

**Town of Middlebury Selectboard
Public Hearing on the Adoption of
Minor Ordinance Amendments**

The Middlebury Selectboard will hold a Public Hearing at 7:30 PM on Tuesday, April 13, 2021 via Zoom videoconferencing (instructions below) to take public testimony on the proposed adoption of minor amendments to the following Ordinances:

- **Ordinance for Restricting Alcoholic Beverage Use on Town Property** – amended to be a civil ordinance (currently criminal), to simplify enforcement.
- **Ordinance for the Regulation of Noise** – amended to be a civil ordinance and changes made to how fines for violations are assessed and enforced.
- **Ordinance to Regulate Commercial Activity on Public Property** – amended to give the Town the authority to regulate transportation devices such as commercial scooters and private ride-shares using public property, should those types of services come to Middlebury.
- **Ordinance for the Safe Operation of Bicycles and Other Rideable Devices** – amended to reflect revised definitions for “bicycle” and “other rideable device,” and introduces new definition for “rideable personal mobility aid.” Other clarifying revisions to current language also made.
- **Ordinance for the Regulation of Fires and Burning** – a new Public Safety civil ordinance based on a re-write of Article VII – Open Fires and Incinerators, from the Town’s *Ordinance Regulating the Collection and Disposal of Solid Waste*. Simplifies and clarifies the issue of open burning, controlled burning and permit issuance, and makes fines consistent with state statute.
- **Ordinance Regulating the Collection and Disposal of Solid Waste** – amended to remove Article VII – Open Fires and Incinerators.
- **Ordinance for the Regulation of Speed** – Adopts by ordinance the recently amended state speed limits on Routes 116 (Case St) and Rt. 125E (East Main St) in East Middlebury consistent with T.23 VSA 1007(f).
- **Ordinance for the Regulation of Traffic Lights and Traffic Signs** – amended to establish Merchants Row as one-way eastbound. Also eliminates the Stop sign westbound on Merchants Row at Main St.; eliminates the Yield sign for westbound traffic on Merchants Row off of South Pleasant St.; and replaces the Yield sign for eastbound traffic at Merchants Row and Court Square with a Stop sign.

The proposed ordinance amendments follow on pages 2 – 18 of this document.

If you need special accommodations to attend this meeting, please contact the Town Manager’s Office at 458-8000 as early as possible.

To view and participate in the public hearing:
Zoom URL: <https://us02web.zoom.us/j/84877715207>

By phone: 646-558-8656 (not toll free)
Webinar ID: 848 7771 5207

For those wishing to watch but not participate:
Selectboard Meetings are livestreamed to MCTV’s YouTube channel:
<https://www.youtube.com/user/MCTVVermont>
and also broadcast live on **Comcast Channel 1071**.

TOWN OF MIDDLEBURY
Alcoholic Beverage Restrictions
An Ordinance for Restricting Alcoholic Beverage Use
on Town Property

Pursuant to the authority of 24 V.S.A. 2291, Section 103 (b), and Section 104 (b), (f), (i) and (j), of the Charter of the Town of Middlebury, the Selectboard of the Town of Middlebury hereby enact the following ordinance:

Section I - Purpose

101. To control the use and possession of alcoholic beverages on Town property, and to preserve the privilege of responsible entities properly licensed or permitted and approved by the Vermont Department of Liquor Control to possess and serve alcoholic beverages on Town property during public and private events, while assuring the safety of the public and the protection of property.

