

ORDINANCE # 2008-10-27
TOWN OF ONALASKA
OUTDOOR BURNING, OPEN BURNING AND
REFUSE BURNING ORDINANCE

AN ORDINANCE REGULATING OUTDOOR BURNING, OPENING BURNING AND THE BURNING OF REFUSE WITHIN THE TOWN OF ONALASKA, LA CROSSE COUNTY, WISCONSIN.

SECTION 1.0 INTRODUCTION

1.01 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 Onalaska, in La Crosse County, Wisconsin due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

1.02 Applicability

This ordinance applies to all open burning, outdoor burning and refuse burning within the Town of Onalaska located in the Holmen Area Fire District. This ordinance does not apply to:

- (A) Grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances;
- (B) 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 1.05 of this ordinance; and/or
- (C) The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

1.03 Greater Restrictions & Liability

Nothing herein shall limit the responsibility or liability of a person for burning in any forest, marsh or field area as defined, regulated or prohibited by Chapter 26, Wisconsin Statutes, nor serve to affect the liability of persons permitting the fire to escape from their control as further provided in section 26.14(9)(b), Wisconsin Statutes.

1.04 Authority

This ordinance is enacted pursuant to Sections 60.23 (1), 60.55(1)(2) and 60.555, Wisconsin Statutes.

1.05 Definitions

- (A) Campfire: A small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.
- (B) Clean Wood: 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.
- (C) Combustible material: A substance that can be consumed to produce energy, material can be solid (such as wood, paper, etc.) or liquid (flashpoint at or above 100 degrees F).
- (C) Confidential Papers: Printed material containing personal identification or financial information that the owner wishes to destroy.
- (D) Fire Chief: The Fire Chief of the Holmen Area Fire Department or other person(s) authorized by the Fire Chief.
- (E) Outdoor Burning: Open burning or burning in an outdoor wood-fired furnace.
- (F) Open burning: 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.
- (G) Outdoor Wood-fired Furnace: A wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.
- (H) Refuse: Any waste material except clean wood.

SECTION 2.0 GENERAL PROHIBITIONS

2.01 Prohibited Open Burning, Outdoor Burning & Refuse

Except as specifically permitted by this Ordinance, open burning, outdoor burning and refuse burning is prohibited within the Town of Onalaska located in the Holmen Area Fire District.

- (A) **Specific Materials That May Not Be Burned:**
 - (1) 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 waste
 - (2) Waste oil or other oily wastes except used oil burned in heating devices for energy recovery subject to the restrictions in Chapter NR 490, Wisconsin Administrative Code.
 - (3) Asphalt and products containing asphalt.
 - (4) 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.
 - (5) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, films and containers.
 - (6) Rubber including tires and synthetic rubber-like products.

- (7) Newspaper, corrugated cardboard, container board and office paper. Such material shall be recycled in accordance with the recycling ordinance(s) except as provided in Section 1.02 of this Ordinance.
- (8) Leaves, grass, grass clippings, plants, plant clippings, weeds, garden debris, yard waste and alike. Such material shall be taken to the designated Town compost site for disposal.
- (9) Brush, branches, small diameter trees, Christmas trees and alike. Such material shall be disposed of using the Town chipping policy on the dates and times designated by the Town Board.
- (B) Metal or Non-Combustible Receptacle Use Prohibited
 - (1) The use or maintenance of any metal or noncombustible receptacle is prohibited.
 - (2) Such prohibition includes but is not limited to: burn barrels, incinerators, rings, tubs and alike.

SECTION 3.0 EXEMPTIONS

3.01 Outdoor Wood-Fired Furnaces

An outdoor wood-fired furnace is permitted within the Town of Onalaska only in accordance with the following provisions:

- (A) It shall not be used to burn any of the prohibited materials listed in Section 2.0 of this Ordinance
- (B) The installation and location follow the regulations and provisions of Chapter 11 of the La Crosse County Code of Ordinances (Public Health & Human Services Section 11.54).

3.02 Fire Department Practice Burns

The Holmen Area Fire Department 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.

3.03 Other Exemptions

- (A) Burning Certain Papers
 - (1) Small amounts of paper and cardboard products may be used as a starter fuel for a campfire that is allowed under this Ordinance.
 - (2) Small quantities of confidential papers from a resident may be burned in a campfire if necessary to prevent the theft of financial records, identification or other confidential information.
 - (3) Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.
- (B) Brush Clearing: For purposes of spring clearing along fence-lines, pasture land, and the like on agricultural land or clearing brush for commercial and residential

developments, open burning shall be allowed under the direction and discretion of the Fire Chief.

