

STATE OF WISCONSIN:

TOWN OF OAKLAND:

JEFFERSON COUNTY:

## **Ord. No. 2023-30 Open Burning and Fireworks Regulations**

### **ORDINANCE REPEALING AND RECREATING ORDINANCE NO. 30 OF THE MUNICIPAL CODE OF THE TOWN OF OAKLAND**

NOW, THEREFORE, the Board of Supervisors of the Town of Oakland, Jefferson County, Wisconsin, does hereby ordain as follows:

**SECTION 1:** Ordinance No. 30 is repealed in its entirety and recreated to read as follows:

#### **30.1 TOWN OF OAKLAND BURNING BANS**

The Town of Oakland is located outside of a forest protection area, and burning bans would be considered and issued by the Town Board upon researching weather conditions and the recommendation of any fire departments servicing the Town of Oakland. Town of Oakland residents are served by the Cambridge Fire Department, Fort Atkinson Fire Department, and Jefferson Fire Department.

Pursuant to Wis. Stats. 26.13(1): The Chairperson of the Town Board of each town outside the limits of a forest protection area shall, by virtue of the office and the oath of the office, be town fire warden for the town.

Upon the weather conditions indicating that open burning would pose a hazard to town residences and properties, the Town of Oakland Chairperson, along with the Town of Oakland Board, will prohibit open burning and/or other hazardous burning, such as, but not limited to, fireworks. A notice of prohibition stating the conditions of the burning ban will be prepared and posted in at least three locations within the Town of Oakland, as well as on the Town of Oakland website. The ban will continue until such time as the Town Chairperson or designee determines conditions no longer warrant the continuation of the burning ban.

#### **30.2 OPEN BURNING OF LEAVES, BRUSH, CLEAN WOOD, AND OTHER VEGETATIVE DEBRIS**

Unless prohibited by a Burning Ban issued by the Town of Oakland under 30.1 of this ordinance, or upon a Burning Ban issued by the Wisconsin Department of Natural Resources, open burning of leaves, weeds, brush, stumps, clean wood, or other vegetative debris is allowed. 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. Such allowable burning shall be conducted in a safe nuisance free manner, when wind and weather conditions are such to minimize adverse effects and not create a health hazard or a visibility hazard on roadways, railroads, or airfields.

Open burning shall be conducted only on the property on which the materials were generated; or at a facility approved by the Town of Oakland Chairperson or Designee; or the Wisconsin Department of Natural Resources.

Large open burning, such as burning of trees, limbs, stumps, brush, or weeds for clearing or maintenance of rights-of-way, or for other large burns, may be allowed by the Town of Oakland Board Chairperson or Designee, as well as applying for and obtaining a burning permit from the Town of Oakland Board Chairperson or Designee. See 30.8 regarding how to obtain a burning permit.

### 30.3 BURNING OF YARD WASTE NEAR LAKE RIPLEY IN THE TOWN OF OAKLAND PROHIBITED

No person, firm or corporation shall burn yard waste within 25 feet of the ordinary high water mark (OHW) of Lake Ripley, or within 25 feet of the bank of any drainage channel that continuously conveys surface water to the lake. Said drainage channels include the inlet channel and connecting lateral drainage ditches within the Oakland Sanitary District boundaries.

Burning of yard waste is also prohibited in streets, curbsides, or ditches in Town of Oakland right-of-ways located within the Oakland Sanitary District boundaries.

### 30.4 BURNING OF GARBAGE AND REFUSE PROHIBITED IN TOWN OF OAKLAND AREAS R-1 OR R-2

No person, firm, or corporation shall burn garbage or refuse within the area within the Town of Oakland zoned either R-1 or R-2, and all areas within the Town of Oakland within 500 feet of areas so zoned. Burning of garbage or refuse within said areas is prohibited at any time unless a permit for such burning is received from the Town of Oakland Board Chairperson or designee. Such approval shall be granted or withheld based on a consideration of the distance between the applicant's burning site and the nearest neighbor. It is intended that approval shall be given only when a determination can be made that such burning will not be a nuisance to adjoining property owners. See 30.8 regarding how to obtain a burning permit.

The word "garbage" as used in this ordinance shall mean and include all kinds of organic kitchen waste resulting from preparation, dealing in, or storage of food, and all decaying animal or food products from any source whatsoever.

The word "refuse" as used in this ordinance shall mean and include all waste matter such as tin cans, glass, paper, rags, garden refuse, and other items of a smaller nature.

### 30.5 MATERIALS THAT MAY NOT BE BURNED

Unless a specific written approval has been obtained from the Department of Natural Resources, as well as obtaining a permit from the Town of Oakland, 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 Oakland 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 (DNR). Upon receiving a copy of the written approval from the DNR, and an application form requesting a permit, the Town of Oakland Chairperson or Designee will review for purposes of issuing a permit, pursuant to Section 30.8.

Paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.

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.

Asphalt and products containing asphalt.

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.

Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, films and containers.

Rubber including tires and synthetic rubber-like products.

### 30.6 BURNING TO BE CONSTANTLY OBSERVED AND APPROPRIATELY EXTINGUISHED

The owner of the premises, or an owner's representative in the case of a firm or corporation, must be on the premises when burning. No fire shall be left unattended. A fire must be extinguished when the owner, or the owner's representative is not on the premises. Large open burns may only take place between sunrise and sunset.

