

**MODEL ORDINANCE
FOR
OUTDOOR BURNING, OPEN BURNING AND BURNING OF REFUSE**

A GUIDE FOR WISCONSIN COUNTIES, CITIES, VILLAGES AND TOWNS



**Wisconsin Department of Natural Resources
Box 7921
Madison, WI 53707
PUB-AM-356-2004
September, 2004**

The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240.

This publication is available in alternative format (large print, Braille, audiotape, etc.) upon request. Please call (608) 266-2111 for more information.



**WISCONSIN MODEL/SAMPLE ORDINANCE FOR
OUTDOOR BURNING, OPEN BURNING AND BURNING OF REFUSE**

TABLE OF CONTENTS

Part I	Introduction	p. 2
Part II	Model Ordinance	p. 3
	Section 1 Purpose	p. 3
	Section 2 Applicability	p. 3
	Section 3 Severability	p. 3
	Section 4 Definitions	p. 3
	Section 5 General prohibition on outdoor burning and refuse burning	p. 4
	Section 6 Materials that may not be burned	p. 4
	Section 7 Burning leaves, brush, clean wood and other vegetative debris	p. 4
	Section 8 Burn barrels	p. 6
	Section 9 Outdoor wood-fired furnaces	p. 7
	Section 10 Fire department practice burns	p. 7
	Section 11 Exemption for burning certain papers	p. 8
	Section 12 Burning Permits	p. 8
	Section 13 Liability	p. 9
	Section 14 Right of entry and inspection	p. 9
	Section 15 Enforcement and penalties	p. 9
Part III	Example Ordinance	p. 11
	(This "Example Ordinance" for a fictitious town in Wisconsin has been included to show municipalities what an end product might look like after selecting from all the various alternatives in the Part II Model Ordinance. This example is not intended to be used directly as a model. Municipalities are urged to consider all the alternatives in the Part II Model Ordinance and to select the alternatives that best meet their needs.)	
Part IV	Reference Materials	
	Burn Barrels: Unhealthy, Unnecessary, Unneighborly and Usually Illegal	p. 16
	Wisconsin Statewide Law on Open Burning: Which Materials Are Legal To Burn?	p. 17

Part I. Introduction

This document contains a model ordinance and related material prepared to assist Wisconsin counties, cities, villages and towns in adopting local regulations related to outdoor burning and burning of refuse. The model is intended to assist these units of government in enacting their own ordinances and is meant to be advisory only. This publication was prepared in cooperation with the Wisconsin Towns Association, the Wisconsin Counties Association, the League of Wisconsin Municipalities, and the American Lung Association of Wisconsin.

Most communities in Wisconsin regulate outdoor burning and/or refuse burning in some fashion for the purpose of preventing wildfires, preventing air pollution problems or both. Municipalities are not required by state law to enact any particular provision of this model ordinance. The various provisions of this model ordinance are suggestions and examples. It is intended that a municipality "pick and choose" from among the various suggested provisions to meet its particular local needs. The only constraint is that a municipality may not enact an ordinance that's less stringent than state law. For example, state law prohibits the open burning of certain materials like plastic, rubber, treated or painted wood and asphalt products. A local municipal ordinance may not provide an exemption from the statewide ban on open burning of these materials. Further explanation is provided in the explanatory notes that accompany specific sections of the model ordinance.

The Model Ordinance (Part II of this publication) contains numerous alternatives for municipalities to consider and detailed explanations of the various provisions and alternatives. As a result, at first glance the Model Ordinance may appear to be overly lengthy and complex. However, as explained in the paragraph above, it's designed for municipalities to "pick and choose" from among the various suggested provisions to craft an ordinance that most meets their needs. An "Example Ordinance" (Part III of this publication) has been included to show municipalities what a shorter end product might look like.

Format of this Document: All **[underlined, bracketed bold]** sections require filling in a name, address, governmental body, distance or other information. *Shaded and italic text* shows comments or explanations. In explanations of this model/sample ordinance, the term "municipality" is meant to include counties, towns, cities and villages.

- **Availability of Electronic Copies:** This model / sample ordinance is available in electronic form on the Open Burning webpage of the Wisconsin Department of Natural Resources at: <http://www.dnr.state.wi.us/org/caer/ce/ob/>. The Ordinance is available as a PDF or as a Microsoft Word document.

