

TOWN OF LYNDON
SOLID WASTE MANAGEMENT
CHAPTER 7

An Ordinance regulating the disposal of solid wastes.

WHEREAS, the Town of Lyndon has, by virtue of authority granted in 10 V.S.A. § 564 and 24 V.S.A. §§ 1971 and 2202a(a), the powers to adopt, amend, repeal and enforce ordinances, and the responsibility to manage and regulate solid waste disposal within its boundaries in conformance with the State Solid Waste Management Plan;

WHEREAS, the manner of managing solid waste is a matter of public interest and concern;

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 Lyndon hereby adopts this ordinance to regulate the management of solid waste in the Town of Lyndon.

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 water.
- C. "Emission" means a release into the outdoor atmosphere of air contaminants.
- D. "Enforcement Officer" means a person authorized to issue a complaint citation as provided herein, acting in accordance with 24 V.S.A.1977.
- E. "Incineration" means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator or similar device.
- F. "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.
- G. "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.
- H. "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, a federal agency, or any other legal or commercial entity.
- I. "Recyclable" means any type of refuse designated by the Town of Lyndon Selectboard or by the Northeast Kingdom Waste Management District to be separated for recycling.

- J. "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 residential, municipal government, industrial, commercial, mining or agricultural operations and from community activities such as 1.) parades 2) activities on public property and any similar 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 or motor vehicles. For the purposes of this ordinance, solid waste shall also include marketable recyclables.
- K. "Solid waste facility" means any site or structure used for receiving treating, storing, processing, recycling or disposing, of solid waste which has been certified by the Vermont Agency of Natural Resources under 10 V.S.A. Chapter 159 section 6605. A facility may consist of a single or several treatment, storage, recycling or disposal units.
- L. "Natural wood" means any of the following, provided such material has not been treated with chemicals, preservatives, paint or oil:
1. Trees, including logs, boles, trunks, branches, limbs and stumps;
 2. Lumber, including timber, logs, or slabs dressed for use; and
 3. Pallets and skids.
- Processed wood products such as plywood, particle board, fiber board and press board and other processed wood products are not "natural wood".
- M. "Mandated recyclable" means the following source separated materials: aluminum and steel cans; aluminum foil and aluminum pie plates; glass bottles and jars from foods and beverages; polyethylene terephthalate (PET) plastic bottles or jugs; high density polyethylene (HDPE) plastic bottles and jugs; corrugated cardboard; white and colored paper; newspaper; magazines; catalogues; paper mail and envelopes; boxboard; and paper bags. As defined in Act 148.

ARTICLE 2. Illegal Disposal

- A. It shall be unlawful to dispose of any hazardous waste except in a solid waste facility certified to accept such hazardous waste.
- 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:
- a. The composting of organic material if authorized by the Vermont Solid Waste Management Rules, provided no nuisance is caused.
 - b. Open burning or incineration as allowed by Article 3.
 - c. The disposal of solid waste in a privately owned or maintained container with the express consent of the owner of the container or the person bearing the cost of its being maintained.
 - d. Disposal of other materials as approved by the Vermont Department of Environmental Conservation, the Town of Lyndon Selectboard, and/or the Northeast Kingdom Waste Management District, as applicable.
- 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

or on their grounds or highways or generated during the use of said public buildings, grounds or highways.

- D. Further, it shall be unlawful to deposit or leave solid waste for pickup by a collection service before the afternoon prior to the scheduled pick-up.
- E. Nothing in this article shall be interpreted as affecting the operation or use of a licensed junkyard as defined in 24 V.S.A. §§ 2241-2291 or a solid waste facility.
- G. Any person who violates the prohibitions contained in this article shall immediately remove the solid waste so deposited dumped or left and shall be subject to the penalties in Article 6.

