

**MUNICIPALITY OF NORTHFIELD
ORDINANCE FOR THE CONTROL OF LITTER**

The Selectmen for the Town of Northfield and the Trustees for the Village of Northfield hereby ordain:

Section 1. AUTHORITY

This ordinance is enacted pursuant to 24 VSA Section 2291(12). (Town/Village power to regulate or prohibit the storage or dumping of solid waste.) It shall constitute a civil ordinance within the meaning of 24 VSA Chapter 59 (Appendix A).

Section 2. PURPOSE

It is the purpose of this ordinance to regulate the disposal of solid waste in the Municipality of Northfield in order to protect the public health, safety, and welfare and to promote the responsible use of resources and protection of the environment.

Section 3. DEFINITIONS

The relevant definitions (Appendix B) set forth in 10 VSA Section 6602 are hereby incorporated into this Ordinance.

Section 4. REGULATION OF DISPOSAL OF WASTE MATERIAL

- A) Every person in the Municipality of Northfield shall be responsible for proper disposal of his/her own solid waste. A person shall not throw, dump, deposit, or cause to be thrown, dumped or deposited: bottles, crockery, cans, plastic, solid waste, junk, paper, garbage, tires, furniture, mattresses, box springs, unregistered and/or uninspected automobiles or parts hereof, refuse of whatever nature, or any noxious thing on lands of others, public or private, or into the waters of this state, or on the shores or banks thereof, or on a public body of water or public highway. If the throwing, placing, or depositing was done from a motor vehicle, except a motorbus, it shall be prima facie evidence that the throwing, placing, or depositing was done by the driver of the motor vehicle.
- B) The disposal of waste material, including solid waste and hazardous waste, is prohibited in the Municipality of Northfield except at a facility approved for such disposal under the provisions of 10 VSA Chapter 159 (Waste Management) or 24 VSA Chapter 61, Subchapter 10 (Junkyards). This provision shall not prohibit the temporary storage of waste material in a container designed to prevent release of such material pending collection of such waste for disposal at an approved facility.
- C) Nothing in A) or B) above shall apply to normal snow removal operations by either of the municipalities

Section 5 ENFORCEMENT

- A) The Traffic and Municipal Ordinance Bureau – Any person who violates any provision in Section 4 of this ordinance shall be subject to a civil penalty of up to \$500.00 per day for each day that such violation continues. The Town Health Officer, First Constable, or any law enforcement officer may act as an issuing Municipal Officer and issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal complaint for a violation of Section 4 of this ordinance.

- B) Right to Civil Enforcement – In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the Municipality is authorized to utilize the procedures set forth in 24 VSA Chapter 61, Subchapter 12, (§2297 et seq.) (Appendix C) commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

Section 6. PENALTIES

- A) Civil Penalty of Ordinance Violation – An issuing Municipal Officer is authorized to recover civil penalties in the following amounts, in addition to the cost of clean up, for each violation of this ordinance. The amount and the date for acceptance of the civil penalty shall be affixed to the complaint or notice.

First Offense	\$ 50.00
Second Offense	\$100.00
Third Offense	\$200.00
Fourth Offense	\$350.00
Fifth and Subsequent Offenses	\$500.00

- B) Waiver fees for Municipal Complaint – A waiver fee of one-half the civil penalty to which a violator is subject shall be assessed for those who admit or do not contest the ordinance violation. The amount and the date for acceptance of the waiver fee shall be affixed to the complaint or notice.

First Offense	\$ 25.00
Second Offense	\$ 50.00
Third Offense	\$100.00
Fourth Offense	\$175.00
Fifth and Subsequent Offenses	\$250.00

Offenses shall be counted on a calendar year basis.

Section 7. SEVERABILITY

If any portion of this ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected and shall remain in full force and effect. If any statute referred to in this ordinance shall be amended, this ordinance shall be deemed to refer to such amended statute.

This ordinance shall take effect sixty (60) days following its adoption by the Selectboard and the Board of Trustees unless a petition requesting voter approval is submitted within forty-five (45) days following adoption as provided in 24 VSA Chapter 1973 (Appendix C).

Adopted this 27 day of March, 2001.

By the:

Board of Town Selectmen

Bradford Denny

Bradford Denny, Chair

Donald M. Wallace

Donald Wallace, Vice-Chair

Daniel H. DiLena, Sr.

Daniel H. DiLena, Sr.