Part II. Model Ordinance

Outdoor and Refuse Burning Ordinance for the [Pick one: county, city, village or town] of [name], Wisconsin.

Ordinance No. _____

***(Note to Those Drafting Ordinances:** This model / sample ordinance was drafted to cover "open burning", "outdoor burning" (including open burning and burning in outdoor wood-fired furnaces) and "refuse burning" (including both open burning of refuse and indoor burning of refuse. If your municipality decides to adopt an ordinance that does not address all of these topics, then the title of the ordinance should be changed as appropriate. For example, if your ordinance doesn't apply to outdoor wood-fired furnaces then the title of the ordinance might be "Open burning and Refuse Burning".)*

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 [Pick one: county, city, village or town] of [name] 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 [Pick one: county, city, village or town] of [name]. *[For county ordinances, insert the following:* This county ordinance does not apply to incorporated municipalities. If a provision in a town ordinance in this county covers a provision contained in this county ordinance, the town ordinance controls.

- 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.
- 4.3.** "Confidential papers" means printed material containing personal identification or financial information that the owner wishes to destroy.
- 4.4.** "Fire Chief" means the Chief of the [insert name of Fire Department] or other person authorized by the Fire Chief. *(Note to Those Drafting Ordinances: The term "Fire Chief" is used throughout this*

model ordinance, Municipalities may, at their discretion, designate persons other than those associated with the Fire Department for many of the responsibilities in this ordinance. Also, if a municipality is served by more than one fire department, this definition should be adjusted to include both.)

- 4.5. "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.
- 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 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.
- 4.8. "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 **[Pick one: county, city, village or town]** of **[name]** unless the burning is specifically permitted by this ordinance.

SECTION 6: MATERIALS THAT MAY NOT BE BURNED

(Note to Those Drafting Ordinances: State administrative rules prohibit indoor or outdoor burning of the materials listed in subsections 6.10 - 6.17 with certain limited exceptions that require air pollution controls and a written approval from the Department of Natural Resources. A municipality does not have the discretion to allow burning of materials prohibited by state law.)

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. *(Note to Those Drafting Ordinances: If your ordinance requires a permit, you may wish to use the next sentence.)* The **[Pick one: county, city, village or town]** of **[name]** 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, plastic films and plastic 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 in accordance with the recycling ordinance except as provided in Section 11 of this ordinance.

SECTION 7: OPEN BURNING OF LEAVES, BRUSH, CLEAN WOOD AND OTHER VEGETATIVE DEBRIS *(Omit this section entirely if your municipality chooses not to regulate this activity)*

(Note to Those Drafting Ordinances: Your municipality will need to decide whether to entirely prohibit burning of these materials, whether to restrict but not entirely prohibit burning of these materials, or whether to not regulate this activity. Based upon that decision, the appropriate provisions from among those suggested in this model may be chosen. If Alternative 2 (below) is chosen, subsections 7.1 and 7.2 should always be included. Subsections 7.3- 7.8 are regulatory exemptions provided in state rules. A municipality may choose to be more stringent than state rules by not including one or more of those exemptions, however, a municipality may not adopt a broader exemption that would be

less stringent than state rules. The provisions in subsection 7.9 - 7.15 are not covered by state air pollution or waste management rules, but are suggestions that a municipality should seriously consider as issues of concern for local regulation in the ordinance.)

7.00 Burning leaves, brush, clean wood and other vegetative debris.

(Alternative 1) Open burning of leaves, weeds, brush, stumps, clean wood, trees and other vegetative debris is prohibited (or name the particular type of material from the above list that may not be burned such as leaves),
or

(Alternative 2) Open burning of leaves, weeds, brush, stumps, clean wood other vegetative debris is allowed only in accordance with the following provisions (Do not include in the above list any material prohibited under alternative 1.)

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.

(Note to Those Drafting Ordinances: Under state law in an unincorporated "intensive forest fire protection area" a burning permit must be obtained from the Department of Natural Resources or an emergency fire warden for open burning anytime the ground is not snow covered. In an unincorporated "extensive forest fire protection area" a permit is required from the Department of Natural Resources anytime the ground is not snow covered during the months of January through May. In all incorporated municipalities and in towns that are not in "intensive" or "extensive" forest fire protection areas, the municipality has the discretion to determine whether or not burning permits are required. For further information see sections 26.11 – 26.13, Wis. Stats. and Chap. NR 30, Wis. Adm. Code.