Section II - Definitions

201. Alcohol refers to the product of distillation of any fermented liquor, rectified either once or oftener, whatever may be the origin thereof, and includes ethyl alcohol and alcohol which is considered non-potable.
202. Container means any glass bottle, metal can, animal skin bag, or any other device of a nonporous or semi-porous nature which might be used to hold liquids.
203. Malt Beverage means all fermented beverages of any name or description manufactured for sale from malt, wholly or in part, or from any substitute therefore, known as beer, porter, ale, stout, containing not less than one percent nor more than six percent of alcohol by volume at sixty degrees Fahrenheit.
204. Open Container shall mean a container other than one with an unbroken seal, or, containing a vacuum or pressure obtained during original bottling by a licensed bottler.
205. Entity includes an individual, business, corporation, partnership, unincorporated association, or any other legal organization.
206. Possession shall mean having alcohol, malt beverages, spirits, or vinous beverages in hand or on person, within immediate control, or relatively accessible for use.
207. Spirits means all beverages containing alcohol obtained by distillation, fortified wines and liquors and any other beverage containing more than fourteen percent of alcohol by volume at sixty degrees Fahrenheit.
208. Town Property shall mean any street, highway, sidewalk, park, building, or any other place owned by, or under the authority and control of the Town within the village area as defined on map #138 (part of a set numbered 138-143) titled Town of Middlebury Vermont, Addison County Regional Planning Commission, 1968, as recorded in the Middlebury Town Clerk's Office, which includes Chipman Hill Park; Means Woods, Battell Woods, Wright Park and East Middlebury Recreation Park.
209. Vinous Beverages shall include all fermented beverages of any name or description manufactured from the natural sugar content of fruits or other agricultural product, the alcoholic content of which is not less than one percent nor more than fourteen percent by volume at sixty degrees Fahrenheit.

Section III - Restrictions

301. No person shall have in their possession an open container having any alcohol, malt beverages, spirits, or vinous beverages while on Town property or in any vehicle located on Town property unless attending a public or private event where a permit has been issued specifically authorizing the serving of alcohol, malt beverages, spirits, or vinous beverages on Town property.

Section IV - Permit Procedure

401. An entity requesting alcohol, malt beverages, spirits, or vinous beverages be served during a public or private event on Town property shall file with the Town Manager a public assemblage permit specifically indicating the intent to possess and serve alcohol.

402. The application shall be filed at least 45 days prior to the event to allow sufficient time for the Selectboard to review the application at a regularly scheduled Selectboard meeting. This 45-day requirement may be waived at the sole discretion of the Town Manager if, in her/his judgment, the applicant has satisfied the requirements of Section 501 of this ordinance and sufficient time remains from the date of submission for the Selectboard to consider the application at a regular Selectboard meeting prior to the event.

Section V - Official Action on the Permit

501. The Town Manager, before submitting the public assemblage permit application to the Selectboard for approval, shall determine whether:

(a) the applicant has submitted a complete and accurate application;

(b) the applicant is able to comply with the General Conditions of the Public Assemblage Permit, especially in regard to serving alcohol, malt beverages, spirits, or vinous beverages;

(c) adequate arrangements have been made to ensure the safety of the public at large and persons attending the event and for the prevention of damage to public and private property.

502. The Selectboard may approve, approve with amendments, or deny a permit application. At any time the Selectboard may amend or revoke a permit if it appears that the arrangements or conditions contained in the permit will no longer prevent injury to person or property due to a change in the circumstances under which the permit was granted.

503. The Chief of Police may revoke a permit at any time should the event fail to follow the permit conditions or become a public nuisance, or in the event of other emergencies.

Section VI - Appeal Process

601. An entity may appeal the Selectboard's decision to deny a permit application by filing a written notice with the Town Manager within five days of the decision. The Selectboard will consider the appeal at their next regularly scheduled Selectboard meeting. The Selectboard may affirm or reverse their decision, or attach such additional conditions to the permit as will, in their best judgement, protect the safety of the public at large and persons attending the event, and prevent damage to public or private property.

Section VII - Penalties

701. A violation of this ordinance shall be a civil matter which shall be enforceable by the Town pursuant to 24 V.S.A. §1974a and any other applicable provision of law.

702. A person who has in his or her possession an open container having any alcohol, malt beverages, spirits, or vinous beverages while on Town property without a permit specifically authorizing such possession or who violates a term or condition of an issued permit shall be subject to a fine not in excess of \$800 for each violation. Waiver fine is \$100.

