit to Kindle Fire shall be obtained from the Town Forest Fire Warden or other designated Town official. 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. If the fire training involves a structure, filing a demolition notification form with the Department of Health is also required.
 3. With the prior approval of the Vermont Department of Environmental Conservation, the Open Burning of construction or demolition materials and commercial wastes such as pallets and skids that are Natural Wood items. If the burning involves Natural Wood derived from the demolition of a structure, filing a demolition notification form with the Department of Health is also required.
 4. With the prior approval of the Vermont Department of Environmental Conservation, burning authorized by the Londonderry Selectboard for the protection of public health or to thwart a hazard, which cannot properly be managed by any other means.
- C. The open burning of Natural Wood and Non-Woody Vegetation is allowed at a designated place within the municipality by the Town of Londonderry in accordance with 10 V.S.A. 565 (Title 10, Part 1, Chapter 23, Section 565), and under the direction of the Town Forest Fire Warden.
- D. Any Open Burning not listed in paragraphs B and C of this Article is prohibited by this ordinance including but not limited to the burning of Hazardous Wastes and Recyclable materials.
- E. The provisions of this Ordinance shall not apply to the burning of Natural Wood or any virgin fuel in a furnace or other enclosed container to produce heat, power, or for the purpose of preparing food.
- F. Open Burning or Incineration in violation of this ordinance may result in enforcement actions as described in Article V.
- G. Any permission granted by the Vermont Department of Environmental Conservation under this Article shall be presented in writing to the Town

Forest Fire Warden or Deputy Forest Fire Warden prior to the permitted open burning or incineration.

ARTICLE IV. [RESERVED]

ARTICLE V. PENALTIES AND CIVIL ENFORCEMENT

A. This ordinance is a civil ordinance and enforcement shall be brought in the judicial bureau in accordance with 24 V.S.A. 1974a et seq.

B. The penalties for violating this ordinance are as follows:

	<u>Civil Penalty</u>	<u>Waiver Fee</u>
First Offense: No Penalty	Written warning – demand to cease burning	
Second Offense:	\$100.00	\$50.00
Third Offense:	\$250.00	\$125.00
Fourth and Subsequent Offenses:	\$500.00	\$300.00

C. For each offense, a written notice of violation will be issued. The waiver fee is paid by a violator who admits or does not contest the violation.

ARTICLE VI. DESIGNATION OF ENFORCEMENT PERSONNEL

For the purposes of this ordinance, the Town of Londonderry Selectboard may designate any combination of the following persons as enforcement personnel: members of the Selectboard, the Town Health Officer, the Town Attorney, the Town Constable(s) and any official with law enforcement authority under Vermont law.

ARTICLE VII. GENERAL PROVISIONS

A. 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.

B. Repeal of Inconsistent Provisions

All ordinances or parts of ordinances, resolutions, regulations, or other documents for the Town of Londonderry that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

C. Publication and Posting

This ordinance, or a concise summary thereof, shall be published in the Vermont Journal within fourteen (14) days of its adoption, and shall be filed with the Town Clerk and posted at five (5) conspicuous places within the community.

D. Right of Petition

Notice is hereby given of the right to petition for a permissive referendum vote on this ordinance at an annual or special meeting as provided for in Title 24, Vermont Statutes Annotated, Section 1973. Such petition for a permissive referendum must be signed by not less than five (5) percent of the qualified voters of the Town of Londonderry and shall be presented to the Selectboard or the Town Clerk within forty-four (44) days following the date of adoption.


E. Effective Date

Unless a petition is filed in accordance with Title 24, Vermont Statutes Annotated, Section 1973, the Ordinance shall become effective sixty (60) days after its adoption.

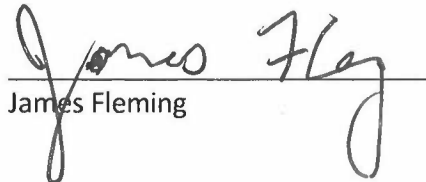
Adopted by the Town of Londonderry Selectboard at its meeting held on the 6th day of July 2020.

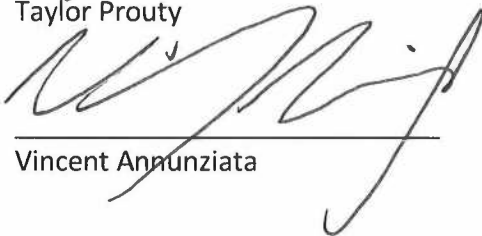
Town of Londonderry, Selectboard


Georgianne Mora, Chair


Thomas Cavanagh, Vice Chair


Taylor Prouty



James Fleming


Vincent Annunziata

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Received for Town Records July 17, 2020

Attest,


Town Clerk