

Article B

GENERAL PRECAUTIONS AGAINST FIRE

Section 3-2-20

Outdoor Burning Regulated, General

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) "Fire Chief" means the Chief of the Middleton Fire District or other person authorized by the Fire Chief.
- d) "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.
- e) "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.
- f) "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.
- g) "Refuse" means any waste material except clean wood.

- (1) **The Fire Chief May Prohibit** The fire chief or designee may prohibit any or all outdoor fires when conditions make them hazardous. Burning of buildings/structures is prohibited unless authorized by the fire chief and all applicable Town and Department of Natural Resources requirements are met.
- (2) **Control.** A means of control sufficient to prevent the fire from spreading from the intended area must be present from the onset of the burn. A competent adult must be present at all times and must monitor the fire until extinguished.
- (3) **Weather Conditions.** Burning is prohibited on days when excessive wind or when atmospheric conditions result in danger to public health or safety. These include clean air action days.
- (4) **Location.** Burning (except Prescribed Burns and Personal Campfires) is prohibited:
 - On any public right-of-way, street, road or highway, on easements or areas dedicated for such purposes,
 - within thirty-five (35) feet of a property line, unless written permission is obtained from the neighboring property owner(s),
 - within fifty (50) feet of any structure including decks and sheds,
 - within five (5) feet of trails or trail easements.
- (5) **Material.** Only dry vegetative materials are to be burned. Grass, green leaves and green twigs and branches are prohibited. Trash, rubbish, garbage, plastic, rubber, paper and cardboard are all prohibited. Small amounts of flammable liquids are permitted for the purpose of starting the fire.

- (6) **Burn barrels.** Burn barrels of any sort are prohibited.
- (7) **Liability.** Anyone who sets a fire and through negligence allows the fire to escape shall be responsible for all costs incurred during suppression and control of the fire as well as costs incurred repairing any damage caused by the fire. Anyone who sets a fire and does not properly monitor it, shall be responsible for all costs incurred in suppression and control of the fire. If these costs are not paid within 30 days of notice, said costs will be applied to property tax roll for the land involved.
- (8) **Loss of Privileges.** Any person, property owner, firm or corporation that violates any provision of Section 3-2-20 shall forfeit their burning privileges under Section 3-2-20 until they appear before the Town Board to explain the circumstances of their violation. At that time, the Town Board may continue the suspension or restore such privileges, with or without conditions. Such matters shall be placed on the Board agenda at least five (5) working days prior to the regularly scheduled meeting date.

(b) Outdoor Burning Regulated, continued; Leaf Burning

- (1) **Materials.** Only dry leaves and small sticks may be burned. Grass clippings are prohibited. Burning wet leaves that smoke and smolder is prohibited.
- (2) **Weather.** Leaf burning is prohibited with winds over fifteen (15) MPH.
- (3) **Days of Week.** Leaf burning is prohibited on Saturdays (except as noted), Sundays, and the following federal holidays as observed: New Year's Day, Martin Luther King Day, Presidents Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day. Leaf burning on Saturdays is limited to the first and third Saturdays in October, November and December.
- (4) **Time.** Leaf burning is only permitted between 8:00 AM and 3:30 PM. The fire must be fully extinguished by 3:30.

(c) Outdoor Burning Regulated, continued; Brush Piles

- (1) **General.** Tree branches and brush are picked up by the town on a regular basis late spring thru fall. Residents are encouraged to use this service if possible rather than burning these materials.
- (2) **Materials.** Brush piles shall consist only of brushwood, shrubs, tree branches with attached leaves and other non-offensive dry yard debris. Brush piles must be 90 percent or more woody material; leaf piles do not fall within this definition. Wood shall be dry enough prior to burning to prevent it from smoldering.
- (3) **Time.** Brush burning is only permitted between 8:00 AM and sunset.
- (4) **Size.** Brush piles shall be no larger than twelve (12) by twelve (12) feet
- (5) **Weather.** It is preferred that burning be done when snow cover is present or the surrounding vegetation is green to minimize potential spread of fire. When snow cover is present, burning

brush piles are prohibited with winds over thirty (30) MPH. When snow cover is not present burning brush piles are prohibited with winds over fifteen (15) MPH.

(d) Outdoor Burning Regulated, continued; Prescribed Burn

- (1) **Definition.** A Prescribed Burn is the burning of undisturbed vegetation, such as grasses, flowers, brush, shrubs and small trees in an open landscape. Prescribed Burning is performed for the management and restoration of grasslands & savannas.
- (2) **Limitations.** If a Prescribed Burn is conducted on lands not owned by the individual conducting the burn, or, if the area to be burned is greater than 10,000 square feet, it should be supervised and managed by an individual who is experienced and trained / certified in this practice.

