

# *Town of Franklin*

## *Ordinance on Open Burning*

### **SECTION I: STATUTORY AUTHORITY**

Pursuant to Connecticut General Statutes Section 22a-174, the Town adopts the following Open Burning Ordinance.

### **SECTION II : DEFINITIONS**

As used in this ordinance, the following words or phrases shall have the meanings indicated:

- A) **APPLICANT:** the person making the Open Burning Certificate Application and who will be responsible for the Open Burning.
- B) **BRUSH:** shrubs, vegetation, or prunings, the diameter of which is not greater than three inches at the widest point.
- C) **BUILDING:** any structure that is enclosed by a roof and walls.
- D) **COMMISSIONER:** the Commissioner of the State of Connecticut Department of Environmental Protection.
- E) **NUISANCE:** the discharge into the open air of any smoke, soot, dust, fumes, odors or other emissions which cause injury, detriment or annoyance, or which endanger the comfort, repose, health, or safety of the public or which cause, or are likely to cause, injury or damage to business or property.
- F) **OPEN BURNING:** the ignition of, causing to be ignited, permitting to be ignited or maintenance of a fire outside the confines of a Building.
- G) **OPEN BURNING CERTIFICATE:** a certificate issued by the Open Burning Official in accordance with this Ordinance, Section 22a-174, and the Regulations.
- H) **OPEN BURNING CERTIFICATE APPLICATION:** an application for an Open Burning made on the form furnished by the Open Burning Official, which form shall, at a minimum, name the person responsible for the Open burning, list his or her address, list his or her telephone number, explain the purpose of the Open Burning, explain the type and quantity of materials to be burned and list the address of the property at which the Open Burning shall take place.
- I) **OPEN BURNING OFFICIAL:** such official who has been nominated, certified and serves in accordance with Section 22a-174 and the Regulations.
- J) **OPEN BURNING REGISTRATION:** verbal registration which is made to the Open Burning Official of an Open Burning enumerated in Section 5 of this ordinance twenty-four hours prior to the ignition of such Open Burning.
- K) **REGULATIONS:** those Regulations of Connecticut State Agencies enacted pursuant to Section 22a-174, as amended.
- L) **SECTION 22a-174:** section 22a-174 of the Connecticut General Statutes, as amended.

### **SECTION III: GENERAL PROHIBITION**

No Open Burning shall be allowed except as specifically provided in this ordinance.

### **SECTION IV: OPEN BURNING CERTIFICATE REQUIREMENTS**

- A) The following types of Open Burning shall be allowed only after an Applicant obtains an Open Burning Certificate:
  - 1) the Open Burning of Brush on a residential property. The Applicant must be a resident or an authorized agent of a resident of the property where the Open Burning will occur. The Open Burning Official, in his or her discretion, may require proof of residency or proof that the Applicant is an authorized agent of a resident.
  - 2) fire training exercises.
  - 3) eradication or control of insect infestations or disease.
  - 4) agricultural purposes.
  - 5) clearing vegetative debris following a natural disaster.
  - 6) vegetative management, enhancement of wildlife habitat or ecological sustainability on Town property or on any privately owned property permanently dedicated as open space.
  - 7) Any other type of fire that is described in Section 22a-174 or the Regulations.
- B) The following conditions shall be placed on all Open Burning Certificates:
  - 1) Open Burning must take place between the hours of 10:00 a.m. and 5:00 p.m. No visible embers, flame or smoke may be present after 5:00 p.m.

- 2) Open Burning shall only be permitted on sunny or partly sunny days when the wind speed is five to fifteen miles per hour, except that fire training exercises shall not be subject to his condition.
  - 3) the Open Burning of Brush may only occur on residential property that contains one or two residential units.
  - 4) the Applicant must keep a copy of the Open Burning Certificate in his or her possession at the time of the Open Burning.
  - 5) the Applicant must call the Open Burning Official or such other person listed on the Open Burning Certificate twenty-four hours prior to the ignition of the Open Burning and leave the Applicant's name, telephone number, and the specific time and location of the Open Burning.
  - 6) any other conditions required to be imposed by Section 22a-174 or the Regulations.
- C) The Open Burning Official may issue such further conditions to an Open Burning Certificate either at the time of issuance of the Open Burning Certificate or afterwards, as are necessary to avoid a Nuisance or to protect health, safety, and comfort of the public, relating to the following:
- 1) the materials and quantities to be burned.
  - 2) the hours and days during which Open Burning is allowed.
  - 3) any other conditions allowed under Section 22a-174 or the Regulations.
- D) An Open Burning Certificate is applicable only for the occasion and purpose outlined in such Open Burning Certificate. The Open Burning Certificate may be revoked in writing by the Open Burning Official or the Commissioner for violation of any provision of this Ordinance, Section 22a-174, or the Regulations.

