

## **MEETING NOTICE**

The City of Stoughton will hold a Regular meeting of the **Planning Commission** on **Monday, June 7, 2010 at 6:00pm** in the **Hall of Fame Room, City Hall, Lower Level, 381 E. Main Street,** Stoughton WI.

**\*Note change of location.**

### **AGENDA**

1. Call to order
  2. Consider approval of the minutes of May 10, 2010.
  3. Council Representative Report.
  4. Status of Developments/Projects. (Page 5)
  5. Discuss proposed ordinance amendments and information pertaining to the Keeping of Chickens. (Page 7)
  6. Discuss proposed zoning ordinance amendments pertaining to Indoor & Outdoor Commercial Entertainment. (Page 38)
  7. Tom Lynch, Parks & Recreation Director, requests the creation of zoning code section 78-803 (2) (I), to allow exempt signage on softball/baseball outfield fencing, on City owned parkland for advertising purposes. (Referred back from Council) (Page 42)
    - Recommendation to Council
  8. Discuss proposed building ordinance amendment pertaining to Outdoor Furnaces. (Page 45)
  9. Future agenda items
  10. Adjournment
- 6/2/10mps

### **COMMISSIONERS:**

Mayor Donna Olson, Chair  
Eric Hohol, Vice-Chair  
Rollie Odland

Todd Krcma  
Carl Chenoweth

Ron Christianson  
Troy Wieser

### **CC: PACKETS:**

Rodney Scheel  
Troy Wieser

Michael Stacey (4 packets)  
Todd Krcma

Rollie Odland

### **E-MAIL NOTICES:**

All Department Heads  
Pili Hougan  
Scott Wegner  
Area Townships

Council members  
Peter Sveum  
Rick Hummel – HUB

Steve Kittelson  
Derek Westby  
City Attorney Matt Dregne

### **MAIL NOTICES:**

David Atkins, PO Box 471, Stoughton; K & K of Stoughton LLC, 2108 Wood View Drive, Stoughton;  
Jamie Bush, 1149 Lincoln Road, Oregon, WI. 53575; John Petty, 110 N. Page Street, Stoughton;

IF YOU ARE DISABLED & IN NEED OF ASSISTANCE, PLEASE CALL 873-6677 PRIOR TO THIS MEETING.

**NOTE: AN EXPANDED MEETING MAY CONSTITUTE A QUORUM OF THE COUNCIL.**

## **Planning Commission Meeting Minutes**

**Monday, May 10, 2010 - 6:00 p.m.**

**Fire Department Training Room, 401 E. Main St., Stoughton, WI.**

**Members Present:** Mayor Donna Olson; Carl Chenoweth; Eric Hohol; Rollie Odland; and Troy Wieser.

**Absent and Excused:** Todd Krcma & Ron Christianson.

**Staff:** Director of Planning & Development, Rodney Scheel; Zoning Administrator, Michael Stacey

**Guests:** Mike O'Connell; David Atkins; Dave Knop; Walt Olson; Mark Rosenbaum; Bill Buglass; Jamie Bush; Carolyn Parham; Brett Johnson; John Matson; Chris Neumann; Tom Matson; Scott Wegner; Dave McKichan; and Martin Lamers.

1. **Call to order.** Mayor Olson called the meeting to order at 6:00 pm.

2. **Elect Vice-Chair.**

**Wieser** nominated **Hohol** as Vice-Chair of the Planning Commission. There being no other nominations, a unanimous vote was cast to elect **Hohol** as Vice-Chair.

3. **Consider approval of the April 12, 2010 minutes.**

Motion by **Wieser** to approve the minutes of April 12, 2010 as presented, 2<sup>nd</sup> by **Hohol**. Motion carried 5 - 0.

4. **Council Representative Report.**

Hohol stated the zoning code amendment regarding fence signage at City parks, baseball diamonds was referred back to the Parks and Recreation Committee for further clarification.

5. **Status of Developments/Projects.**

Mayor Olson asked if there were any questions related to the status of developments. There were no questions.

6. **Walt Olson requests Certified Survey Map (CSM) approval for 2209 & 2211 Lincoln Avenue.**

Scheel stated the CSM request is to convert a zero lot line back to a standard duplex lot. Walt Olson was available for questions.

Motion by **Chenoweth** to recommend Council approve the CSM request by Walt Olson for 2209 & 2211 Lincoln Avenue as presented, 2<sup>nd</sup> by **Wieser**. Motion carried 5 - 0.

7. **Dane County Housing Authority (DCHA) requests a resolution to proceed with a housing project for property located at 1601, 1625 & 1649 Vernon Street.**

Scheel gave an overview of the request. Carolyn Parham was available for questions.

Motion by **Odland** to recommend Council approve a resolution for Dane County Housing Authority to proceed with a housing project located at 1601, 1625 & 1649 Vernon Street. 2<sup>d</sup> by **Hohol**. Motion carried 5 – 0.

**8. Mike O’Connell requests parking lot reconstruction approval for Doctor’s Park, 1520 Vernon Street.**

Scheel explained the request. Mike O’Connell was available for questions.

Motion by **Chenoweth** to approve the parking lot reconstruction as presented. 2nd by **Hohol**. Motion carried 5 – 0.

**9. Mark Rosenbaum requests site plan approval for an addition at North American Fur, 205 Industrial Circle.**

Rodney Scheel explained the request. Mark Rosenbaum was available for questions.

Motion by **Wieser** to approve the building addition for North American Fur Auction at 205 Industrial Circle contingent on the following: Staff letter dated April 26, 2010; Stoughton Utilities letter dated April 27, 2010; and the landscaping shall be completed within 60 days. 2<sup>nd</sup> by **Hohol**. Motion to carried 5 – 0.

**10. Pre-Annexation Agreement for Payne & Dolan property, 793 US Highway 51 East, Town of Dunkirk.**

Scheel explained the pre-annexation agreement. A discussion took place regarding the City Attorney opinion to add language that allows the City to have the right in its sole discretion to discontinue any Urban Service Area amendment process or application at any time. Bill Buglass, Tom Matson and John Matson argued that with the money they will have invested in an Urban Service Area amendment, it is not in their best interest for the City to be able to discontinue the process. The Commissioner’s agreed.

Motion by **Chenoweth** to recommend Council approve the pre-annexation agreement for the Payne & Dolan property at 793 US Highway 51, Town of Dunkirk contingent on striking the last sentence in section 3. C. on page 4 of the pre-annexation agreement. 2<sup>nd</sup> by **Hohol**. Motion to carried 5 – 0.

**11. Discuss possible Zoning Ordinance amendments pertaining to Outdoor Commercial Entertainment.**

Scheel explained the liquor licensing requirements for an outdoor alcohol consumption area and how those requirements relate to the outdoor commercial entertainment zoning requirements for the business districts in the City. A lengthy discussion took place regarding what potential changes should be considered to allow outdoor commercial entertainment in the business districts and including the distance required for specific outdoor uses from residentially zoned property. Business owners from Deaks; Pack R Place and Water’s Edge were on hand for the discussion.

The Commissioner's requested staff bring an ordinance amendment back next month for review and to poll area communities to find out how outdoor commercial entertainment is regulated there.

**12. Discuss possible Building Ordinance amendment pertaining to Outdoor Furnaces.**

Scheel explained the issues related to outdoor furnaces such as smoke; smell and types of materials being burned in them. A lengthy discussion took place regarding industry standards for outdoor furnaces. Marty Lamers & Scott Wegner of the Stoughton Fire Department and Alderman Dave McKichan were on hand for the discussion. The consensus of the Commissioner's was that there should be some requirements; a permitting process and inspections for outdoor furnaces. The Commissioner's requested that staff come back next month with an ordinance amendment for further discussion and that staff check with other communities to find out how outdoor furnaces are regulated elsewhere.

**13. Future Agenda Items.** Outdoor Commercial Entertainment and Outdoor Furnaces.

**14. Adjournment.** Motion by Wieser to adjourn at 7:40 pm, 2<sup>nd</sup> by Chenoweth. Motion carried 5 – 0.

Respectfully Submitted,  
Michael Stacey



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DEPARTMENT OF  
PLANNING & DEVELOPMENT  
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RODNEY J. SCHEEL  
DIRECTOR

Date: June 2, 2010

To: Planning Commission Members

From: Rodney J. Scheel  
Director of Planning & Development

Michael Stacey  
Zoning Administrator/Assistant Planner

Subject: June 7, 2010 Planning Commission Agenda - Item #4 –Status of Development and Meeting Summary.

**Status of Developments:**

- West View Ridge - 33 improved lots remaining.
- Barberry Fields - 3 improved lots remaining.
- Stone Crest - 12 improved lots remaining.
- Blackhawk Community Credit Union – Nearing Completion.
- Stellar Services – Nearly Completed.
- Tom Haag Building - Nearly Completed.

**Item #5 - Discuss proposed ordinance amendments and information pertaining to the Keeping of Chickens.**

As requested, staff has provided proposed zoning ordinance amendments for the keeping of chickens on residentially zoned property. City Clerk Luann Alme has provided a proposed licensing application and other ordinance amendments related to keeping of chickens. Steve Tone and Gennifer Mott have provided some background information and will give a short presentation at the meeting. John Petty has provided information related to State of Wisconsin regulations for keeping chickens. A future public hearing is necessary prior to any zoning amendment.

