

TOWN OF MIDDLEBURY
ORDINANCE REGULATING THE
COLLECTION AND DISPOSAL OF SOLID WASTE

**ARTICLE I
PURPOSE**

Section 101

To protect the health and welfare of the citizens of Middlebury and to promote the conservation of natural resources and the wise use of the environment, the Board of Selectmen of the Town of Middlebury hereby adopt this ordinance to regulate the separation, recovery, collection, removal, storage and disposition of solid waste, including recyclables, in the Town of Middlebury, Vermont.

**ARTICLE II
DEFINITIONS**

Section 201.

"Air Contaminants" shall mean dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

Section 202.

"Authorization" by the Town of Middlebury means authorized pursuant to a legal contract or other written authorization entered into by the Town of Middlebury and a private third person as defined herein.

Section 203.

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

Section 204.

"Fire Warden" shall mean the person appointed to office as defined under Vermont Statute V.S.A. 10, Section 2641.

Section 205.

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

Section 206.

"Open Fire 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.

Section 207.

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

Section 208.

"Recyclable" shall mean recyclable material as specifically identified in regulations promulgated by the Board of Selectmen.

"Solid Waste" shall mean any solid waste as defined in Title 10 V.S.A. section 6602.

**ARTICLE III
SOLID WASTE REGULATION**

Section 301.

In accordance with Chapter 1, Section 104E of the Town Charter, the collection, removal and disposal of all solid waste within the limits of the town of Middlebury shall be regulated by the Board of Selectmen of the Town of Middlebury which shall have the power to establish the time, method and routes of service, the providers of service and such other regulations as said Board shall promulgate for the orderly provision of such service and the general health, safety, and welfare of the Town inhabitants.

ARTICLE IV COLLECTION

Section 401.

The Board of Selectmen is authorized to employ or make contracts with individual persons for the separation, recovery, collection, removal, storage, or disposition of solid waste, including recyclables. Contracts which are awarded pursuant to this authority shall be advertised or otherwise put to competitive bid consistent with the Town Purchasing Policy. Contracts may be rejected or awarded at the sole discretion of the Board of Selectmen for any reasons which they deem appropriate, including but not limited to, the efficiency of scale, past performance of a contractor, stability of operation, and need for competition. The Board of Selectmen may adopt regulations regulating the preparation of solid waste for collection.

Section 402.

All collections and haulers of solid waste in the Town of Middlebury shall register with the Town Manager and such registration shall constitute authorization to collect solid waste but not recyclables. Authorization to collect recyclables shall be a separate authorization. The Board of Selectmen may set a registration fee.

ARTICLE V PUBLIC SAFETY

Section 501.

No person having the custody or control of residential, industrial or business premises from which solid waste, including recyclables, is collected for disposal in the Town of Middlebury shall permit or cause any solid waste, including recyclables, within their control to become a hazard to public travel, health or safety or to become a nuisance of any sort. Solid waste, other than yard waste, may not be deposited or otherwise left out of doors unless it has been placed in the proper container as defined by regulations promulgated pursuant to this ordinance.

Household hazardous wastes may only be disposed of in accordance with regulations adopted by the Board of Selectmen from time to time.

ARTICLE VI ILLEGAL DUMPING

Section 601.

It shall be unlawful for any person, business, or corporation to enter any Town of Middlebury solid waste facility when said facility is not open; nor shall they deposit, dump, or leave solid waste of any kind in any such facility or adjacent thereto, whenever said facility is open.

Section 602.

It shall be unlawful for any person to deposit, dump, or leave solid waste in any privately owned or maintained disposal container other than their own, nor any other private property, without the consent of the owner.

Section 603.

It shall be unlawful to deposit in a municipally owned or maintained disposal container any solid waste other than that created or originated in any public buildings/grounds/highways or on the person of anyone using said public buildings/grounds/ highways.

ARTICLE VII OPEN FIRES AND INCINERATORS

Section 702.