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.

(Note to Those Drafting Ordinances: Choose from the following additional provisions that you wish to be applicable)

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, prairie 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. Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief.

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 if in accordance with other provisions of this ordinance.

(Note to Those Drafting Ordinances: State air pollution regulations prohibit this type of burning in certain counties in southeast Wisconsin. If your municipality is in that area, state regulations preclude this provision. Check with DNR Air Management staff for further information.)

7.9. In emergency situations such as natural disasters burning that would otherwise be prohibited is allowed if specifically approved by the Department of Natural Resources.

7.10. Open burning under [this section] or [subsections __ ... , and __] **(Note to Those Drafting Ordinances:** If your municipality requires a burning permit, you may want to require a permit for any open burning covered by Section 7 or you might want to require a permit for only certain types of fires. In that case, you would name the appropriate subsections of Section 7. Also see the note following Section 7.1 regarding fire permits) shall be conducted only following issuance of and in accordance with a permit issued under Section 11 of this ordinance.

7.11 Open burning under this section shall only be conducted at a location at least **[insert a distance appropriate for the municipality.]** *(such as 100 feet, 250 feet or another greater or lesser distance)* from the nearest building which is not on the same property. *(Note: municipalities may also want to consider whether different distances should be required for different types of open burning under this section - - e.g. campfires, vs. .)*

7.12. Except for campfires and permitted bonfires, open burning shall only be conducted **[insert times of year and/or times of day appropriate for the municipality].** *(Some municipalities with volunteer fire departments may want to require burning during times of the day when firefighters are more likely to be available. Other municipalities may limit burning to only daylight hours. The municipality may also limit the times of year when open burning is acceptable - - such as months with low fire hazard or times when snow cover is present.)*

7.13. Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age *(or use another appropriate 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 **[insert distance]** *(25 feet or other appropriate distance)* from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.

7.16. 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 **[Pick one: county, city, village or town]** of **[name]**.

[Note to Those Drafting Ordinances: Those municipalities in areas subject to ozone advisories should consider this subsection.]

SECTION 8: BURN BARRELS *(Omit this section entirely if your municipality chooses not to regulate this activity)*

8.00 Burn barrels.

[Note to Those Drafting Ordinances: Burn barrels are often used to incinerate illegal materials (see Section 6 of this ordinance) and are frequently a source of citizen complaints when neighbors are exposed to the smoke. The smoke can cause both acute and chronic health problems. The Department of Natural Resources believes that there are better alternatives for unwanted woody and vegetative debris and, therefore, discourages the use of burn barrels. Conversely, burn barrels can be a valuable fire prevention device if used in isolated rural areas and only for small amounts of woody and vegetative debris. Therefore, statewide administrative rules do not prohibit the use of burn barrels. Whether or not to allow use of burn barrels is considered a local issue. Your municipality will need to decide whether to entirely prohibit burn barrels, whether to allow burn barrels under specified conditions, or whether not to regulate burn barrels. Based upon that decision, the appropriate provisions from among those suggested in this model may be chosen. Education about burn barrels is an important component of a program to reduce their use. A short fact sheet entitled “Burn Barrels – Unnecessary, Unneighborly and Usually Illegal” is included in the reference material in Part IV of this model ordinance. Your municipality should consider how to disseminate information concerning open burning.]

[Alternative 1] No person shall use or maintain a burn barrel in the **[Pick one: county, city, village or town]** of **[name]**
or

[Alternative 2] A burn barrel may be used in the **[Pick one: county, city, village or town]** of **[name]** only in accordance with the following provisions:

8.1. The burn barrel shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance and may only be used in accordance with the provisions of Section 7 (or subsections of Section 7 deemed appropriate) of this ordinance.

8.2. The burn barrel shall be located at least **[insert a distance appropriate for the municipality.]** from the nearest building that is not on the same property as the burn barrel. *(Choose a distance such as 250 feet or another greater or lesser distance as deemed appropriate for the municipality.)*

8.3. The burn barrel shall have vent holes above the ash line for combustion air and shall be covered with a heavy wire screen.

