

ORDINANCE OF THE TOWN OF COTTAGE GROVE, WISCONSIN
Adopted pursuant to Sec. 25.01 of the Town of Cottage Grove Code

Title: Ordinance 2020-01-20 Revising TCG §11.02 Outdoor and Open Burning

Code Section(s) created, amended, or repealed	<u>11.02</u>
Presented to Board by	<u>Fire Chief Nick Archibald</u>
Committee Review by	<u>None</u>
Date(s) Public Hearing(s) held (if required)	<u>January 20, 2020</u>
Date adopted	<u>January 20, 2020</u>
Vote	<u>5-0</u>
Date of posting of adoption of ordinance	<u>January 21, 2020</u>
Date of publication of adoption of ordinance	<u>Not Necessary</u>

The Town Board of the Town of Cottage Grove does ordain as follows:

TCG §11.02 Outdoor and Open Burning is hereby amended to read as follows:

11.02 OUTDOOR AND OPEN BURNING

(1) PURPOSE

This ordinance is intended to promote and safeguard the public health, safety and welfare of the citizens of the Town of Cottage Grove due to the air pollution and fire hazards of outdoor and open burning.

(2) DEFINITIONS

(a) "Air curtain destructor" means a solid waste disposal operation that combines a fixed wall open pit and a mechanical air supply, which uses an excess of oxygen and turbulence to accomplish the smokeless combustion of clean wood wastes and similar combustible materials.

(b) "Fire Pit" means an area cleared down to bare dirt and hollowed out at least six inches deep.

(c) "Fire Ring" means a barrier to keep the fire from escaping from a fire pit, such as stones, a tire rim, or commercially available fire ring at least 11 inches deep.

(d) "Campfire" means a small outdoor fire in a fire pit or surrounded by a fire ring, intended for recreation or cooking.

(e) "Outdoor Furnace" means a furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

(f) "Fire Chief" means the Chief of the Cottage Grove Volunteer Fire Department.

(g) "Open burning" means combustion in which the by-products thereof are emitted directly into the ambient air, without passing through a stack or chimney, including the combustion occurring at a properly operated air curtain destructor. Open burning does not include the combustion which occurs in any enclosed or covered unit designed to prevent the escape of any burning materials.

(3) GENERAL PROHIBITION ON OPEN BURNING, OUTDOOR BURNING AND REFUSE BURNING.

Open burning, outdoor burning and refuse burning are prohibited in the Town limits unless the

burning is specifically permitted by this ordinance.

(4) PROHIBITED OUTDOOR AND OPEN BURNING

(a) Open burning of any wet combustible rubbish, garbage, oily substances, asphalt, rubber or plastic products, or other materials prohibited by Wis. Admin. Code §§ NR 429.04 or 502.11.

(b) Burning of explosive or dangerous material without a permit issued by either the Wisconsin Department of Natural Resources (WDNR), or the ~~Department of Industry, Labor and Human Relations (DILHR)~~ Wisconsin Department of Safety and Professional Services (WDSPS).

(c) Open burning in an air curtain destructor without first obtaining a permit from the WDNR and having received written approval from the town board.

(d) Open burning of any material whatsoever by businesses, excluding agricultural or silvicultural facilities, except where a wood burning site license under Wis. Admin. Code NR § 502.11(f), has been approved by the WDNR.

(e) Open burning of any material whatsoever by agricultural or silvicultural facilities, except for stumps, trees, limbs, brush and weeds, as described in Wis. Admin. Code NR § 502.11(2)(a).

(5) REGULATED OPEN BURNING

The following open burning activities are allowed, provided that the open burning is conducted by an individual with a valid Open Burning Permit and in compliance with all conditions set forth in the Open Burning Permit and in (6) through (8) below:

(a) Open burning of trees, stumps, brush, dry leaves, plant clippings, weeds, and other dry combustible materials generated on the property, including that from clearing and maintenance of rights of way

(b) Any non-enclosed or non-covered cooking fires or campfires.

(c) Open burning, or fires set for practice and instruction of fire fighters, or testing of firefighting equipment.

(6) OPEN BURNING PERMITS

(a) DEFINITIONS

1. "Open Burning Permit" means a yearly permit for daytime burning of materials permitted under section (5). ~~Once issued, this permit requires residents to register each open burn via telephone or online two days prior to burning; the permit holder is required to call the fire department burn line or visit the fire department's web site to check for any burning restrictions prior to burning on the day of the burn.~~

2. "Campfire Permit" means a yearly permit for recreational or cooking fires in a fire pit or surrounded by a fire ring.

(b) Open Burning Permits shall be required for all regulated open burning conducted within the limits of the Town, as described in (5).

(c) Open Burning Permits shall be issued by the Town Chair or his/her designee.

(d) Open Burning Permits shall not be required for any activity described in (5)(c), when these activities are conducted by the Cottage Grove Fire Department.