**Item #6 – Discuss proposed Zoning Ordinance amendments pertaining to Indoor & Outdoor Commercial Entertainment.**

As requested, staff has provided proposed ordinance amendments to address outdoor seating and patio areas for Indoor Commercial Entertainment uses. Examples of Indoor Commercial Entertainment uses are restaurants; taverns; health or fitness centers; all forms of training studios; bowling alleys; arcades; roller rinks and pool halls. Staff has also proposed to remove Outdoor Commercial Entertainment within the Central Business District and proposed to include Outdoor Commercial Entertainment within the Planned Business District. Examples of Outdoor

Commercial Entertainment uses are miniature golf courses; go-cart tracks; commercial swimming pools; driving ranges; amusement parks and drive-in theaters. A future public hearing will be necessary prior to any zoning amendment.

**Item #7 – Tom Lynch, Parks & Recreation Director, requests the creation of zoning code section 78-803 (2) (I), to allow exempt signage on softball/baseball outfield fencing, on City owned parkland for advertising purposes.**

The Common Council has referred this proposed ordinance amendment back to the Planning Commission and requested the ordinance be reviewed and amended to allow the signage to be placed in Racetrack Park only. This amendment is proposed to use Racetrack Park as a pilot project to test this new idea of signage on outfield fencing. The proposed ordinance amendment is provided. There has already been a public hearing for this ordinance amendment. Staff believes it would be better to leave the ordinance as it was originally proposed and modify the policy as the Council deems necessary, thus eliminating the need for future public hearings on the matter. A recommendation to Council is necessary.

**Item #8 - Discuss a proposed Building Ordinance amendment pertaining to Outdoor Furnaces.**

As requested, staff has provided a proposed ordinance to regulate outdoor furnaces within the City of Stoughton. A WDNR model ordinance has been provided including ordinances from other communities. Please note that many Cities within the State of Wisconsin ban outdoor furnaces in residential areas. This draft ordinance is intended to capture some of the items found within ordinances where outdoor furnaces are allowed. A public hearing is not required for amendments to the Building Code. A recommendation to the Common Council is necessary if the Commission chooses.

# Stoughton Planning Commission Briefing

compiled by *Chickens in Stoughton?!*, May 31, 2010

Last Update: June 1, 2010

*Chickens in Stoughton?!* is a loosely-formed group of individuals that are requesting that the city revise its laws to enable small micro-flocks of up to four female chickens (hens) to be kept within the city limits, with reasonable restrictions. We feel that the raising of chickens provides both children and adults an education in local, sustainable food practices, provides food security, promotes green living, expands our local food supply and provides an opportunity to learn responsibility and compassion towards animals.

In Stoughton, the potential keeping of chickens within the city limits impacts both the Municipal Code and the Zoning Ordinance. This document, prepared specifically for the Planning Commission, attempts to layout some of the issues they are likely to discuss and consider.

## Why Chickens?

Cities all across the nation are reconsidering bans on backyard poultry that were enacted from the 1950s population migration from farm to urban environment. Recently, cities like Portland, Boise, Madison, Denver, Seattle, and Fort Collins have relaxed their laws and have begun allowing residents to keep a few backyard hens. According to Newsweek magazine, more than 65% of major cities now have chicken-keeping ordinances.

While everyone has their own reasons for embracing the idea of raising chickens for eggs in their own backyards, the recent interest in the last decade has accelerated due to the following factors:

1. Increased awareness of individual impacts on the environment (e.g., local food and “green living”)
2. Increased suspicion regarding the safety of food produced by large factories, particularly non-US sources
3. Increased awareness of the possible need to access alternative food sources in case of emergency.

But not everyone is in favor of chickens living in their neighborhood. Most people, when first exposed to the question of “urban chickens”, consider it a rather odd, or even a repulsive, request. Their experience with chickens often is a result of driving by large, smelly, profit-based operations, where chickens are considered “machines” that must produce or die. These chickens, often numbering 10,000 or more per factory, are raised their entire lives in less than one square foot of cage space each. Even so-called “cage free” hens are often only allocated two square feet of space, with no ability to actually roam outside of their production building. In these operations, odor and cleanliness often take a backseat to production levels and profit.

Micro-flocks of chickens kept in an urban environment are as dissimilar to the above as a family dog is to a large puppy mill. With small, attractive coops that blend in with the surrounding neighborhood, backyard chickens are the “spoiled cousins” of the typical farmyard or production hen. Much like their keepers, a clean and comfortable habitat is the norm for city chickens.

Due to some unique characteristics of female chickens, the trend of allowing chicken keeping in an urban environment has been steadily increasing over the last decade. Many cities, both smaller and larger than Stoughton, have changed their laws to allow residents to keep 3 to 6 hens fully contained within their backyard, where they are treated both as entertaining pets and as a ready provider of fresh, wholesome eggs.

A partial list of cities within Wisconsin that allow hens to be kept within the city limits includes:

- Fort Atkinson, pop. 11,895 (6 hens)
- Jefferson, pop. 7,822 (4 hens)
- Madison, pop. 231,916 (4 hens)
- Neenah, pop. 25,060 (4 hens)
- New Berlin, pop. 38,649 (4 hens)
- Sheboygan, pop. 47,895 (no limit)

Milwaukee, Racine and Shorewood are currently considering the issue. A more extensive national list is provided at the end of this document.

While the reasons are beyond the scope of this briefing, we believe that, of all the common farm animals, chickens represent the only one suitable for an urban environment. Please refer to our publication, *Common Backyard Chicken Objections*, for more information.

## **Typical Setup for Backyard Chickens**

A typical backyard hen setup consists of a fully enclosed and secureable coop with 4 to 6 square feet of floor space and an enclosed run of 6 to 10 square feet per hen. For 4 hens, this makes a total of less than 64 square feet--smaller than the typical child's playset. The open areas of the coop/runs are protected by 1/2" hardware cloth on all sides, including the top, and often have their sides extended with wire mesh a foot into the soil. They are meant to be completely predator proof.

We have included at the end of this document several examples of coops commonly found in urban environments.

## **Concerns of Communities Considering Urban Chickens**

In general, communities considering chickens in an urban environment have to satisfy concerns in three areas:

1. Structural
  - a. How big are the coops and runs
  - b. How will the animals be contained
  - c. Are there any construction standards
  - d. What zoning districts are they permitted
  - e. Where on the lot can they be erected
  - f. Do they need building permits
2. Environmental
  - a. How will noise be controlled
  - b. How will odors be controlled
  - c. Will there be an increase in predators or scavengers
  - d. Will there be an increased risk for human-transmittable disease
3. Enforcement
  - a. Will licensing be required
  - b. How will violations be handled
  - c. What additional effort is required to enforce these standards

Establishing reasonable restrictions and guidelines in these areas makes for rules that are fair to residents and easy to enforce. Typical to many cities' response to the above concerns are the following:

1. Structural
  - a. Lots with single family dwellings only
  - b. Only in backyards
  - c. Located either 20' to 25' from neighbor residential structures or 15' within lot boundaries
  - d. Coops and runs are subject to existing outbuilding restrictions
2. Environmental
  - a. Limit of 3 to 6 female chickens (hens) only, no roosters
  - b. Contained in a secured coop at night, and in an enclosed run or fenced yard at all other times
  - c. Feed kept in a secured container
  - d. Odors not detectable at lot boundaries



- e. Noise not significant at lot boundaries

### 3. Enforcement

- a. Annual licensing fee
- b. Applications must be approved
- c. Noise and at-large issues addressed as with dogs and cats
- d. Other issues addressed by animal control, building inspector, or licensing department

We have included at the end of this document a table listing several cities and their specific regulations as they pertain to keeping chickens in an urban environment.

## Proposed Municipal Code Changes

While the Planning Commission is not charged with reviewing changes to the Municipal Code, we thought it would be beneficial to list what the proposed changes are here, so that you may see the proposed zoning changes within context:

- Maximum of 4 hens allowed, no roosters
- No butchering within the city limits
- Hens contained at all times in coop, run or fenced backyard
- Annual city license application with fee of \$15
- Wisconsin Department of Agricultural premise registration required
- Existing fowl noise ordinance applies (Sec. 6-5)
- Existing noxious odor ordinance applies (Sec. 58-8)
- Police enforcement of the same violations as with dogs and cats
- At-large animals handled as with dogs and cats

## Proposed Zoning Ordinance Changes

The following changes are proposed and are before you today:

- Keeping of a maximum of 4 hens allowed as an accessory land use by right on single-family lots in districts ER-1, SR-3, SR-4, SR-5 and SR-6
- Annual city license required
- Coop/runs must be in rear yard only
- Coop and run must be at least 25' from all residential structures on adjacent lots
- All zoning requirements related to accessory structures are exempt for coops and runs less than 65 square feet in size
- Electrical work requires a permit

Note that these rules do not override any deed restrictions that run with the land on outbuildings and animals.

## Conclusion

The net effect of these regulations may seem onerous to some potential chicken keepers. However, by and large most communities have willingly accepted them as being a reasonable compromise required to address both the concerns of residents and the humane treatment of chickens within the city limits.

The experience of other cities has demonstrated that the keeping of a few hens is compatible with an urban environment. Cities of all sizes have allowed keeping of hens without incident. Few have reported any significant increase in noise, odor, or visual complaints, and have reported relatively minor increases in enforcement effort.

