

**Town of Perry
Dane County, Wisconsin**

Outdoor and Refuse Burning Ordinance

Section 1: Purpose.

1.00 Purpose. This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Town of Perry due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

Section 2: Applicability.

2.00 Applicability. This ordinance applies to all outdoor burning and refuse burning within the Town of Perry.

2.1. This ordinance does not apply to campfires, grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.

2.2. This ordinance does not apply to burning in a properly installed stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined in Section 4 of this ordinance.

2.3. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

Section 3: Severability.

3.00 Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Section 4: Definitions.

4.00 Definitions.

4.1 "Biomass fuel" means an energy source derived from organic materials from plants such as corn, soybeans and clean wood.

4.2. "Campfire" means a small outdoor fire intended for recreation or cooking, not including a fire intended for disposal of waste wood or refuse.

4.3. "Clean Wood" means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

4.4. "Confidential papers" means printed material containing personal identification or financial information that the owner thereof wishes to destroy.

4.5. "Fire Chief" means the Chief of the Fire District of Mt. Horeb, New Glarus or Blanchardville or other person authorized by the Fire Chief.

4.6. "Open Burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

4.7. "Outdoor Burning" means open burning or burning in an outdoor wood-fired or biomass-fueled furnace.

4.8. "Outdoor Wood-fired or biomass-fueled Furnace" means a wood-fired or biomass-fueled furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

4.9. "Refuse" means any waste material except clean wood.

Section 5: General Prohibition on open burning, outdoor burning and refuse burning.

5.00 General prohibition on outdoor burning and refuse burning. Open burning, outdoor burning and refuse burning are prohibited in the Town of Perry unless the burning is specifically permitted by this ordinance.

Section 6: Materials that may not be burned.

6.00 Materials that may not be burned.

6.1. Unless a specific written approval has been obtained from the Department of Natural Resources, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device. The Town of Perry will not issue a permit for burning any of the following materials without adequate air pollution control devices and a written copy of an approval by the Department of Natural Resources.

6.1(a). Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.

6.1(b). Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code.

6.1(c). Asphalt and products containing asphalt.

6.1(d). Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

6.1(e). Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

6.1(f). Rubber including tires and synthetic rubber-like products.

6.1(g). Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance except as provided in Section 9 of this ordinance.

Section 7: Open burning of leaves, brush, clean wood, and other vegetative debris.

7.00 Burning leaves, brush, clean wood and other vegetative debris. Open burning of leaves, weeds, brush, stumps, clean wood other vegetative debris is allowed only in accordance with the following provisions:

7.1. All allowed open burning shall be conducted in a safe, nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and not create

a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.

7.2. Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Fire Chief or the Wisconsin Department of Natural Resources has issued a burning ban applicable to the area.

7.3. Open burning shall be conducted only on the property on which the materials were generated or at a facility approved by and in accordance with provisions established by the Department of Natural Resources and the Fire Chief.

7.4. Open burning of weeds or brush or grasses on rural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.

7.5. Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed.

7.6. Open burning under this section shall only be conducted at a location at least fifty (50) feet from the nearest building which is not on the same property.

7.7. Open burning shall be constantly attended and supervised until the fire is completely extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

7.9. No open burning may be conducted on days when the Department of Natural Resources has declared an ozone action day applicable to the Town of Perry.

Section 8: Outdoor wood-fired or biomass-fueled furnaces.

8.00 Outdoor wood-fired or biomass-fueled furnaces.

An outdoor wood-fired or biomass-fueled furnace may be installed and used in the Town of Perry only in accordance with the following provisions:

8.1. The outdoor wood-fired or biomass-fueled furnace shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance.

8.2. The outdoor wood-fired or biomass-fueled furnace shall be located at least three hundred (300) feet from the nearest building which is not on the same property as the outdoor wood-fired or biomass-fueled furnace.

8.3 The outdoor wood-fired or biomass-fueled furnace shall have a chimney that extends at least fifteen (15) feet, or the highest limit recommended by the manufacturer, above the ground surface. If there are any residences within five hundred (500) feet of the furnace, the chimney shall also extend at least as high above the ground surface as the height of the highest roof of all such residences. The Fire Chief may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

8.4. The owner of the outdoor wood-fired or biomass-fueled furnace shall obtain a building permit from the Town Board in accordance with Section 12

8.5 By enacting this Ordinance, the Town of Perry intends to remediate and control the effects of all Outdoor and Refuse Burning occurring within the Town starting on the day after its enactment. To accomplish that end, the Town of Perry intends this ordinance to have retroactive effect to the extent reasonably needed to accomplish its intended purposes, including the modification or replacement of all existing outdoor wood-fired or biomass-fueled furnaces located in the Town as needed to bring them into full compliance with the Ordinance's requirements.

8.6 – Variance – The Town Board shall have the following power: to authorize upon appeal in specific cases such variance from the terms of the Ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

Section 9: Exemption for burning certain papers.

9.00 Exemption for burning certain papers.

9.1. Notwithstanding Subsection 6.8 of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance

9.2. Small quantities of confidential papers from a residence may be burned if necessary to prevent the theft of financial records, identification or other confidential information.

9.3. Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.

9.4. A fire set for burning of a small quantity of confidential papers shall be subject to and comply with Section 7 of this ordinance.

Section 10: Liability.

10.00 Liability. A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

Section 11: Right of entry and inspection.

11.00 Right of entry and inspection. The Fire Chief or any authorized officer, agent, employee or representative of the Town of Perry who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. Note: If the owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with sections 66.122 and 66.123, Wis. Stats.

Section 12: Enforcement and penalties.

12.00 Enforcement and penalties.

12.1. The Fire Chief and/or Town Board are authorized to enforce the provisions of this ordinance.

12.2. The penalty for violation of any portion of this ordinance shall be a forfeiture of \$100.00 plus current court costs. Penalties are doubled for second and subsequent offenses.

Section 13: Disclaimer.

13.00 The Town of Perry does not, by issuing a permit, warranty or make assurance of any kind whatsoever, specifically as to whether the subject of the permit is safe, suitable for its intended purpose, merchantable, or in compliance with any applicable codes or regulations.

Section 14: Effective Date.

This Ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

(1) Town Board Approval. This Ordinance was adopted by the Town Board on this 14th day of April, 2008.

Adopted this 14th day of April, 2008.

Chairman

Supervisor

Supervisor

Attest: _____
Mary L. Price, Town Clerk

Published:

Posted: