

Chapter 20 FIRE PREVENTION AND PROTECTION

ARTICLE I. - IN GENERAL

ARTICLE II. - FIRE CODE

ARTICLE III. - OUTDOOR BURNING

ARTICLE IV. - FIREWORKS

State Law reference— Village powers, Wis. Stats. § 60.22(3); Regulation of building generally, Wis. Stats. § 101.01 et seq.; mutual assistance, Wis. Stats. § 66.0314; fire inspections, prevention, detection and suppression, Wis. Stats. § 101.14; regulation of fireworks, Wis. Stats. § 167.10.

ARTICLE I. IN GENERAL

Sec. 20-1. Fire department.

Secs. 20-2—20-18. Reserved.

Sec. 20-1. Fire department.

The town is serviced for fire protection as determined by the Town Board. When the term "fire department" is used herein, it shall be deemed to apply to any and all fire departments servicing the town, as appropriate.

Secs. 20-2—20-18. Reserved.

ARTICLE II. FIRE CODE

Sec. 20-19. Fire prevention codes adopted.

Secs. 20-20—20-41. Reserved.

Sec. 20-19. Fire prevention codes adopted.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion arising from the storage, handling and use of hazardous substances, materials, and devices and from conditions hazardous to life and property in the use or occupancy of buildings or premises, and the safeguarding of firefighting personnel as it relates to job requirements, duties, medical and physical conditions, the following orders, rules, and regulations of the Wisconsin Administrative Code, as amended from time to time, are incorporated in this section by reference and adopted as part of this section as if fully set forth herein:

Wis. Admin. Code ch. SPS 307 Explosives and Fireworks.

Wis. Admin. Code ch. ATCP 93 Flammable, Combustible and Hazardous Liquids.

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Wis. Admin. Code ch. SPS 314 Fire Prevention.

Wis. Admin. Code ch. SPS 330 Fire Department Safety and Health Standards.

Whenever the provisions of the codes or statutes set forth herein conflict, the stricter interpretation shall apply.

Secs. 20-20—20-41. Reserved.

ARTICLE III. OUTDOOR BURNING

Sec. 20-42. Purpose and intent; authority.

Sec. 20-43. Applicability; exemptions.

Sec. 20-44. Greater restrictions and liabilities.

Sec. 20-45. Definitions.

Sec. 20-46. Burning of certain specific materials prohibited.

Sec. 20-47. Use of metal or noncombustible receptacle prohibited.

Sec. 20-48. Outdoor wood-fired furnace use restricted.

Sec. 20-49. Burning of certain paper restricted.

Sec. 20-50. Brush clearing fires restricted.

Sec. 20-51. Commercial enterprise burning restricted to approved facility.

Sec. 20-52. Forest or wildlife management fires permitted.

Sec. 20-53. Outdoor campfires restricted.

Sec. 20-54. Bonfires restricted.

Sec. 20-55. Fires for clearing of maintaining rights-of-way restricted.

Sec. 20-56. Emergency response burning permitted.

Sec. 20-57. Fire department practice burns permitted.

Sec. 20-58. Burning permits; conditions.

Sec. 20-59. Liability.

Sec. 20-60. Right of entry; inspection.

Sec. 20-61. Enforcement and penalties.

Secs. 20-62—20-82. Reserved.

Sec. 20-42. Purpose and intent; authority.

This article is enacted pursuant to Wis. Stats. §§ 60.22(3), 60.55(1), (2), and 60.555, and is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety, and welfare of the town citizens due to the air pollution and fire hazards of open burning, outdoor burning, and refuse burning.

(Ord. No. 2008-10-27, §§ 1.01, 1.04, 10-27-2008)

Sec. 20-43. Applicability; exemptions.

This article applies to all open burning, outdoor burning and refuse burning within the town. This article does not apply to:

- (1) Grilling or cooking using charcoal, wood, propane, or natural gas in cooking or grilling appliances;
- (2) 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 herein; or
- (3) The use of propane, acetylene, natural gas, gasoline, or kerosene in a device intended for heating, construction or maintenance activities.

(Ord. No. 2008-10-27, § 1.02, 10-27-2008)

Sec. 20-44. Greater restrictions and liabilities.

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 Wis. Stats. § 26.01 et seq., nor serve to affect the liability of persons permitting the fire to escape from their control, as further provided in Wis. Stats. § 26.14.

(Ord. No. 2008-10-27, § 1.03, 10-27-2008)

Sec. 20-45. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

“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.

“Combustible material” means 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 Fahrenheit).

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

“Fire chief” means the fire chief servicing the Town of Onalaska or other persons as authorized by their respective fire chief.

“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.

“Outdoor burning” means open burning or burning in an outdoor wood-fired furnace.

“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.

“Refuse” means any waste material, except clean wood.

(Ord. No. 2008-10-27, § 1.05, 10-27-2008)

Sec. 20-46. Burning of certain specific materials prohibited.