We feel that the unique properties of hens make them the “greenest” animal capable of being kept in an urban environment. They are fully compatible with society’s blossoming recognition that we must all consider environmental impacts when evaluating our daily activities, and that becoming more local and sustainable in our food choices is one manner in which to accomplish this. Chickens fit completely with the objective of backyard vegetable gardening and Stoughton’s recent commitment to community gardens.

The benefits of small micro-flocks of hens far outweighs the minor impacts on city services and residential living. We feel that the time has come for Stoughton to allow backyard hens.

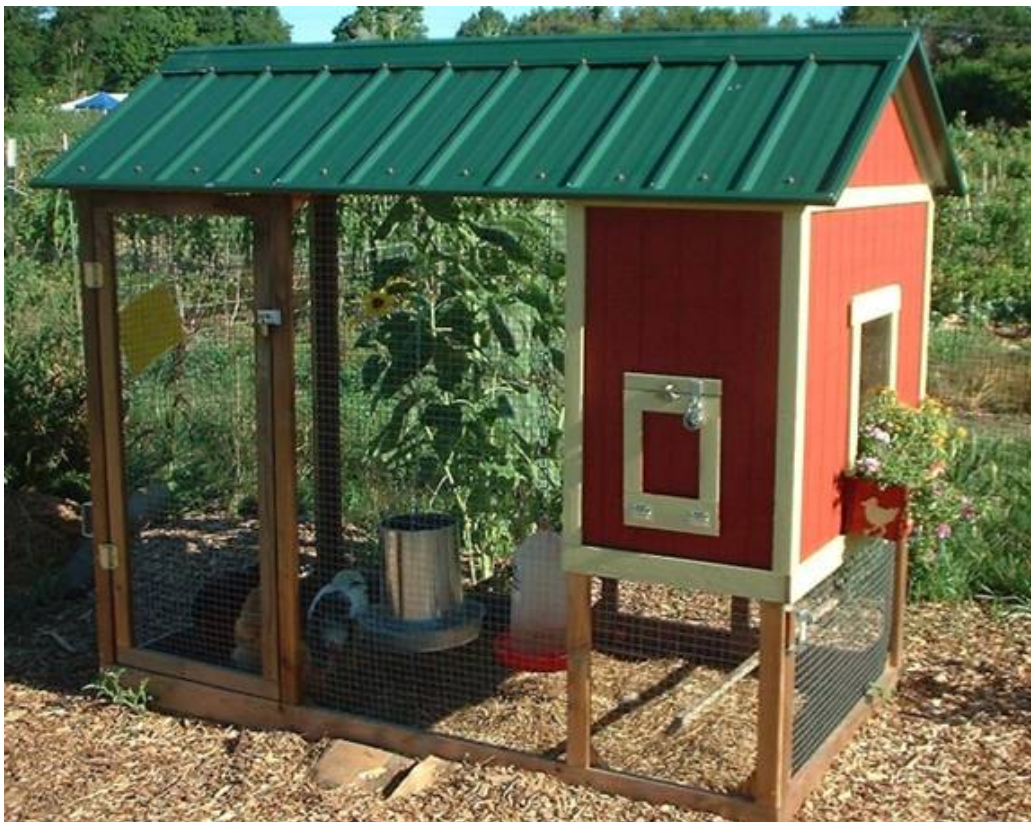
# Appendices

## Other Cities Allowing Urban Chickens

The following is a partial list of cities that allow chickens to be kept in their city limits: Concord NH, New Haven CT, San Francisco CA, Minneapolis MN, Boston MA, Phoenix AZ, Chicago IL, New York City, Syracuse NY, Anaheim CA, Mobile AL, New Orleans LA, Buffalo NY, Hartford CT, Baltimore MD, Portland OR, Houston TX, Miami FL, San Jose CA, Las Vegas NV, Vallejo CA, Topeka KS, Santa Rosa CA, Santa Fe NM, Little Rock AK, Burlington VT, Richmond VA, San Antonio TX, Albuquerque NM, Bakersfield CA, Des Moines IA, Winston-Salem NC, Greensboro NC, Lafayette CA, Seattle WA, Oakland CA, Denver CO, Dallas TX, Laredo TX, Salt Lake City UT, St. Louis MO, Berkeley CA, Spokane WA, Indianapolis IN, Lexington KY and Louisville KY.

## Backyard Coop Examples

Below is an example of a combined coop and run. The footprint is approximately 4' x 8'. The builder of this coop is located in the Madison area.



Below is an example of what is known as a “chicken tractor.” It is a portable coop/run combination unit that is open on the bottom to allow hens to graze on natural vegetation. After a few days it is easily moved to the next location in the yard. Note that it is resting on the patio for photo purposes only.





Here is another example of a chicken tractor.



Here is another example, one with a separate attached run.





The one below is larger than needed for 4 hens.



This last one is meant to be used with a separate, detached run. It had apparently just been delivered.



## Other Cities and Chickens

The following information was obtained from Chickens in the City (C.I.T.Y.) of Salem, Oregon regarding cities and their chicken keeping parameters. It represents only a sampling.

City, State	# Hens Allowed	Setback from Property Line	Distance from Adjacent Dwellings	Minimum Lot Size
Fayetteville, AR	4		25'	
Little Rock, AR	4			
Mobile, AL	Unlimited			
Anaheim, CA	3			5,000
Berkeley, CA	Unlimited		30' (from bedrooms)	
Downey, CA	5			
Irvine, CA	2			
Long Beach, CA	20		20'	
Mountain View, CA	4		25'	
Oakland, CA	Unlimited		20'	
Petaluma, CA	20	5'	20'	
Redwood City, CA	3			
Roseville, CA	10		20'	
San Jose, CA	6		20'	
San Francisco, CA	4		20'	
Vallejo, CA	25		15'	
Colorado Springs, CO	10			
Ft. Collins, CO	6	15'		
Windsor Hts, IA	2		25'	
Boise, ID	6			
Westwood, MA	10	15'		
Baltimore, MD	4		25'	
Albuquerque, NM	Unlimited		20'	
Corvallis, OR	Unlimited			
Eugene, OR	2		20'	
Portland, OR	3			
Lake Oswego, OR	Unlimited			
Catawissa, PA	Unlimited	10'		

Pittsburgh, PA	5			
Laredo, TX	6			
Round Rock, TX	5		25'	
San Antonio, TX	5		20'	
Brigham City, UT	6			
Burlington, VT	3			
Bothell, WA	3		20'	
Everett, WA	5			
Olympia, WA	3			
Seattle, WA	3			
Spokane, WA	3			
Tacoma, WA	Unlimited			
Vancouver, WA	Unlimited			
Madison, WI	4		25'	



# Common Backyard Chicken Objections

compiled by ***Chickens in Stoughton?!***, May 8, 2010  
Last Update: June 1, 2010

Those who are opposed to a chicken ordinance often object because they are not knowledgeable about chickens and are unfamiliar with the concept of urban hen-keeping. For example, they frequently do not understand that roosters are not needed for eggs, or that chickens eat bugs, weeds, and lawn clippings or that hens are quiet and harmless. They are surprised to learn that hens are fun and entertaining and make great pets because they have never been around them. Because they are unfamiliar, their opinions are based on fear, not facts, and they believe many of the myths that are addressed in this document and proven to be false.

Some people object to a chicken ordinance because their experience with chickens stems from rural farms or commercial poultry operations where chickens are raised by the hundreds or thousands, often in crowded and unsanitary conditions. In those situations, chickens are not regarded as pets. Raising chickens for profit, on a large scale, is a completely different situation than keeping a few egg-laying hens as pets. It's like comparing the family dog to a puppy mill operation.

Before addressing objections it is important to have some idea as to the magnitude of the problem. Our current estimate of the number of Stoughton residents that will choose to keep hens in their backyards is fifty. If each kept the maximum proposed of four, that would equal a total of 200 hens in Stoughton. The rationale for this estimate is described at the end of this document.

What follows are some common myths that surround backyard chicken keeping and attempts to correct them.

## 1. "Chickens are noisy"

Any proposed ordinance would not allow roosters, which are by far the noisiest. Hens are rather quiet, although they tend to be quite proud and vocal after an egg is laid. The noise level during this 5 minute squawking period has been measured at around 63 decibels, or about the level of two people talking.

Other than their post-laying squawking, normal hen sounds are not audible at 25 feet. And at night, chickens are absolutely silent. Overall, they are far quieter than a barking dog, lawn mower, leaf blower, passing truck, children playing and other common neighborhood sounds.

## 2. "Chickens are smelly"

Chickens themselves are not smelly. Yes, chicken waste can be smelly, but no more than dog and cat waste. The conscientiousness of the pet owner plays a large part in the smell and cleanliness of their animals.

Many people's objection to chickens comes from the smell given off by large commercial operations, where thousands of chickens are kept in close quarters. In these large facilities the buildup of ammonia from the sheer volume of solid waste creates a powerful smell, particularly on warm days. But comparing the keeping of a micro-flock of 4 hens to a large farm-based operation is like comparing the keeping of the family dog to a commercial puppy mill.

In a commercial farm-based operation, profitability is the primary motivating factor. Chickens are viewed as a commodity and are raised solely for meat and/or egg production. Many are kept in a density that is substantially greater than that of a few hens in a backyard. The United Egg Producers' 2010 Animal Husbandry Guidelines recommends that each laying hen be given as little as 68 square inches of space to live their entire lives. Compacting hundreds or thousands of hens at this density leads to an ammonia buildup that is difficult to manage.