- 8.4. The burn barrel shall not serve a commercial enterprise.
- 8.5. The owner of the burn barrel shall obtain an annual permit from the Fire Chief in accordance with Section 12 of this ordinance.

SECTION 9: OUTDOOR WOOD-FIRED FURNACES *(Omit this section entirely if your municipality chooses not to regulate this activity)*

9.00 Outdoor wood-fired furnaces.

(Note to Those Drafting Ordinances: State administrative rules do not regulate the installation or use of outdoor residential wood-fired furnaces, stoves or boilers, all of which are defined as "outdoor wood-fired furnaces" in this model ordinance. Outdoor wood-fired furnaces can save fossil fuels, but can also be a cause of citizen complaints. Outdoor wood-fired furnaces are designed to maintain fire over long periods of time, they are designed to operate at low temperatures when not heating and they frequently have a lower chimney height than an indoor stove. Restricted airflow and low operating temperatures can cause smoldering that results in excessive smoke. The smoke can cause both acute and chronic health problems if nearby residents are exposed. Sparsely populated rural towns will likely not need to regulate outdoor wood-fired furnaces. However, if your municipality is more developed or has had citizen complaints about outdoor wood-fired furnaces, you may want to consider the following alternatives. Your municipality will need to decide whether to entirely ban outdoor wood furnaces in certain areas, whether to allow outdoor wood furnaces under specified conditions or whether not to regulate them at all. Based upon that decision, the appropriate provisions from among those suggested in this model may be chosen.)

(Alternative 1) No person shall install, use or maintain an outdoor wood-fired furnace in the **[Pick one: county, city, village or town]** of **[name]**. *(Note to Those Drafting Ordinances: If you want a prohibition on outdoor wood-fired furnaces to apply to only a portion of the municipality, see the suggestion in Alternative 2, section 9.1 below. In most cases, only an incorporated municipality will consider a prohibition for the entire municipality.)*

or

(Alternative 2) An outdoor wood-fired furnace may be installed and used in the **[Pick one: county, city, village or town]** of **[name]** only in accordance with the following provisions:

- 9.1. The outdoor wood-fired furnace shall be installed and used only in an area zoned for agricultural use. *(Omit this section or insert other zoning areas in addition to agricultural as appropriate for the needs of your municipality).*
- 9.2. The outdoor wood-fired furnace shall not used to burn any of the prohibited materials listed in Section 6 of this ordinance.
- 9.3. The outdoor wood-fired furnace shall be located at least **[insert a distance appropriate for the municipality]** from the nearest building which is not on the same property as the outdoor wood-fired furnace. *(Choose a minimum distance such as 300 feet, 500 feet or other greater or lesser distance as appropriate for your municipality. For the reasons cited in the introductory note to this section, a substantial minimum distance is recommended.)*
- 9.4. The outdoor wood-fired furnace shall have a chimney that extends at least **[insert a minimum height]** above the ground surface. If there are any residences within **[insert a specified distance]** *(A distance such as 500 feet or greater is recommended)*, the chimney shall also extend at least as high above the ground surface as the height of the roofs 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. *(A minimum height of 15 feet is recommended or the municipality may choose another minimum height appropriate for the municipality and the required minimum separation to neighbors.)* *(Note to Those Drafting Ordinances: A chimney height equivalent to the chimney in a building should help with smoke dispersion. However, higher chimney heights may increase problems with creosote build-up. An insulated chimney as well as case-by-case discretion is recommended for that reason.)*
- 9.5. The owner of the outdoor wood-fired furnace shall obtain an annual permit from the Fire Chief in accordance with Section 12 of this ordinance if the furnace is located within **[insert a specified distance]**. *(Note to Those Drafting Ordinances: If you want to require a permit of all outdoor wood-fired furnaces, end the sentence after the word "ordinance". If you don't want to require any permits*

for outdoor wood-fired furnaces, omit this paragraph entirely. If you want to require a permit only if there are nearby neighbors, insert an appropriate distance such as 500 or 1000 feet).