### 30.7 FIREWORKS

The State of Wisconsin prohibits the use of fireworks unless a permit is issued by the local jurisdiction (Town of Oakland). The Town of Oakland will only issue permits to authorized groups for specific events with fireworks display. The Town Clerk is authorized by the Town of Oakland Chairperson or Designee to take applications and issue a fireworks permit, if compliant with requirements in section 30.8 (proven that the public health and safety will be protected. The application for a fireworks permit must provide proof of insurance.) See 30.8 regarding how to obtain a fireworks or burning permit.

### 30.8 OPEN BURNING AND FIREWORKS PERMITS

A. According to the individual sections of this ordinance, Ordinance 2023-30, if a burning or firework permit is required, said applications and permits can be obtained from the Town of Oakland Clerk, at the Town Hall, N4450 County Highway A, Cambridge, Wisconsin. Applications and fee schedules may be obtained on the Town of Oakland website (OaklandTown.com) or in person at the Town Hall.

B. A burning permit issued under Ordinance 2023-30, shall require compliance with all applicable provisions of this Ordinance and any additional special restrictions deemed necessary to protect public health and safety. A permit for a Large Open Burning must be submitted at least 48 hours prior to the burn taking place; and no later than 12 pm (noon) on the Thursday prior to burning on weekends. Further descriptions of allowable burning and conditions are detailed on the application and are by reference incorporated into this section of the ordinance.

C. Fireworks Permit. Authorized Groups are defined as a public authority, fair association, a civic/community organization, or groups of individuals, i.e., Corporate entities in the town of Oakland, an agricultural producer for the protection of crops from predatory birds or animals. These groups may apply for a permit for fireworks display that will be open to the public or for their patrons. Permits will be limited to fireworks displays for the following legal holidays periods, Memorial Day, July 4<sup>th</sup>, Labor Day and New Year's Eve. Other special events serving the community will be approved at the discretion of the Town. Agricultural permits will be available as needed to address the protection of crops<sup>1</sup>. Additional requirements such as insurance, licensed pyrotechnician and more are specified in the application which are by reference incorporated into this section of the ordinance.

D. When weather conditions warrant, and the Town of Oakland Chairperson along with the Town of Oakland Board issues a burning ban on all open burning, including fireworks, according with section 30.1 herein, any previously issued burning permits shall be temporarily suspended until which time the burning ban is discontinued. Any violation of the conditions of any burning permit shall be deemed a violation of Ordinance 2023-30. Any violation of this ordinance or burning permit shall void the permit, additionally the Town may issue citations for violations of this ordinance.

### 30.9 OUTDOOR WOOD-FIRED FURNACES

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

The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in any section of this ordinance.

The outdoor wood-fired furnace shall be located at least 500 feet from the nearest building, which is not on the same property as the outdoor wood furnace.

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<sup>1</sup> Agricultural producers will not be required to have a licensed pyrotechnical person nor provide a certificate of insurance for fireworks used for protection of crops from predatory birds or animals when done on land owned or leased by the applicant. The applicant does so at their own risk. And will hold the Town of Oakland harmless for any and all damage and injuries.

The outdoor wood-fired furnace shall have a chimney that extends at least 15 feet above the ground surface. The Fire Chief 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.

#### 30.10 LIABILITY

Any person utilizing or maintaining an outdoor fire or fireworks, shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire or fireworks. By issuing a permit the Town of Oakland does not warrant that the applicant has or will take all necessary safety precautions, further the Town of Oakland does not warrant that the pyrotechnic employee is suitably qualified to discharge fireworks, and finally the petitioner and any all attendees or participants of the fireworks display or large open burning permit fires do so at their own risk and will hold the Town of Oakland harmless for any and all damage or injuries.

#### 30.11 RIGHT OF ENTRY AND INSPECTION

The Town of Oakland Chairperson or designee, and/or the Fire Chief or any authorized officer, agent, employee or representative of the Cambridge Fire Department, Fort Atkinson Fire Department, or Jefferson Fire Department who presents credentials, may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance, Town of Oakland Ordinance 2023-30. 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 66.122 and 66.123, Wis. Stats.

#### 30.12 ENFORCEMENT AND PENALTIES

The Town of Oakland Chairperson or Designee is authorized to enforce the provisions of the above sections of Ordinance No. 2023-30.

Any person, firm, or corporation violating any portion of the above Ordinance No. 2023-30 shall be subject to a forfeiture not to exceed \$500. Penalties are doubled for second and subsequent offenses.

#### SECTION 2: PURPOSE

The above Town of Oakland Ordinance 2023-30 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 Town of Oakland, Jefferson County, Wisconsin, due to the air pollution and fire hazards of open burning, outdoor burning, refuse burning, and fireworks.

#### SECTION 3: APPLICABILITY

This Ordinance applies to all outdoor burning and refuse burning within the Town of Oakland, Jefferson County, Wisconsin.

This ordinance does not apply to grilling or cooking using charcoal, wood, propane, or natural gas in cooking or grilling appliances.

This ordinance does not apply to burning 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 30.4 of Ordinance No. 2023-30.

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.

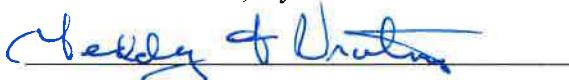
#### SECTION 4: SEVERABILITY

Should any portion of this Ordinance, Town of Oakland Ordinance 2023-30 be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder shall not be affected.

#### SECTION 5: ADOPTION

Upon adoption, this Ordinance, Town of Oakland Ordinance 2023-30 shall take effect upon publication or posting.

TOWN BOARD, By:



Ted F. Vratny, Town Chairman

Attest:



Susan Dascenzo, Clerk/Treasurer

Vote      Aye: 5      No: 0

Published: August 18, 2023