

Can a selectboard member issue a fire permit?

No. The town fire warden is responsible for preventing forest fires in a town. In furtherance of this responsibility, the fire warden is charged with issuing permits for open burning. 10 V.S.A. § 2645(a).

As a general matter, it is unlawful to start an open fire for the purpose of burning brush, weeds, grass, or rubbish without the permission of the fire warden. The fire warden may give verbal permission to start such a fire, but must issue a written permit within 12 hours. Permission is not required for burning in a location more than 200 feet from any woodland, timberland, or field containing dry grass or other inflammable material contiguous to the woodland. 10 V.S.A. § 2645(a). The commissioner of the Vermont Department of Forests, Parks, and Recreation may notify the fire warden that no burning permits are to be issued for a specific period of time. 10 V.S.A. § 2645(a).

While the town fire warden's salary is determined by the selectboard, the commissioner of the Vermont Department of Forests, Parks, and Recreation, with selectboard's approval, appoints the warden. 10 V.S.A. §§ 2642, 2641(a). Because the commissioner appoints the fire warden, there would appear to be no statutory authority for a selectboard member to issue a fire permit. As a practical matter, if there is a vacancy in the town fire warden office, the selectboard should promptly contact the Department of

Forests, Parks, and Recreation to arrange for a new appointment. To facilitate the issuance of permits, the Department will usually issue a temporary appointment to a selectboard member while a new fire warden is sought.

- Jim Barlow, Attorney, VLCT Municipal Assistance Center

(Editor's Note: For more information about what types of materials are permitted in an open burn, visit the Vermont Department of Environmental Conservation's Air Quality Division at <http://www.anr.state.vt.us/air/htm/OpenBurnForumPresentations.htm>. You may also request a model local open burning ordinance from VLCT MAC.)

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