Prescribed Burns shall not create an undue nuisance for neighboring residents or public roadways. Burn areas shall have adequate firebreaks surrounding the area to be burned. If smoke produced by the burn should adversely affect a drivers vision on a public roadway, the party conducting the burn will provide flagmen to assist motorists through the hazard area.

- (3) **Time.** Prescribed burns are only permitted between 8:00 AM and 30 minutes after sunset.
- (4) **Weather.** Prescribed Burns are prohibited when the relative humidity is below 20% or winds are above twenty-five (25) MPH. Burns should not be performed when wind direction is not constant, regardless of wind speed.

(e) Outdoor Burning Regulated, continued; Personal Campfires or Fire Pits

- (1) **Definition.** Personal Campfires or Fire Pits are small fires constructed in a defined space for the purpose of cooking and/or heat.
- (2) **Size.** Campfires must be thirty-six (36) inches in diameter or less
- (3) **Time.** Campfires are prohibited from midnight until 8:00 AM.
- (4) **Location.** Personal Campfires and Fire Pits are prohibited:
On easements or areas dedicated for such purposes,
within ten (10) feet of a property line, unless written permission is obtained from the neighboring property owner(s),
within five (5) feet of trails or trail easements.

(f) Outdoor Burning Regulated, continued; Group Assembly Bonfires Campfires

- (1) **Definition.** Group Assembly Bonfires or Ceremonial Campfires are large campfires that accompany group activities. Examples of groups include schools, Boy Scouts, Girls Scouts and neighborhood associations.
- (2) **Size.** Group Assembly Bonfires or Ceremonial Campfires shall be limited to 6 by 6 feet in size unless the Fire Chief has specifically provided authorization to increase the size of the fire.

(3) **Limitations.** Group Assembly Bonfires or Ceremonial Campfires are permitted only with prior written notification to the appropriate Fire Chief.

(4) **Time.** Group Assembly Bonfires or Ceremonial Campfires are prohibited from midnight until 8:00 AM.

(g) Outdoor Wood-fired furnaces.

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

- a) The outdoor wood-fired furnace shall only burn clean wood.
- b) The outdoor wood-fired furnace shall be located at least **300** feet from the nearest building which is not on the same property as the outdoor wood-fired furnace.

(2) The outdoor wood-fired furnace shall have an insulated chimney that extends at least **18** feet above the ground surface. If there are any residences within **500** feet, the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences.

(h) Penalty

- a) Any person who violates any provision of Section 3-2-20 shall be subject to a penalty as provided in Section 1-1-6 GENERAL PENALTY. Each violation and each day a violation continues or occurs shall be a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision contained in this Code.
- b) **First Offense - Penalty.** Any person who shall violate any provision of Section 3-2-24 subject to a penalty shall, upon conviction thereof, forfeit not more than \$2,000.00 (two thousand dollars), together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail or county house of correction until said forfeiture and costs are paid, but not exceeding ninety (90) days.
- c) **Subsequent Offense - Penalty.** Any person found guilty of violating any provision of Section 3-2-24 who shall previously have been convicted of a violation of the same provision shall, upon conviction thereof, forfeit not less than \$50.00 (fifty dollars) nor more than \$2,000.00 (two thousand dollars) for each offense, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail or county house of correction until said forfeiture and costs are paid, but not exceeding six (6) months.
- d) **Other Violations.**
 - (1) Any person who shall violate any of the provisions of this Chapter or fail to comply therewith, or who shall violate or fail to comply with any order made there under, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, or who shall fail to comply with such an order as affirmed or modified by the Chief of the Fire Department or the Town Board or by a court of competent jurisdiction within the time fixed herein shall be subject to the penalty set forth in Section 1-1-6.
 - (2) The application of the above penalty shall not be held to prevent the enforced removal of a prohibited condition.
 - (3) In enforcing the provisions of DILHR Secs. 54.05 and 55.06 of the Wisconsin Administrative Code, at any time when capacity of a structure exceeds the posted

capacity by 10 or more persons, each person over the posted capacity shall be deemed a separate violation, and a separate penalty shall be applied for each person over the posted capacity.

- (4) Any person violating any provision of Section 3-2-20, GENERAL PRECAUTIONS AGAINST FIRE, shall be liable for actual costs incurred by the Town or its Agent to recover, repair or replace any public property, signage, equipment, public road /trail access and park facilities/landscaping, caused by fire damage or damage involving fire-containment.
- (5) In addition, the Town may seek any other remedies prescribed by law to address violations of this Sec. 3-2-20

e) **Failure to Pay.**

Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the Court for violation of any Ordinance of the Town, the Court may, in lieu of ordering the imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs of prosecution.