Richmond Moot

Richmond Moot

Lynn Sanders

Lynn Sanders

Board of Village Trustees

Richard Sutor

Richard Sutor, Chair

Sarah McMullen

Sarah McMullen, Vice-Chair

Thomas McCarney

Thomas McCarney

Theodore Nelson, Jr.

Theodore Nelson, Jr.

Ray Quimby

Ray Quimby

Received and recorded this 27 day of March, 2001.

Debra J. Russo

Debra J. Russo

Town Clerk

Charles L. Morse

Charles L. Morse

Village Clerk (Acting)

APPENDIX A

TITLE 24: Municipal and County Government
PART II: Municipalities
CHAPTER 059: ADOPTION AND ENFORCEMENT OF
ORDINANCES AND RULES

§ 1971. Authority to adopt

(a) A municipality may adopt, amend, repeal and enforce ordinances or rules for any purposes authorized by law.

(b) An ordinance or rule adopted or amended by a municipality under this chapter or under its municipal charter authority shall be designated as either criminal or civil, but not both. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970; amended 1971, No. 14, § 10, eff. March 11, 1971; 1993, No. 237 (Adj. Sess.), § 2, eff. Nov. 1, 1994.)

§ 1972. Procedure

(a) The legislative body of a municipality desiring to adopt an ordinance or rule may adopt it subject to the petition set forth in section 1973 of this title and shall cause it to be entered in the minutes of the municipality and posted in at least five conspicuous places within the municipality. The full text of the ordinance or rule, or a concise summary of it including a statement of purpose, principal provisions, and table of contents or list of section headings, shall be published in a newspaper circulating in the municipality on a day not more than 14 days following the date when the proposed provision is so adopted. Along with the concise summary shall be published a reference to a place within the municipality where the full text may be examined. When the text or concise summary of an ordinance is published, the same notice shall explain citizens' rights to petition for a vote on the ordinance or rule at an annual or special meeting as provided in section 1973 of this title, and shall also contain the name, address and telephone number of a person with knowledge of the ordinance or rule who is available to answer questions about it.

Unless a petition is filed in accordance with section 1973 of this title, the ordinance or rule shall become effective sixty days after the date of its adoption, or at such time following the expiration of sixty days from the date of its adoption as is determined by the legislative body. If a petition is filed in accordance with section 1973 of this title, the taking effect of the ordinance or rule shall be governed by section 1973(e) of this title.

(b) All ordinances and rules adopted by a municipality shall be recorded in the records of the municipality.

(c) The procedure herein provided shall apply to the adoption of any ordinance or rule by a municipality unless another procedure is provided by charter, special law or particular statute. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970; amended 1971, No. 14, § 11, eff. March 11, 1971; 1979, No. 180 (Adj. Sess.), § 1, eff. May 5, 1980.)

§ 1973. Permissive referendum

(a) An ordinance or rule adopted by a municipality may be disapproved by a vote of a majority of the qualified voters of the municipality voting on the question at an annual or special meeting duly warned for the purpose, pursuant to a petition signed and submitted in accordance with subsection (b) of this section.

(b) A petition for a vote on the question of disapproving an ordinance or rule shall be signed by not less than five per cent of the qualified voters of the municipality, and presented to the legislative body or the clerk of the municipality within forty-four days following the date of adoption of the ordinance or rule by the legislative body.

(c) When a petition is submitted in accordance with subsection (b) of this section, the legislative body shall call a special meeting within sixty days from the date of receipt of the petition, or include an article in the warning for the next annual meeting of the municipality if the annual meeting falls within the sixty-day period, to determine whether the voters will disapprove the ordinance or rule.

(d) Not less than two copies of the ordinance or rule shall be posted at each polling place during the hours of voting, and copies thereof made available to voters at the polls on request. It shall be sufficient to refer to the ordinance or rule in the warning by title.

(e) If a petition for an annual or a special meeting is duly submitted in accordance with this section, to determine whether an ordinance or rule shall be disapproved by the voters of the municipality, the ordinance or rule shall take effect on the conclusion of the meeting, or at such later date as is specified in the ordinance or rule, unless a majority of the qualified voters voting on the question at the meeting vote to disapprove the ordinance or rule in which event it shall not take effect. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970; amended 1971, No. 14, § 12, eff. March 11, 1971.)

§ 1974. Enforcement of criminal ordinances

(a) The violation of a criminal ordinance or rule adopted by a municipality under this chapter shall be a misdemeanor. The criminal ordinance or rule may provide for a fine or imprisonment, but no fine may exceed \$500.00, nor may any term of imprisonment exceed one year. Each day the violation continues shall constitute a separate offense.