Section VIII - Severability

801. If any part of this ordinance shall be held to be void, invalid, or unconstitutional either under the laws or constitution of the State of Vermont or the United States by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and such portion shall be in full force and effect.

Section IX - Effective Date

901. This ordinance shall take effect forty (forty) days from date of adoption by the Selectboard, under Section 107 of the Charter of the Town of Middlebury.

Adopted: 24 May 1977, Effective 3 July 1977

Amended: 29 March 1983, Effective 8 May 1983

Amended: 22 June 1993, Effective 1 August 1993

Amended: 9 February 2016; Effective 20 March 2016

Town of Middlebury
An Ordinance for the Regulation of Noise

Pursuant to the authority of Section 104 (B) and Section 104 (J) of the Middlebury Town Charter and such other state laws as are applicable do hereby enact the following ordinance:

ARTICLE I - PURPOSE

In order to protect the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance, the Board of Selectmen of the Town of Middlebury adopt an ordinance to prohibit and/or appropriately regulate a person or persons from making or continuing any excessive, unnecessary, or unreasonably loud noise or disturbance.

ARTICLE II - REGULATION

SECTION 200 - Prohibitions Generally

No person or persons shall make or continue, or cause to be made or continued, any excessive, unnecessary, or unreasonably loud noise or disturbance which disturbs, destroys, or endangers the comfort, quiet, repose, health, peace or safety of others within the immediate vicinity of the noise or disturbance. Although intended as examples only, and not exclusive of other acts constituting a violation of this Article, the commission of one or more of the following acts, if done in such a manner, shall be deemed a violation of this Article:

- a. Electronic sound producing devices. The playing or use of an electronic sound producing device in such manner or with such volume at unreasonable hours. For the purposes of this subsection, the term "electronic sound-producing devices" shall include any radio, phonograph, stereo, television set, amplified musical instrument, loud speaker, tape, cassette or compact disc recorder or any other similar device. On Sunday through Thursday, the hours between 10:00 p.m. and 7:00 a.m. shall be deemed unreasonable whenever any person shall make complaint of the disturbance during such hours. On Friday, Saturday and special holidays (New Years Eve and Fourth of July) the hours between 1:00 a.m. and 7:00 a.m. shall be deemed unreasonable whenever any person shall make complaint of the disturbance during such hours. The complaint of the disturbance, if or when confirmed by a Town Police Officer, shall also be deemed a violation as well.
- b. Vocal Disturbances. Yelling, shouting, whistling, singing, or making any other loud vocal disturbance which are deemed to be objectionable because of volume, frequency or beat and is not muffled or otherwise controlled.
- c. Devices to attract attention. The use of any drum, musical instrument, loud speaker, amplifier, or other instrument or device for the purpose of attracting attention. This section shall not be construed to prohibit the playing of musical instruments by persons practicing or performing in a school or town band, orchestra or participating in or practicing for an authorized parade or assembly in a public place.
- d. Dogs, cats and other animals. The keeping of any dog, cat or other animal which shall become a nuisance to another person in the vicinity where such dog, cat or other animal is kept, by frequent or continued barking, howling, yelping or screaming. Customary agricultural activities are exempt from this Ordinance.
- e. Construction noises. The excavation, erection, demolition, alteration, or repair of any buildings, structure, property or street between the hours of 9:00 p.m. and 7:00 a.m., except for

necessary emergency repairs to protect property of persons when such activity utilizes motorized or powered tools or equipment.

f. Trash removal. The removal of household and commercial trash by authorized commercial trash haulers utilizing mechanized conveyances from all residentially zoned areas between the hours of 9:00 p.m. and 6:30 a.m.

ARTICLE III - EXEMPTIONS

Emergency vehicles operated by fire, police or rescue agencies and public works or public utility vehicles when used during snow operation or emergency repairs to service are exempt from the provisions of this Ordinance. Any activities permitted under Public Assemblages, Street Vending, Peddling, Soliciting and other commercial activities on public property, shall also be exempt henceforth.