ARTICLE 3. 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 Lyndon, 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, slabwood 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 fire 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 Selectboard as necessary for the protection of the public health liability or welfare, or to thwart a hazard.
 - 5. With the prior approval of the Department of Environmental Conservation burning of natural-wood demolition or construction materials and natural-wood commercial wastes, such as pallets or skids, The open burning of natural wood by the Town of Lyndon in accordance with 10 V.S.A. § 565.
- C. The fire warden shall not issue a permit unless he or 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 Lyndon. Permits which are issued under the provisions of this ordinance shall be for a specified date, time and location, and only for materials specified in the permit.
- D. The provisions of this ordinance shall not apply to the burning of natural wood or any virgin fuel such as oil, coal, propane, natural gas or similar fuels in a stove or furnace used to produce heat or in a stove for the purpose of preparing food.
- E. Any person who violates the prohibitions contained in this Article shall immediately cease burning and immediately dispose of the solid waste.

ARTICLE 4. Integrated Solid Waste Management Program.

A. Purpose and applicability:

A program to improve solid waste management in the Town of Lyndon is hereby established. This program is designed to provide for the collection or self-hauling of ordinary household generated solid waste including recyclables.

B. Residential Wastes Excluding Recyclables:

This program is designed to allow collection at the roadside or self-hauling to an approved facility ordinary household-generated solid waste. The following wastes are excluded from this section:

- wastes generated by commercial activities;
- bulky items such as tables, couches, and chairs;
- hazardous wastes;
- heavy metal items such as stoves and refrigerators
- automobiles and parts thereof such as tires;
- used automotive fluids such as oil, transmission fluid, brake fluid and anti-freeze; and
- household fixtures such as furnaces, toilets, cabinets, and the residue from renovations of a structure.
- Mandated recyclables

Placing excluded items listed above at the roadside for collection (except for mandated recyclables collected on a separate schedule (see below)) shall constitute Illegal Dumping in the context of this ordinance. Items excluded in this section may be managed by the Northeast Kingdom Waste Management District or through special events (such as “Bulky Weeks”) paid through the sanitation fees.

1. Pick up Arrangements.

- i. The Selectboard is authorized, but not obligated, to franchise one or more commercial waste collection firms to pick up household solid waste (excluding mandated recyclables) placed at the roadside of those residents who so desire the service. The frequency of pickup shall be the decision of the commercial hauler and or resident/property owner. Persons depositing waste for pick up are required to place the waste in secure plastic garbage bags or secure containers. In the event that bags or containers are disturbed prior to pick up the owner and/or the residents of the property from which the waste originated are responsible for cleanup. Further, it shall be unlawful to deposit or leave solid waste for pickup by the collection service before the afternoon prior to the scheduled pick-up. Rates for collection services and billing procedures shall be determined by the commercial hauler and shall conform to “Unit Based Pricing” principles accepted by the Dept. of Environmental Conservation.
- ii. Residents may contract with independent haulers for the regular pick up of household solid waste (excluding mandated recyclables). In the event containers are disturbed prior to pick up, the owner and/or the residents of the property from which the waste originated are responsible for cleanup. Further, it shall be unlawful to deposit or leave household solid waste for pick up by the independent hauler before the afternoon prior to the scheduled pick up. This action, however, will not exempt residents from liability for the municipal Sanitation Fee.

2. Self-Hauling Arrangements.

Residents may self-haul residential wastes (excluding mandated recyclables) to any solid waste consolidation point authorized by the Department of Environmental Conservation. Rates for disposal shall be determined by the operator of the consolidation point and be based on principles of Unit Based Pricing as accepted by the Department of Environmental Conservation.

C. Residential Recycling:

This program is designed to offer two options for the mandatory management of residentially generated recyclables to the residents of the Town of Lyndon.

1. Residents may self-haul recyclables to the Northeast Kingdom Waste Management District (NEKWMD) facility located at 224 Church Street in Lyndonville. This facility accepts residential recycling on Wednesdays and Saturdays, and/or by special arrangement. Materials accepted at the NEKWMD facility include the mandated recyclables as defined in Act 148 as well as many other materials. There are no fees for mandated recyclables. Fees may apply for other materials, and some materials are collected only seasonally.

2.

3. Residents may contract with independent haulers for the regular pick up of unsorted recyclables. In the event containers are disturbed prior to pick up the owner and/or the residents of the property from which the waste originated are responsible for cleanup. Further, it shall be unlawful to deposit or leave recyclables for pick up by the independent hauler before the afternoon prior to the scheduled pick up. This action, however, will not exempt residents from liability for the municipal sanitation fee.