SECTION 10: FIRE DEPARTMENT PRACTICE BURNS

(Note to Those Drafting Ordinances: The language suggested in Section 10 regarding fire department practice burns is consistent with state administrative rules governing that activity. See s. NR 502.11(2)(c), Wis. Adm. Code. If a municipality elects not to include this section, practice burns might be prohibited by other provisions of the ordinance (e.g. the prohibitions in sections 5 and 6 of this model). If a section on practice burns is included in the ordinance, it must be at least as stringent as state regulations.)

10.00 Fire department practice burns.

Alternative 1 (short version): Notwithstanding sections 5 and 6 of this ordinance, the [insert name of 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.

or

Alternative 2 (long version): Except as provided in this section for fire department practice burns, an existing unwanted building in the [Pick one: county, city, village or town] of [name] may not be burned. A building, which is no longer standing, may not be used for a practice burn.

10.1. An existing building may be burned only by the [insert name of Fire Department] and only if the Fire Chief determines that the burning is necessary for practice and instruction of fire fighters or fire fighting equipment.

10.2. Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.

10.3. A demolition notification shall be submitted to the Department of Natural Resources and all asbestos removed prior to the practice burn.

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

10.5. At least [insert an appropriate number of hours or days] before a planned practice burn the Fire Chief or designee shall notify residents within [insert a distance appropriate for the municipality] of the site of the proposed burn. (For example, an ordinance could require notification of residents at least 48 hours in advance if they are within 1000 feet of the proposed burn site.)

SECTION 11: EXEMPTION FOR BURNING CERTAIN PAPERS

11.00 Exemption for burning certain papers. **(Note to Those Drafting Ordinances:** The Department of Natural Resources recommends that papers of a confidential nature be shredded and recycled rather than burned. This Section allows paper and cardboard products to be burned for beneficial use as starter fuel and it allows confidential papers from a residence to be burned. This exemption does not allow burning for disposal of materials that are required to be recycled. State regulations do not contain an explicit section similar to this, but the Department of Natural Resources believes that this section is consistent with state regulations and that municipalities may include this section in their ordinance at their discretion.)

11.1. 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

11.2. 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.

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

11.4. 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 12: BURNING PERMITS

12.00 Burning Permits. **(Note to Those Drafting Ordinances:** State regulations do not require municipalities to issue burning permits. Under state law in an unincorporated "intensive forest fire protection area" a burning permit must be obtained from the Department of Natural Resources or an emergency fire

warden for open burning anytime the ground is not snow covered. In an unincorporated "extensive forest fire protection area" a permit is required from the Department of Natural Resources anytime the ground is not snow covered during the months of January through May. See Chap. NR 30, Wis. Adm. Code. In all incorporated municipalities and in towns that are not in "intensive" or "extensive" forest fire protection areas, the municipality has the discretion to determine whether or not burning permits are required. Burning permits are commonly required by local ordinance in incorporated areas and in more populous towns outside of Department of Natural Resources forest fire protection areas. Alternatives 1 and 2 for intensive and extensive forest fire protection areas do not cover burning permits for outdoor wood-fired furnaces. If your municipality wants to require permits for some or all outdoor wood-fired furnaces, choose the appropriate language in sections 12.4 through 12.7.)

(Alternative 1: for towns in "intensive forest fire protection areas") Except for cooking or warming fires, no person shall start or allow any open burning when the ground is not covered with snow unless the person has either obtained a burning permit from the Department of Natural Resources or an authorized emergency fire warden.

or

(Alternative 2: for towns in "extensive forest fire protection areas") Except for cooking or warming fires, no person shall start or allow any open burning during January through May when the ground is not covered with snow unless the person has either obtained a burning permit from the Department of Natural Resources or an authorized emergency fire warden.

or

(Alternative 3: for consideration by incorporated municipalities and all other towns. Towns in forest fire protection areas may also want to consider the provisions of this section related to an annual permit.)

12.1. No person shall start or maintain any open burning without a burning permit issued by the **insert "Fire Chief", or name of other office, or title(s) of other person(s) authorized to issue burning permits**.