ARTICLE IV - ACTS NOT SPECIFICALLY PROHIBITED

The commission of any act not specifically prohibited by any other section or subsection of this chapter shall be deemed a violation of this chapter if it is determined that such act will make or continue any excessive, unnecessary, or unreasonably loud noise or disturbance, or any noise or disturbance which disturbs, destroys or endangers the comfort, quiet, repose, health, peace, or safety of others within the immediate vicinity of the noise or disturbance.

ARTICLE V - AUTHORITY

No owner or occupier of premises, or any person who has been given lawful permission to use or control any premises, shall knowingly permit a violation of this Ordinance by another person on such premises.

ARTICLE VI - PENALTY

Section 601 – Civil Violation.

A violation of this ordinance shall be a civil matter which shall be enforceable by the town pursuant to Title 24 V.S.A. §1974a and any other applicable provision of law.

Section 602 – Penalty

A person who violates any provision of these regulations shall be fined not more than eight-hundred dollars (\$800) for each offense, with a waiver fine of two-hundred dollars (\$200). Each violation shall constitute a separate offense.

ARTICLE VII - INTERPRETATION AND SEPARABILITY

Section 700 - Conflict with Other Standards

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule, regulation or ordinance the most restrictive or that imposing the higher standard shall govern.

Section 701 - Severability

Should any court of competent jurisdiction determine any provision of the Ordinance to be invalid, such judgment shall not affect the validity of the Ordinance as a whole or any part other than the part so declared to be invalid.

Section 702 - Effective Date

This Ordinance, or amendments thereto, shall become effective 40 days after adoption consistent with Section 107 A-D of the Town Charter.

Adopted March 9, 1993, Effective April 18, 1993

**AN ORDINANCE TO REGULATE
COMMERCIAL ACTIVITY ON PUBLIC PROPERTY**

SECTION 1 - PURPOSE

101. The Middlebury Selectboard finds that the primary purpose of the public streets and sidewalks is for general public vehicular and pedestrian use. Commercial activities on the public streets and sidewalks can cause a safety hazard and otherwise interfere with this purpose.

102. This ordinance is intended to regulate commercial activity on publicly-owned property to protect the public safety and welfare. Under this ordinance, commercial activity includes, but is not limited, to street vending, peddling and displaying of goods for sale or services for hire within the public rights of way or on Town property.

103. This ordinance shall apply to all publicly owned land and publicly owned rights-of-way, including Town parks, sidewalks, streets and parking spaces.

SECTION 2 - GENERAL PROHIBITION

201. Street vending, peddling and soliciting are prohibited on the public ways and properties in the Town of Middlebury except where specifically allowed under this ordinance. The geographic boundaries of the Town of Middlebury are defined in Maps 138-143, titled Town of Middlebury, Vermont, Addison County Regional Planning Commission, 1968, as recorded in the Middlebury Town Clerk's Office.

SECTION 3 - EXEMPTIONS FROM THIS ORDINANCE

301. Commercial activity that occurs as part of an event that has been permitted under the Public Assemblage Ordinance and internet-arranged transportation services that are licensed by the Town including but not limited to Uber, Lyft, BIRD, LIME.

SECTION 4 - ENFORCEMENT

401. A violation of this ordinance shall be a civil matter which shall be enforceable by the town pursuant to Title 24 V.S.A. §1974a and any other applicable provision of law.

402. A person who violates any provision of this ordinance shall be fined not more than \$800. Waiver fine is \$100.

SECTION 5 – SEVERABILITY

501. If any section, sentence, or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional by a decree or decision of any court of competent jurisdiction, such decree or decision shall not affect or impair the validity or any other section or remaining portion of this ordinance.

