

**TOWN OF TINMOUTH
ORDINANCE REGULATING SOLID WASTE**

**ARTICLE I
AUTHORITY**

This Ordinance is enacted pursuant to the authority granted to the Town of Tinmouth under the authority of 24 V.S.A. §§ 1971 et seq., 2201(b), 2202a, 2203a, 2203b, 2291(12), (13), (14), and (15), and 2297 et seq.

**ARTICLE II
PURPOSE**

It is the purpose of this Ordinance to protect the public health, safety, and welfare of the Town of Tinmouth and to promote the responsible use of resources and protection of the environment by regulating the disposal, open burning, and incineration of solid waste in the Town.

**ARTICLE III
DEFINITIONS**

“Air Contaminants” shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, or any combination thereof.

“Asbestos-Containing Wastes” shall mean any solid waste material that contains the asbestiform varieties of chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite/grunerite); anthophyllite; tremolite and actinolite.

“Authorization” by the Town of Tinmouth shall mean approved pursuant to a legal contract, license, or other written agreement entered into by the Town of Tinmouth and another person as defined herein.

“Construction/Demolition Debris” shall mean materials resulting from the construction, renovation, and demolition of buildings, roads and bridges, and other edifices in the Town of Tinmouth.

“Emission” shall mean a release into the outdoor atmosphere of air contaminants.

“Enforcement Officer” shall mean person(s) designated by the Select Board to enforce this Ordinance.

“Exempt Small Quantity Generator” shall mean a generator, as defined by 40 CFR Section 261.5, who generates less than 100 kg (220 lbs.) of hazardous waste or who generates less than 1 kg (2.2 lbs.) of acute hazardous waste in one calendar month.

“Fire Warden” shall mean the Town of Tinmouth Forest Fire Warden, appointed by the Commissioner of the Department of Forests, Parks, and Recreation upon approval by the Select Board, or other person(s) designated by the Select Board to issue written open burn permits.

"Food residual" shall mean source separated, uncontaminated, and compostable material that is derived from processing or discarding of food. Food residual may include pre-consumer and postconsumer food scraps.

“Hauler” shall mean any person, corporation, partnership, association, or organization authorized to collect solid waste within the limits of the Town of Tinmouth.

“Hazardous Waste” shall mean any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat, or other means, which in the judgment of the

Secretary may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the State. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition.

“Incineration” shall mean the burning of solid waste in an enclosed outdoor container.

“Leaf and yard residual” shall mean source separated, compostable untreated vegetative matter, including grass clippings, leaves, and brush, which is free from non-compostable materials. It does not include such materials as pre- and postconsumer food residuals, food processing residuals, or soiled paper.

“Natural Wood” shall mean chemically untreated trees, including logs, boles, trunks, branches, limbs, and stumps, lumber including timber, logs or slabs, especially when dressed for use. This definition shall also include pallets, which are used for the shipment of various materials so long as such pallets are not chemically treated with any preservative, paint, or oil. This definition shall not extend to other wood products such as sawdust, plywood, particle board and press board.

“Open Fire” or “Burning” shall mean 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.

“Person” shall mean 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 agency, or any other legal or commercial entity.

“Recyclables” shall mean the following items, prepared as stated:

- Newspaper – clean, dry;
- Aluminum Cans – rinsed;
- Steel Cans – rinsed;
- Clear Glass – rinsed, caps removed (labels acceptable);
- Green Glass – rinsed, caps removed (labels acceptable);
- Brown Glass – rinsed, caps removed (labels acceptable);
- HDPE #2 Milk-Type Jugs – rinsed, caps removed;
- HDPE #1 Colored Plastic – completely drained or rinsed, caps removed;
- Corrugated Cardboard (including brown craft paper) – free of packing material, flattened;
- Boxboard – flattened, no windows, brown only;
- White office paper;
- Magazines and glossy paper;
- Junk mail – no carbon paper, fax paper or stickers;
- Clean Wood and Brush – any wood or tree parts which have not been painted, stained, or treated, and which are smaller than 6” in diameter;
- Leaves – free of limbs or grass;
- Tires – rims removed from tractor-sized tires;
- Scrap Metal (including appliances);
- Used Motor Oil (including brake fluid, transmission fluid, hydraulic oil and motor oil) – free of any contaminants, neatly stored in a tightly sealed recyclable plastic jug;
- Used Automotive Batteries;
- Used Primary and Recyclable Batteries.

“Remaining Waste” shall mean all solid waste exclusive of all recyclables, hazardous waste, and leaf and yard residual.

“Select Board” shall mean the Select Board for the Town of Tinmouth.

“Solid Waste” shall mean 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 community activities but does not include animal manure and absorbent bedding used for soil enrichment; high carbon bulking agents used in composting; or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, chapter 47 of Title 10.

"Source separated" shall mean the separation of compostable and recyclable materials from non-compostable, non-recyclable materials at the point of generation.

“Town” shall mean the Town of Tinmouth.

“Town Recycling Center” shall mean the facility certified by the State of Vermont to collect recyclables. Said facility is owned and operated by the Town of Tinmouth and is located off Route 140 east of the Tinmouth town center.

“Town Transfer Station” shall mean the facility certified by the State of Vermont to collect municipal solid waste. Said facility is located off Route 140 east of the Tinmouth town center.

ARTICLE IV SEPARATION, COLLECTION, AND DISPOSAL OF SOLID WASTE

The Select Board may set and assess fees for all aspects of the separation, collection, and disposal of any solid waste or recyclables.

Separation

Recyclables and solid waste generated within the Town shall be separated. Recyclables must be either:

1. Deposited at the Town Recycling Center;
2. Collected by, or delivered to haulers or drop-off centers duly registered with the Town or
3. Transported to another state-certified recycling facility. Any hauler pursuant to Article V who transports recyclables generated within the Town to a facility other than as designated in (1) or (2) above shall provide the Select Board with the destination of recyclable and verification that said recyclables are not being disposed of as solid waste.

All hazardous wastes (including that from Exempt Small Quantity Generators) generated within the Town shall be kept separate from other solid waste, and must not be disposed of in the Town Transfer Station. Hazardous materials must be saved by the user until a collection event for such materials is held by the Town, or some agent thereof. Alternatively, hazardous wastes can be disposed of through contract with a hazardous waste hauler permitted by the State of Vermont. Residents can purchase yearly permits at the Rutland County Solid Waste District facility on Gleason Road in Rutland. The permit allows residents to dispose of household hazardous waste for the cost of that annual permit fee.

Any person who disposes of hazardous waste in any other fashion shall be in violation of this Ordinance.

All leaf and yard residual shall be disposed of at the designated “yard waste” site within the Town Transfer Station, unless an open burn permit has been issued pursuant to Article VII.

Food residual can be disposed of in designated containers at the Town Transfer Station or composted at home.

All materials entering the Town dumpster for disposal shall be remaining waste. Improper separation of disposal of wastes constitutes a violation of this Ordinance.

Disposal of Waste

After separation of recyclables, hazardous wastes, leaf and yard residual, food waste, construction and demolition materials, all remaining waste generated within the Town shall be transported to and disposed at the Town Transfer Station, or hauled by individuals to alternate certified facilities or hauled by private haulers to alternate certified disposal facilities.

Collection Contracts

The Select Board or individual residents may employ or make contracts with persons for the separation, collection, or disposal of solid waste, food waste, and/or recyclables.

Right to Refuse Waste

The Town, or its designated Enforcement Officer(s), reserves the right to refuse acceptance of any solid waste at the Town Transfer Station or Recycling Center until the procedures for separation, collection, and disposal have been met, as outlined in Article III and according to the Definitions of this Ordinance.

ARTICLE V HAULERS

All haulers of solid waste in the Town shall be registered with the Select Board on forms supplied by the Town Clerk. The Select Board may set a fee for such registration. Registration shall indicate specifically which wastes the hauler may collect, and shall constitute authorization to collect only those wastes that are stated in the registration. Registration implies understanding and agreement on the part of the hauler to abide by the Ordinance and the Requirement of Registered Haulers as described herein. Authorization may be revoked for any violation of this Ordinance. A breakdown of all materials collected, broken down by item and weight, shall be available upon request by the Select Board.

No hauler shall knowingly collect for disposal solid waste that contains hazardous waste.

No hauler shall knowingly deposit for disposal at the Town Transfer Station materials that have not been generated within the Town.

ARTICLE VI ILLEGAL DUMPING

It shall be unlawful for any person to deposit, dump, throw or leave solid waste (or hazardous waste), or to cause or permit the dumping, depositing, placing or leaving of solid waste (or hazardous waste) of any kind on any public or private property or into any waters of the Town or any privately owned or maintained disposal container, except as follows:

1. The composting of organic material if authorized by the Vermont Solid Waste Management Rules provided no nuisance is caused;
2. The disposal of solid waste in a privately owned or maintained waste container with the express consent of the owner of the container;

3. The disposal of solid waste in a publicly-owned or maintained waste container in a public building or on public grounds, provided such solid waste was generated or originated in such public building or on such public grounds; or

4. The disposal of other materials as approved by the Vermont Department of Environmental Conservation, the Select Board, and the Rutland Solid Waste Alliance Communities.

It shall be unlawful for any person to deposit, dump, or leave solid waste or hazardous waste of any kind at the Town Transfer Station or Recycling Center when said facility is not open unless prior written authorization is given by the Select Board.

Actions as above shall constitute a violation of this Ordinance and are punishable as hereinafter provided.

ARTICLE VII

WASTE NOT TO ACCUMULATE EXCEPT IN SUITABLE STORAGE CONTAINERS

The occupants and/or owners of all residential properties (including rental properties) shall place or cause to be placed all solid waste and recyclable material in suitable enclosed containers and shall not permit any accumulation or deposit of such substances in or about the premises except in such suitable containers. Spillage and overflow of wastes around containers shall be promptly cleaned and property disposed of within 24 hours upon notification of an Enforcement Officer of the Town.

Any person owning, operating or being in charge of any commercial property shall require that solid waste and recyclable material be stored in suitable enclosed containers.

Accumulation or depositing of solid waste, food waste, and recyclables on residential and commercial properties shall constitute a violation of this ordinance.