Contrast this with typical backyard hen guidelines, where each hen has 2 to 4 square feet of coop space, and are let out into an enclosed pen of 10 square feet per bird. Enjoying 30 times the space given to commercially-raised hens, ammonia build-up is virtually eliminated.

In addition, contrast the volume of waste produced by a chicken to that of the average dog. The average dog produces 12 ounces of solid waste and a 1.5 ounces of urine per day, whereas the average chicken produces 1.5 ounces of total waste per day (chickens do not produce a separate urine flow). Thus, the estimated 2,000 dogs in Stoughton produce over 1,500 pounds of solid waste each day. The 200 hens projected to be kept in Stoughton will produce less than 20 pounds of waste per day.

And by its very nature, chicken waste is less of a public health threat, and is safe to apply to gardens after composting. The solid waste that dogs produce is a bio-hazard and cannot be safely composted for use in vegetable gardens. Stoughton residents add over 150 tons of dog waste to garbage landfills each year, with an additional 60 tons being washed directly into our environment.

### **3. "Chickens attract other animals"**

Typical predators of adult and baby chickens include hawks (common in Stoughton), foxes (uncommon), raccoons (common), skunks (uncommon) and opossum (common). This is the same list of animals that stalk our wild squirrels, ducks, geese, rabbits, song birds and chipmunks. Any predators that are attracted to chickens are already living among us.

Adding 200 fully contained hens to the total population of wild animals will have little if any measurable impact on predator interest.

In addition, unlike the wild squirrels, ducks, geese, rabbits, song birds and chipmunks, domestic backyard chickens roost at night in secure, dig-proof enclosures, preventing nocturnal animal raids. During the day they are always kept in a covered run or fenced enclosure. They are pets that owners responsibly protect.

The larger potential threat is posed by domestic dogs and cats illegally roaming the backyards of homes. Although most domestic cats would have a tough time with a full grown hen (most can defend themselves against cats), roaming dogs could harass chickens by chasing them, potentially even killing them. Of course, loose dogs are also a threat to children, adults, other dogs and vehicular traffic.

But since urban hens are confined at all times, and our existing laws prohibit at-large dogs and cats, we do not anticipate this to be a significant problem.

### **4. "Chickens attract rodents"**

It is the chicken feed that attracts rodents, not the chickens themselves (FYI: adult chickens will kill and will eat small rodents).

There are currently thousands of bags of dog and cat food being stored throughout the city without problem. And each residence has at least one garbage container full of food scraps and waste that a rodent would love to eat. Much like anything else, chicken feed that is securely contained will prevent rodents from being a problem.

Many of the same rodents that would eat chicken feed are also attracted to wild bird feed that is outside and unprotected in backyards.

Adding an additional 50 bags of chicken feed to our city is of little increased concern.

### **5. "Chickens spread deadly diseases"**

A typical concern is about the possibility of spreading avian influenza ("bird flu"). Avian flu is spread through direct contact with the contaminated feces and secretions of sick migratory birds, and is currently only present in Asia, Africa and Eastern Europe (i.e., bird flu is not currently in the US). Since backyard chickens do not come in contact with migratory birds, the transmission path is not present.

Even if a backyard chicken should contract bird flu, the size of the flock and its lack of contact with other birds would limit the impact to the micro-flock. The United States Humane Society and the United Nations contend that large commercial poultry operations are accelerants of the spread of poultry diseases and that small flocks are the solution to limiting the impacts of avian influenza and other diseases.

Note that it is rare that avian influenza be transmitted from bird to human--there is only one known case of bird-to-human transmission in the US.

Unlike cats and dogs which are prime vectors for rabies, parasites, and tick-borne diseases, backyard chickens actually make your yard safer by consuming ticks, mosquitoes and other insects.

## **6. "The city will be overrun with chickens"**

It is unlikely that more than a very small percentage of residents will want to raise chickens. Chickens tend to be a "specialty pet" and are not what the average person thinks of when they go pet shopping. Since passing their chicken ordinance in 2004, we Madison, a city 20 times the size of Stoughton, has averaged less than 100 permits per year.

Our estimate is that a total of 200 hens will be present in the City of Stoughton. The proposed ordinance would not allow chickens to roam freely. They will be required to be kept in fenced backyards and/or covered runs at all times.

## **7. "Chickens are a nuisance"**

Like any animal, they are subject to their own whims and their owners' control. By and large, hens are quieter, cleaner and more easily managed than dogs, and certainly more so than illegal, outdoor cats. Their owners generally are appreciative of the eggs produced, and ensure that their hens have a clean, safe, productive environment in which to live.

## **8. "I don't want to stare at some huge, dilapidated chicken coop"**

The modern backyard chicken coop is a distant relative to the typical farm coop. Since they are located in backyards, most city coops are attractive, efficient structures that are well maintained.

Each hen needs about 3-6 square feet of coop space and 6-10 square feet of covered run. For 4 hens this would total about 64 square feet, or a structure 8' x 8'. Most garden sheds, trampolines and swing sets are larger than the average backyard coop and run.

Many areas of the city have deed restrictions that control what types of structures can be erected. Chicken coops and runs would fall under the control of these restrictions (i.e., the city ordinance does not override deed restrictions).

## **9. "If we allow some to have chickens, the next person will want Emus, Ducks, Pigs, etc."**

It is not by chance that female chickens (hens) are getting all the attention for backyard keeping. Chickens are ideally suited for small, urban lots due to several unique characteristics not possessed by other animals:

- They are small and have low space requirements
- They are quiet
- They are easy to contain and manage
- Their manure is useable in vegetable gardens
- They provide food without being slaughtered
- They are relatively cheap to raise
- They are useful in controlling insects and other pests
- They can't fly well or far, and a painless wing clipping keeps them from flying at all
- They stay close to home if they should happen to get loose

- They go to sleep in the same place every day at sundown
- They don't require specialized or hard-to-learn skills to keep
- They are readily available

Other animals fail in one or more of these areas. An urban environment would not be humane or practical for their keeping.

## **10. "The Stoughton Police Department does not have the manpower to enforce these new rules"**

Given the expected volume of chickens in Stoughton, we think that problems will be few and far between. For example, Madison gets fewer than 10 calls per year, and most of those are easily managed (generally keeping illegal roosters or having too many hens).

Responsible owners will not allow their hens to roam outside of their enclosures, so the problem of loose animals will be insignificant.

Nonetheless, we must be prepared to deal with the occasional complaint about roosters, smell or numbers of hens. There are several aspects of enforcement:

- The annual permit process. Those with habitual violations will have their permit refused, much like alcohol licenses are handled today
- Response to complaints will be handled by the Police Department. Owners will be cited just as with dogs and cats
- Animals that must be picked up or confiscated will first be taken to a local vet clinic or holding pen and then to the Dane County Humane Society, just as dogs and cats are handled today.

## **11. "If you want farm animals, move out to the country"**

The same objection could be raised about community gardens or even individual gardens within backyards throughout the city.

The definition of "pets" changes over time. For example, rabbits were once considered farm animals, raised only for meat. Dogs were kept only for their ability to herd and protect farms. Cats were raised solely to reduce the rodent population. Now all of these are considered pets and are allowed to be kept within the city limits.

Micro-flocks of backyard hens are treated more as pets than livestock, often "spoiled" and fawned over as much as a domestic dog or cat. Since most owners want to ensure nutritious egg production, they are generally kept in good health, given organic feed and kept clean and secure.

The raising of a few hens does not require the space, expense and management of a farm in the country. They are being successfully raised in the backyards of cities throughout the US. In Wisconsin, Madison, Jefferson, Fort Atkinson, New Berlin, Neenah and others allow micro-flocks in backyards.

Other cities across the country allowing backyard chickens include Concord NH, New Haven CT, San Francisco CA, Minneapolis MN, Boston MA, Phoenix AZ, Chicago IL, New York City, Syracuse NY, Anaheim CA, Mobile AL, New Orleans LA, Buffalo NY, Hartford CT, Baltimore MD, Portland OR, Houston TX, Miami FL, San Jose CA, Las Vegas NV, Vallejo CA, Topeka KS, Santa Rosa CA, Santa Fe NM, Little Rock AK, Burlington VT, Richmond VA, San Antonio TX, Albuquerque NM, Bakersfield CA, Des Moines IA, Winston-Salem NC, Greensboro NC, Lafayette CA, Seattle WA, Oakland CA, Denver CO, Dallas TX, Laredo TX, Salt Lake City UT, St. Louis MO, Berkeley CA, Spokane WA, Indianapolis IN, Lexington KY and Louisville KY. The list is growing every year.

## **12. "Those cities that allow chickens have separate Animal Control departments to handle complaints"**

While this is not true in all cases, it is true in the larger cities. However, these Animal Control departments existed long before the modern backyard chicken movement. They were instituted to handle domestic dog and cat complaints and to control wild animals found roaming the city.

Due to our size, the City of Stoughton has not needed a separate department for animal control. The experience of other cities indicates that the additional effort required to manage the 200 hens of Stoughton will be minimal, estimated at an additional call per month.

A separate department is simply not needed to handle the projected complaints.