ADOPTED: 7 JUNE 1983 - EFFECTIVE 17 JULY 1983 AMENDED: 21 JULY 1988 - EFFECTIVE 30 AUGUST 1988 AMENDED: 1 NOVEMBER 1988 - EFFECTIVE 11 DECEMBER 1988 AMENDED: 15 NOVEMBER 2016 – EFFECTIVE 25 DECEMBER 2016

**AN ORDINANCE FOR
THE SAFE OPERATION OF BICYCLES AND OTHER RIDEABLE DEVICES**

[As approved and recommended by unanimous act of the Public Health and Safety Committee October 21, 2019]

We the Selectboard of the Town of Middlebury, under the authority of 24 V.S.A. Chapter 61, Subchapter 11, Section 104 of the Middlebury Charter, and such other Statutes as may be applicable hereby enact and adopt the following Ordinance:

ARTICLE I DEFINITIONS

Section 101.

“Bicycle” is herein defined as every device on which a person may ride that is capable of being propelled with mechanical linkage by human power, whether assisted by motor or not, having two or more wheels, including three-wheeled and four-wheeled cycles, and so-called pedal vehicles, which may have an enclosed cab, and motor assisted bicycles as defined by Title 23 V.S.A 4 (45)(B).

Section 102.

“Other rideable device” is defined herein as every wheeled device on which a person may ride, whether assisted by motor or not, excluding bicycles, motor vehicles, and rideable personal mobility aids. Examples of other rideable devices include but are not limited to: kick and electric scooters, skateboards, longboards, scoot bikes, roller skis, roller skates and rollerblades, unicycles, Segways, hoverboards, and similar self-balancing human transportation devices.

Section 103.

“Rideable personal mobility aid” is defined herein as a wheelchair or motorized mobility scooter, as are used by persons with ambulatory difficulties, as defined in 23 VSA Section 304a (a)(1).

**ARTICLE II
GENERAL OPERATION OF BICYCLES AND OTHER RIDEABLE DEVICES /AIDS**

Section 201.

(a)A person operating a bicycle or other rideable device on the travelled portion of any street or highway is granted all of the rights and is subject to all of the duties applicable to operators of motor vehicles, except as to those provisions which by their very nature, have no applications, or as otherwise stated in this ordinance.

(b) Whenever a person dismounts from a bicycle or other rideable device the person is granted all of the rights and is subject to all regulations applicable to pedestrians.

(c) A person operating a wheelchair or rideable personal mobility aid is granted all of the rights and is subject to all of the regulations applicable to pedestrians.

Section 202.

The parent of any child and the guardian of any ward shall not encourage or permit any such child or ward to violate any of the provisions of this Ordinance.

Section 203.

A bicycle or other rideable device may be used to carry at any one time no more than the maximum number of persons for which it is designed and equipped.

Section 204.

No person may operate any bicycle or other rideable device while any person is holding on to a motor vehicle, or if the bicycle or other rideable device is attached to any motor vehicle.

Section 205.

Bicycles and other rideable devices shall be parked in in bike racks, where provided, or in such a manner as to afford the least obstruction to pedestrians and persons operating motor vehicles, bicycles, and other rideable devices. No bicycle or other rideable device shall be parked in a marked vehicular parking space.

Section 206.

No person may operate a bicycle or other rideable device or personal mobility aid that is equipped with any siren or whistle, or any device simulating the sounds of an authorized emergency vehicle.

Section 207.

A bicycle or other rideable device shall not be operated unless equipped with a brake that enables stopping within 30 feet while traveling 15 mph on dry, clean, hard, and level surface.

Section 208.

Any person operating a bicycle or other rideable device that has a seat must ride upon or astride the designed seat.

Section 209.

A person operating a bicycle or other rideable device with handlebars must be able to safely control and keep at least one hand upon the handle bars, when carrying one or more packages, bundles or other articles.

Section 210.

Operation of a bicycle or other rideable device at nighttime, defined as from one half-hour after sunset until one half-hour before sunrise, requires use of a lamp that emits a white light that is visible from a distance of at least five hundred feet to the front. Operation at nighttime additionally requires use of a red light that is visible three hundred feet from the rear; or reflective rear-facing material of at least 20 square inches or reflectors or both, visible three hundred feet to the rear.