The following materials may not under any circumstances be burned in the town:

- (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 wastes.
- (2) Waste oil or other oily wastes except used oil burned in heating devices for energy recovery subject to the restrictions in state law.
- (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 provisions except as provided in section 20-43.
- (8) Leaves, grass, grass clippings, plants, plant clippings, weeds, garden debris, yard waste, and the like. Such material shall be taken to the designated town compost site for disposal.
- (9) Brush, branches, small diameter trees, Christmas trees, and the like. Such material shall be disposed of using the town chipping policy on the dates and times designated by the town board.

(Ord. No. 2008-10-27, § 2.01(A), 10-27-2008)

Sec. 20-47. Use of metal or noncombustible receptacle prohibited.

The use or maintenance of any metal or noncombustible receptacle is prohibited. This prohibition includes, but is not limited to, burn barrels, incinerators, rings, tubs, and the like, but does not include things used only pursuant to Sec. 20-53.

(Ord. No. 2008-10-27, § 2.01(B), 10-27-2008)

Sec. 20-48. Outdoor wood-fired furnace use restricted.

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

- (1) It shall not be used to burn any of the prohibited materials listed in this article.
- (2) The installation and location follow the regulations and provisions of chapter 11 of the La Crosse County Code of Articles, Public Health and Human Services, section 11.52.

(Ord. No. 2008-10-27, § 3.01, 10-27-2008)

Sec. 20-49. Burning of certain paper restricted.

- (a) Small amounts of paper and cardboard products may be used as a starter fuel for a campfire that is allowed under this article.

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- (b) 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.
- (c) Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.

(Ord. No. 2008-10-27, § 3.03(A), 10-27-2008)

Sec. 20-50. Brush clearing fires restricted.

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.

(Ord. No. 2008-10-27, § 3.03(B), 10-27-2008)

Sec. 20-51. Commercial enterprise burning restricted to 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.

(Ord. No. 2008-10-27, § 3.03(C), 10-27-2008)

Sec. 20-52. Forest or wildlife management fires permitted.

Fires set for forest or wildlife habitat management may be permitted with the approval of the fire chief.

(Ord. No. 2008-10-27, § 3.03(D), 10-27-2008)

Sec. 20-53. Outdoor campfires restricted.

Campfires, small bonfires for cooking, ceremonies or recreation are allowed;

- (1) Between 7:00 AM and 12:00 AM. No person shall maintain a fire for more than four (4) continuous hours per day.
- (2) provided the fire is confined by a control device or structure such as a fire ring, or fire pit not to exceed three feet in diameter and is at least 20 feet from any combustible materials, combustible walls or partitions, exterior window openings, exit access or exit.
- (3) Only clean, dry wood or untreated and unpainted lumber shall be burned. Material for fire shall not include rubbish, garbage, recyclable items, material made of or coated with rubber, plastic, leather or petroleum-based materials, or contain any flammable or combustible liquids. In the event of non-approved materials are being burned, the Fire Department may respond and extinguish the fire.
- (4) All recreational fires, shall at all times be attended by at least one responsible person eighteen (18) years of age or older from the ignition of the fire until the fire is completely extinguished.
- (5) Smoke from any recreational fire shall not create a nuisance for the neighboring property owners. The fire shall be extinguished immediately upon complaint of a neighboring property owner in regard to nuisance smoke.

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- (6) No recreational fire shall be started or allowed to continue burning when the wind direction or wind speed will cause smoke, embers, or other burning materials to be carried by the wind toward other combustible materials. No recreational fires are allowed when wind speed is greater than ten (10) miles per hour.
- (7) The property owner and/or the person who started a recreational fire shall hold the Town of Onalaska and the Fire Department harmless from any and all damages caused by a recreational fire. A person maintaining a recreational fire shall be responsible for all suppression costs and any liability resulting from damage caused by said fire.

(Ord. No. 2023-11-14, § 3.03(E), 11-14-2023)

Sec. 20-54. Bonfires restricted.

Bonfires are allowed only if approved by and in accordance with provisions established by the fire chief.

(Ord. No. 2008-10-27, § 3.03(F), 10-27-2008)

Sec. 20-55. Fires for clearing of maintaining rights-of-way restricted.

The 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 article.

(Ord. No. 2008-10-27, § 3.03(G), 10-27-2008)

Sec. 20-56. Emergency response burning permitted.

Burning in emergency situations such as natural disasters is allowed if approved by the fire chief or as authorized by a declaration of emergency made pursuant to Wis. Stat. ch. 323.

(Ord. No. 2008-10-27, § 3.03(H), 10-27-2008)

Sec. 20-57. Fire department practice burns permitted.

A Fire Department may burn a standing building if necessary for firefighting practice and if the practice burn complies with the requirements of the state department of natural resources.

(Ord. No. 2008-10-27, § 3.02, 10-27-2008)

Sec. 20-58. Burning permits; conditions.

All permits shall be issued by the fire chief of the Fire Department or other persons authorized by the fire chief to issue a burning permit. Each permittee shall adhere to the following:

- (1) 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 article and any additional special restrictions deemed necessary to protect public health and safety.

