

Ordinance No. 2020- 02
State of Wisconsin
County of Washington
Town of Farmington

**AN ORDINANCE REPEALING AND RECREATING OPEN BURNING
REGULATIONS OF THE MUNICIPAL CODE OF THE TOWN OF FARMINGTON**

WHEREAS, the Town Board hereby determines that it is necessary to update the Municipal Code to adopt current open burning standards in the Town of Farmington.

NOW, THEREFORE, the Town Board of the Town of Farmington, Washington County, Wisconsin, does ordain as follows:

Section 1. **Repealing Code**. Ordinances pertaining to Open Burning of the Municipal Code of the Town of Farmington are hereby repealed.

Section 2. **Recreating Code**. Open Burning is hereby recreated to read as attached.


Section 3. **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. **Effective Date**. This Ordinance shall take effect upon publication or posting by the town clerk as required, pursuant to Wis. Stat. § 60.80.

Adopted by the Town of Farmington Town Board of Supervisors this 10th day of November, 2020.

Ayes 3 Noes 0 Absent 0

TOWN OF FARMINGTON

By 
CHRIS ELBE, Town Chairperson

Date Approved: 11-10-2020

Date Published/Posted: 11-17-2020

Attest:


PATTY HOERIG, Town Clerk

Chapter 87 OPEN BURNING

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| <p>§ 87-1. Applicability.</p> <p>§ 87-2. Definitions.</p> <p>§ 87-3. General prohibition on open burning, outdoor burning and refuse burning.</p> <p>§ 87-4. Materials that may not be burned.</p> <p>§ 87-5. Open burning of leaves, brush, clean wood and other vegetative debris.</p> <p>§ 87-6. Burn barrels.</p> <p>§ 87-7. Outdoor wood-fired furnaces.</p> | <p>§ 87-8. Fire Department practice burns.</p> <p>§ 87-9. Exemption for burning certain papers.</p> <p>§ 87-10. Liability.</p> <p>§ 87-11. Right of entry and inspection.</p> <p>§ 87-12. Enforcement and penalties.</p> |
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[HISTORY: Adopted by the Town Board of the Town of Farmington as indicated in article histories. Amendments noted where applicable.]

§ 87-1. Applicability.

This ordinance applies to all outdoor burning and refuse burning within the Town of Farmington.

- A. This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- B. 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 87-4 of this ordinance.
- C. 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.

§ 87-2. 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. "Confidential papers" means printed material containing personal identification or financial information that the owner wishes to destroy.
- D. "Fire Chief" means the Chief of the Fillmore Fire Department or the Chief of the Boltonville Fire Department or another person authorized by the Fire Chief
- E. "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.
- F. "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.

- G. "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.
- H. "Refuse" means any waste material except clean wood.

§ 87-3. General prohibition on open burning, outdoor burning and refuse burning.

Open burning, outdoor burning and refuse burning are prohibited in the Town of Farmington unless the burning is specifically permitted by this ordinance.

§ 87-4. Materials that may not be burned.

- A. Unless a specific written approval has been obtained from the Washington County Public Health Department or 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 Farmington 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.
- B. 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.
- C. Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 679, Wisconsin Administrative Code.
- D. Asphalt and products containing asphalt.
- E. 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.
- F. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- G. Rubber including tires and synthetic rubber-like products.
- H. 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.

§ 87-5. Open burning of 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:

- A. 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.

- B. 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.
- C. 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.
- D. 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.
- E. Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.
- F. Fires set for forest, prairie or wildlife habitat management are allowed with prior notice to the Sheriff's Department of a controlled burn.
- G. 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.
- H. 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.
- I. In emergency situations such as natural disasters burning that would otherwise be prohibited is allowed if specifically approved by the Department of Natural Resources.
- J. 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.
- K. 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 unless 250 feet or more from the nearest structure. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.
- L. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.
- M. 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 Fire Chief.
- N. 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 Farmington.

§ 87-6. Burn barrels.

A burn barrel may be used in the Town of Farmington only in accordance with the following provisions:

- A. The burn barrel shall not be used to burn any of the prohibited materials listed in Section 87-4 of this ordinance and may only be used in accordance with the provisions of Section 87-5 of this ordinance.
- B. 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.
- C. The burn barrel shall have vent holes above the ash line for combustion air and shall be covered with a heavy wire screen.
- D. The burn barrel shall not serve a commercial enterprise.

§ 87-7. Outdoor wood-fired furnaces.

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

- A. The outdoor wood-fired furnace shall be installed and used only in an area zoned for agricultural use.
- B. The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in Section 87-4 of this ordinance.
- C. 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.

§ 87-8. Fire Department practice burns.

Notwithstanding sections 87-3 and 87-4 of this ordinance, the Fillmore Fire Department or the Boltonville 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.

§ 87-9. Exemption for burning certain papers.

- A. Notwithstanding Subsection 87-4.H. of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance.
- B. 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.
- C. Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.
- D. A fire set for burning of a small quantity of confidential papers shall be subject to and comply with Subsections 87-5.A. – 87-5.C., 87-5.F., and 87-5.K. – 87-5.O. of this ordinance.

§ 87-10. 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.

§ 87-11. Right of entry and inspection.

The Fire Chief or any authorized officer, agent, employee or representative of the Town of Farmington 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 66.0119, Wis. Stats.

§ 87-12. Enforcement and penalties.

- A. The Fire Chief and the Town Chairperson are authorized to enforce the provisions of this ordinance.
- B. The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than Ten Dollars (\$10.00) nor more than Two Hundred Dollars (\$200.00) plus the cost of prosecution. Penalties are doubled for second and subsequent offenses. A specific penalty amount for violation of this Chapter will be set forth in the Town's Fee Schedule.