**ARTICLE III
OPERATION OF BICYCLES AND OTHER RIDEABLE DEVICES ON ROADWAYS**

Section 301.

A person operating a bicycle or other rideable device upon a roadway shall ride in the right-most through-lane of the roadway and may occupy a full lane subject to the following provisions:

1. If the right-most through-lane is wide enough to be safely shared with overtaking vehicles, a person operating a bicycle or other rideable device shall ride as far to the right as reasonably judged safe by the operator in order to facilitate the movement of such overtaking vehicles.
2. A person operating a bicycle or other rideable device may use a lane other than the right-most through-lane when:
 - a) Passing another vehicle proceeding in the same direction;
 - b) Preparing for a left turn at an intersection or into a private road or driveway;
 - c) Preparing for a right turn at an intersection or into a private road or driveway for which a dedicated right-turn lane is provided;
 - d) Reasonably necessary to avoid hazards, including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles or other rideable devices , pedestrians, animals, or surface hazards;

- e) Riding on parts of roadways set aside for the exclusive use of bicycles.

Section 302

A person operating a bicycle or other rideable device may use any portion of the roadway to evade a hazard, but must exercise due care in doing so, including by yielding to motor vehicles whenever possible.

Section 303.

Persons operating bicycles or other rideable devices upon a roadway may ride two abreast only in the following locations:

1. On paths or parts of the roadway set aside the exclusive use of bicycles (marked as bike lanes);
2. On roadways marked for shared use;
3. Where the usable combined width of lane and any shoulder are sufficient for motor vehicles to safely pass two-abreast riders within the right-most through lane; and
4. In situations reasonably judged to afford motorists adequate sight and stopping distance. Considerations in this regard include but are not limited to the presence of curves and hills, the width of the roadway, and other environmental conditions.

Section 304.

Consistent with 23 VSA §1065(a,b), all signals to indicate change of speed or direction, when given by hand, shall be given by the operator of the bicycle or other rideable device in the following manner:

1. Left turn: Left hand and arm extended horizontally to the left.
2. Right turn: Left hand and arm extended upward. Alternatively, the operator may give a right-turn signal by extending the right hand and arm horizontally to the right side of the bicycle.
3. Stop or decrease speed: Left hand and arm extended downward.
4. It is not necessary to signal while the operator is using their hands for braking.

Section 305.

A person operating a bicycle or other rideable device in compliance with this article and not violating any other section of this ordinance is not impeding traffic.

ARTICLE IV

GENERAL OPERATION OF BICYCLES AND OTHER RIDEABLE DEVICES ON SIDEWALKS

Section 401.

A person operating a bicycle or other rideable device on a sidewalk shall in all cases yield the right of way to pedestrians.

Section 402.

A person operating a bicycle or other rideable device on a sidewalk shall travel in a predictable manner and at sufficiently slow speeds so as to ensure safe passage of pedestrians and operators of other bicycles and other rideable devices, including those unexpectedly entering and exiting the sidewalk from buildings, alleys, and driveways.

Section 403.

A person operating a bicycle or other rideable device on a sidewalk shall dismount and walk the bicycle or other rideable device at times and locations where the sidewalk is congested.

Section 404.

A person operating a bicycle or other rideable device may overtake a pedestrian only where sufficient room exists to overtake safely, and shall give a reasonably audible signal, verbally or through use of a bell, before overtaking the pedestrian.

ARTICLE V

OPERATION OF BICYCLES AND OTHER RIDEABLE DEVICES WITHIN THE DOWNTOWN AREA

Section 501.

No person shall ride or be otherwise mounted on a bicycle or other rideable device between 9 a.m. and 5 p.m. on the sidewalks bounding:

- (a) Merchant’s Row between South Pleasant Street and Main Street;
- (b) Main Street between Printers Alley and Park Street /Main St intersection
- (c) Park St
- (d) Mill St
- (e) Printer’s Alley

Notwithstanding the above, children under age ten operating a non-motorized bicycle or other rideable device, under direct supervision by an adult or other caretaker, may ride on sidewalks in the downtown area, at any time.