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

12.3. 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. The fee for each one-time burning permit shall be **insert cost of one-time permit**. ***(Note to Those Drafting Ordinances: Burning permits are commonly issued without a fee. Your municipality will have to decide whether or not to require a fee and how to collect it.)***

12.4. ***(Use this section if required by section 8.5 and/or section 9.5.)*** The owner or occupant of the property shall obtain an annual burning permit for each **insert the following as appropriate and as required by sections 8.5 and 9.5** burn barrel or outdoor wood-fired furnace before using the burn barrel or outdoor wood-fired furnace. The fee for each annual burning permit shall be **insert cost of annual permit**. ***(Note to Those Drafting Ordinances: Burning permits are commonly issued without a fee. Your municipality will have to decide whether or not to require a fee and how to collect it.)*** An annual permit expires on **insert annual date of expiration** of each year.

12.5. 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.

12.6. 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.

12.7. 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 13: LIABILITY

13.00 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 14: RIGHT OF ENTRY AND INSPECTION

14.00 Right of entry and inspection. The Fire Chief or any authorized officer, agent, employee or representative of the **[Pick one: county, city, village or town]** of **[name]** 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 15: ENFORCEMENT AND PENALTIES

15.00 Enforcement and penalties.

15.1. The Fire Chief and **[insert titles of other designated municipal officials]** are authorized to enforce the provisions of this ordinance.

15.2. The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than **[insert amount of minimum penalty]** or more than **[insert amount of maximum penalty]** plus the cost of prosecution. Penalties are doubled for second and subsequent offenses. **[Note to Those Drafting Ordinances: Consider penalties of \$25 minimum and \$250 maximum or some other range appropriate for the particular municipality.]**

Part III. Example Ordinance
(For a fictitious rural and suburban town in Wisconsin with a volunteer fire department and a population of 2600)

EXPLANATION OF THIS EXAMPLE ORDINANCE: Following is an example of what a local ordinance might look like for a rural town. This is not an actual ordinance. The Town of Forward is fictitious. The Model Ordinance in Part II of this publication contains numerous alternatives for municipalities to consider and detailed explanations of the various provisions and alternatives. As a result, at first glance the Model Ordinance in Part II may appear to be overly lengthy and complex. This "Example Ordinance" has been included to show municipalities what a shorter end product might look like. Municipalities are urged not to use this example directly because that would not allow them to consider all the alternatives in the Part II Model Ordinance and to select the alternatives that best meet their needs.

Outdoor and Refuse Burning Ordinance for the Town of Forward.

Ordinance No. 3-A-2005

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 Forward, Victory County, Wisconsin 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 Forward.

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.

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

- 4.4 "Fire Chief" means the Chief of the Town of Forward Volunteer Fire Department or other person authorized by the Fire Chief
- 4.5. "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.
- 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 from an enclosed chimney.
- 4.7. "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.
- 4.8. "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 Forward 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 Forward 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 in accordance with the recycling ordinance 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. Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief.
- 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 if 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 11 of this ordinance.
- 7.11.** Except for campfires, 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.
- 7.12.** Except for campfires and permitted bonfires, open burning shall only be conducted from the hours of noon and 6:00 PM.
- 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: BURN BARRELS

8.00 Burn barrels.

A burn barrel may be used in the Town of Forward only in accordance with the following provisions:

- 8.1.** The burn barrel shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance and may only be used in accordance with the provisions of Section 7 of this ordinance.
- 8.2.** The burn barrel shall be located at least 250 feet from the nearest building that is not on the same property as the burn barrel.
- 8.3.** The burn barrel shall have vent holes above the ash line for combustion air and shall be covered with a heavy wire screen.
- 8.4.** The burn barrel shall not serve a business.
- 8.5.** The owner of the burn barrel shall obtain an annual permit from the Fire Chief in accordance with Section 12 of this ordinance.

SECTION 9: OUTDOOR WOOD-FIRED FURNACES

9.00 Outdoor wood-fired furnaces.

An outdoor wood-fired furnace may be used in the Town of Forward only in accordance with the following provisions:

- 9.1.** The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance.
- 9.2.** The outdoor wood-fired furnace shall be located at least 500 feet from the nearest building which is not on the same property as the outdoor wood furnace.
- 9.3.** The outdoor wood-fired furnace shall have a chimney that extends at least 15 feet above the ground surface. The Fire Chief may approve a lesser height on a case-by-case basis if necessary to

comply with manufacturer recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

SECTION 10: FIRE DEPARTMENT PRACTICE BURNS

10.00 Fire department practice burns. Notwithstanding sections 5 and 6 of this ordinance, the Town of Forward Volunteer 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.