## **13. "There will be those that abuse or ignore the rules"**

True, but a well-crafted law is designed to be fair and enforceable. Our proposed ordinance has the following provisions:

1. Hens only, no roosters
2. A limits of 4 hens
3. Must have a secure coop and must be fenced or in an enclosure at all times
4. Subject to existing noise, nuisance and animal control laws
5. Structures (coops and runs) must conform to existing ordinances and must be located a minimum of 4' inside the lot line and 25' from neighbors
6. No butchering within the city limits
7. Annual permit required, and can be refused or revoked for repeated violations

This proposed ordinance is modeled after successful ordinances of other cities.

## **14. "The runoff from the chicken feces will pollute our river"**

Issues of manure runoff from egg-producing chickens are associated with huge factory-style egg farms that generate tons of manure each day in a very concentrated area. Low-density backyard chicken keeping is the solution to runoff issues, not the problem. Gardeners using commercial organic fertilizers are very likely to be using chicken-manure based products, and those keeping chickens will have less need for even these.

So keeping chickens will likely not increase the net amount of organic fertilizers used; most chicken-keeping gardeners will simply be producing it themselves rather than purchasing it.

However, runoff from dog waste laying on the ground is a current and significant problem. Studies have shown that on average 40% of owners do not pickup the solid waste from their dogs. In Stoughton, this amounts to an estimated 60 tons annually of dog waste being washed into our environment.

## **15. "A coop next door will make my property value go down"**

We have been unable to uncover any evidence to support this statement. Instead, most Realtors when asked seem to indicate that there are many, many factors that go into home valuation, and that animals that are well behaved and contained properly have little or no negative impact on property values. Indeed, many contend that animals are an inherent part of urban living, and are to be expected in a healthy neighborhood.

Thomas E. Malone, Management Analyst to the City of Janesville, WI, in a February 16, 2010 Memo to the Janesville City Council, wrote "

...staff has been asked to look into the matter of whether raising chickens within city limits would impact property values. There has been no empirical evidence to suggest a positive or negative impact on home values and staff is unable to quantify the potential effect keeping chickens would have on adjacent properties."

## 16. "How did you arrive at your estimate of 200 hens in Stoughton?"

Several factors went into our estimate, but in the end it is simply an educated guess. Here are the factors that we used:

- Madison, a city of 20 times our population, 15 times if you remove the student population, issues approximately 75 permits annually. However, rumor is that some do not obtain a permit. So we doubled the number to 150 chicken keeping households in Madison. That would represent about 600 hens.
- There are approximately 60 people on ***Chickens in Stoughton?!***'s email list, 60 on our petition, 60 followers on Facebook, and 25 that attended our first meeting. While we have received substantial interest since the Courier-Hub article was published, these numbers have plateaued. (Note that many on these lists represent couples and are double counted)
- Most cities have more people interested in keeping hens than are actually keeping hens.

So, using Madison ratios, we would have 10 households keeping hens, representing a total of 40 hens. We feel that number is too low.

Using our "membership" numbers, taking out non-Stoughton residents and eliminating double counting for couples, we would estimate 40 households keeping hens, for a total of 160 hens. We feel that is about right, but added 25% more to arrive at our estimate of 200 hens.

Consider that many of the newer neighborhoods in Stoughton have deed restrictions on outbuildings and animals. This will lower the number of potential chicken keeping residences.

**Donna Olson**

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**From:** John Petty [jfpetty@gmail.com]  
**Sent:** Friday, May 28, 2010 9:21 AM  
**To:** Donna Olson  
**Subject:** Chicken information letter followup

Mayor Olson,

I dropped off the letter and information you requested this morning, however I noticed I had left off any contact information.

It is as follows:

John Petty  
110 N. Page St  
877-8941  
[jfpetty@gmail.com](mailto:jfpetty@gmail.com)

Thank you,

John Petty

May 27, 2010

Mayor Donna Olson  
381 E. Main St.  
Stoughton, WI 53589

Dear Mayor Olson,

This letter is in follow-up to our telephone conversation earlier this week in which you asked me to put my comments to you in writing.

I am a Stoughton homeowner residing at 110 N. Page St. Other than being a concerned citizen, I serve as Executive Director of the Wisconsin Agri-Service Association (WASA), a trade association representing over 350 feed, grain and farm supply businesses throughout the state. In addition, I serve as vice-chair of the Wisconsin Agro-Security Resource Network (WARN). WARN is an industry-driven organization that has a network of agricultural and food safety professionals who can communicate to consumers and industry stakeholders in concert with regulatory officials in the event of a crisis affecting Wisconsin food and agricultural systems. WARN facilitates emergency preparedness between the agricultural sectors and government agencies and also serves as a coordination center and educational forum for private sector crisis preparedness materials and training for agro-security related programs.

My concern is in regards to the citizen petition to change city regulations to allow chicken and layer production within the city limits. My comments do not address the various pros and cons of that issue directly. Instead they will focus on compliance with state administrative rules regarding livestock operations, including urban chicken operations, which I believe should be the minimum requirement for any resident to raise chickens in Stoughton, should the city council pass an ordinance allowing them.

Specifically, I am referencing ATCP Chapter 17 (Livestock Premises Registration) and ATCP Chapter 10, Subchapter VI, 10.40 – 10.42 (Poultry and Farm-Raised Gamebirds), both of which I will discuss below. Both of these regulations are currently in place as administrative rules under the authority of the Department of Agriculture, Trade and Consumer Protection (DATCP).

ATCP 17, also known as the Premises ID rule, provides that any person housing livestock, including poultry, must register with DATCP. There is no fee to register. All information submitted under the premises ID rule is confidential

The purpose of the rule is to have a system that can identify individual animals or groups, the premises where they are located, and the date of entry to that premises. Further, in order to achieve optimal success in controlling or eradicating an animal health threat, this program provides state officials the ability to retrieve that information within 48 hours of confirmation of a disease outbreak and to implement intervention strategies is necessary. This is fundamental to controlling any disease threat, foreign or domestic, to the nation's animal resources.



May 27, 2010

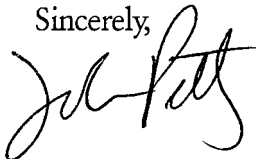
ATCP 10.40 through 10.42 deals with health certification of poultry flocks. In layman's terms, it states that no one may use, sell or distribute poultry or their eggs for breeding or hatching in this state unless the birds or eggs originated from a flock either enrolled in the National Poultry Improvement Program (NPIP) or from a "Wisconsin Tested Flock." In the case of chickens, in addition to the flock being either in the NPIP or "Wisconsin Tested," it must also be classified as "US pullorum-typhoid clean." Effectively, this means if you are wishing to maintain a flock, an individual must either be enrolled in the NPIP or the "Wisconsin Tested" program themselves or buy all their eggs or birds from someone who is enrolled. If an individual chooses to enroll in the NPIP, applications and a schedule of fees are available from DATCP. In general, fees for a "backyard operation" enrolled in the NPIP should be less than \$100 annually. The "Wisconsin Tested" program does not have any direct fees associated with it. Neither of these program descriptions includes any fees paid to veterinarians to test the flock to grant the disease free classification.

In addition, Chapter 10.42 requires that no live poultry or poultry eggs for hatching may be imported into the state without a valid certificate of veterinary inspection stating the birds or eggs originated from an NPIP enrolled flock or a "US pullorum-typhoid clean" flock.

The purpose of this rule is to establish standards for the evaluation of poultry breeding stock and hatchery products with respect to freedom from egg-transmitted and hatchery-disseminated diseases. Through this work, the NPIP provides certifications that poultry and poultry products destined for interstate and international shipment are free of all such diseases.

My goal in writing this letter is to make the Council and the Mayor aware of these existing state regulations covering all poultry operations, including those with single birds in backyards. Whatever the arguments on either side of the issue to allow chicken-raising within the city limits, I believe the starting point of any discussion of the matter must be full compliance with existing state regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "John Petty", written in a cursive style.

John Petty

Enclosures: ATCP Chapter 17  
ATCP Chapter 10.40 -10.42

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## Chapter ATCP 17

### LIVESTOCK PREMISES REGISTRATION

ATCP 17.01 Definitions.  
ATCP 17.02 Livestock premises; registration required.  
ATCP 17.03 Confidential information.

ATCP 17.04 Contract agent.  
ATCP 17.05 Receiving livestock from unregistered locations.

**Note:** This chapter is adopted under authority of ss. 93.07 (1), 93.07 (10), 95.51 (3m) and (7), 95.55 (6), 95.68 (8), 95.69 (8), 95.71 (8), 95.72 (5), 97.22 (8) and 97.42 (4), Stats. This rule interprets ss. 93.07 (10), 95.51, 95.55, 95.60, 95.68, 95.69, 95.71, 95.72, 97.22 and 97.42, Stats. A person who violates this chapter is subject to applicable penalties and remedies provided in ss. 93.06 (7) and (8), 95.99, 97.72 and 97.73, Stats. According to s. 95.36 (10), Stats., a violator may also be disqualified from receiving livestock indemnities for which that person might otherwise be eligible under ch. 95, Stats., if the department condemns livestock for disease control purposes.