Section 502.

Bicycles and other rideable devices may be operated in the following locations and on any sidewalks adjacent to them subject to the provisions in 502 (a) and 502 (b) that follow: on Bakery Lane; in the Municipal parking lots on Bakery Lane (upper, lower, and side); and in the Mill Street Municipal parking lots.

- (a) Other rideable devices must have installed and properly functioning braking capability, with the exception of children under age 10 operating a scoot bike or kick scooter.
- (b) Bicycles and other rideable devices may be operated for transit purposes only. Broader recreational uses are prohibited.

Section 503.

Main Street between the intersection with Seymour Street and the intersection with South Street, including the roundabout, is a shared use roadway for bicycles as defined in Section 101 of this ordinance, and motor vehicles.

ARTICLE VI

ENFORCEMENT AND PENALTIES

Section 601.

A person who violates any provision of this ordinance shall be fined not more than \$100 for each offense.

Waiver fine: \$25

Adopted: May 24, 1977; Effective: July 3, 1977

Amended: November 1, 1988; Effective: December 11, 1988 Amended: August 25, 1998;

Effective October 4, 1998 Amended: August 10, 1999; Effective September 19, 1999 Amended:

November 24, 2015; Effective January 3, 2016

ARTICLE III
~~ORDINANCE REGULATION COLLECTION AND DISPOSAL OF SOLID WASTE~~

ORDINANCE FOR THE REGULATION OF FIRES AND BURNING

~~Section 702-~~

ARTICLE I

Section 101 Definitions

- a. Open Burning – Any uncontained fire or burning fueled by yard debris.
- b. Contained Burning- Any burning contained within a fire pit/ fire circle, incinerator, barbeque pit, cooking fireplace, pig roast, outdoor barbeque, or manufactured outdoor fireplace, chimenea, fire pit or grill fueled by propane, natural gas, charcoal, untreated wood, or yard debris.
- c. Yard Debris - untreated wood, brush, lawn clippings, plants, slash, leaves, and other natural growth.
- d. Fire Pit/ Fire Circle – An enclosure with a maximum square footage of 25', enclosed by a non-combustible barrier with a minimum height of 12". The fire pit / fire circle must be a minimum of 20' from any structure or stored combustibles and have no overhead combustibles such as a roof overhang or tree limbs.
- e. Incinerator –Also known as a burn barrel, burn cage, incinerator can. A non-combustible, heat resistant container enclosed on all sides sufficient to contain sparks, fuel, and flame within.
- f. Fire Warden - "Fire Warden" shall mean the person appointed to office as defined under Vermont Statute V.S.A. 10, Section 2641.

ARTICLE II

Section 201 Permit Required

- a. A permit from the Fire Warden or designee is required for open burning.

Section 202 Conditions

- a. Open burning may be permitted during the period of November 1 through the third Sunday in April between the hours of 8 a.m. and 4 p.m. The Fire warden or 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 or alternate disposal methods.
- b. Permits issued under the provisions of this ordinance shall be for a specified date, time, and location.
- c. The Selectboard of the Town reserves the right to establish a fee for the issuance of such permits.
- d. Open burning on private property shall only be permitted with the consent of the property owner or their agent.
- e. Any fire resulting from permitted open burning shall be attended by a person capable of controlling the fire until the fire is extinguished.

f. With the permission of the Fire Warden or designee and the Director of Public Works, open burning is allowed on public rights-of-way except upon sidewalks, roadways, traffic lanes, parking areas, alleys and all paved areas.

g. Burning and fires that are contained pursuant to Article I subsections b and d do not require a permit and are not considered open burning unless the burn area exceeds the enclosure.

h. In evaluating whether an open burning permit shall be issued the Fire Warden shall consider:

1. Potentially 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 others.
3. The proximity of any structure to where the burning will take place.

i. The Fire Warden or designee may revoke any permit should conditions change during the burn, or should the burn represents a hazard to property or to others.

j. The Fire Warden or designee may order an open burn extinguished if no permit was issued, or if the open burn exceeds any conditions under which the permit was issued.

