

TOWN OF LOWELL

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CIVIL ORDINANCE

AN ORDINANCE PROTECTING THE TOWN FROM UNLAWFUL DUMPING.

Pursuant to the provisions of Title 24, Vermont Statutes Annotated, Sections 2021, The Select Board of Lowell hereby ordains the following:

- Section 1 Authority**
 - Section 2 Title**
 - Section 3 Purpose**
 - Section 4 Authority**
 - Section 5 Definitions**
 - Section 6 General**
 - Section 7 Violation**
 - Section 8 Civil Penalties**
 - Section 9 Severability**
 - Section 10 Publication /Posting /Implementation**
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Section 1 Authority

The Town of Lowell, under authority of 24 V.S.A. § 2201, shall enforce the provisions of that statute as a civil violation through the Judicial Bureau under the provisions of 4 V.S.A. Chapter 29 and 24 V.S.A. Chapter 59;

Section 2 Title

Ordinance Protecting the Town from Unlawful Dumping.

Section 3 Purpose

It is the purpose of this ordinance to promote a clean environment free from litter and enforce action against those who do not obey public policy.

Section 4 Authority

The official responsible for custody of the complaint forms shall be the Town Clerk.

The official[s] authorized to issue complaints in this matter shall be a member of the Select Board.

The official[s] authorized to appear in court on behalf of the Town of Lowell in this matter shall be a member of the Select Board; Penalties shall be those prescribed in 24 V.S.A. § 2201.

Section 5 Definitions

The Vermont Statutes Annotated

Title 24: Municipal and County Government

Chapter 61: REGULATORY PROVISIONS; POLICE POWER OF MUNICIPALITIES

Sub-Chapter 08: Rubbish and Garbage

24 V.S.A. § 2201. Throwing, depositing, burning, and dumping refuse; penalty; summons and complaint

§ 2201. Throwing, depositing, burning, and dumping refuse; penalty; summons and complaint

(a)(1) Prohibition. Every person shall be responsible for proper disposal of his or her own solid waste. A person shall not throw, dump, deposit, cause, or permit to be thrown, dumped, or deposited any solid waste as defined in 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing outside a solid waste management facility certified by the Agency of Natural Resources. It shall be prima facie evidence that a person who is identifiable from an examination of illegally disposed solid waste is the person who violated a provision of this section.

(2) No person shall burn or cause to be burned in the open or incinerate in any container, furnace, or other device any solid waste without:

(A) first having obtained all necessary permits from the Agency of Natural Resources, the district environmental commission, and the municipality where the burning is to take place; and

(B) complying with all relevant State and local regulations and ordinances.

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil penalty of not more than \$500.00. This violation shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a municipal attorney, solid waste management district attorney, environmental enforcement officer employed by the Agency of Natural Resources, grand juror, or designee of the legislative body of the municipality, or by any duly authorized law enforcement officer. If the throwing, placing, or depositing was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, placing, or depositing was done by the driver of such motor vehicle. Nothing in this section shall be construed as affecting the operation of an automobile graveyard or salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the State or towns.

(c) Roadside cleanup. A person found in violation of this section may be assigned to spend up to 80 hours collecting trash or litter from a specified segment of roadside or from a specified area of public property.

(d) The Commissioner of Motor Vehicles shall suspend the motor vehicle operator's license or operating privilege of a person found in violation of this section for a period of ten days if the person fails to pay the penalty set forth in subsection (b) of this section. This provision shall not apply if the only evidence of violation is the presumption set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Motor Vehicles of the entry of judgment.

(e) The Commissioner of Fish and Wildlife shall revoke the privilege of a person found in violation of this section from holding a hunting or fishing license, or both, for a period of one year from the date of the conviction, if the person fails to pay the penalty set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Fish and Wildlife of the entry of judgment.

(f) [Deleted.]

(g) Amendment of complaint. A person authorized to enforce this section may amend or dismiss a complaint issued by that person by marking the complaint and returning it to the Judicial Bureau. At the hearing, a person authorized to enforce this section may amend or dismiss a complaint issued by that person, subject to the approval of the hearing judge.

(h) [Deleted.]