D. Establishing the Fee- Billing, Failure to Pay:

1. Rates and charges for sanitation service fee which covers municipally provided residential special waste collection events and general administrative costs shall be fixed by the Selectboard who shall have power to amend, alter and abolish such rates and fees and to establish new rates and fees from time to time as they deem appropriate. No hearing is required. A multi-family or commercial business property owner may request in writing to be not included in the sanitation program on the basis of providing self- service, but such owner will be required to pay an annual administration fee of \$10.00 per household or business unit.

2. Billing Procedure:

Annually, on or about June 30, the Town shall bill each property owner of record based on the number of households units in the property as of April 1, in the amount of the Sanitation Fee pertaining to the property for the current calendar year, and stating the date upon which the payment of the Sanitation Fee is due.

3. Failure to Pay Fee:

In the event that the Sanitation Fee is unpaid for 30 days past due, the Town is authorized to advise the Northeast Kingdom Waste Management District to suspend services covered by the sanitation bill.

The property owner will be given notice concurrently. Delinquent sanitation accounts will be charged interest at the rate of one percent per month for the first three months and

thereafter the interest rate will be one and one-half percent per month. In addition, there will be due a penalty of eight percent of the annual fee.

Lien on Property:

All sanitation charges due the Town, in case of non-payment thereof on or before sixty days from the time the same became due and payable, shall be and remain a lien on the premises involved in the nature of a tax upon the real estate so supplied with sanitation service. Such lien shall be enforceable in the same manner and to the same effect as the lien for taxes under the laws of the State.

4. Penalty:

The penalty for violation of this Article 4 shall be \$100.00. A waiver fee of \$50.00 may be paid into the town treasury in lieu of an appearance before the judicial bureau.

ARTICLE 5. Accumulation of Discarded Household Waste.

It shall be a violation of this ordinance for a person to accumulate or allow the accumulation of discarded household waste that can be seen from a highway or from adjoining property. For the purposes of this section discarded household waste includes but is not limited to bagged and unbagged refuse, debris, scrap metal, tires, appliances, furniture, building materials other similar waste matter and unregistered and inoperable vehicles including campers and snowmobiles and ATVs, that are left open to such view. An owner, occupant, or both of property on which discarded household waste is allowed to accumulate in violation of this section may be independently liable for such violation and subject to penalty. The temporary storage of an unregistered and inoperable vehicle for a period not exceeding one month shall not constitute a violation of this ordinance.

ARTICLE 6. Penalties and Civil Enforcement.

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

- A. A civil penalty of not more than \$800.00 may be imposed for a violation of this ordinance unless stated to be otherwise for a specific violation. Each day the violation continues shall constitute a separate violation. A waiver fee of \$200.00 may be paid into the town treasury in lieu of an appearance before the judicial bureau unless stated to be otherwise.
- B. Violations of this ordinance where the penalty is \$800.00 or less shall be brought before the judicial bureau. If the penalty for all continuing violations is greater than \$800.00, or injunctive relief other than as provided in subsection (c.) is sought, the action shall be brought in superior court.
- C. The judicial bureau hearing officer, on application of the Town of Lyndon, may order that the ordinance violation cease.

ARTICLE 7. Designation of Enforcement Personnel.

- A. For purposes of this ordinance, the Selectboard does hereby designate the following persons as enforcement officers:
 - a. Members of the Selectboard
 - b. The Municipal Administrator

- c. The appointed representatives to the board of supervisors of the Northeast Kingdom Waste Management District
 - d. The town health officer
 - e. The town agent
 - f. The town constable(s)
 - g. The fire chief
 - h. Law enforcement officers
- B. Enforcement officers are authorized and directed to investigate complaints, seek correction of violations and otherwise enforce this ordinance.
- C. Enforcement officers shall issue a municipal ticket and are to be the appearing officer at any hearing.

ARTICLE 8. 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 9. 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 10. Effective Date.

This ordinance shall become effective November 30, 2018
Adopted this 1st day of October 2018

Adopted this 17th day of November, 2003.
Amended December 10, 2010
Amended January 20, 2012
Amended September 11, 2014
Amended January 26, 2015
Amended July 25, 2016
Amended October 1, 2018