(b) The presiding judge of the superior court, on application of the legislative body of a municipality, shall have jurisdiction to enjoin the violation of an ordinance or rule but the election of a municipality to proceed under this subsection shall not prevent prosecutions under subsection (a) of this section.

(c) Prosecutions of criminal ordinances shall be brought before the district court pursuant to section 441 of Title 4.

(d) Prosecutions of criminal ordinances may be brought on behalf of the municipality by the municipal attorney, grand juror or other person designated by the legislative body of the municipality. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970; amended 1993, No. 237 (Adj. Sess.), § 3, eff. Nov. 1, 1994.)

§ 1974a. Enforcement of civil ordinance violations

(a) A civil penalty of not more than \$500.00 may be imposed for a violation of a civil ordinance. Each day the violation continues shall constitute a separate violation.

(b) All civil ordinance violations, except municipal parking violations, and all continuing civil ordinance violations, where the penalty is \$500.00 or less, shall be brought before the judicial bureau pursuant to Title 4 and this chapter. If the penalty for all continuing civil ordinance violations is greater than \$500.00, or injunctive relief, other than as provided in subsection (c) of this section, is sought, the action shall be brought in superior court.

(c) The judicial bureau, on application of a municipality, may order that a civil ordinance violation cease.

(d) Civil enforcement of municipal zoning violations may be brought as a civil ordinance violation pursuant to this section or in an enforcement action pursuant to the requirements of chapter 117 of this title. (Added 1993, No. 237 (Adj. Sess.), § 4, eff. Nov. 1, 1994; amended 1997, No. 121 (Adj. Sess.), § 17.)

§ 1975. Evidence of adoption

A certificate of the clerk of a municipality showing the publication, posting, recording and adoption of an ordinance or rule, or any of the foregoing, shall be presumptive evidence of the facts so stated in any action or proceeding in court or before any board, commission or other tribunal. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970; amended 1971, No. 14, § 13, eff. March 11, 1971.)

§ 1976. Amendments and repeals

An ordinance or rule adopted in accordance with the procedures provided for in this chapter may be amended or repealed in accordance with the procedure herein set forth relating to adoption of ordinances and rules, and the provisions of this chapter, including the right of petition and referendum contained in section 1973 of this title, shall apply to the amendment or repeal of an ordinance or rule adopted under this chapter as well as to its enactment. (Added 1969, No. 170 (Adj. Sess.), § 8, eff. March 2, 1970.)

§ 1979. Procedure

(a) Municipal ordinance violations shall be heard by the bureau and the procedure shall be as provided in chapter 29 of Title 4.

(b) At the hearing, the municipal attorney, grand juror or designee of the legislative body of the municipality may dismiss or amend the complaint, subject to the approval of the hearing officer.

(c) Upon entry of default judgment pursuant to 4 V.S.A. § 1105(e), the hearing officer shall assess the full penalty provided for in the ordinance that was found to have been violated.

(d) Upon entry of judgment against the defendant after a contested hearing, the hearing officer shall assess a civil penalty in an amount not less than the waiver penalty and not more than the full penalty provided for in the ordinance that was found to have been violated. (Added 1993, No. 237 (Adj. Sess.), § 5, eff. Nov. 1, 1994; amended 1997, No. 121 (Adj. Sess.), § 19; 1999, No. 58, § 5, eff. Sept. 1, 1999.)

§ 1980. Repealed. 1997, No. 121 (Adj. Sess.), § 39(7).

§ 1981. Enforcement of order from judicial bureau

(a) Upon entry of a judgment after hearing or entry of default by the hearing officer, subject to any appeal pursuant to 4 V.S.A. § 1107, the person found in violation shall have up to 30 days to pay the penalty to the judicial bureau. All the civil remedies for collection of judgments shall be available to enforce the final judgment of the judicial bureau.

(b) In addition to any other civil remedies available by law, a final judgment of the judicial bureau that has not been satisfied within 30 days shall, upon due recordation in the land records of the town in which any real or personal property of the defendant is located, constitute a lien upon that real or personal property, except for motor vehicles as defined by 23 V.S.A. § 4(21), and may be enforced within the time and in the manner provided for the collection of taxes pursuant to subchapter 8, chapter 133 of Title 32.

(c) The supreme court shall establish rules which provide for an expedited process in small claims court for the collection of judgments to enforce the orders of the judicial bureau.

