

TOWN OF KOSSUTH MANITOWOC COUNTY, WISCONSIN

Ordinance No. 2012-3

Outdoor and Refuse Burning Ordinance for the Town of Kossuth, Manitowoc 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 Kossuth 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 Kossuth, Manitowoc County, Wisconsin.

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. "Town Board" means the Chairperson of the Town of Kossuth or one of the Supervisors.

4.5. "Outdoor Burning" means open burning or burning in an outdoor solid fuel or 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 Town of Kossuth 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 Kossuth 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

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

Open burning of leaves, weeds, brush, stumps, clean wood, or 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 Town Board 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 Board.
- 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 Town Board.
- 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 Board and this ordinance.
- 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 Board, if in accordance with other provisions of this ordinance, and if approved by DNR Air Management staff.
- 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 shall be conducted only following issuance of and in accordance with a permit issued under Section 12 of this ordinance.

7.11 Open burning under this section shall only be conducted at a location at least 250 feet from the nearest building which is not on the same property except for campfires for which the distance must be a minimum of 100 feet.

7.12. 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.

7.13. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a pond, stream, or waterbody.

7.14. 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 Manitowoc County.

SECTION 8: BURN BARRELS

8.00 Burn barrels.

A burn barrel may be used in the Town of Kossuth 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 subsections: 7.1- 7.3, 7.10, and 7.13 - 7.15 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 commercial enterprise.

SECTION 9: OUTDOOR WOOD-FIRED FURNACES

9.00 Outdoor wood-fired furnaces.

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

9.1. The owner of the outdoor wood-fired furnace has obtained an installation permit from Manitowoc County Planning and Parks Department and has complied with the installation requirements. This subsection applies to units installed after 1/10/2012

9.2. The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance.

SECTION 10: FIRE DEPARTMENT PRACTICE BURNS

10.00 Fire department practice burns.

Notwithstanding sections 5 and 6 of this ordinance, the Francis Creek, Rockwood, Kellnersville, or Branch 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.

10.1. At least 10 days before a planned practice burn the Fire Chief or designee shall notify the Town Board and any residents within 1000 feet of the proposed burn site.

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. A small quantity is defined as an amount which does not exceed one half cubic foot in volume.

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

11.5. A fire set for burning of a small quantity of confidential papers shall be subject to and comply with Subsections 7.1-7.3, 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 a member of the Town Board. There is no fee for a one-time burning permit.

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.

12.4. When weather conditions warrant, the Town Board 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.

12.5. 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.

12.6. 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 Town Board or any authorized officer, agent, employee or representative of the Town of Kossuth 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 Town Board and Constable 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 \$50 or more than \$250 plus the cost of prosecution. Penalties are doubled for second and subsequent offenses. Each day a violation exists shall be considered a separate occurrence for the purpose of this subsection.