#### **SECTION V: OPEN BURNING REGISTRATION REQUIREMENTS**

The following type of Open Burning shall be allowed only after a person makes an Open Burning Registration: any campfire or bonfire that exceeds four feet in any direction.

#### **SECTION VI: EXCEPTIONS**

The following types of Open Burning shall be allowed without the need for an Open Burning Certificate or Open Burning Registration:

- A) barbecues or other similar outdoor fires, which fires are for the cooking of food for human consumption.
- B) campfires, bonfires, or other types of fires made out of non-processed wood for recreational or ceremonial purposes, provided that the size of the such fires does not exceed four feet in any direction.
- C) fires in "salamanders" or other similar devices used by construction or other workers for heating purposes, which fires are used for street installation, paving activities, repairing of utilities, or other similar work.
- D) fire breaks for the purpose of controlling forest fires, provided fire personnel do them.
- E) controlled fires in salt water marshes to forestall uncontrolled fires, provided fire personnel do them.
- F) any fire specifically exempted from such requirements in Section 22a-174 or the Regulations.

#### **SECTION VII: PERMITS FROM FIRE MARSHAL**

The following types of Open Burning shall be allowed only after a permit from the Fire marshal is obtained in accordance with Section 22a-174 and the Regulations: the Open Burning of Brush in municipal landfills, municipal transfer stations, and municipal recycling centers in the Town.

#### **SECTION VIII: PERMITS FROM COMMISSIONER**

Certain types of Open Burning require the issuance of a permit by the Commissioner; such types are enumerated in the Connecticut General Statutes and the Regulations.

#### **SECTION IX: VIOLATIONS**

Under no circumstances is the following allowed:

- A) The burning of weeds, grass, leaves, processed wood, garbage, paper, metals, plastics, rubber, painted materials, man-made waste, or demolition waste.
- B) the Open Burning of Brush when national or state ambient air quality standards may be exceeded.
- C) the Open Burning of Brush where a hazardous health condition might be created.

- D) the Open Burning of Brush when the forest fire danger in the area is identified by the Commissioner as extreme, or where woodland and grassland is within one hundred feet of the proposed Open Burning.
- E) the Open Burning of Brush when there is an advisory from the Commissioner of any air pollution episode.
- F) Open Burning within the limits of any public road or public right-of-way.
- G) the Open Burning of Brush on commercial or industrial properties, vacant lots, or on properties that contain multi-family residential units.

**ALL OF THE ABOVE CONSTITUTES A VIOLATION OF THIS ORDINANCE.**

**SECTION X: CONDITIONS**

The following conditions are imposed on all Open Burning:

- A) no Open Burning shall create a Nuisance.
- B) a responsible adult shall tend to the Open Burning at all times.
- C) suitable fire extinguishing equipment must be in close proximity and available at the time of the Open Burning.
- D) the Open Burning must be a minimum of twenty-five feet from any property line and twenty-five feet from any Building, except that barbecues or other similar outdoor fires shall not be subject to this condition.
- E) no Open Burning shall be allowed to burn out of control so as to require the response of fire personnel and/or apparatus; the Fire Chief or Fire Marshal shall make the determination whether a fire has been allowed to burn out of control.

**SECTION XI: EXTINGUISHING OF FIRES**

The Fire Marshal, the Fire Chief or any officer of the Fire Department, the Director of Health or his or her designee, or any police officer may require any person who ignites or maintains an Open Burning in violation of the provisions of this ordinance to extinguish such Open Burning. Failure to extinguish such Open Burning shall be a violation under this ordinance.

**SECTION XII: PENALTIES FOR OFFENSES**

Any person who violates any provision of this ordinance shall be subject to the following penalties and fines:

- A) FINES:
  - 1) First Offense or Violation: \$25.00
  - 2) Second or Subsequent Offense or Violation: \$100.00 for each separate violation and each day of continued violation.
- B) The Open Burning Official may seek enforcement of the provisions of this ordinance by injunction, and, in such an event, the violator shall pay the Town's reasonable attorney's fees.
- C) Any and all remedies which the Town has in enforcing this ordinance, at law or in equity, shall be cumulative and two or more of all such remedies may be exercised at the same time.

**SECTION XIII: VALIDITY:**

If any part of this ordinance is determined to be invalid, such determination shall affect the validity of any other part and the remainder of the ordinance shall remain in full force and effect.

*THIS ORDINANCE SHALL BE EFFECTIVE UPON PASSAGE AND AFTER NOTICE AS PROVIDED BY LAW.*

*ADOPTED BY VOTE OF TOWN MEETING LEGALLY WARNED AND HELD ON SEPTEMBER 6<sup>TH</sup>, 2001.*

*PUBLISHED DATE: SEPTEMBER 11<sup>TH</sup>, 2001*

*EFFECTIVE DATE: SEPTEMBER 25<sup>TH</sup>, 2001*