

## CHAPTER XX

Open and Outdoor Burning Ordinance for the Town of Brighton, Kenosha County, Wisconsin.

Ordinance No. 2015-01

### SECTION 1: PURPOSE

1.00 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 Brighton due to the air pollution and fire hazards of open and/or outdoor burning.

### SECTION 2: APPLICABILITY

2.00 This ordinance applies to all open and outdoor burning within the Town of Brighton except at Richard Bong State Recreation Area.

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

2.02 This ordinance does not apply to campfires as defined herein.

2.03 This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device used to heat a building for human or animal habitation unless the material being burned includes refuse as defined in Sections 4 and 6 of this ordinance.

2.04 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 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

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

4.02 "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.

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

4.04 "Fire Chief" means the Chief of the Chief of the Town of Salem Fire and Rescue Department or Kansasville Fire and Rescue Department or other person authorized by the Fire Chief(s).

4.05 "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.

4.06 "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.

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

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

## SECTION 5: MATERIALS THAT MAY BE BURNED

5.00 Certain Materials may be burned.

5.01 Unless otherwise restricted by the Department of Natural Resources or this Ordinance the following materials may be burned:

- (a) Burning of brush or weeds on agricultural lands.
- (b) Fires set for practice and instruction of fire fighters, or testing of fire fighting equipment.
- (c) Backfires to control forest fires or fires set for forest or wildlife habitat management with approval where no reasonable alternative is available.
- (d) Burning of small amounts of dry combustible rubbish (not to include wet combustible rubbish, garbage, oily substances, asphalt, plastic or rubber products).
- (e) Outdoor fires for cooking, ceremonies or recreation as regulated by this ordinance.
- (f) Burning of trees, wood, brush or demolition materials, excluding asphaltic or rubber material, using methods approved by the department of natural resources.
- (g) Small open flames for welding, acetylene torches, safety flares, heating tar or similar applications.
- (h) Burning of small amounts of dry leaves and dry plant clippings except where such burning creates a nuisance.

## SECTION 6: MATERIALS THAT MAY NOT BE BURNED

6.00 Certain Materials that may not be burned. (*Note: State administrative rules prohibit indoor or outdoor burning of the materials listed in subsections 6.01 of this ordinance, with certain limited exceptions that require air pollution controls and a written approval from the Department of Natural Resources. The Town of Brighton does not have the discretion to allow burning of materials prohibited by state law.*)<sup>1</sup>

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<sup>1</sup> Wisconsin Administrative Code NR 429.04 Register, October, 1999, No. 526 provides:

Open burning. (1) PROHIBITION AND EXCEPTIONS.

Open burning is prohibited with the following exceptions:

- (a) Burning of brush or weeds on agricultural lands.
- (b) Fires set for practice and instruction of fire fighters, or testing of fire fighting equipment.
- (c) Backfires to control forest fires or fires set for forest or wildlife habitat management with approval of the department where no reasonable alternative is available.
- (d) Burning of explosive or dangerous material for which there is no other safe means of disposal.
- (e) Burning of small amounts of dry combustible rubbish (not to include wet combustible rubbish, garbage, oily substances, asphalt, plastic or rubber products) except where prohibited by local ordinance.

6.01 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:

- 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, business commercial wastes;
- 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;
- c) Asphalt and products containing asphalt;
- 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;
- e) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers;
- f) Rubber including tires and synthetic rubber-like products; and/or
- 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 11 of this ordinance.

6.02 This ordinance prohibits the burning of hay, straw, manure, animal waste, wet leaves and wet plant clippings.

6.03 Burning of refuse is prohibited in the Town of Brighton unless specifically permitted by this ordinance.

## SECTION 7: OPEN BURNING

7.01 All allowed open burning shall be conducted in a safe and 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.

7.02 Open burning shall be conducted in conformance with all local and state fire protection regulations.

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(f) Burning at rural or isolated solid waste disposal sites outside of the Southeastern Wisconsin Intrastate AQCR which have been approved under s. [NR 506.04](#), or burning of special waste where permits are obtained from the department.

(g) Outdoor fires for cooking, ceremonies or recreation.

(h) Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-ways outside of the Southeastern Wisconsin Intrastate AQCR.