The open burning of yard and garden debris including trees, stumps, brush, lawn clippings and leaves is allowed with written permission from the Fire Warden or his/her designee under the following terms and conditions:

- a. Open burning shall be permitted only during the period November 1, through the third Sunday of April. During said period the open burning

- shall be permitted between the hours of 8:00 a.m. and 4:00 p.m. The Fire Warden or his/her designee shall have the discretion to permit open burning at other times and dates for special circumstances including periods of adverse weather conditions or the lack of availability of alternate disposal options.
- b. The open burning shall be permitted on private property with the consent of the owner or person in charge of the property.
 - c. With the permission of both the Director of Public Works and the Fire Warden, open burning is allowed on public rights-of-way except upon sidewalks, roadways, traffic lanes, parking areas, alleys and all paved areas.
 - d. In evaluating whether an open burning permit shall be permitted the Fire Warden shall consider:
 - 1. Potential hazardous conditions that could result if such burning was permitted.
 - 2. The emission of air contaminants which have the potential of creating a nuisance and/or danger to the health and property of the citizens.
 - 3. The proximity of any structure to where the burning will take place.
 - 4. Availability of Resource Park or other disposal alternatives.

Section 703.

Burning for the purpose of weed abatement; disease, forest fire and pest prevention or control; and for the purpose of agricultural, forestry or wildlife habitat management is permitted with the consent of the Fire Warden. Such activities shall not be subject to the constraints specified in Section 702. a. They will however be subject to Sections 702. b, c, & d.

Section 704.

All open burning permits shall be subject to the following:

- a. Any fire resulting from permitted open burning shall be attended by a competent person until such fire is extinguished.
- b. Permits which are issued under the provisions of this ordinance shall be a specified date, time and location and only for specified materials.
- c. The Selectmen of the Town reserve the right to establish a fee for the issuance of such permits.
- d. Should the fire resulting from a permitted open burning get out of control, the Fire Chief or his designee may determine that the fire needs to be extinguished by the Fire Department. Should this take place, the permittee shall be responsible for the reimbursement of such costs.

**ARTICLE VIII
SEPARATION OF RECYCLABLES**

Section 801.

Except as hereinafter provided, recyclables from all residences shall be kept separate from other solid waste, either delivered to a private or Town collection facility, or placed at the street curb or designated area, as defined in regulations adopted pursuant to this ordinance. Recyclables placed at the curb or curblane shall be placed in a manner designated by regulation as established by the Board of Selectmen for collection on the morning of the collection day as set forth under a schedule determined by the Town Manager.

Section 802.

Apartments, condominium, businesses, institutions and industries located within the Town of Middlebury shall separate recyclables from all other solid waste in accordance with regulations adopted pursuant to this ordinance and shall have an area designated for recyclables. The area so designated shall be clearly marked.

Section 803.

In accordance with regulations adopted pursuant to this ordinance, any person within the Town of Middlebury may properly dispose of recyclables at private collection facilities or at collection areas maintained by the Town of Middlebury or its designated agent for that purpose. Recyclables shall be separated according to standards that shall be promulgated as regulations pursuant to this ordinance by the Board of Selectmen.

Section 804.

Placement requirements may be waived for reasons of age, infirmity or handicap.

**ARTICLE IX
COLLECTION BY UNAUTHORIZED PERSON**

Section 901.

It shall be a violation of this ordinance for any person not authorized by the Town of Middlebury to collect or pick up or cause to be collected or picked up any solid waste, including recyclables. Any and each such collection shall constitute a separate and distinct offense punishable as hereinafter provided.

**ARTICLE X
PENALTIES & ENFORCEMENT**

Section 1001.

Any person violating any provision of this ordinance or the regulations enacted hereunder shall be fined not more than \$1000.00 for each offense.

Section 1002.

The Town of Middlebury, or its designated agent reserves the right to refuse to collect solid waste or to refuse to allow disposal at any facility operated by the Town or for the benefit of the Town where this ordinance or the regulations promulgated hereunder are ignored or violated. The Town further reserves the right to terminate the authorization of any hauler who violates this ordinance or the regulations promulgated hereunder.

Section 1003.

Unless otherwise provided for herein, each day that a violation shall continue or exist shall constitute a separate offense.

Section 1004.

The Town of Middlebury 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 these Ordinances.

**ARTICLE XI
INCONSISTENT REPEAL**

Section 1101.

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

**ARTICLE XII
SEVERABILITY**

Section 1201.

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 XIII
EFFECTIVE DATE**

Section 1301.

This ordinance shall take effect forty (40) days from date of adoption by the Selectmen, under Section 197 of the Charter of the Town of Middlebury.

Adopted: November 17, 1987
Amended: April 03, 1990
Amended: August 25, 1998
Amended: March 9, 1999
Amended: June 13, 2000

Effective: December 27, 1987
Effective: May 13, 1990
Effective: October 4, 1998
Effective: June 1, 1999
Effective: July 23, 2000