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LAND RECORDS

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

**WHEREAS**, the Town of Highgate, Vermont 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 Town of Highgate Selectboard hereby adopts this ordinance to regulate the collection, burning and disposal of solid waste in the Town of Highgate.

### **ARTICLE 1: DEFINITIONS**

- a) **"Air contaminants"** means fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.
- b) **"Disposal"** means the discharge, deposit, injection, dumping, spilling, leaking, burning, or placing of any solid waste or any constituent thereof that 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 burning"** means burning of solid waste in an open fire where the products of combustion are emitted 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 or other legal or commercial entity.

- h) **"Recyclable"** means any type of refuse designated by Highgate Selectboard to be separated for recycling.
- i) **"Solid Waste"** means any discarded garbage, 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 residential and 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.
- j) **"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 Resource under 10 V.S.A. Chapter 159, and has been accepted by the Town of Highgate Selectboard. A facility may consist of a single or several treatment, storage, recycling or disposal units. The only certified and accepted Solid Waste Facility in the Town of Highgate is the Highgate Solid Waste Transfer Station, operated by Casella Waste Management Systems, located at 450 Transfer Station Road, Highgate Center, Vermont 05459.
- k) **"Natural Wood"** means any of the following, provided such material has not been chemically treated with preservatives, paint or oil:
  - k1) trees, including logs, boles, trunks, branches, limbs and stumps;
  - k2) lumber, including timber, logs, or slabs dressed for use;
  - k3) pallets and skids.

*This definition does not include processed wood materials such as plywood, particleboard, fiberboard and pressboard.*
- l) **"Nuisance"** means an act or condition causing annoyance or undue harm to persons or property or environment.
- m) **"Damage"** means an act or condition resulting in material harm to property.
- n) **"Judicial Bureau"** means the statewide court with special jurisdiction to impartially resolve disputes pertaining to municipal ordinance violations.

## ARTICLE II: ILLEGAL DUMPING

- a) It shall be unlawful to dispose of any hazardous waste except in a facility, or by a company 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 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:
  - b1) The composting of organic material as authorized by the Vermont Solid Waste Management Rules provided no nuisance is caused;
  - b2) Open burning or incineration as allowed by Article III;
  - b3) The disposal of solid waste in a privately owned or maintained disposal container with the express consent or the owner of the container;

- b4) Disposal of other materials as approved by the Town of Highgate Selectboard.
- c) Further, it shall be unlawful to deposit, dump or leave solid waste in any publicly owned or maintained container other than solid waste created or originating in public buildings or on their grounds or highways or generated during the use of 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 V.S.A. Section 2241-2291 or a solid waste disposal facility certified under 10 V.S.A. Chapter 159 and approved by the Town of Highgate Selectboard.
- e) Any person who has violated the prohibitions contained in this article shall immediately remove the solid waste so deposited.

### ARTICLE III: OPEN BURNING AND INCINERATION

- a) Except as provided by this article, the burning of any solid waste either by open fire or incineration is prohibited in the Town of Highgate unless the practice has been approved by the Department of Environmental Conservation ("DEC").
- b) To the extent allowed by the Vermont Air Pollution Control Regulations, a specific permit may be granted by the Fire Warden or Deputy Fire Warden for the following:
  - b1) The open burning of leaves, brush, garden wastes, slash, slab wood and other such natural wood wastes resulting from property maintenance, logging and clearing operations.
  - b2) The open burning of natural wood, grass, leaves and similar materials for agricultural improvement, forest or wildlife habitat management or festive celebrations.
  - b3) After providing notice to the DEC, the burning of solid or liquid fuels or structures for bona fide training provided that materials other than natural wood are removed from structures to the greatest extent possible prior to the training.
  - b4) With the prior approval of the DEC, burning authorized by the Selectboard as necessary for public health protection or to thwart a hazard.
  - b5) Burning of natural-wood, demolition or construction materials and natural-wood commercial wastes, provided such burning is approved by the DEC.
  - b6) Open burning of natural wood by the Town of Highgate under 10 V.S.A. Section 565.
  - b7) All open burning will be extinguished by 7:00 p.m.
- c) The responsible official may refuse to issue a permit if the official has reason to believe a hazardous condition will be created by such burning. Permits, 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 virgin fuel in a furnace to produce heat or prepare food.

- e) No open burning shall be permitted except campfires, outdoor grills and fireplaces for recreation or preparing food, provided such burning does not create a nuisance or damage to properties in the area.

**ARTICLE IV: ENFORCEMENT AND PENALTIES**

- a) This ordinance is a civil ordinance and enforcement shall follow the procedure described in 24 V.S.A. Section 1974a.
- b) Penalties:
  - b1) The schedule of penalties for violation of this ordinance is as follows:

	<u>FULL PENALTY</u>	<u>WAIVER PENALTY</u>
<b>First violation</b>	Violation notice and demand to cease burning and eliminate any burn barrel or similar device.	
<b>Second violation</b>	\$100.00	\$50.00
<b>Third violation</b>	\$250.00	\$125.00
<b>Fourth and subsequent violations</b>	\$500.00	\$300.00

- b2) A written notice of violation will be issued for each offense. The waiver fee is paid by a violator who admits or does not contest the violation.
  - b3) Each day the violation continues, including the day of citation, shall constitute a separate violation. A civil penalty of not more than \$500.00 may be imposed for each violation of the ordinance.
- c) Violations of this ordinance where the penalty is \$500.00 or less shall be brought before the Judicial Bureau. If the penalty for all continuing violations is greater than \$500.00, or injunctive relief other than as provided in this section is sought, the action shall be brought in Superior Court.
- d) The Judicial Bureau hearing officer, on application of the Town of Highgate, may order that the ordinance violation cease.

**ARTICLE V: DESIGNATION OF ENFORCEMENT PERSONNEL**

For purposes of this ordinance, the Selectboard may designate any of the following persons as enforcement officers: a member of the Selectboard, the Town Health Officer, Town Agent, Town Attorney, Constable, Animal Control Officer or other 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.

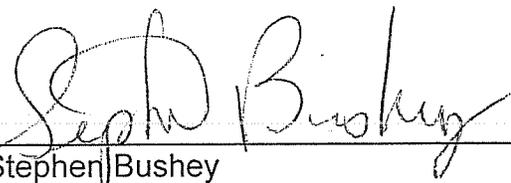
**ARTICLE VII: SEVERABILITY**

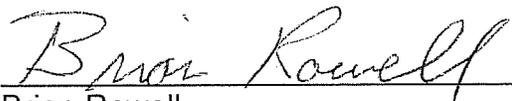
This ordinance and its various parts, sentences, sections and clauses are hereby declared to be severable. If any part, sentence, section or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

**ARTICLE VIII: EFFECTIVE DATE**

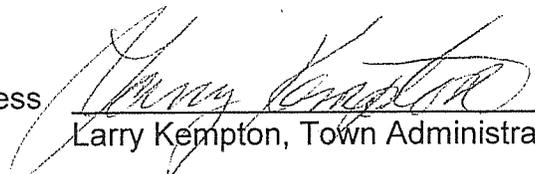
This ordinance shall become effective sixty (60) days after the adoption date shown below.

Adopted this 2 day of JUNE, 2005.

  
\_\_\_\_\_  
Stephen Bushey

  
\_\_\_\_\_  
Brian Rowell

  
\_\_\_\_\_  
Henry Rainville

Witness   
\_\_\_\_\_  
Larry Kempton, Town Administrator