

Ordinance

Town of Utica, Winnebago County, State of Wisconsin

No. 2016-100

Outdoor and Refuse Burning

The Town Board of the Town of Utica, Winnebago County, Wisconsin, do ordain as follows:

WHEREAS, effective __January 11, 2016, the Town Board shall establish the following Burning Ordinance,

WHEREAS, it is in the public interest and welfare to establish the Burning Ordinance of the Town of Utica, as provided herein,

NOW, THEREFORE, the Town Board of Supervisors of the Town of Utica, Winnebago County does ordain as follows:

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 Utica, Winnebago 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 Utica.
- 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.** "Confidential papers" means printed material containing personal identification or financial information that the owner wishes to destroy.
- 4.3** "Fire Chief" means the Chief of the Town of Utica Volunteer Fire Department or other person authorized by the Fire Chief
- 4.4.** "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.
- 4.5.** "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.
- 4.6.** "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.
- 4.7.** "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 Utica 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 Utica 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 (other than wood or paper), furniture, composite shingles, 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.** Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, films and containers.
- 6.15.** Rubber including tires and synthetic rubber-like products.

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. When a State or County Burning Ban is on, notices will be posted in the same locations as Town Agendas and other Notices. This should stop the confusion and numerous phone calls.
- 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.
- 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 or Fire Chief.
- 7.10.** 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.
- 7.11.** No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.
- 7.12.** Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 100 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.

- 7.13. 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 Town of Utica.
- 7.14. Any large acreage vegetation burn, construction materials, or building, must have approval of the Fire Chief, and also be called in to the Winnebago County Com center, with details of what is to be burned, address of burn, when it will bel it, and when it is extinguished. This is the owner's responsibility. Failure to follow this rule will result in a fine. The purpose of calling in a controlled burn is to let the dispatch center know what is going on, so passersby don't keep calling the fire in not knowing it is controlled.

SECTION 8: BURN BARRELS

8.00 Burn barrels.

A burn barrel may be used in the Town of Utica 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 75 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 commercial enterprise.

SECTION 9: FIRE DEPARTMENT PRACTICE BURNS

9.00 **Fire department practice burns.** Notwithstanding Sections 5 and 6 of this ordinance, the Town of Utica 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 10: LIABILITY

10.00 **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 11: RIGHT OF ENTRY AND INSPECTION

11.00 **Right of entry and inspection.** The Fire Chief or any authorized officer, agent, employee or representative of the Town of Utica Volunteer Fire Department or the Town of Utica 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 12: ENFORCEMENT AND PENALTIES

12.00 Enforcement and penalties.

- 12.1. The Fire Chief and the Town Board Officials are authorized to enforce the provisions of this ordinance.
- 12.2. The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than \$25.00 or more than \$250.00, upon the discretion of the Fire Department and assessed by the Town Board; plus the cost of prosecution. Penalties are doubled for second and subsequent offenses. Funds will be payable to the Town of Utica Volunteer Fire Department and kept in their possession.

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/>.

This Ordinance repeals any older Ordinances.

The foregoing Ordinance was adopted at a regular meeting of the Town Board of the Town of Utica on March 14, 2016.

Filed this 14th day of March, 2016 in the office of the Town Clerk

Leonard Schmick, Chairman

ATTEST:

APPROVED AS TO FORM:

Jenny Sonnleitner, Town Clerk

John M. Blazel, Town Attorney

AYES: 3 NAYES: 0

PASSED THIS 14th DAY OF MARCH, 2016

PUBLISHED THIS 14TH DAY OF MARCH, 2016 & 12TH DAY OF APRIL, 2016