

TOWN OF MONKTON

ORDINANCE REGULATING OPEN BURNING

The Selectmen of the Town of Monkton in the County of Addison and State of Vermont, acting under the authority of 24 V.S.A. §1971, et seq., hereby adopt this ordinance regulating open burning in the Town of Monkton as follows:

ARTICLE I
Purpose

This ordinance is adopted to protect the health and welfare of the citizens of the Town of Monkton.

ARTICLE II
Definitions

A. "Designated Official" shall mean a Town of Monkton fire warden, health officer or deputy health officer, constable, member of the Board of Selectmen, other town officer, agent or employee, or any other person, designated by the Board of Selectmen.

B. "Fire Warden" shall mean the person appointed to office as defined under 10 V.S.A. §2641.

C. "Open Fire Burning" shall mean burning 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 or the burning of solid waste in such a manner that smoke fumes, other particulate matter, gas, odorous substance, or any combination thereof are emitted.

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

E. "Solid Waste" shall mean any solid waste as identified in 10 V.S.A. §6602, et seq.

ARTICLE III
Open Fire Burning

Section 1.

Except as provided by this Article, the burning of any solid waste by open fire burning in the Town of Monkton is prohibited.

Section 2. Permits for Open Fires.

A specific permit may be granted by the Fire Warden or the designee of the Fire Warden for open fire burning, provided that the Fire Warden or the designee 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 Monkton, as follows:

(a) Burning of yard and garden debris, including, but not limited to, trees, stumps, brush, untreated wood, lawn clippings, and leaves. Untreated wood shall mean wood that is free of paint or chemical treatment.

(b) Burning in forest land areas of brush, tree cuttings and slash where the cuttings accrue from pulping or lumbering operations, or utility line clearing and where the person applying for the permit agrees in writing to pay for all costs of fire control in the event that the Town of Monkton or any other fire department must assist in the control of the fire.

(c) On-premise burning for the purpose of weed abatement; disease, forest fire and pest prevention; and agricultural improvement; providing that the person applying for the permit agrees in writing to reimburse for all costs incurred in the event that the Town of Monkton Fire Department or any other fire department must assist in the control of the fire.

(d) Any other burning allowed under this ordinance and not exempt from the permit requirement under Section 3 below.

Permits which are issued under the provisions of this ordinance shall be for a specified time, date, and location and only for specified materials. The Selectmen of the Town of Monkton reserve the right to establish a fee for the issuance of such permits.

Section 3. Exempt Open Burning.

This ordinance shall not apply to the following types of open fire burning, provided no public or private nuisance is created:

(a) Fires in conjunction with holiday and festive celebrations.

(b) Campfires, outdoor grills, and fireplaces for recreation or preparing of food.

(c) Burning of solid or liquid fuels or structures for the purpose of bona fide instruction and training of

municipal and volunteer firefighters in the methods of fighting fires when conducted under the direct control and supervision of qualified instructors. Notification by the fire training officer or the fire chief of the training exercise shall be made to the Air Pollution Control Officer of the State of Vermont on prescribed forms at least 14 days prior to the exercise.

(d) Burning of nontoxic agricultural waste generated from agricultural activity by a person, partnership, or corporation which derives more than 50% of its earned income from agricultural activity. Agricultural activity shall include, but it is not limited to, the growing, raising, and production of horticultural and silvicultural crops, grapes, berries, trees, fruit, poultry, livestock, grain, hay, and dairy products.

(e) Burning of dry white paper generated from a residential source. This exemption specifically does not include newspaper, colored paper, or wet paper of any kind, and is strictly limited to paper generated from residential use.

Open burning exempt under Section 3 of this ordinance may be in violation of rules adopted by the Commissioner of the Agency of Natural Resources pursuant to 10 V.S.A. §6603, provisions of 10 V.S.A. Chapters 83 and 159, other applicable State rules, regulations, and statutes, rules and regulations adopted by the Regional Solid Waste District, or applicable rules, regulations, or statutes of the United States of America, and the exemption under this local ordinance of such open burning shall not be construed to authorize or condone violation of any such laws.

ARTICLE IV Permit Process

Application for an open fire burning permit shall be made at least 24 hours prior to the time of the open fire burning.

ARTICLE V Penalties and Enforcement

Section 1. Fine.

Any person violating any provision of this ordinance shall be fined \$50.00 for each offense.

Section 2. Enforcement Procedures.

First Offense: Any designated official may cause issuance of written notice of warning to be sent to a person in violation of this ordinance for any first

offense violation. The written notice of warning shall be mailed first-class mail to the address of record in the Town Clerk's office or may be hand-delivered. A copy shall be maintained in the records of the Town of Monkton.

Second and Subsequent Offenses: Any designated official, upon a second or subsequent offense within two years of a first offense, may issue a notice of violation which sets forth the amount of the fine, which notice of violation shall be sent to a person in violation of this ordinance certified mail, return receipt requested, to the last address known to the Town Clerk of the Town of Monkton or shall be hand-delivered. A copy shall be maintained in the records of the Town of Monkton. Failure to pay the fine assessed for a second or subsequent offense within 10 days, will allow the Town of Monkton to proceed with enforcement under 24 V.S.A. §1974(a).

Section 3.

Nothing in this ordinance or in this Article V shall prevent or limit a Fire Warden from issuing a Uniform Fire Prevention Ticket as provided in 10 V.S.A. §2671 for a violation of Chapter 83 of Title 10 of the Vermont Statutes.

Section 4. Injunction.

The Town of Monkton may, upon the violation of any provision of this ordinance, maintain an action to enjoin the violation of these ordinances, or any regulations adopted to implement the same, but the election of the Town to proceed with an application or petition for an injunction shall not prevent a criminal prosecution for the violation of this ordinance. Expenses incurred by such action shall be recovered by the person whose legal duty it was to comply with the ordinances.

ARTICLE VI Inconsistent Repeal

All ordinances or parts of ordinances, resolutions, regulations, or other documents promulgated prior to the date of this ordinance and inconsistent with the provision of this ordinance, are hereby repealed to the extent of such inconsistency.

ARTICLE VII Severability

This ordinance and the various parts, sentences, sections, and clauses thereof, 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 is hereby adopted on March 14, 1994, and shall become effective sixty (60) days from this date.

Michael Alderman

/S/ Thomas Steadman

Thomas Steadman

/S/ John Shattuck

John Shattuck