SECTION 11: EXEMPTION FOR BURNING CERTAIN PAPERS

11.00 Exemption for burning certain papers.

11.1. 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

11.2. 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.

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

11.4. 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 12: BURNING PERMITS

12.00 Burning Permits.

12.1. No person shall start or maintain any open burning without a burning permit issued by the Town of Forward Volunteer Fire Department.

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

12.3. 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.

12.4. The owner or occupant of the property shall obtain an annual burning permit for each burn barrel before using the burn barrel. The fee for each annual burning permit shall be ten dollars (\$10). An annual permit expires on April 1 of each year.

12.5. 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.

12.6. 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.

12.7. 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 13: LIABILITY

13.00 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 14: RIGHT OF ENTRY AND INSPECTION

14.00 Right of entry and inspection. The Fire Chief or any authorized officer, agent, employee or representative of the Town of Forward Volunteer Fire Department or the Town of Forward 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 15: ENFORCEMENT AND PENALTIES

15.00 Enforcement and penalties.

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

15.2. 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.

Burn Barrels: Unhealthy, Unnecessary, Unneighborly and Usually Illegal.

Unhealthy

Smoke from burning garbage contains toxic compounds, often including dioxin, furans and other carcinogens. The ash, which some folks place on their garden, may contain heavy metals such as lead and cadmium.

Unnecessary

If you have a burn barrel, take a look at what you're burning. Most paper and cardboard can and should be recycled. Today, waste collection service is available nearly everywhere, and the collection businesses offer wheeled carts and recycling containers for convenient, economical, end-of-driveway service.

Unneighborly

You probably don't enjoy the stink of burning garbage, and neither does your neighbor. Think about how your decision to burn garbage affects others.

Usually Used Illegally

Open burning of household solid wastes, whether or not in a burn barrel, is prohibited by law, with limited exceptions. This prohibition includes all plastic materials, kitchen wastes, dirty or wet paper wastes, treated or painted wood, furniture, and demolition material - or any other material that creates a nuisance. The exceptions (for households only - not businesses) include (if not prohibited by local ordinance) lawn and garden debris, small quantities of clean, untreated, unpainted wood and clean paper waste that is not recyclable. Outdoor fires for cooking, or for "warming up" are okay and do not require any special approvals unless environmental conditions pose a great risk for forest fires.

Wisconsin Statewide Law on Open Burning: Which Materials Are Legal To Burn?

Which of these household materials can be legally burned in a burn barrel or an open fire on the same property where generated?

State law does not prohibit burning small dry quantities of the household materials with a **4** mark, if they are burned on the same property where generated. Local ordinances may be more restrictive; check with your local municipality before burning. (The number listed after the materials below refers to the legal explanations of why the item may or may not be burned.)

- | | | |
|---|--|--|
| <input type="checkbox"/> Plastic Milk Jug 1,5 | <input type="checkbox"/> Corrugated Cardboard 5 | <input type="checkbox"/> Plastic Soda Bottles 1,2 |
| 4 Leaves (dry) 8 | <input type="checkbox"/> Asphalt Sealant 1 | <input type="checkbox"/> Magazines / Catalogues 5 |
| <input type="checkbox"/> Treated Lumber 3 | <input type="checkbox"/> Plastic Food Wrap 1 | 4 Waste Mail 7 |
| <input type="checkbox"/> Newspaper 5 | <input type="checkbox"/> Plywood 6 | <input type="checkbox"/> OSB / Composite Board 6 |
| <input type="checkbox"/> Insulated Electrical Wire 1 | <input type="checkbox"/> Plastic Pipe 1 | <input type="checkbox"/> Plastic Weed Barrier 1 |
| <input type="checkbox"/> Rubber Hose 1 | <input type="checkbox"/> Food Waste / Garbage 4 | <input type="checkbox"/> Water Softener Salt Bag 1,2 |
| <input type="checkbox"/> Tires 1 | <input type="checkbox"/> Wooden Furniture 3 | 4 Paper Plates / Cups 10 |
| 4 Tree Branches 8,9 | <input type="checkbox"/> Plastic siding 1 | 4 Napkins / Paper Towel 10 |
| <input type="checkbox"/> Plastic Garbage Bags 1 | <input type="checkbox"/> Aluminum Beer Cans 5 | 4 Paper Grocery Bags 7 |
| <input type="checkbox"/> Waste Oil 4 | 4 Pine Needles 8 | <input type="checkbox"/> Plastic Vapor Barrier 1 |
| <input type="checkbox"/> Asphalt Shingles 1 | <input type="checkbox"/> Nylon Carpet 1,2 | <input type="checkbox"/> Plastic Toys 1 |
| <input type="checkbox"/> Painted Siding 3 | <input type="checkbox"/> Polystyrene Plates 1,2 | <input type="checkbox"/> Old Building 11 |
| 4 Clean Dry Firewood 9 | <input type="checkbox"/> Tar Paper 1 | <input type="checkbox"/> Untreated Unpainted Lumber 9 |
| <input type="checkbox"/> Nylon Upholstery Fabric 1,2 | <input type="checkbox"/> Polystyrene Foam Packaging 1,2 | |
| | <input type="checkbox"/> Urethane Foam Pad 1,2 | |

