

CHAPTER 35

OUTDOOR AND REFUSE BURNING

A. Purpose

This chapter 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 City of Fountain City due to the air pollution and fire hazards of open burning, outdoor burning, and refuse burning.

B. Applicability

This chapter applies to all outdoor burning and refuse burning within the City of Fountain City, Wisconsin.

1. This chapter does not apply to grilling or cooking using charcoal, wood, propane, or natural gas in cooking or grilling appliances.
2. This chapter 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 Subsection C. of this chapter.
3. This chapter does not apply to the use of propane, acetylene, natural gas, gasoline, or kerosene in a device intended for heating, construction, or maintenance activities.

C. Definitions

As used in this chapter, the following terms shall have the meaning indicated:

1. **BONFIRE**
An outdoor fire larger than three (3) feet by three (3) feet by two (2) feet which is used for entertainment purposes as part of a specifically scheduled public event and which does not include burning leaves, or shrubbery clippings.
2. **CAMPFIRE**
A small outdoor fire intended for recreation or cooking, not including a fire intended for disposal of waste wood or refuse.
3. **CLEAN WOOD**
Natural wood measuring no more than eighteen (18) inches in length or nine (9) inches in diameter 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. **CONFIDENTIAL PAPERS**

Printed material containing personal identification or financial information that the owner wishes to destroy.

5. **FIRE CHIEF**

The Chief of the Fountain City Fire Department or other person authorized by the Fire Chief.

6. **OPEN BURNING**

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.

7. **OUTDOOR BURNING**

Open burning or burning in an outdoor wood-fired furnace.

8. **OUTDOOR WOOD-FIRED FURNACE**

A wood-fired furnace, stove, or boiler that is not located within a building intended for habitation by humans or domestic animals.

9. **REFUSE**

Any waste material except clean wood.

D. General Prohibition on Outdoor Burning and Refuse Burning

1. Open burning, outdoor burning, and refuse burning are prohibited in the City of Fountain City unless the burning is specifically permitted by this chapter.
2. The use of recreational fireworks, gasoline, propane, kerosene, or other accelerants in a campfire or other fire regulated by this chapter is prohibited.

E. Materials That May Not Be Burned

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:

1. Rubbish or garbage, including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, pallets, construction or demolition debris, or other household or business wastes.
2. Waste oil or other oily wastes, except used oil burned in a heating device for energy recovery subject to the restrictions in regulations promulgated by the Wisconsin Department of Natural Resources.
3. Asphalt and products containing asphalt.

4. 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.
5. Any plastic material, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films, and plastic containers.
6. Rubber, including tires and synthetic rubberlike products.
7. Newspaper, corrugated cardboard, container board, office paper, and other materials that must be recycled in accordance with the Recycling Ordinance, except as provided in Subsection J of this chapter.

F. Burning Leaves, Brush, Clean Wood, and Other Vegetative Debris

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

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.
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.
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.
4. Unless explicitly allowed elsewhere in this chapter, 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.
5. Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this chapter.
6. Fires set for forest, prairie, or wildlife habitat management are allowed with the approval of the Department of Natural Resources.
7. Outdoor campfires for cooking, ceremonies, or recreation are allowed, provided that the fire is confined by a control device or structure such as a fire ring or fire pit, each

measuring no greater than three (3) feet in diameter or three (3) feet in height or depth. Fire rings shall be constructed of stone, brick, concrete, or metal, and fire pits shall be lined or encircled within such materials. The flames from the fire in such a control device or structure shall not extend more than two (2) feet above the top of such device or structure. Bonfires are allowed only if approved by and in accordance with provisions established by the Mayor or another person authorized by the Mayor.

8. Burning of trees, limbs, stumps, brush, or weeds for clearing or maintenance of rights-of-way or other public property is allowed if approved by the Fire Chief and if in accordance with other provisions of this chapter.
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.
10. Open burning under this chapter shall be conducted in accordance with Subsection K of this chapter.
11. Open burning under this chapter shall only be conducted at a location at least 100 feet from the nearest building which is not on the same property and at least 100 feet from any tank containing gasoline or other flammable liquids.
12. Except for campfires and permitted bonfires, open burning with a permit from the Mayor or another person authorized by the Mayor shall only be conducted during the hours of 7:00 a.m. to 10:00 p.m. daily. All fires shall be extinguished by the end of the burning period.
13. Open burning shall be constantly attended and supervised by a competent person of at least 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.
14. No materials may be burned upon any street, curb, gutter, or sidewalk or on the ice of a lake, pond, stream, or water body.
15. 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, or access or exit doors, unless authorized by the Mayor or other person authorized by the Mayor.
16. No open burning may be conducted on days when the Department of Natural Resources has declared an air quality watch.

G. Burn Barrels

No person shall use or maintain a burn barrel in the City of Fountain City.

H. Outdoor Wood-Fired Furnaces

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

1. The outdoor wood-fired furnace shall be installed and used in accordance with the manufacturer's instructions and in accordance with any applicable law.
2. The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in Subsection E. of this chapter.

I. Fire Department Practice Burns

Notwithstanding Subsections D. and E. of this chapter, the Fountain City Fire Department may burn a standing building if necessary for firefighting practice and if the practice burn complies with the requirements of the Department of Natural Resources.

J. Exemption for Burning Certain Papers

1. Notwithstanding Subsection E. (7) of this chapter, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this chapter.
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.
3. Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.
4. A fire set for burning of a small quantity of confidential papers shall be subject to and comply with Subsection F (1) through (3), (6) and (11) through (15) of this chapter.

K. Special Burning Permits

1. No person shall start or maintain any open burning with a total area exceeding 100 square feet without a burning permit issued by the Mayor or another person authorized by the Mayor.
2. An outdoor campfire does not require a permit, provided that the fire complies with all other applicable provisions of this chapter.

3. When weather conditions warrant, the Fire Chief 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.
4. A burning permit issued under this chapter shall require compliance with all applicable provisions of this chapter and any additional special restrictions deemed necessary to protect public health and safety.
5. Any violation of the conditions of a burning permit shall be deemed a violation of this chapter. Any violation of this chapter or the burning permit shall void the permit.

L. 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.

M. Right of Entry and Inspection

The Fire Chief, Police Chief or Police Officer, or any authorized officer, agent, employee, or representative of the City of Fountain City who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this chapter.

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 Wis. Stat. § 66.0119.

N. Violations and Penalties

1. The Fire Chief and Police Chief are authorized to enforce the provisions of this chapter.
2. **Penalties:**
 - a. The penalty for violating Subchapters F.2., K.3., or M. of this chapter shall be a forfeiture in the amount of \$1,000.00 for a first violation and of \$1,500.00 for any subsequent violation occurring within twelve (12) months of a first violation.
 - b. The penalty for violating any other provision of this chapter shall be a forfeiture in the amount of \$300.00 for a first violation, \$400.00 for a second violation occurring within twelve (12) months of a first violation, and \$500.00 for a third and each subsequent violation occurring during twelve (12) months of a first violation.
3. In addition to any forfeiture imposed by any provision of this chapter, any person convicted of violating any provision of this chapter shall be ordered to pay all costs, fees, surcharges, and assessments which are chargeable or taxable to the violator under the Wisconsin statutes.

4. If any penalty or forfeiture provided for in this chapter exceeds the penalty provided for the same or similar offense under Wisconsin law, the applicable penalty herein is automatically reduced to the maximum penalty provided by Wisconsin law.