ARTICLE III

Section 301 Burning for the Purpose of Weed Abatement

- a. Burning for the purpose of weed abatement, disease, forest fire and pest prevention or control is permitted with consent of the Fire Warden.
- b. Burning for the purpose of agricultural, forestry, or wildlife habitat management is permitted with the consent of the Fire Warden.
- c. Burning for the purposes in Article III a. and b. are not subject to date parameters in Article II b. They are subject to conditions specified in Article II sections a.,c.,d.,f.,g., and h.

ARTICLE IV

Section 401 Reimbursement of Fire Department Expense

a. Should the Fire Department determine that an open burn needs to be extinguished, the property owner is subject to reimbursing the Fire Department for the costs of the fire suppression in addition to any fine assessed under Article V.

ARTICLE V

PENALTY

Section 501 – Civil Violation.

A violation of this ordinance shall be a civil matter which shall be enforceable by the town pursuant to Title 24 V.S.A. §1974a and any other applicable provision of law.

Section 502 – Penalty

A person who violates any provision of these regulations shall be fined not more than eight-hundred dollars (\$800) for each offense, with a waiver fine of two-hundred dollars (\$200). Each violation shall constitute a separate offense.

**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 2641.1901

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 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 wood 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-VII
SEPARATION OF RECYCLABLES**

Section 804. 701.

Following sections renumbered accordingly...

Ordinance for the Regulation of Speed

Rte 116, Rte 125 East, East Main St, Case St, and Ossie Rd amendments.

Section IV. THIRTY-FIVE MILE SPEED LIMIT

An operator of a motor vehicle shall not operate or drive a motor vehicle on any of the following designated streets at a rate of speed greater than thirty-five MPH:

Case St/ VT Rte 116 between Ossie Rd and a point .08mile south of Leno LN.

East Main St / VT Rte 125 East between .021 mile east of North Branch RD and the Ripton Town Line.

Ossie Rd and Ossie Rd / VT Rte 116 between US Route 7 and East Main St VT Rte 125.

~~Route 125 - driveway entrance to the Commission Sales easterly to a point beyond the Sand Hill Bridge.~~

Section V. FORTY MILE SPEED LIMIT

An operator of a motor vehicle shall not operate or drive a motor vehicle at a rate of speed greater than forty miles per hour on the following designated streets and highways:

East Main St entrance ramp to U.S. 7 northbound.

East Main St / VT Rte 125 East between U.S. Rte 7 and a point .01 mile west of Wilmar St.

~~Route 116 - from the intersection with Route 125 northerly to the cemetery.~~

~~Route 125 - 1) From the intersection of Route 7 easterly to the driveway entrance to the Commission Sales property. 2) From a point easterly of the Sand Hill Bridge to the Middlebury/Ripton Town line.~~

**Ordinance for the Regulation of
Traffic Lights and Traffic Signs**

Merchants Row Amendments

ARTICLE IV

Section I. DESIGNATION OF STOP SIGNS AT INTERSECTIONS

Stop signs shall be erected on the following streets for the regulation of traffic at the following intersections.

~~Merchants Row – Westbound traffic at the intersection with Main Street.~~

Merchants Row - Eastbound traffic at the intersection with Court Square

ARTICLE V

Section I. DESIGNATION OF YIELD RIGHT-OF-WAY SIGNS AT INTERSECTIONS

Yield right of way signs shall be erected on the following streets for the regulation of traffic at the following intersections:

Merchants Row - Eastbound traffic at the intersection with South Pleasant Street. ~~Eastbound traffic at the intersection with Court Square. Westbound traffic at the Veterans War Memorial on Merchants row.~~