(d) Upon motion of the municipal attorney, grand juror or other person designated by the legislative body of the municipality and proof by affidavit that the person found in violation has not paid the penalty, the bureau shall send to the person found in violation a notice that the penalty must be paid within 20 days of receipt of notice. The notice shall include a warning that failure to pay the penalty within 20 days of the notice will result in a proceeding for contempt before the district court.

(e) If the penalty is not paid within the 20 days, the bureau shall send a notice to the district court in the county in which the violation occurred. The clerk of the district court shall forthwith provide notice to the person of a hearing for civil contempt proceedings pursuant to 12 V.S.A. § 122 for the failure to pay the penalty imposed by the bureau. (Added 1993, No. 237 (Adj. Sess.), § 5, eff. Nov. 1, 1994; amended 1997, No. 121 (Adj. Sess.), § 20; No. 122 (Adj. Sess.), § 1; 1999, No. 58, § 6.)

§ 1982. Reports

The court administrator shall prepare audits, records and reports relating to the enforcement of municipal ordinance complaints in the judicial bureau. (Added 1993, No. 237 (Adj. Sess.), § 5, eff. Nov. 1, 1994; amended 1997, No. 121 (Adj. Sess.), § 21.)

§ 1983. Identification to law enforcement officers required

(a) A law enforcement officer is authorized to detain a person if:

(1) the officer has reasonable grounds to believe the person has violated a municipal ordinance; and

(2) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(b) The person may be detained only until the person identifies himself or herself satisfactorily to the officer. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a district court judge for that purpose. A person who refuses to identify himself or herself to the court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122. (Added 1997, No. 122 (Adj. Sess.), § 2.)

Appendix B

TITLE 10: Conservation and Development
PART V: Land Use and Development
CHAPTER 159: WASTE MANAGEMENT

§ 6602. Definitions

(2) "Solid waste" 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 or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, chapter 47 of this title.

(4) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including but not limited to 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;

(6) "Person" means 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;

(12) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.

(13) "Waste" means a material that is discarded or is being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or has served its original intended use and is normally discarded or is a manufacturing or mining by-product and is normally discarded;

(16) (A) "Hazardous material" means all petroleum and toxic, corrosive or other chemicals and related sludge included in any of the following:

(i) any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980;

(ii) petroleum, including crude oil or any fraction thereof;
or

(iii) hazardous wastes, as determined under subdivision (4) of this section;

(B) "Hazardous material" does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, state and local laws and regulations and according to manufacturer's instructions. Nothing in this subdivision shall affect the authority granted and the limitations imposed by 10 V.S.A. § 6608a.

APPENDIX C

TITLE 24: Municipal and County Government
PART II: Municipalities
CHAPTER 061: REGULATORY PROVISIONS; POLICE POWER OF MUNICIPALITIES
Subchapter XII. Solid Waste Ordinances

§ 2297. Definitions

As used in this subchapter,

- (1) "Solid waste ordinance" means an ordinance adopted pursuant to subdivision 2291(12) of this title.
- (2) "Legislative body" means the legislative body of a town, city or incorporated village.
- (3) "Respondent" means a person alleged to have violated a solid waste ordinance. (Added 1991, No. 108, § 2.)

§ 2297a. Enforcement of solid waste ordinance by town, city or incorporated village

(a) Solid waste order. -- A legislative body may issue and enforce a solid waste order in accordance with this section. A solid waste order may include a directive that the respondent take actions necessary to achieve compliance with the ordinance, to abate hazards created as a result of noncompliance, or to restore the environment to the condition existing before the violation and may include a civil penalty of not more than \$500.00 for each violation and in the case of a continuing violation, not more than \$100.00 for each succeeding day. In determining the amount of civil penalty to be ordered, the legislative body shall consider the following:

- (1) the degree of actual or potential impact on public health, safety, welfare and the environment resulting from the violation;
- (2) whether the respondent has cured the violation;
- (3) the presence of mitigating circumstances;
- (4) whether the respondent knew or had reason to know the violation existed;
- (5) the respondent's record of compliance;

(6) the economic benefit gained from the violation;

(7) the deterrent effect of the penalty;

(8) the costs of enforcement;

(9) the length of time the violation has existed.

(b) Notice. -- When the legislative body has reasonable grounds to believe that a person has violated a solid waste ordinance, the legislative body may issue notice of the alleged violation, which shall be delivered to the respondent in person or mailed to the respondent by first class mail or by certified mail, return receipt requested. If mailed by first class mail, the notice is deemed received three days after the date of mailing. A copy of the notice of violation shall be mailed to the department of environmental conservation for information purposes only. The notice of violation shall include

(1) a brief description of the alleged violation and identification of the ordinance alleged to have been violated;

(2) a brief description of the potential enforcement actions which may be taken by the legislative body and the legislative body's probable course of action;

(3) a statement that the respondent has a right to a preliminary hearing before the legislative body and a description of the procedures for requesting a preliminary hearing.