**Note:** This chapter first applies to the following persons on the following dates:

- (a) To a milk producer who is required to be licensed under s. ATCP 60.02, May 1, 2006.
- (b) To an animal market operator who is required to be licensed under s. ATCP 12.02, July 1, 2006.
- (c) To an animal dealer who is required to be licensed under s. ATCP 12.03, July 1, 2006.
- (d) To an animal trucker who is required to be licensed under s. ATCP 12.04, July 1, 2006.
- (e) To a slaughter establishment operator, July 1, 2006.
- (f) To an equine quarantine station operator who is required to hold a permit under s. ATCP 10.37 (3), July 1, 2006.
- (g) To the operator of a rendering establishment, animal food processing establishment or grease processing establishment that is required to be licensed under ch. 95.72, Stats., March 1, 2006.
- (h) To all other persons who are required to register a location under s. ATCP 17.02 (1), January 1, 2006.

#### ATCP 17.01 Definitions. In this chapter:

- (1) "Address" means one of the following:
  - (a) A street address.
  - (b) Township, range and section numbers, if the location has no street address.
  - (c) Geographic coordinates, if the location has no street address and no township, range and section numbers.
- (2) "Animal dealer" means a person who is required to be licensed under s. ATCP 12.03.
- (3) "Animal dealer premises" means any real estate, owned or controlled by an animal dealer, at which the dealer keeps, exhibits or receives livestock or wild animals, or from which the animal dealer ships livestock or wild animals.
- (4) "Animal market" means any premises that are open to the public for the purpose of buying or selling livestock or wild animals, and that have facilities to keep, feed and water livestock or wild animals prior to sale.
- (5) "Animal market operator" means a person who is required to be licensed under s. ATCP 12.02 (1).
- (6) "Animal trucker" means a person who is required to be licensed under s. ATCP 12.04 (1).
- (7) "Animal trucker premises" means any real estate, owned or controlled by an animal trucker, at which the animal trucker collects or holds livestock for transportation.
- (8) "Bovine animal" means beef cattle, dairy cattle, or American bison of any age or sex.
- (9) "Captive game birds" means birds of a normally wild type, such as pheasants, quail, wild turkeys, migratory wildfowl, pigeons, and exotic birds, that are raised in captivity. "Captive game birds" does not include poultry or ratites.
- (10) "Cervid" means a member of the family of animals that includes deer, elk, moose, caribou, reindeer and the subfamily musk deer.

(11) "Clinic" means a place where livestock are kept primarily for purposes of health care or rehabilitation.

(12) "Confidential information" means information that the department is required, under s. 95.51, Stats., and this chapter, to keep confidential.

(13) "Contiguous" means adjacent, or separated only by a transportation corridor, stream or like feature.

(14) "Contract agent" means a person who acts on behalf of the department, pursuant to a written contract with the department.

**Note:** The department may contract with an agent to process registrations under this chapter, and to manage registration information on behalf of the department. The contract agent must comply with this chapter and the agent's contract with the department. The contract must include provisions specified in this chapter, including provisions related to confidentiality of information collected under this chapter. See ss. ATCP 17.03 and 17.04.

(15) "Dairy farm" means a dairy farm as defined under s. 97.22 (1) (a), Stats., operated by a milk producer.

(16) "Deer farm" means real estate on which a person, who is required to register under s. ATCP 10.61, keeps farm-raised deer.

(17) "Department" means the Wisconsin department of agriculture, trade and consumer protection.

**Note:** The department's contract agent may act on behalf of the department, to the extent authorized under this chapter and the agent contract. See s. ATCP 17.04.

(18) "Description" of a location means an address or other information that identifies that location.

(19) "Captive game birds" means birds of a normally wild type, such as pheasants, quail, wild turkeys, migratory wildfowl, pigeons, and exotic birds raised for hunting, that are raised in captivity. "Captive game birds" does not include poultry or ratites, but does include birds kept pursuant to a license issued under s. 169.15, 169.19, 169.20 or 169.21, Stats.

(20) "Fish farm" means a facility, at which a person hatches fish eggs or keeps live fish, which is required to be registered under s. ATCP 10.60 (2).

(21) "Individual" means a human being.

(22) "Keep livestock" means to own, feed, house, confine or care for livestock, or to exercise legal or physical control over livestock. "Keep livestock" does not include the quarantine or confinement of livestock by the department or by the United States department of agriculture.

**Note:** At any given time, several persons may be "keeping" the same livestock. For example, livestock owned by *Person A* might be fed and cared for by *Person B* on property owned and maintained by *Person C*.

(23) "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine other than wild hogs, farm-raised deer, captive game birds, camelids, ratites and fish.

(24) "Livestock exhibition" means a state, county or district fair, or a recurring event at which livestock from different premises are exhibited to the public at a common location.

(25) "Location" means a parcel of real estate in this state, or a group of 2 or more contiguous parcels of real estate in this state, on which livestock are kept.

(26) "Milk producer" has the meaning given in s. 97.22 (1) (f), Stats.

(27) "Person" means an individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

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(28) "Poultry" means domesticated fowl commonly used for human food, including domesticated chickens, turkeys, geese, ducks, guinea fowl, squab, ratites and captive game birds.

(29) "Premises" means one or more locations that a person registers under a single premises code.

**Note:** A person may register a livestock "premises" that includes, in addition to the primary premises location (to which the premises code is assigned), one or more secondary locations at which the person keeps the livestock from time to time. For example, a dairy farm "premises" may include a primary location (that includes the milking barn or parlor) and one or more secondary locations (such as a non-contiguous pasture or heifer facility). If a person keeps livestock at multiple locations but never moves or commingles livestock between those locations, the person is advised to register those locations as separate premises (separate primary locations, each with its own premises code). See s. ATCP 17.02.

(30) "Premises code" means a code issued under s. ATCP 17.02 (7).

(31) "Primary location" means a premises location to which a premises code is assigned.

(32) "Ratite" means a member of the group of flightless birds that includes the ostrich, emu, cassowary, kiwi and rhea.

(33) "Register" means to apply for and obtain from the department an annual premises registration certificate under s. ATCP 17.02.

(34) "Registered location" means a primary or secondary location that is covered by a current annual premises registration certificate under s. ATCP 17.02 (6).

**Note:** A registration application must identify the primary and secondary locations included in the registered premises. The department issues a premises code for the primary location, but the registration certificate also covers secondary locations identified in the registration application. See s. ATCP 17.02 (6) (c).

(35) "Secondary location" means a location that shares or commingles animals with the primary location and is registered with the primary location under a single premises code.

(36) "Slaughter establishment" means a place at which livestock are received for slaughter.

**History:** CR 04-103: cr. Register September 2005 No. 597, eff. 10-1-05; CR 06-009: am. (19) and (20) Register September 2006 No. 609, eff. 10-1-06; CR 06-028: am. (1) (c) Register November 2006 No. 611, eff. 12-1-06; CR 07-107: am. (8) and (28) Register November 2008 No. 635, eff. 12-1-08.

**ATCP 17.02 Livestock premises; registration required.** (1) **GENERAL.** A person may not keep livestock at a location in this state unless that location is registered under this section. There is no fee to register. A registration expires on the third December 31 after it is issued.

**Note:** Once a person completes an initial registration, subsequent registrations will be relatively simple. The department will send the registrant a renewal application form (or directions on how to renew on-line) prior to the renewal deadline. The renewal transaction may be conducted by mail, online or by e-mail if an e-mail address has been provided. The renewal application form will include pre-printed information obtained from the last previous registration. The registrant may renew the registration by returning the pre-printed form with corrections, if any. There is no fee for an initial or renewal registration.

(2) **WHO MUST REGISTER.** (a) If 2 or more persons are involved in keeping livestock at the same location, one of those persons shall register that location. A person is not required to register a location that is currently registered by another person. A premises registration by one person does not prevent other persons from keeping livestock on the registered premises.

**Note:** For example, if *Person A* feeds and cares for livestock owned by *Person B*, on premises owned by *Person C*, any one of those persons may register the premises (the others need not). Likewise, if *Person X* pastures livestock on land that *Person Y* owns and also uses to pasture livestock, either person may register that pasture (the other need not).

(b) A person may not register a premises that is currently registered by another person. The department may transfer a current registration from the current registrant to another person if the department finds that the other person is licensed to operate the premises under other applicable law, is more directly engaged in operating the premises, or can provide more definitive knowledge of livestock movements to and from the premises. The department shall notify the current registrant and give the current registrant a chance to comment before transferring a registration to another person.

(c) If a person keeps livestock at any location as part of an operation for which that person is required to hold another license, registration or permit from the department, that person may register that location as part of the person's initial application for that other license, registration or permit.

**Note:** For example, if a person holds or is required to hold a dairy farm license under s. ATCP 60.02 (2), a deer farm registration under s. ATCP 10.46 (1), a fish farm registration under s. ATCP 10.61 (1), an animal market license under s. ATCP 12.02, an animal dealer license under s. ATCP 12.03, an animal trucker license under s. ATCP 12.04, a meat establishment license under s. ATCP 55.03 (1), an equine quarantine station permit under s. ATCP 10.37 (3), or a rendering establishment or other license under s. 95.72, Stats., that person may register each related livestock premises location as part of the person's initial application for that other license, registration or permit. Subsequent license renewal applications must include the livestock premises registration number assigned under this chapter.

(3) **HOW TO REGISTER.** Except as provided in sub. (2) (c), a person shall register in one of the following ways:

(a) By applying on-line at <http://www.datcp.state.wi.us/>.

(b) By filing a hard-copy application with the department on a form provided by the department.

