

TOWN OF RHINE MUNICIPAL CODE

**CHAPTER 11: FIRE PROTECTION AND PUBLIC SAFETY**

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## 11.01 BURNING REGULATIONS

**(1) PURPOSE.** This Section 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 Rhine due to the air pollution and fire hazards of open burning, outdoor burning, and refuse burning.

**(2) APPLICABILITY.** This Section applies to all outdoor burning and refuse burning within the Town except for the following:

(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 11.01(3).

(c) The use of propane, acetylene, natural gas, gasoline, or kerosene in a device intended for heating, construction, or maintenance activities.

**(3) DEFINITIONS.**

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

(b) "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.

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

(d) "Fire Chief" means the Chief of the Elkhart Lake Fire Department or other person authorized by the Fire Chief.

(e) "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.

(f) "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.

(g) "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.

(h) "Refuse" means any waste material except clean wood.

**(4) GENERAL PROHIBITION ON OUTDOOR BURNING AND REFUSE BURNING.** Open burning, outdoor burning, and refuse burning are prohibited in the Town unless the burning is specifically permitted by this Section.

**(5) MATERIALS THAT MAY NOT BE BURNED.** 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 Fire Chief 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. See Exhibit 11.01A: *Wisconsin Statewide Law on Open Burning: Which Materials Are Legal To Burn?*

- (a) Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris, or other household or business wastes.
- (b) Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Wis. Admin. Code Ch. NR 590.
- (c) Asphalt and products containing asphalt.
- (d) Treated or painted wood including but not limited to plywood, composite wood products, or other wood products that are painted, varnished, or treated with preservatives.
- (e) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films, and plastic containers.
- (f) Rubber including tires and synthetic rubber-like products.
- (g) Newspaper, corrugated cardboard, container board, office paper, and other materials that must be recycled in accordance with Chapter 14 of this Municipal Code except as provided in Section 11.01(10).

**(6) BURNING LEAVES, BRUSH, CLEAN WOOD, AND OTHER VEGETATIVE DEBRIS.** Open burning of leaves, weeds, brush, stumps, clean wood, and other vegetative debris is allowed only in accordance with the following:

- (a) 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.
- (b) Except for barbecue, gas, and charcoal grills, no open burning shall be undertaken during periods when either the Fire Chief or the Department of Natural Resources has issued a burning ban applicable to the area.
- (c) 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.
- (d) Unless explicitly allowed elsewhere in this Section, a commercial enterprise other than an agricultural 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.

(e) Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this Section and if approved by the Fire Chief.

(f) Fires set for forest, prairie, or wildlife habitat management are allowed with the approval of the Department of Natural Resources.

(g) 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. Outdoor fire wood fuel load cannot exceed 24" in height above grade.

(h) 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 Section.

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

(j) Open burning under this Section shall only be conducted at a location at least 20' from the nearest building and under constant supervision.

(k) 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.

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

(m) Except for barbecue, gas, and charcoal grills, no burning shall be undertaken within 10' from any combustible material, combustible wall or partition, exterior window opening, exit access, or exit unless authorized by the Fire Chief.

**(7) BURN BARRELS.** A burn barrel may be used only in accordance with the following provisions:

(a) The burn barrel shall not be used to burn any of the prohibited materials listed in Subsection 11.01(5) and may only be used in accordance with the provisions of Subsection 11.01(6).

(b) The burn barrel shall be located at least 50' from any building that is not on the same property as the burn barrel.

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

(d) The burn barrel shall not serve a commercial enterprise.

**(8) OUTDOOR WOOD-FIRED FURNACES.** An outdoor wood-fired furnace may be installed and used only in accordance with the following provisions:

(a) The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in Subsection 11.01(5).

(b) The outdoor wood-fired furnace shall be located at least 200' from any building which is not on the same property as the outdoor wood-fired furnace.

(c) The outdoor wood-fired furnace shall have a chimney that extends at least 15' above the ground surface. If there are any residences within 300' but not on the same property, the chimney shall 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.

**(9) FIRE DEPARTMENT PRACTICE BURNS.** Notwithstanding Subsections 11.01(4) and (5), the Elkhart Lake 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, subject to the following:

(a) The Fire Chief determines that the burning is necessary for practice and instruction of fire fighters or fire fighting equipment.

(b) 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.

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

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

(e) At least five (5) days before a planned practice burn the Fire Chief or designee shall notify the Town Clerk and residents within 1,000' of the site of the proposed burn.

**(10) EXEMPTION FOR BURNING CERTAIN PAPERS.** Notwithstanding Subsection 11.01(5)(g), and subject to Subsection 11.01(6),

(a) Paper and cardboard products may be used as a starter fuel for a fire that is allowed under this Section.