(c) Preliminary hearing. -- A person who receives a notice of violation shall be offered an opportunity for a preliminary hearing before the legislative body for the purpose of determining whether a violation exists and reviewing the legislative body's probable course of action. The request for hearing shall be made in writing to the clerk of the town, city or incorporated village no later than ten days after the date the notice of violation is received. The legislative body shall hold a hearing within 14 days of receipt of the request for a hearing.

(d) Proposed order. -- After a preliminary hearing, the legislative body may issue a proposed order. If no hearing is requested within ten days after the date of receipt of the notice of violation, the legislative body may issue a proposed order at once. A proposed order shall be delivered to the respondent in person or mailed to the respondent by first class mail or by certified mail, return receipt requested. If mailed by first class mail, the order is deemed received three days after the date of mailing.

(e) Contents of proposed order. -- A proposed order shall include

(1) a statement that the respondent has the right to request a hearing before the legislative body on the proposed order and the procedures for requesting the hearing;

(2) a statement that the respondent has the right to request a hearing before the environmental court after the order has become final and a description of the procedures for requesting a hearing before the environmental court;

(3) a statement that filing a request for hearing before the environmental court will stop penalties from accruing in the case of a continuing violation;

(4) if applicable, a directive that the respondent take actions necessary to achieve compliance with the ordinance, to abate hazards created as a result of noncompliance, or to restore the environment to the condition existing before the violation;

(5) if applicable, a civil penalty of not more than \$500.00 for each violation and in the case of a continuing violation, not more than \$100.00 for each succeeding day.

(f) Hearing on proposed order. -- A person who receives a proposed order shall be offered an opportunity for a hearing before the legislative body, provided that the request for hearing is made in writing to the clerk of the town, city or incorporated village no later than 15 days after the date of receipt of the order. If the respondent does not request a hearing, the order shall be deemed a final order, and shall be effective on the date of receipt or a later date stated in the order. If the respondent does request a hearing subsequent to receipt of the order, the legislative body shall hold a hearing within 14 days of receipt of the request. After the hearing, the legislative body may withdraw or amend the order and may issue a final order, which shall be delivered or mailed to the respondent in the same manner as proposed orders and which shall be effective on the date of receipt or a later date stated in the order.

(g) Continuing violations. -- Each day that a violation continues from the effective date of a final order shall constitute a separate violation. However, the filing of a request for hearing with the environmental court shall stop penalties from accruing in the case of a continuing violation until the environmental court has issued its order.

(h) Effect of imposition of penalty. -- Imposition of a penalty under this subchapter precludes imposition by the town, city or incorporated village of any other administrative or civil penalty under any other provision of law for the same violation.

(i) Payment to town, city or incorporated village. -- All penalties collected under this subchapter shall be paid to the town, city or incorporated village whose ordinance is the subject of the violation.

(j) Enforcement. -- The legislative body may seek enforcement of a final order in the superior court or before the environmental court. If a penalty is imposed and the respondent fails to pay the penalty within the time prescribed, the legislative body may bring a collection action in the superior court. (Added 1991, No. 108, § 2; amended 1993, No. 232 (Adj. Sess.), § 38, eff. March 15, 1995.)

§ 2297b. Hearing by environmental court

(a) A respondent may request a hearing on a final order under this subchapter before the environmental court established under chapter 27 of Title 4, which shall consider the matter de novo. Notice of a request for hearing shall be filed with the environmental court and the municipal clerk within ten days of receipt of the final order.

(b) Notice of a request for hearing before the environmental court shall stay the order and payment of the penalty, if imposed, pending the hearing.

(c) If the environmental court determines that a violation has not occurred, it shall reverse the order.

(d) The environmental court may affirm a directive in an order or, if it finds that the violation exists but the remedies contained in the order are not likely to achieve the intended result, it may modify or vacate and remand the directive.

(e) In determining whether to affirm, modify or reverse an order for a civil penalty, the environmental court shall consider the factors set forth in subsection 2297a(a) of this title.

(f) If the respondent does not request a hearing on a final order within ten days of receipt of the order, the final order shall stand. (Added 1991, No. 108, § 2; amended 1993, No. 232 (Adj. Sess.), § 38, eff. March 15, 1995.)