

Ordinance No. 712-05

AN ORDINANCE CREATING CHAPTER 39 OF THE VILLAGE OF HARTLAND CODE OF ORDINANCES REGULATING OUTDOOR BURNING, OPEN BURNING AND BURNING OF REFUSE AND REPEALING SECTION 38-5, OF THE VILLAGE OF HARTLAND CODE OF ORDINANCES REGULATING OUTDOOR BURNING, OPEN BURNING AND BURNING OF REFUSE

THE VILLAGE BOARD OF THE VILLAGE OF HARTLAND DO ORDAIN AS FOLLOWS:

SECTION 1: Section 38-5 of the Village of Hartland Code of Ordinances, "Regulations and permits." is hereby repealed in its entirety.

SECTION 2: Chapter 39, "Burning Regulations", of the Village of Hartland Code of Ordinances is hereby created to read as follows:

Chapter 39

Burning Regulations

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Sec. 39-1. 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 Village of Hartland from the air pollution and fire hazards resulting from open burning, outdoor burning, and refuse burning.

Sec. 39-2. Applicability.

(a) *Applicability.* This ordinance applies to all outdoor burning and refuse burning within the Village of Hartland subject to the following:

- (1) 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 39-4 of this ordinance.
- (2) 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.

Sec. 39-3. 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.

Sec. 39-4. Definitions.

(a) *Definitions.* The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

- (1) *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.
- (2) *Fire Chief* means the Chief of the Village of Hartland Fire Department or other person authorized by the Fire Chief.
- (3) *Outdoor Burning* means open burning or burning in an outdoor wood-fired furnace.
- (4) *Open Burning* means the kindling and/or maintaining of a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.
- (5) *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.
- (6) *Refuse* means any waste material except clean wood.

Sec. 39-5. General Prohibition on open burning, outdoor burning and refuse burning.

General prohibition on outdoor burning and refuse burning. Open burning, outdoor burning, and refuse burning are prohibited in the Village unless the burning is specifically permitted by this ordinance.

Sec. 39-6. Materials that may not be burned without a permit.

No permit may be issued under Sec. 39-11 of this Chapter 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:

- (a) 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.
- (b) 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.
- (c) Asphalt and products containing asphalt.
- (d) 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.
- (e) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- (f) Rubber including tires and synthetic rubber-like products.
- (g) 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.

Sec. 39-7. Open Burning Regulations.

- (a) *Open Burning Allowed Without a Permit.* The following types of open burning are allowed within the Village without a permit:
 - (1) Barbeque, gas (propane or natural), and charcoal grilling or cooking of food for human consumption in appliances designed and intended for cooking and/or grilling of food. .
 - (2) Burning of untreated wood, branches, or logs less than eight inches (8") in diameter within an outdoor fireplace enclosed by screening, provided such outdoor fireplace is commercially manufactured and intended for such purpose; used in accordance with the manufacturer's recommendations, maintained in good working order; and located upon a non-combustible surface (e.g. dirt without vegetation, stone, gravel, concrete, brick, etc.) that is twice the diameter of the outdoor fireplace.
 - (3) Practice burns conducted by the Village of Hartland Fire Department that are authorized by the Fire Chief under Sec. 39-12 of this Chapter.
- (b) *Open Burning Allowed With a Permit.* The following types of open burning are allowed within the Village with a permit issued under Sec. 39-11 of this Chapter:
 - (1) Fires set for forest, prairie or wildlife habitat management are allowed with the approval of the Department of Natural Resources; and

- (2) In emergency situations, such as natural disasters, burning that would otherwise be prohibited is allowed if specifically approved by the Department of Natural Resources.
 - (3) Recreational fires, which shall mean small campfires on private property, small fires confined to pits, or outdoor cooking fires not otherwise permitted under Sec. 39-7(a)(1) of this Ordinance that are conducted not less than 15 feet from any building, structure, shed, garage, tree, shrub, bush, fence, or any combustible material and are surrounded by non-combustible materials such as concrete, rock, or cement block. Recreational fires shall have a maximum diameter of three feet (3') and flames that do not reach a height greater than three feet (3') from the base of the fire.
- (c) Except for those types of open burning allowed by Sec. 39-7(a) and (b), open burning is prohibited within the Village in accordance with Sec. 39-5 of this Chapter.
- (d) *Open Burning Regulations.*
- (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 compliance with all local and state fire protection regulations.
 - (2) Open burning allowed under this Ordinance must be conducted not less than 15 feet from any structure.
 - (3) All allowed 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.
 - (4) No burning allowed under this Ordinance may occur upon any street, curb, gutter, or sidewalk or on the ice of a lake, pond, stream, or body of water.
 - (5) No open burning may be conducted on days when the Department of Natural Resources has declared an ozone action day applicable to the Village of Hartland.
 - (6) 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.
 - (7) Open burning shall be conducted only on the property on which the materials were generated or at a facility approved by, and operated in accordance with, provisions established by the Department of Natural Resources and the Fire Chief.
 - (8) 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.

