

ORDINANCE NO. 19-103
OPEN BURNING ORDINANCE
TOWN OF RICE LAKE, BARRON COUNTY, WISCONSIN

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 Rice Lake due to the air pollution and fire hazards of open burning and refuse burning.

SECTION 2: APPLICABILITY

2.00 Applicability. This ordinance applies to all open burning within the Town of Rice Lake.

- 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 Rice Lake Fire Department or other person authorized by the Fire Chief.
- 4.5. "Open Burning" means kindling or maintaining a fire where the products of combustion are omitted directly into the ambient air without passing through a stack or a chimney.
- 4.6. "Refuse" means any waste material except clean wood.

SECTION 5: GENERAL PROHIBITION ON OPEN BURNING AND REFUSE BURNING

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

- 6.1. 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 Rice Lake 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.
- 6.2. 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.
- 6.3. 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.
- 6.4. Asphalt and products containing asphalt.
- 6.5. 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.
- 6.6. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- 6.7. Rubber including tires and synthetic rubber-like products.
- 6.8. 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 9 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. No open burning shall be undertaken during periods when either the Town Chairperson, Fire Chief, or the Wisconsin Department of Natural Resources has issued a burning ban applicable to the area, including barbecue, gas and charcoal grills.
- 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 Town Chairperson.
- 7.8. Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the Town Chairperson and if in accordance with other provisions of this ordinance.
- 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, excluding subsection 7.7, 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 100 feet from the nearest building which is not on the same property, with the exception of subsection 7.7 where the minimum distance from the nearest building which is not on the same property shall be 25 feet.
- 7.12. Except for campfires and permitted bonfires, open burning shall not be allowed on Sundays or Holidays, or after midnight.
- 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 Town Chairperson.

SECTION 8: FIRE DEPARTMENT PRACTICE BURNS.

8.00 Notwithstanding sections 5 and 6 of this ordinance, the Rice 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.

- 8.1. An existing building may be burned only by Rice Lake 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.
- 8.2. 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.
- 8.3. A demolition notification shall be submitted to the Department of Natural Resources and all asbestos removed prior to the practice burn.
- 8.4. All ash shall be disposed of in an approved landfill or at an alternative location approved by the Department of Natural Resources.

- 8.5. At least 48 hours before a planned practice burn the Fire Chief or designee shall notify residents within 1,000 feet of the site of the proposed burn.

SECTION 9: EXEMPTION FOR BURNING CERTAIN PAPERS

9.00 Exemption for burning certain papers.

- 9.1. Notwithstanding Subsection 6.17 of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance
- 9.2. Small quantities of confidential papers from a residence may be burned if necessary to prevent the theft of financial records, identification or other confidential information. This exemption does not allow burning for disposal of materials that are required to be recycled.
- 9.3. Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.
- 9.4. A fire set for burning of a small quantity of confidential papers shall be subject to and comply with Subsections 7.1-7.3, 7.6 and 7.11-7.15 of this ordinance.

SECTION 10: BURNING PERMITS

10.00 Burning Permits.

- 10.1. No person shall start or maintain any open burning without a verbal burning permit issued by the Town Chairperson or a Rice Lake Town Board Supervisor. After obtaining verbal permission, the person authorized to burn shall call the Barron County Sheriff Department to inform them of the permit, stating the date, time, and location of the permitted burn.
- 10.2. An outdoor campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.
- 10.3. Any person responsible for burning leaves, brush, clean wood or other vegetative debris under Section 7 of this ordinance shall obtain a verbal burning permit before starting the fire. Said permits are only valid on the day of the request.
- 10.4. When weather conditions warrant, the Town Chairperson or the Fire Chief may declare a burning moratorium on all open burning and temporarily suspend previously issued burning permits for open burning.
- 10.5. A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.
- 10.6. Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance shall void the permit.

SECTION 11: LIABILITY

11.00 Liability. A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

SECTION 12: RIGHT OF ENTRY AND INSPECTION

12.00 Right of entry and inspection. The Fire Chief or any authorized officer, agent, employee or representative of the Town of Rice Lake who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. Note: If the

owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with sections 66.122 and 66.123, Wis. Stats.

SECTION 13: ENFORCEMENT AND PENALTIES

13.00 Enforcement and penalties.

- 13.1. The Town Chairperson, Rice Lake Town Board Supervisors, and the Chief of the Rice Lake Fire Department are authorized to enforce the provisions of this ordinance.
- 13.2. The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than \$500.00 plus the cost of prosecution. Penalties are doubled for second and subsequent offenses.

SECTION 14: SEVERABILITY

14.0 Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision of application, and to this end the provisions of this ordinance are severable.

SECTION 15: EFFECTIVE DATE.

15.0 Effective Date. This ordinance shall become effective upon adoption and publication or posting, as provided by law, pursuant to Wis. Stat. § 60.80.

Adopted this 10th day of June, 2019.

Voting in Favor _____ Voting Opposed _____ Abstaining (if determined) _____

Dean A. Borofka, Town Chairman

Thomas Field, Supervisor I

Peter Gallagher, Supervisor II

David Crotteau, Supervisor III

Donald Putnam, Supervisor IV

CERTIFICATION

The undersigned, Town Clerk/treasurer for the Town of Rice Lake, does hereby certify that the foregoing Resolution was duly adopted by the Town Board of the Town of Rice Lake at a meeting held on June 10, 2019, which meeting was properly noticed and conducted in the manner provided for by law, and at which a quorum of members of the Town Board were present.

Dated this 10th day of June, 2019.

Janet Tomesh, Town Clerk/treasurer
Posted: June 11, 2019
Published: June 19, 2019