**Note:** A person may obtain an application form from the department and may submit the completed form to the department at the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection  
2811 Agriculture Drive  
PO Box 8911  
Madison, WI 53708-8911  
Phone: (608) 224-4872  
E-mail: [premises@datcp.state.wi.us](mailto:premises@datcp.state.wi.us)

(4) **INFORMATION REQUIRED.** A registration application under sub. (3) shall include all of the following information:

(a) The registrant's legal name, and any trade names under which the registrant keeps livestock in this state.

(b) The registrant's mailing address.

(bm) The registrant's county.

(c) The registrant's telephone number.

(d) The address of the primary premises location, including county.

**Note:** See s. ATCP 17.01 (1). A street address is preferred.

(e) A description of each secondary location included in the premises. A person may not register more than 3 secondary locations under a single premises code without department approval. The department may consider whether the secondary locations are part of the same premises, for registration purposes, or whether they should be registered as separate premises under separate premises codes.

**Note:** See s. ATCP 17.01 (18) and (35). Secondary locations are locations that share or commingle animals with the primary location, and are related to the primary location. For example, a dairy farm "premises" may include a primary location (that includes the milking barn or parlor) and one or more secondary locations (such as non-contiguous pastures or heifer facilities).

If a person keeps livestock at multiple locations but never moves or commingles livestock between those locations, the person should register the locations as separate premises (separate primary locations, each with its own premises code).

(f) The name and telephone number of at least one individual who has knowledge of livestock and livestock carcass movements to and from every location included in the premises.

(g) The types of livestock operations conducted on the premises. The registrant shall designate one or more of the following:

1. Farm or production unit.
2. Market or livestock collection point.
3. Slaughter establishment.
4. Rendering or carcass collection point.
5. Clinic.
6. Livestock exhibition.
7. Quarantine facility.
8. Other. The registrant shall specify the type or types of operations.

(h) The types of livestock or livestock carcasses kept on the premises. The registrant shall designate one or more of the following:

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1. Bovine animals. The registrant shall indicate whether the bovine animals are beef cattle, dairy cattle or bison.

2. Swine.

3. Sheep.

4. Goats.

5. Horses or other equine animals.

6. Farm-raised deer.

7. Poultry.

8. Llamas, alpacas or other camelids.

9. Fish.

10. Other. The registrant shall specify the type or types of livestock.

(5) DEPARTMENT ACTION ON REGISTRATION APPLICATION. (a) Except as provided in par. (d), the department shall grant or deny a registration application under sub. (3) within 30 days after the department receives a complete registration application.

**Note:** The department will normally grant or deny an on-line application at the time of the on-line application. If the department grants an on-line application, the department will immediately issue a printable electronic registration certificate to the applicant.

(b) The department may deny a registration application if the application is incorrect or incomplete, or if the primary location identified in the application is currently registered. The department shall state the reason for the denial.

(c) If the department denies an application because the primary location identified in the application is already registered, the department shall disclose to the applicant the premises code assigned to that registered primary location. The denial does not prevent the applicant from keeping livestock at the registered primary location or from registering other locations.

(d) If a person submits a registration application under sub. (2) (c) as part of that person's application for another license, permit or registration, the department shall grant or deny the registration application within the time period prescribed for department action on the other license, permit or registration application. The denial, suspension or revocation of another license, permit or registration does not affect a premises registration under this section.

(6) REGISTRATION CERTIFICATE. (a) Whenever the department grants a registration application under sub. (3), the department shall immediately issue a registration certificate to the registrant. The registration certificate shall bear an expiration date that complies with sub. (1). The department shall issue the registration certificate in hard-copy or printable electronic form, depending on the method of registration.

**Note:** A person who registers on-line will normally receive a printable electronic registration certificate at the time of the on-line registration.

(b) A registration certificate under par. (a) shall include a premises code assigned under sub. (7).

(c) A registration certificate covers the primary location and all secondary locations identified in the approved registration application, regardless of whether the certificate includes descriptions of all of those locations.

(d) If a person submits a premises registration application as part of that person's application for another license, permit or registration identified in sub. (2) (c), the department shall issue the premises registration certificate with or as part of that other license, permit or registration.

(7) PREMISES CODE. Whenever the department grants a registration application under sub. (3), the department shall assign a unique code to the primary location identified in that application. The premises code shall be generated by the United States department of agriculture. A premises code may not be transferred to another location.

**Note:** A premises code, once assigned to a primary location, normally continues with that location even if the registrant changes. If a registrant adds or removes a secondary location without changing the primary location, the premises code will remain the same. But if the primary premises location is subdivided among new registrants,

the premises code assigned to that location will be retired and a new premises code will be assigned to each new primary location created by the subdivision.

**History:** CR 04-103: cr. Register September 2005 No. 597, eff. 10-1-05; CR 06-009: am. (2) (c) 3. and 8. Register September 2006 No. 609, eff. 10-1-06; CR 07-107: am. (1), (2) (b), (4) (d), (5) (d) and (6) (a), r. and recr. (2) (c), (4) (h) 1. and 8. to 10, cr. (4) (bm), r. (4) (h) 11. and 12. Register November 2008 No. 635, eff. 12-1-08.

**ATCP 17.03 Confidential information.** (1) GENERAL. Except as provided in subs. (2) to (4), premises registration information received by the department or its contract agent under s. ATCP 17.02 is confidential and may not be disclosed to any other person or agency.

**Note:** A premises code is not confidential because it is not received from the registrant but is issued by the department. A premises code, by itself, does not reveal any information received from a registrant.

(2) INFORMATION REQUIRED BY OTHER LAWS. Subsection (1) does not apply to information that a person is required to provide to the department under other law. This subsection does not authorize disclosure of information that is protected from disclosure under other law.

**Note:** For example, information that was required of license holders and was open to public inspection prior to the effective date of the livestock premises registration law, s. 95.51, Stats., remains open to public inspection. But premises registration information required for the first time under s. 95.51, Stats., or this chapter must be kept confidential.

(3) AUTHORIZED DISCLOSURE. The department may disclose, to any of the following, information that a registrant provides under s. ATCP 17.02:

(a) A person to whom the registrant authorizes disclosure.

(b) The animal and plant health inspection service of the United States department of agriculture, if the animal and plant health inspection service agrees not to disclose the information except in situations in which the department is authorized to disclose the information.

(c) The department's contract agent, subject to this section and s. ATCP 17.04.

(d) To another person or agency, or to the public, if the department believes that the release is necessary to prevent or control disease, to enforce laws under its jurisdiction, or to protect public health, safety, or welfare. The department may disclose information under this paragraph subject to any confidentiality requirements that the department considers necessary under the circumstances.

(4) AGGREGATE INFORMATION. (a) The department may create aggregate information, such as maps and statistics, from registration information obtained under s. ATCP 17.02. Except as provided in par. (b), the department may disclose that aggregate information to another person or agency, or to the public.

(b) The department may not disclose aggregate information under par. (a) that does any of the following, unless that information qualifies for disclosure under sub. (2) or (3):

1. Discloses the street address, section number, geographic coordinates of any premises, or the identity of any registrant.

2. Makes it possible to deduce with certainty the street address, section number or geographic coordinates of any premises, or the identity of any registrant.

**Note:** For example, the department may not disclose a detailed map that permits readers to deduce with certainty the street address, section number or geographic coordinates of any premises, or the identities of registrants whose premises are portrayed by points on the map. However, the department may disclose less detailed maps.

(5) DISCLOSURE BY CONTRACT AGENT. The department may authorize its contract agent to disclose, on behalf of the department, information that the department is authorized to disclose under this section, except that the department may not authorize its contract agent to release aggregate information.

**History:** CR 04-103: cr. Register September 2005 No. 597, eff. 10-1-05; CR 06-028: am. (4) (b) Register November 2006 No. 611, eff. 12-1-06.

**ATCP 17.04 Contract agent.** (1) GENERAL. The department may contract with an agent to process registrations, manage registration information, and perform other functions on behalf of

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the department under this chapter. The contract agent shall comply with this chapter and the contract.

(2) **CONTRACT.** A contract under sub. (1) shall specify applicable terms and conditions, including all of the following:

(a) The services that the contract agent will perform for the department, and the price for which the contract agent will perform those services.

(b) The scope of authority that the department delegates to the contract agent for the purpose of performing the services under par. (a), and relevant limits on that authority.

(c) The registration process and forms approved under sub. (3), if the contract agent will process registrations on behalf of the department.

(d) Terms related to information disclosure and confidentiality, including the terms specified in sub. (4).

(e) Terms related to information management, including the terms specified in sub. (5).

(f) Terms related to contract agent actions that may affect or impair the administration of this chapter, including the terms specified in subs. (6) to (8).

(g) Provisions related to contract termination, including the terms specified in sub. (9).

(h) Standard contract terms required by the state of Wisconsin.

(3) **APPROVED REGISTRATION PROCESS.** A contract agent that processes livestock premises registrations on behalf of the department, whether in hard-copy or on-line form, shall use a process and forms approved by the department. The hard-copy or on-line registration process shall be conducted under the name of the department, not the contract agent. The contract agent may not supplement or modify the registration process or forms, or charge any registration fee, without the department's written approval. The contract agent may not make solicitations or promotional communications to registrants in connection with the registration process, other than communications that the department requires for purposes of registration under this chapter.

(4) **DISCLOSURE OF INFORMATION; CONFIDENTIALITY.** (a) A contract agent may not use or disclose any information that it acquires as the department's contract agent under this chapter without the department's written approval.