ARTICLE VIII

OPEN FIRES AND INCINERATION

The burning of any solid waste, either by open fire or incinerations is prohibited in the Town and shall constitute a violation of this Ordinance. Any other open burning or incineration, except in conformance with this Article, is prohibited and shall constitute a violation of this Ordinance.

Written Permit Required to Burn

A written permit may be granted at the discretion of the Town Fire Warden for the open burning of natural wood and/or leaf and yard residual. To obtain a permit for open burning, the applicant shall establish, to the satisfaction of the Fire Warden, that no hazardous or nuisance situations will be created and that the emission of air contaminants will not create a danger to the health and property of the citizens of the Town.

A written permit issued by the Fire Warden shall specify the date, time, and, location of the burning and indicate the specific materials that the permittee is authorized to burn. In granting a permit, the Fire Warden may attach reasonable conditions to the proposed burning, including location, size, and time of day. Failure to meet the conditions of a permit will render the permit invalid and subject the permittee to enforcement pursuant to this Ordinance.

The Select Board may establish a fee for the issuance of such permits.

Town Designated Open Burn Area

The Select Board may authorize the burning of natural wood and/or leaf and yard residual at a designated location within the Town. The burning of such shall be conducted under the direction of and at such times

as the Fire Warden determines and pursuant to the State of Vermont Agency of Natural Resources Air Pollution Control Regulations Rule 5-203. Open burning at a Select Board designated location in Town conducted under the direction of the Fire Warden shall not require a written permit.

ARTICLE IX
PENALTIES AND ENFORCEMENT

Enforcement Procedures

This Ordinance shall be a civil ordinance pursuant to 24 V.S.A. § 1974a. Any violation of this Ordinance may be enforced in the Judicial Bureau by any Enforcement Officer or in the Superior Court at the election of the Select Board.

For purposes of enforcement in the Judicial Bureau, any Enforcement Officer shall have authority to issue tickets and represent the Town as the appearing officer at any hearing. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a et seq.

The Select Board or its designee(s) may initiate a civil action in Superior Court to obtain injunctive, other appropriate relief, or to pursue any other remedy authorized by law. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure.

The Enforcement Officer is authorized to recover civil penalties or waiver fees in the following amounts for each violation of this Ordinance:

	Penalty	Waiver Fee
First offense	Written warning	N/A
Second offense	\$100.00	\$50.00
Third offense	\$250.00	\$125.00
Fourth and subsequent offenses	\$800.00	\$450.00

The waiver fee may be paid in lieu of a civil penalty by any person who wishes to waive his or her right to a hearing before the Judicial Bureau. The written warning for a first offense shall be given to the violator by hand delivery or sent via registered mail and documented by the Enforcement Officer. The written warning will describe the violation and penalties for future violations of the Ordinance.

Each day that a violation continues shall constitute a separate violation of this Ordinance. For purposes of determining the sequence of offenses, subsequent offenses shall be those that occur within a two (2) month period of the anniversary day of the first offense. Any offense occurring after this two (2) month period shall be considered a new first offense.

Roadside Cleanup

In addition to all other penalties and enforcement available in Article VIII, any person who violates Article VI or VII may be penalized with roadside cleanup. The Enforcement Officer may assign up to 80 hours collecting trash or litter from a specified segment of roadside or from a specified area of public property pursuant to 24 V.S.A. § 2201(c).

Alternative Enforcement by Solid Waste Order

For any violations of this Ordinance, except Article VII violations, the Select Board may also use the procedures set forth in 24 V.S.A. Chapter 61, Subchapter 12 to issue a solid waste order to enforce any of the provisions of this Ordinance. Such order may include civil penalties for each violation and, in the case of a continuing violation, a penalty for each succeeding day.

1. The Select Board may seek enforcement of a final solid waste order in the superior court or before the Environmental Division. If a penalty is imposed and the respondent fails to pay the penalty within the time prescribed, the Select Board may bring a collection action in the superior court.

2. Imposition of a penalty by the Town through a solid waste order under 24 V.S.A. Chapter 61, Subchapter 12 precludes imposition by Select Board of any other administrative or civil penalty under any other provision of law for the same violation.

**ARTICLE X
OTHER LAWS**

This Ordinance is in addition to all other ordinances of the Town and all applicable laws in the State of Vermont. 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 XI
SEVERABILITY**

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

**ARTICLE XII
EFFECTIVE DATE**

This Ordinance shall become effective sixty (60) days after its adoption by the Select Board. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking affect date of this Ordinance.

Adopted: January 9, 2020

This Ordinance is effective (03/09/2020)

Select Board, Town of Tinmouth

Cathy Reynolds

[Signature]

[Signature]

Adoption History

1. Agenda item at regular Select Board meeting held on 1/9/2020.
2. Read and approved at regular Select Board meeting on 1/9/2020 and entered in the minutes of that meeting, which were approved, on 2/13/2020.
3. Posted in public places on 1/16/2020.
4. Notice of adoption published in the Rutland Herald newspaper on 2/16/2020 with a notice of the right to petition.
5. Other actions [petitions, etc.]