Sec. 39-8. Burning leaves, brush, clean wood and other vegetative debris prohibited.

Except as otherwise expressly provided in Sec. 39-7 of this Ordinance, all burning of leaves, weeds, brush, stumps, clean wood, trees and other vegetative debris is prohibited within the Village of Hartland.

Sec. 39-9. Burn Barrels Prohibited.

No person shall use or maintain a burn barrel in the Village of Hartland.

Sec. 39-10. Outdoor wood-fired furnaces prohibited.

No person shall install, use or maintain an outdoor wood-fired furnace in the Village of Hartland.

Sec. 39-11. Permits.

- (a) All permits required under this Chapter shall be obtained from the Fire Chief.
- (b) For all such permits issued there will be a charge in an amount set by resolution of the Village Board, payable at the time of issuance of such permit.
- (c) All permits will specify and/or contain the following information:
 - (1) Date issued.
 - (2) Number.
 - (3) Granted to.
 - (4) Location of burning.
 - (5) Wind, nine miles per hour or less.
 - (6) Person on site with water hose.
 - (7) All persons burning without a permit still assume liability for damage that may result from such burning.
 - (8) The grantee must keep safe control of such fire, and all resultant embers and ashes shall be removed or extinguished by wetting down at the close of such fire.
 - (9) If hazardous conditions exist or develop at the time of burning, the applicant may, with permission of the Fire Chief, burn at a later day or have money refunded.
 - (10) Signature of the Fire Chief or the Fire Chief's designee.
 - (11) Fee.
 - (12) If the permit is for the burning of materials specified in Sec. 39-6 of this Chapter, the application shall detail the air pollution control devices to be used and contain a written copy of an approval by the Department of Natural Resources.
- (d) 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.
- (e) Any violation of the conditions of a burning permit shall be deemed a violation of this Chapter. Any violation of this ordinance or the burning permit shall void the permit.
- (f) 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.
- (g) Recreational burning permits issued under this section shall be for effective for a period of two (2) years from the date of inspection and approval by the Fire Chief, or the Fire Chief's designee, of the applicant's compliance with the applicable provisions of this Ordinance for recreational fires.

Sec. 39-12. Fire Department practice burns.

- (a) Except as provided in this section for fire department practice burns, an existing unwanted building in the Village of Hartland may not be burned. A building, which is no longer standing, may not be used for a practice burn.
- (b) An existing building may be burned only by the Village of Hartland Fire Department and only if the Fire Chief determines that the burning is necessary for practice and instruction of fire fighters or testing of fire fighting equipment.
- (c) Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.
- (d) A demolition notification shall be submitted to the Department of Natural Resources and all asbestos removed prior to the practice burn.
- (e) All ash shall be disposed of in an approved landfill or at an alternative location approved by the Department of Natural Resources.
- (f) At least 48 hours before a planned practice burn the Fire Chief or designee shall notify residents within 1000 feet the site of the proposed burn.

Sec. 39-13. 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.

Sec. 39-14. Right of Entry and Inspection.

The Fire Chief or any authorized officer, agent, employee, or representative of the Village of Hartland who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. 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.

Sec. 39-15. Enforcement.

This Chapter shall be enforced by the Fire Chief or his/her designee.

Sec. 39-16. Penalties.

Any person who shall violate any provision of this Chapter or any rule or regulation made under this Chapter shall be subject to a penalty as provided in section 1-4 of this Code. Existence of or imposition of a forfeiture under such section shall not, however, prevent the Village from removing any violation of this Chapter in the exercise of its police power or through appropriate court action.

SECTION 3: If any section, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of such ordinance.