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- (2) 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.
- (3) Permitted open burning shall be conducted in conformance with all local and state fire protection regulations.
- (4) When weather conditions warrant, the fire chief or the state department of natural resources may declare a burning moratorium on all open burning, campfires and temporarily suspend previously issued burning permits for open burning.
- (5) 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 state department of natural resources.
- (6) 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.
- (7) Open burning shall be constantly attended and supervised by a competent person of at least 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.
- (8) No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream, or water body.
- (9) 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.
- (10) Any violation of the conditions of a burning permit shall be deemed a violation of this article and shall void the permit.
- (11) All burn permits issued shall be readily available for inspection at all times.

(Ord. No. 2008-10-27, § 3.04, 10-27-2008)

Sec. 20-59. 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 article and/or with a burning permit.

(Ord. No. 2008-10-27, § 4.0, 10-27-2008)

Sec. 20-60. Right of entry; inspection.

The fire chief or any authorized officer, agent, employee, or representative of a Fire Department who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this article. 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 Wis. Stats. §§ 66.0119.

(Ord. No. 2008-10-27, § 5.0, 10-27-2008)

Sec. 20-61. Enforcement and penalties.

- (a) The fire chief or any authorized officer, agent, employee, or representative of the fire chief's fire department is authorized to enforce the provisions of this article.
- (b) Any persons violating any provision of this article shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$500.00 for the first offense and not less than \$100.00 nor more than \$1,000.00 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 days for the first offense and not more than ten days for the second offense and subsequent offenses within one year, such imprisonment to be in the county jail.
- (c) Any person violating any provision of this article shall also be responsible for the cost associated with fire suppression for prohibited burning. Costs shall be determined by the Town. A statement shall be submitted for payment. If said statement is not paid in full within 30 days thereafter, the statement charge shall be entered in the tax roll of the property owner as a special charge against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate.

Sec. 20-62. Severability

- (a) 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.

(Ord. No. 2008-10-27, §§ 6.01, 6.02, 10-27-2008)

Secs. 20-63—20-82. Reserved.

ARTICLE IV. FIREWORKS

Sec. 20-83. Defined.

Sec. 20-84. Prohibited.

Sec. 20-85. Injunctions; seizure and destruction; penalties; parental responsibility.

Sec. 20-83. Defined.

The term "fireworks," as used in this article, means anything manufactured, processed or packaged for exploding, emitting sparks, or combustion that does not have another common use, but does not include the following:

- (1) Fuel or a lubricant.
- (2) A firearm cartridge or shotgun shell.
- (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft, or motor vehicle.
- (4) A match, cigarette lighter, stove, furnace, candle, lantern, or space heater.
- (5) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- (6) A toy snake that contains no mercury.

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- (7) A model rocket engine.
- (8) Tobacco and a tobacco product.
- (9) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.
- (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
- (11) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.
- (12) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
- (13) A device that emits smoke with no external flame and does not leave the ground.
- (14) A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
- (15) A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke.
- (16) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a division 1.4 explosive, as defined in 49 CFR 173.50.
- (17) A cone fountain that is classified by the federal department of transportation as a division 1.4 explosive, as defined in 49 CFR 173.50.
- (18) A novelty device that spins or moves on the ground.

(Ord. No. 20, § 1, 8-3-1988)

Sec. 20-84. Prohibited.

No person, group of persons, or entity may sell, possess, buy, or use fireworks within the town; provided, however, that this section shall not apply to the following:

- (1) Possession and use of fireworks by the town or its designees;
- (2) Possession or use of explosives in accordance with rules or general orders of the department of safety and professional services;
- (3) The disposal of hazardous substances in accordance with rules adopted by the department of natural resources;
- (4) The possession or use of explosive or combustible materials in any manufacturing process;
- (5) The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions; and
- (6) A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848, if the possession of the fireworks is authorized under the license or permit.
- (7) Any person issued a permit by the Town Chairperson. Application for a Fireworks Permit shall be accompanied by:
 - (a) Payment of a license fee of \$200 for a 7 month permit (January through July) or \$300 for a 12 month permit (January through December)

(Ord Comm. 10/3/2019)

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(b) Liability insurance policy in the amount of \$500,000 payable to the Town

(Wis. Stats. 167.10(3)(e))

(Ord. No. 20, §§ 2, 3, 8-3-1988)

Sec. 20-85. Injunctions; seizure and destruction; penalties; parental responsibility.

- (a) In addition to other penalties and enforcement procedures allowed under this article, this Code, and state law the town may petition the circuit court for an order enjoining violations.
- (b) Fireworks stored, handled, sold, possessed, or used by a person in violation of this article or a court injunction obtained by the town pursuant to subsection (a) of this section may be seized by the town. Fireworks so seized may be destroyed after conviction for a violation.
- (c) Any person violating this article shall be fined not less than \$50.00 nor more than \$1,000.00, together with the costs of prosecution, including attorneys' fees and costs of any circuit court action for an order enjoining violation of this article.
- (d) A parent or a legal guardian of a minor who consents to the use of fireworks by a minor in violation of this article shall be subject to penalties as set forth herein.

(Ord. No. 20, §§ 4—6, 8-3-1988)

State Law reference— Regulation of fireworks, Wis. Stats. § 167.10 et seq.; powers and duties of town board chairperson with regard to fireworks regulations, Wis. Stats. § 60.24(3)(v).