- (C) Approved facility: 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 Fire Chief or the Department of Natural Resources.
- (D) Forest or Wildlife Management: Fires set for forest or wildlife habitat management may be permitted with the approval of the Fire Chief.
- (E) Outdoor Campfires: Campfires, small bonfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a fire ring, or fire pit not to exceed three (3) feet in diameter and is at least 20 feet from any combustible materials, combustible walls or partitions, exterior window openings, exit access or exit. Fire rings/pits constructed prior to 12/31/08 may exceed these requirements unless the Fire Chief deems them an undue hazard.
- (F) Bonfires: Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief.
- (G) Right-of-Way Maintenance: 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 if in accordance with other provisions of this Ordinance.
- (H) Emergency Situations: Burning in emergency situations such as natural disasters is allowed if approved by the Fire Chief and the Department of Natural Resources.

3.04 Burning Permits

All permits shall be issued by the Fire Chief of the Holmen Area Fire Department or other person(s) authorized by the Fire Chief to issue a burning permit. Each permittee shall adhere to the following:

- (A) Open burning shall be conducted only following issuance of and in accordance with a permit issued and shall require compliance with all application provisions of this Ordinance and any additional special restrictions deemed necessary to protect public health and safety.
- (B) All permitted 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.
- (C) Permitted open burning shall be conducted in conformance with all local and state fire protection regulations.
- (D) When weather conditions warrant, the Fire Chief or the Department of Natural Resources may declare a burning moratorium on all open burning, campfires and temporarily suspend previously issued burning permits for open burning.
- (E) Open burning, when permitted, 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 Fire Chief or the Department of Natural Resources.

- (F) Except for campfires and permitted bonfires, open burning shall be conducted during daylight hours only and the times of which shall be determined by the Fire Chief or authorized personnel.
- (G) 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 a total control of the fire.
- (H) No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or water body.
- (I) Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 100 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.
- (J) Any violation of the conditions of a burning permit shall be deemed a violation of this Ordinance and shall void the permit.
- (K) All burn permits issued shall be readily available for inspection at all times.

SECTION 4.0 LIABILITY

A person utilizing or maintaining any open burning, outdoor burning, refuse burning or campfires shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire, even if the burning was done in accordance with this ordinance and/or with a burning permit.

SECTION 5.0 RIGHT OF ENTRY AND INSPECTION

The Fire Chief or any authorized officer, agent, employee or representative of the Holmen Area Fire Department who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. 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, Wisconsin Statutes.

SECTION 6.0 ENFORCEMENT & PENALTIES

6.01 Enforcement

The Fire Chief or any authorized officer, agent, employee, or representative of the Holmen Area Fire Department are authorized to enforce the provisions of this ordinance.

6.02 Penalties

- (A) Any person(s) violating any provision of this ordinance shall, upon conviction thereof forfeit not less than \$50.00 dollars nor more than \$500.00 dollars for the first offense and not less than \$100.00 dollars nor more than \$1,000.00 dollars for the second and subsequent offenses within a period of one year and in the event of default in such payment shall be imprisoned not more than two (2) days for the

first offense and not more than ten (10) days for the second offense and subsequent offenses within one (1) year, such imprisonment to be in the La Crosse County Jail.

- (B) Each day of violation of this ordinance shall be deemed a separate violation and be prosecuted as such.
- (C) Any person(s) violating any provision of this ordinance shall also be responsible for the cost associated with fire suppression for prohibited burning. Cost(s) shall be determined by the Holmen Area Fire Department Fire Chief. A statement shall be submitted for payment to the municipality in which the violation occurred. If said statement is not paid in full within thirty (30) days thereafter, the statement charge shall be entered in the tax roll of the property owner as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate.

SECTION 7.0 SEVERABILITY & CONFLICT

7.01 Severability

This Ordinance and its individual provisions are declared to be severable. If any section, clause, provision, or portion of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, this decision shall not affect the validity of the Ordinance as a whole. All parts of the Ordinance not declared invalid or unconstitutional shall remain in full force and effect.

7.02 Conflict.

If any part of this Ordinance is found to be in conflict with any other Ordinance or with any other part of this Ordinance, the most restrictive or highest standard shall prevail. If any part of this Ordinance is explicitly prohibited by federal or state statute that part shall not be enforced.

SECTION 8.0 EFFECTIVE DATE

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 by the Onalaska Town Board of the Township of Onalaska, La Crosse County, Wisconsin, this 27th day of October, 2008.

Signed by Stan Hauser, Town Chairman

Attest: by Sue Schultz, Town Clerk