(e) Open Burning Permits shall only be issued to a person an adult with a vested interest in the land described on the permit.

(f) Open Burning Permits may be denied to any person found to be in violation of any provision of this ordinance for a period of up to one year from the date of the violation.

(g) Open Burning Permits shall detail all conditions that apply to the activity being permitted, and a copy of the permit shall be available at the burning site. A current copy of the burning permits is attached as Appendix 11-A with the same force and effect as if it were fully reprinted herein.

(7) STANDARD OPEN BURNING PERMIT CONDITIONS

The following conditions shall apply to any Open Burning Permit issued by the Town:

(a) A responsible adult with the physical and mental capacity to conduct any burning for which the Open Burning Permit is issued shall be in attendance at any fire until it is totally extinguished.

(b) All open burning shall be conducted in a safe manner, when wind and weather conditions are such that they do not create any fire hazards to adjacent properties and the open burning can be safely controlled. Open burning may be restricted due to weather conditions at the discretion of the Fire Chief.

(c) Except for campfires, or when specifically noted on the permit as a special condition, no open burning shall be conducted between sunset and sunrise.

(d) Campfires shall be extinguished by 10:00 P.M. on Sunday thru Thursday and 11:00 P.M. on Friday or Saturday, or shall be extinguished immediately upon the request of a neighbor due to smoke causing a nuisance on the neighboring property.

(e) No open burning shall be conducted within 20 feet from any structure, hay stack, or fuel storage location, or upon any surface within a right-of-way, public or private (except when burning is performed by Town or County staff in connection with clearing of the right-of-way).

(f) Adequate firebreaks shall be provided, and arrangements shall be made to notify the fire department in case of an emergency (i.e.: having a phone available to DIAL 911).

(g) The open burning shall not be in violation of any federal air control rules, or any state air pollution control rules that are required by applicable federal laws or regulations.

(8) OUTDOOR FURNACES

Subject to the other provisions of this ordinance and the terms of any permit issued under this ordinance, an outdoor furnace may be used in the Town only in accordance with the following provisions:

(a) The outdoor furnace shall not be used to burn any of the prohibited materials listed in section (4) of this ordinance.

(b) The outdoor furnace shall be located at least 250 feet from the nearest building which is not on the same property as the outdoor furnace unless written approval of the burning location is obtained from the owner of the nearest building that is not on the same property. A copy of the approval shall be provided to the Town Board prior to commencing burning.

(c) The outdoor furnace shall have a chimney that extends at least 15 feet above the ground surface or higher. The Town Board may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

(d) Outdoor furnace installations completed prior to January 8, 2010 will be considered grandfathered in for the purposes of (b) and (c) above.

(9) RIGHT OF ENTRY AND INSPECTION

(a) The Fire Chief or any authorized officer, agent, employee or representative of the Town 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 §§ 66.122 and 66.123 Wis. Stats. In the event of a fire emergency, the Fire Chief and members of the Fire Department may access property to extinguish uncontrolled fire in order to protect the safety of persons and property.

(10) PENALTY FOR VIOLATION

(a) In addition to, and separate from, the possible liability referred to in (b) and (c), violations of this ordinance shall be punishable as Class D forfeitures, TCG § 25.04.

(b) Any violation of this ordinance shall result in the permit being revoked, and the fire being extinguished.

(c) The permit holder, or responsible party where a permit was not obtained, will be liable for any and all costs incurred by the Town in responding to and extinguishing any outdoor or open burning which is in violation of this ordinance, and any other liability resulting from damage caused by the fire.

(11) EFFECTIVE DATE

(a) Original ordinance adopted May 21, 2001

(b) Amended January 4, 2010 and January 6, 2014.

(c) This section shall take effect upon passage and posting and/or publication (if required).

Adopted this 20th day of January, 2020, by a vote of 5 for, 0 against, with 0 abstentions.

TOWN OF COTTAGE GROVE



Kris Hampton, Town Chair

ATTEST:)



Kim Banigan, Town Clerk

AFFIDAVIT OF POSTING OF
TOWN OF COTTAGE GROVE RESOLUTION

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

I, Kim Banigan, Cottage Grove Town Clerk, being first duly sworn, on oath, state as follows:

On January 21, 2020 the following was duly posted on the Town of Cottage Grove's internet site and on the Cottage Grove Town Hall Bulletin board, all in accordance with TCG 25.01(4) and Wis. Stats., §60.80.

**TOWN BOARD RESOLUTION 2020-01-20
REVISING TCG §11.02 OUTDOOR AND OPEN BURNING**

BUDGET RESOLUTION 2019-01



 Kim Banigan, Town Clerk

Subscribed to and sworn before me
this 20th day of Jan, 2020



 Signature of Town Chair person

or

_____ (print name)
Notary Public, State of Wisconsin
My Commission expires: _____