(i) Enforcement actions taken under this section shall in no way preclude the Agency of Natural Resources, the Attorney General, or an appropriate State prosecutor from initiating other or further enforcement actions under the civil, administrative, or criminal enforcement provisions of 10 V.S.A. chapter 23, 47, 159, 201, or 211. To the extent that enforcement under this section is by an environmental enforcement officer employed by the Agency of Natural Resources, enforcement under this section shall preclude other enforcement by the agency for the same offence. (Amended 1961, No. 164, eff. June 14, 1961; 1965, No. 62, eff. May 19, 1965; 1967, No. 90, § 1, eff. July 1, 1969; 1969, No. 287 (Adj. Sess.), § 1, eff. Sept. 1, 1970; 1971, No. 245 (Adj. Sess.), §§ 1, 2, eff. April 6, 1972; 1989, No. 286 (Adj. Sess.), § 4; 1999, No. 63, § 3; 1999, No. 160 (Adj. Sess.), § 29; 2005, No. 23, § 1; 2009, No. 56, § 3.)

Section 6 General

A person shall not throw, dump, deposit or cause to be thrown any materials onto public grounds or grounds that are not their own personal property without prior permission.

This is inclusive of the Town Recycling receptacles located at the Town Garage where all materials deposited must fall into the category of recyclable materials. Unacceptable materials includes but is not limited to; household waste, food scraps, furniture, automobile tires, scrap metal, junk or any other object to be considered "trash".

A list will be posted at the Recycling receptacles clearly indicating which household materials are acceptable to be placed in the bins. These include but are not limited to the following categories:

Paper: Cardboard, newspapers, paperboard, magazines.

Glass: Bottles and Jars

Metal: Aluminum cans, tin, steel, aluminum foil

Plastic: Household bottles and containers

Section 7 Violation

Should a person be caught littering, dumping or knowingly depositing materials not belonging in the Recycling bins they will be subject to a fine by the Town of Lowell and the Judicial Board.

Section 8 Civil Penalties

Any person who violates any provision of the Ordinance shall be subject to a civil penalty of \$50.00 (fifty dollars). Should the Town have reasonable proof of dumping then a civil complaint form will be sent to the offender stating such. The offender will have 20 (twenty) days to respond to the complaint choosing to pay the fine, or contest it to the Judicial Bureau.

The Town reserves the right to invoice for multiple offenses. Should there be a repeat offense by the same person, an additional notice and fine for the same amount can and will be issued to the offender.

Fines not paid within 30 days are subject to additional action taken by the Judicial Bureau.

Section 9 Severability

In the event any section, subsection, sentence, clause or phrase of the Ordinance shall be adjudicated invalid or unconstitutional, such phrase is declared to be severable and the remaining portions of the ordinance to be in full force and effect.

All Ordinances inconsistent with or contrary to the provision to the Ordinance are hereby repealed and nothing in this Ordinance shall be interpreted so as to conflict with state legislation. This Ordinance shall take effect thirty (30) days from the date of adoption, unless a petition is properly filed under Title 19 V.S.A. Section 1973

Section 10 Publication/Posting/Implementation

Public Notice: The Town of Lowell Select Board shall make reasonable efforts to ensure that the public is notified of the existence of this Ordinance: Ordinance Protecting the Town from Unlawful Dumping.

This Civil Ordinance is hereby adopted as amended by the Town of Lowell Select Board July 22, 2014 and shall become effective Sept 22, 2014 or as noted in this Ordinance unless a petition is filed as provided by law.

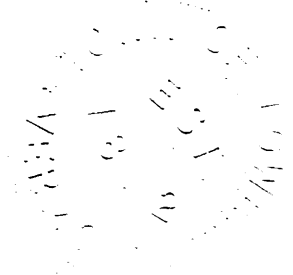
Select Board:

Richard Plon
Richard Plon, Select Board Chairman

July 22, 2014
Date

Alden Warner
Alden Warner

Dwight Richardson
Dwight Richardson



NOTICE:

The following Civil Ordinance was adopted by the Lowell Select Board on July 22, 2014. A copy can be obtained at the Lowell Town Clerks Office located at 2170 VT Route 100, Lowell VT 05847 or by emailing Amanda Carlson, Assistant Town Clerk at acarlson@lowelltown.org.

Citizens have the right to petition against the ordinance within 60 days of adoption.

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Section 2	Title
Section 3	Purpose
Section 4	Authority
Section 5	Definitions
Section 6	General
Section 7	Violation
Section 8	Civil Penalties
Section 9	Severability
Section 10	Publication /Posting /Implementation

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(B) complying with all relevant State and local regulations and ordinances.

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil penalty of not more than \$500.00. This violation shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a municipal attorney, solid waste management district attorney, environmental enforcement officer employed by the Agency of Natural Resources, grand juror, or designee of the legislative body of the municipality, or by any duly authorized law enforcement officer. If the throwing, placing, or depositing was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, placing, or depositing was done by the driver of such motor vehicle. Nothing in this section shall be construed as affecting the operation of an automobile graveyard or salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the State or towns.

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