Explanations & Alternatives:



1. All plastic, rubber and asphalt materials are prohibited from open burning under state law.
2. This synthetic material is “plastic” and may not be burned.
3. Wood that is painted or chemically treated may not be burned under state law.
4. These materials are specifically prohibited from open burning under state law.
5. These materials must be recycled under state and local recycling laws. They cannot be burned. (It is legal to use a small amount of paper or cardboard material to kindle a fire.)
6. These materials contain resins and glues making them unsuitable for burning. They are not “dry unpainted, untreated wood” as referenced and exempted in the law.
7. Even though state law allows burning after removing any plastic, many local recycling programs cover these materials. Recycling is a better alternative. If recycling is not an option, proper disposal is better than burning.
8. Even though state law allows burning, composting and/or beneficial use of this material is a better alternative.
9. Clean dry unpainted untreated wood is legal to burn, but if it isn’t going to be beneficially used for heating, consider options other than burning.
10. This waste paper material is not recyclable. Proper disposal is a better option than burning. Wet paper or paper mixed with plastic can’t be burned.
11. Individuals or businesses may not burn a building. The only exception is that a building may be burned only by a fire department for training purposes after notification to DNR and removal of illegal materials.

Remember:



- All materials emit **pollutants** when burned. Generally, the materials that cause the most toxic emissions are those that are prohibited from burning under state law. Try to avoid burning any waste material.
- If prohibited and allowed materials are **mixed**, they cannot be burned. Any prohibited materials must be removed before the allowed materials are burned.
- Check **local ordinances**! A local municipality may ban the burning of any material even if statewide regulations allow it.
- Check for **burning permits**. Even if the material is legal to burn, the DNR or the local municipality often requires a burning permit. During periods of high fire hazard, burning may be prohibited.
- Consider other **alternatives**. Even if the material is legal to burn, more environmentally sound alternatives are available.
- This information only applies to small quantities of **household** waste being burned on the same property where generated. The regulations do not allow **businesses** to burn the same materials that a household may. If in question, consult the regulations.

Additional Information:



- For additional information, contact your DNR service center or log onto the DNR Open Burning Web site: <http://dnr.wi.gov/org/caer/ce/ob/>.
- Does your municipality have an open burning ordinance? Check with your local clerk or fire chief.
- For additional information on burning permits log onto the DNR Forest Fire Prevention Web site: <http://dnr.wi.gov/org/land/forestry/Fire/index.htm>.
- The open burning regulations are in ch. NR 429 and s. NR 502.11, Wis. Adm. Code.
- For games, educational resources and fun on open burning activities, students and teachers should log on to Air Defenders web site: <http://www.airdefenders.org/>. This site is filled with information and activities all about open burning and respiratory health.
- Looking for a presentation about open burning? Contact the Department of Natural Resources Bureau of Air Management at 608-266-7718.
- You can download an electronic copy of this Model Ordinance from the WDNR Web site <http://www.dnr.state.wi.us/org/caer/ce/ob/>. The Ordinance is available as a PDF or as a Microsoft Word document.
- For more information on open burning, and what is happening nationally on the issue, log onto EPA's Open Burning Web site: <http://www.epa.gov.epaoswer/non-hw/muncpl/backyard/>.