(i) Burning of trees, wood, brush or demolition materials, excluding asphaltic or rubber material, using methods approved by the department.

(j) Small open flames for welding, acetylene torches, safety flares, heating tar or similar applications.

(k) Burning of gaseous or liquid waste in a manner approved by the department.

(L) Burning of small amounts of dry leaves and dry plant clippings except where prohibited by local ordinance.

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

7.04 Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a barrel, fire ring, or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established herein.

7.05 Open burning under this section shall only be conducted at a location at least 250 feet from the nearest building that is not on the same property.

7.06 Except for campfires and permitted bonfires, open burning shall only be conducted during daylight hours.

7.07 Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The person supervising the burn shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

7.08 No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or body of water.

7.09 Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 25 feet of a structure.

7.10 No open burning may be conducted on days when the Department of Natural Resources has declared an Air Quality Watch or Air Quality Advisory for ozone or fine particle pollution applicable to the Town of Brighton.

#### SECTION 8: FIRE DEPARTMENT PRACTICE BURNS

8.00 Notwithstanding other provisions of this ordinance, the Salem and/or Kansasville Fire Department(s) may burn a standing building if necessary for fire fighting practice and if the practice burn complies with the requirements of the Department of Natural Resources.

8.01 Except as provided in this section for fire department practice burns, an existing unwanted building, whether standing or not standing, in the Town of Brighton may not be burned.

8.02 All ash shall be disposed of in an approved landfill or at an alternative location approved by the Department of Natural Resources.

8.03 At least forty-eight (48) hour before a planned practice burn the Property Owner, Fire Chief or designee shall notify residents within 1000 of the site of the proposed burn.

#### SECTION 9: EXEMPTION FOR BURNING CERTAIN PAPERS

9.01 Notwithstanding Section 6.01(g) of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance.

9.02 Notwithstanding Section 6.01(g) of this ordinance, 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.

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

**SECTION 10: NOTIFICATION OF OUTDOOR OR OPEN BURNING**

10.00 Except as otherwise provided herein, residents who wish to conduct outdoor or open burning regulated by this ordinance must notify the Town Clerk during normal business hours, in advance of the burn so that Kenosha County Fire Dispatch Center can be alerted to avoid unnecessary dispatch of emergency services. In the event of exigent circumstances, such notice can be provided to the Town Chair.

10.01 Before engaging in outdoor or open burning residents must obtain confirmation that the Kenosha County Fire Dispatch Center has been alerted to avoid unnecessary dispatch of emergency services.

10.02 An outdoor campfire does not require advance notice provided that the fire complies with all other applicable provisions of this ordinance.

10.02 When weather conditions warrant, the Town Board, Fire Chief or the Department of Natural Resources may declare a burning moratorium on all open burning and temporarily suspend open burning.

10.03 Failure to comply with the conditions of this ordinance shall be deemed a violation of this ordinance. Any violation of this ordinance shall subject the violator to the enforcement and penalties described herein.

**SECTION 11: LIABILITY**

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

**SECTION 12: RIGHT OF ENTRY AND INSPECTION**

12.00 Right of entry and inspection. The Fire Chief or any authorized representative of the Town of Brighton 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 13: ENFORCEMENT AND PENALTIES**

13.00 Enforcement and penalties.

13.01. The Town of Brighton Board is authorized to enforce the provisions of this ordinance.

13.02. The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than \$25.00 or more than \$250.00 plus the cost of prosecution. Penalties are doubled for second and subsequent offenses.

**SECTION 14: MODEL FOR ORDINANCE**

14.01 This ordinance is modeled on the September, 2004 Wisconsin Department of Natural Resources MODEL ORDINANCE FOR OUTDOOR BURNING, OPEN BURNING AND BURNING OF REFUSE A GUIDE FOR WISCONSIN COUNTIES, CITIES, VILLAGES AND TOWNS available on line at <http://dnr.wi.gov/files/pdf/pubs/am/am356.pdf>.

Following passage by the Town Board, this ordinance shall take effect the day after the date of publication or posting as provided by sec.60.80, Wis. Stats. Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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John Kiel, Town Board Chairperson

Published and Posted] this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Attest: \_\_\_\_\_

Linda Perona, Town Clerk