(b) 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) BURNING PERMITS**

(a) No person shall start or maintain any open burning (except as stated in Sections 6 and 7) without a burning permit issued by the Fire Chief.

(b) 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.

(c) A burning permit issued under this Section shall require compliance with all applicable provisions of this Section and any additional special restrictions deemed necessary to protect public health and safety.

(d) Any violation of the conditions of a burning permit shall be deemed a violation of this Section. Any violation of this Section or the burning permit shall void the permit.

**(12) LIABILITY.** A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs (as set forth in Section 11.02, below) and any other liability resulting from damage caused by the fire.

**(13) RIGHT OF ENTRY AND INSPECTION.** The Fire Chief or any authorized officer, agent, employee, or representative of the Town who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this Section. 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. Stat. § 66.0119.

**(14) ENFORCEMENT AND PENALTIES.**

(a) The Fire Chief and the Town Chair are authorized to enforce the provisions of this Section:

(b) The penalty for violation of any portion of this Section shall be a forfeiture of not less than \$50.00 or more than \$500.00 plus the cost of prosecution. Penalties are doubled for second and subsequent offenses.

**11.02 SPECIAL CHARGES**

Whenever it is necessary for the Town, its employees, or agents to contain, remove, or extinguish any fire or to contain, remove, or dispose of any hazardous substance from private property, the Town may charge to any party possessing, controlling, or causing the fire or discharge of hazardous substances the costs of the containment, removal, extinguishment, or disposal. For purposes of this Section, the term "hazardous substance" means any substance which may pose a substantial present or potential hazard to human health, safety, or the environment because of quantity; concentration; or physical, chemical, or infectious characteristics.

**11.03 [Reserved for future use]**

## 11.04 ALARM SYSTEMS; FALSE ALARMS

(1) **PURPOSE.** The purpose of this Section is to establish control of security, fire, and other emergency alarms located on property within the Town that require police or fire response, investigation, and safeguarding of property; to control and regulate the incidence of false alarms which increasingly consume police and fire resources; and to provide penalties for the generation of false alarms.

(2) **DEFINITIONS.** For purposes of this Section the following definitions apply:

(a) **Alarm System.** Any device or system which, when set off by unauthorized entry, fire or other emergency, produces an audible or visible signal, or which electronically transmits a signal or message to a central alarm station.

(b) **False Alarm.** Any report received by the Fire Department from any source resulting in a response by the Fire Department to the premises on which an alarm is located, where an emergency situation does not exist.

(c) **Responsible Party.** Any person who owns, operates, or leases premises within the Town on which an alarm system is installed or maintained, or the agents or representatives of said person.

(3) **DUTY TO MAINTAIN.** All responsible parties shall maintain the alarm system in good working order.

(4) **DUTY TO PROVIDE INFORMATION.** All responsible parties shall file and keep updated with the Town Fire Department the name, address, and telephone number of no more than two (2) individuals authorized to respond to the location of the alarm.

(5) **DUTY TO RESPOND.** The responsible party, or other individuals designated pursuant to Subsection (4), above, shall be available at all times and shall respond in case the alarm is activated for the purpose of providing access to the building and resetting the alarm; such persons shall be at the property for such purpose as soon as possible.

(6) **FALSE ALARMS.** No responsible party shall have or permit a false alarm at their premises. The Fire Department shall notify the responsible party of the existence of a false alarm within five (5) days of its occurrence or it shall be deemed not to be a false alarm. The following forfeitures shall be imposed for each false alarm generated from each premise:

(a) For the first alarm in any twelve (12) month period, a written warning shall be issued and no forfeiture imposed.

(b) For the second false alarm in any twelve (12) month period, the forfeiture listed in Section 7.02 of this Code.



(c) Exceptions

1. Penalties under this section for false alarms shall not apply to systems installed less than ninety (90) days.

2. The Fire Chief, or his/her designee, may waive any penalties under this Subsection if the responsible party shows that the alarm system was maintained properly and the false alarm was not the result of his or her negligence.

**(7)** No person shall deliberately activate any alarm system for purposes other than emergency, maintenance, drills, or prescribed testing.

**(8) SYSTEM RESETTING**

(a) No person other than a fire official, shall cause a fire alarm system to be reset once it has been activated. This Subsection will not apply to alarms generated for maintenance, drills, or prescribed testing.

(b) Alarm system audio warning devices may be silenced by the responsible person, but only after a thorough search of the building has been conducted and it is determined that no fire or other emergency exists.

**(9) PENALTY.** Any person who violates any provision of this Section shall be subject to a penalty as provided in Section 7.02 of this Code unless another penalty is provided herein. Penalties not paid within sixty (60) days may be considered special charges, billed to the owner of the property involved, and placed on the tax roll pursuant to Wis. Stat. §66.0627.

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

### **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.

