

Town of Gardner
Outdoor and Refuse Burning, and Fireworks Ordinance
Ordinance No. 02-2005

SECTION 1: PURPOSE:

1.0 **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 Gardner due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

SECTION 2: APPLICABILITY:

2.0 **Applicability.** This ordinance applies to all outdoor burning and refuse burning within the Town of Gardner. The county ordinance does not apply to incorporated municipalities. If a provision in a town ordinance in the 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, or campfires.
- 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, kerosene, gasoline or other petroleum derivative in a device intended for heating, construction or maintenance activities.

SECTION 3: SEVERABILITY:

3.0 **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance should not be affected.

SECTION 4: DEFINITIONS:

4.0 **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 Town Chairperson means the Chairperson of the applicable municipality or his Designee from the Fire Department that serves the town as authorized by Town Board resolution.
- 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 produces of combustion or 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:

- 5.0 General prohibitions on outdoor burning and refuse burning. Open burning, outdoor burning and refuse burning are prohibited in the Town of Gardner unless the burning is specifically permitted by this ordinance.

SECTION 6: MATERIALS THAT MAY NOT BE BURNED:

6.0 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.
- 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 12 of this ordinance.

SECTION 7: OPEN BURNING OF LEAVES, BRUSH, CLEAN WOOD AND OTHER VEGETATIVE DEBRIS:

- 7.0 **Burning leaves, brush, clean wood and other vegetable debris.** Open burning of leaves, weeds, brush, stumps, clean wood and other vegetative debris, is allowed only in accordance with the following provisions:

- 7.0.a. All open burning shall be by permit ONLY form number 9400-196(R2/03). Permit must be in the presence of the person issued to and at the location of said burning (NO VERBAL PERMITS).
- 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 the barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Director of Door County Emergency Services, Town Chairperson or Designee from the Fire Department 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 Town Chairperson or Designee from the Fire Department.
 - 7.4 Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.
 - 7.5 Fires set for forest, prairie or wildlife habitat management are allowed with the approval of the Department of Natural Resources.
 - 7.6 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 barrel, fire ring, or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established by the Town Chairperson or Designee from the Fire Department.
 - 7.7 Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the Town Chairperson or Designee from the Fire Department and if in accordance with the other provisions of this ordinance.
 - 7.8 Open burning under this section shall be conducted only following issuance of and in accordance with a permit issued under Section 13 of this ordinance.
 - 7.9 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.
 - 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 should 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 water body.
 - 7.12 No barbecue, gas or charcoal grills maybe used within 15 feet of any building occupied or not. No burning shall be undertaken within 25 feet for any combustible material, combustible wall or partition exterior

window opening, exit access or exit unless authorized by town of Gardner Fire Wardens.

7.13 No open burning may be conducted on days when the Department of Natural Resources has declared an ozone action day applicable to the County of Door.

SECTION 8: BURN BARRELS:

8.0 Burn Barrels.

A burn barrel may be used in the Town of Gardner 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 100 feet from the nearest building that is not on the same property as the burn barrel. The burn barrel shall have vent holes above the ash line for combustion air and shall be covered with a heavy wire screen.
- 8.3 Small businesses, commercial enterprises, and industries may not use burn barrels or engage in other kinds of open burning and may not be granted burning permits by municipalities. However, the prohibition on burn barrels does not apply to small businesses in which the owners reside at the same location and cannot separate their business waste from their household waste.

SECTION 9: OUTDOOR WOOD-FIRED FURNACES

- 9.1 The outdoor wood-fired furnace must be approved and employed for use as a furnace in accordance with the applicable and accepted codes, laws, regulations and rules
- 9.2 The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in the section 6 of this ordinance.
- 9.3 The outdoor wood-fired furnace shall be located at least 100 feet from the nearest building which is not on the same property as the outdoor wood-fired furnace.
- 9.4 The outdoor wood-fired furnace shall have a chimney that extends at least as high above the ground surface as the height of the roof of the building which it serves. A lesser height may be approved 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.
- 9.5 The owner or occupant of the property shall obtain a one-time permit from the Town Chairperson or Designee before using the outdoor wood-fired furnace.

SECTION 10: FIRE DEPARTMENT PRACTICE BURNS:

10.0 Fire Department Practice Burns.

Notwithstanding Sections 5 and 6 of this ordinance, the Fire Department may burn a standing building or other such substances as deemed appropriate by said department if necessary for fire fighting practice and if the practice burn complies with the requirements of the Department of Natural Resources.

SECTION 11: FIREWORKS:

11.0 It shall be unlawful for any person, organization, business or corporation to light or maintain any illegal fireworks, except fireworks for public display in compliance with state law shall be permitted after obtaining all state and local permits.

SECTION 12: EXEMPTION FOR BURNING CERTAIN PAPERS:

12.0 **Exemption for burning certain papers.** 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.

12.1 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

12.2 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 7.11-7.13 of this ordinance.

SECTION 13: BURNING PERMITS;

13.0 Burning permits.

No person shall start or maintain any open burning without a burning permit issued by the Town Chairman, or a Designee of said official. An outdoor campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance

13.1 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.

13.2 When weather conditions warrant, the Director of Door County Emergency Services, Town Chairperson or Designee from the Fire Department 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.

13.3 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.

13.4 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 14: LIABILITY:

14.0 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, irrespective of whether a burning permit is issued.

SECTION 15: RIGHT OF ENTRY AND INSPECTION:

15.0 Right of entry and inspection.

The Town Chairperson or Designee from the Fire Department or any authorized officer, agent, employee or representative of the Town of Gardner who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. 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 Section 66.122 and 66.123, Wis. Stat.

SECTION 16: ENFORCEMENT AND PENALTIES:

16.0 Enforcement and Penalties.

16.1 Penalties.

Any person violating this ordinance shall:

A. Forfeit not less than \$25.00 nor more than \$250.00 for each offense;

And;

B. Institute those remedial measures, summarily and/or within a defined time period, necessary to correct any violation.

C. Be enjoined or restrained from further violation.

D. Pay the fees, costs and disbursements incurred by County associated with prosecution of the action.

E. Each day a violation exists or continues constitutes a separate offense.

16.2 Enforcement.

A. Issuance of a citation pursuant to and in accordance with Sec. 66.0113 Wis. Stats. and Chapter 35 Door County Code.

B. Adoption of this Ordinance does not preclude the Gardner Town Board from adopting any other ordinance relating to the same or other matter. An issuance of a forfeiture hereunder, shall not preclude the County or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

16.3 Reference to Statutes.

Reference to specific statutory sections, whenever used in this Ordinance, shall mean Wisconsin Statutes as amended, modified, repealed or otherwise altered by the Wisconsin State Legislature.

16.4 Effective Date.

This Ordinance shall be effective upon adoption and publication by the Gardner Town Board as provided by law.

This ordinance shall take effect on July 13, 2005 and shall amend County Ordinance 2005-09.

Adopted this 13th, day of July, 2005

Paul DeWitt, Town Chairman

Attest: Amy Sacotte, Clerk