

**Open Burning and Refuse Burning Ordinance for the Town of Medary
La Crosse County Wisconsin**

ORDINANCE # 2.02

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 Medary, La Crosse County, Wisconsin due to the air pollution and fire hazards of open burning, and refuse burning.

SECTION 2: APPLICABILITY

2.00 Applicability. This ordinance applies to all open burning and refuse burning within the Town of Medary.

2.1. This ordinance does not apply to 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 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. "Campfire" means a small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.

4.2. "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 "Fire Chief" means the Chief of any Fire Departments that the Town of Medary has a fire protection service contract with.

4.5. "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 from an enclosed chimney.

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

SECTION 5: GENERAL PROHIBITION ON OPEN BURNING AND REFUSE BURNING

5.00 General prohibition on open burning and refuse burning. Open burning, and refuse burning are prohibited in the Town of Medary 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.

6.10 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 Medary will not issue a permit for burning any of the following materials without air pollution control devices and a written copy of an approval by the Department of Natural Resources.

- 6.11. 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.
- 6.12. 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.
- 6.13. Asphalt and products containing asphalt.
- 6.14. 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.
- 6.15. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, films and containers.
- 6.16. Rubber including tires and synthetic rubber-like products.
- 6.17. Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled or disposed of as refuse in accordance with Ordinance 7.04 Health Safety and Welfare of Residents Relative to Handling and Disposal of Solid Waste and Recyclable Materials, except as provided in Section 11 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. Unless explicitly allowed elsewhere in this ordinance, a commercial enterprise other than an agricultural or silvicultural operation may open burn only at a facility approved by and in accordance with provisions established by the Department of Natural Resources and the Fire Chief.
- 7.5. Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.
- 7.6. Fires set for forest or wildlife habitat management are allowed with the approval of the Department of Natural Resources.
- 7.7. 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.
- 7.8. No person shall maintain a campfire or small bonfire for more than six continuous hours per day.
- 7.8. Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the Fire Chief and in accordance with other provisions of this ordinance.
- 7.9. Burning in emergency situations such as natural disasters is allowed if approved by the Department of Natural Resources.
- 7.10. Open burning under this Section shall be conducted only following issuance of and in accordance with a permit issued under Section 10 of this ordinance.
- 7.11. Except for campfires, open burning under this section shall only be conducted at a location at least 100 feet from the nearest building that is not on the same property.

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

7.13. 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 shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

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

7.15. Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 25 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.

SECTION 8: FIRE DEPARTMENT PRACTICE BURNS

8.0 Fire department practice burns. Notwithstanding sections 5 and 6 of this ordinance, a Fire Department may burn a standing building for fire fighting practice if the practice burn complies with the requirements of the Department of Natural Resources and the Town Board approves of the practice burn.

SECTION 9: EXEMPTION FOR BURNING CERTAIN PAPERS

9.00 Exemption for burning certain papers.

9.1. Notwithstanding Subsection 6.17 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 Subsections 7.1-7.3, 7.6, and 7.11-7.15 of this ordinance.

SECTION 10: BURNING PERMITS

10.00 Burning Permits.

10.1. No person shall start or maintain any open burning without a burning permit issued by the Town of Medary

10.2. An outdoor campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.

10.3. Any person responsible for burning leaves, brush, clean wood or other vegetative debris under Section 7 of this ordinance shall obtain a one-time burning permit before starting the fire. There is no fee for a one-time burning permit.

10.5. When weather conditions warrant, the Fire Chief or the Department of Natural Resources may declare a burning moratorium on all open burning and temporarily suspend previously issued burning permits for open burning.

10.6. A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.

10.7. Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

SECTION 11: LIABILITY

11.00 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 12: RIGHT OF ENTRY AND INSPECTION

12.00 Right of entry and inspection. The Fire Chief or any authorized officer, agent, employee or representative of the Town of Medary 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.

13.1. The Fire Chief and the Town Chairman are authorized to enforce the provisions of this ordinance.

13.2. The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than twenty-five dollars (\$25) or more than two hundred fifty dollars (\$250) plus the cost of prosecution. Penalties are doubled for second and subsequent offenses.

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 _____, 2011.

Linda Seidel, Town Board Chairperson

[Published / Posted] this _____ day of _____, 2011.

Attest:

Terry Houlihan, Town Clerk