(b) A contract agent shall specifically identify the individuals who, on behalf of the contract agent, may have access to confidential information. Each of those individuals shall sign a personal confidentiality agreement with the department and shall comply with that agreement. No other persons employed or affiliated with the contract agent may have access to confidential information.

(c) No contract agent or individual affiliated with a contract agent may use or disclose information in violation of this chapter, the agency contract, or an individual confidentiality agreement under par. (b).

(5) **MANAGING INFORMATION.** A contract agent that holds information under this chapter on behalf of the department shall do all of the following:

(a) Comply with applicable state standards related to the storage, handling and disposition of state records. A contract agent may not dispose of information collected or held under this chapter, except as authorized by the department pursuant to a state records disposal authorization under s. 16.61, Stats.

(b) Handle and maintain electronic records according to applicable standards in ch. Adm 12.

(6) **COLLECTING OTHER INFORMATION.** (a) A contract agent may not collect any information under color of its agency agreement with the department, without the department's written authorization to collect that information.

(b) Paragraph (a) does not prohibit a contract agent from doing any of the following on its own behalf, and not as an agent of the department:

1. Contacting registrants that it identifies from sources other than registrations under this chapter.

2. Soliciting and receiving information voluntarily provided by registrants that the contract agent identifies under subd. 1. The contract agent shall disclose, to each registrant from whom it requests information, that the information is not required by state law and is not being collected on behalf of the department.

(c) A contract agent who collects information under par. (b) shall keep that information separate from any confidential information that the contract agent keeps on behalf of the department.

(7) **PROHIBITED PRACTICES.** A contract agent may not do any of the following:

(a) Under color of its agency contract with the department, and without the department's written authorization, ask a registrant for permission to use or release confidential information.

(b) Represent, directly or by implication, that it is acting within its authority as the department's contract agent unless that representation is true.

(8) **ETHICS.** (a) A contract agent shall avoid any conflict of interest that may affect the integrity of the livestock premises registration program under this chapter, or the contract agent's faithful performance of its obligations. The contract agent shall disclose to the department any actual or potential conflict of interest.

(b) A contract agent may not use for private financial or business advantage confidential information that it acquires under this chapter as an agent of the department.

(c) No individual having access to confidential information under this chapter may use that information for personal financial advantage or for the financial advantage of any person or organization with which he or she is affiliated.

(9) **CONTRACT TERMINATION.** (a) The department may terminate a contract under sub. (1) at any time, with or without cause.

(b) If a contract under sub. (1) expires or is terminated by either party, the contract agent shall promptly return to the department all of the information that the contract agent holds on behalf of the department.

**History:** CR 04-103: cr. Register September 2005 No. 597, eff. 10-1-05.

**ATCP 17.05 Receiving livestock from unregistered locations.** (1) **PROHIBITION.** Except as provided in sub. (2), no person may receive, for purposes of sale, exhibition or slaughter, livestock from a location that is required to be registered under s. ATCP 17.02 or an equivalent law in another state, unless that location is registered according to this chapter or an equivalent law in the other state.

(2) **APPLICATION CONTINGENT UPON RECIPROCITY.** Subsection (1) does not apply to any person, or to any receipt of livestock for a purpose identified in sub. (1), unless the United States department of agriculture or all of the states surrounding Wisconsin prohibit persons in those surrounding states from receiving livestock for that purpose from unregistered locations in this state that are required to be registered under s. ATCP 17.02. The surrounding states are Minnesota, Iowa, Illinois and Michigan.

**History:** CR 04-103: cr. Register September 2005 No. 597, eff. 10-1-05.

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it receives a complete application. An application shall include all of the following:

(a) The legal name and mailing address of the applicant, and any trade or business name under which the applicant operates the quarantine station.

(b) A statement indicating whether the applicant is an individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.

(c) The location of the quarantine station, specified by county, town, section and fire number.

(d) The name and address of the Wisconsin certified veterinarian who will perform all identification, handling, testing and treatment of equine animals at the quarantine station according to sub. (5).

(e) Additional information, if any, required under s. ATCP 17.02 (4) for purposes of livestock premises registration.

(f) Other relevant information required by the department.

(g) A nonrefundable annual permit fee of \$100.

Note: Par. (g) is created eff. 7-1-09.

(4) **CONSTRUCTION REQUIREMENTS; SANITARY OPERATION.** An approved equine quarantine station shall be constructed and maintained to prevent any violation of sub. (2), and shall be kept in a clean and sanitary condition.

(5) **TESTING AND TREATMENT PROCEDURES; WRITTEN AGREEMENT.** Before the department issues any permit under sub. (3) for an approved equine quarantine station, the operator and the Wisconsin certified veterinarian designated under sub. (3) (d) shall enter into a written agreement with the department. The agreement shall establish the procedures and protocols that will be used to identify, handle, test and treat equine animals quarantined at the station. The approved equine quarantine station shall be operated in compliance with the agreed procedures and protocols. The designated veterinarian shall perform the procedures and protocols, except as otherwise authorized by the department.

(6) **RECORDS.** (a) The operator of an approved equine quarantine station shall keep complete and accurate records, including all of the following:

1. For each equine animal received at the quarantine station, the animal's official individual identification, date of arrival, date of removal, and owner's name and address.

2. A complete record of the procedures and protocols used to identify, handle, test and treat each equine animal.

(b) The operator shall keep each record under par. (a) for at least 5 years, and shall make the record available for inspection and copying by the department upon request.

History: CR 06-009: cr. Register September 2006 No. 609, eff. 10-1-06; CR 07-061: am. (1) (a) 2., cr. (3) (g) Register June 2008 No. 630, eff. 7-1-09; CR 07-107: am. (1) (a) 2. Register November 2008 No. 635, eff. 12-1-08.

## Subchapter VI — Poultry and Farm-Raised Game Birds

**ATCP 10.40 Poultry and farm-raised game birds; breeding, hatching and exhibition.** (1) **BIRDS AND EGGS USED FOR BREEDING OR HATCHING.** No person may use, sell or distribute poultry or farm-raised game birds or their eggs for breeding or hatching, or for exhibition at a fair or livestock exhibition, unless one of the following applies:

(a) The birds or eggs originate from a flock that is enrolled in the national poultry improvement plan under s. ATCP 10.41 and meets all of the following requirements:

1. The flock is currently classified "U.S. pullorum-typhoid clean" under the national poultry improvement plan.

2. In the case of turkeys, the flock is currently classified "Mycoplasma gallisepticum clean" under the national poultry improvement plan.

(b) The birds or eggs originate from a flock that qualifies as an affiliate flock under the national poultry improvement plan.

(c) The birds or eggs originate from a flock that is enrolled as a Wisconsin tested flock under sub. (2) or a Wisconsin associate flock under sub. (3).

Note: A person who sells birds or eggs under par. (c) must report the sale to the department, and must document to the buyer that the flock is enrolled under sub. (2) or (3). See sub. (7).

(d) In the case of birds, the birds meet all of the following requirements:

1. They have individually tested negative for pullorum, fowl typhoid and, in the case of turkeys, Mycoplasma gallisepticum, within the preceding 90 days, and there has been no change of ownership of any birds since the completion of testing. Testing for purposes of a fair or livestock exhibition shall be completed before the birds arrive at the fair or livestock exhibition.

2. They originate from a flock in which no bird has tested positive for pullorum, fowl typhoid or Mycoplasma gallisepticum.

Note: A person who sells birds under par. (d) must report the sale to the department, and must document to the buyer that the birds comply with par. (d). See sub. (7).

(e) The birds or eggs are pigeons or pigeon eggs.

(g) The birds are not used for breeding or hatching, and are moved from the flock premises only for youth exhibition at a county fair pursuant to sub. (8).

(2) **WISCONSIN TESTED FLOCK.** (a) The owner of a flock of poultry or farm-raised game birds may annually enroll that flock as a Wisconsin tested flock. An annual enrollment expires on June 30 of each year.

(b) A flock owner shall apply for enrollment under par. (a) on a form provided by the department. There is no fee to enroll. The enrollment application shall include all of the following:

1. The legal name and address of the flock owner.
2. The address and livestock premises code of the flock premises.
3. The approximate size of the flock, and the type of birds included in the flock.
4. Disease testing information under par. (c).

Note: A flock owner may request an enrollment application form by calling (608) 224-4877, by visiting the department website at [www.datcp.state.wi.us](http://www.datcp.state.wi.us), or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection  
Division of Animal Health  
P.O. Box 8911  
Madison, WI 53708-8911

(c) An enrollment application under par. (b) shall include proof that the flock has tested negative for all of the following during the calendar year of the enrollment application, in a test under sub. (4) that included all sexually mature birds then in the flock:

1. Pullorum.
2. Fowl typhoid.
3. Mycoplasma gallisepticum, in the case of turkeys.

(d) For purposes of par. (c), a sexually mature bird is a bird over 4 months old except that, in the case of turkeys, it is a bird over 6 months old.

(e) The department shall grant or deny an enrollment application under par. (b) within 30 days after the department receives a complete application. If the department grants enrollment, the department shall issue a certificate that documents the enrollment.

(3) **WISCONSIN ASSOCIATE FLOCK.** (a) The owner of a flock of poultry or farm-raised game birds may annually enroll that flock as a Wisconsin associate flock. A Wisconsin associate flock enrollment expires on June 30 of each year.

(b) A flock owner shall apply for enrollment under par. (a) on a form provided by the department. There is no fee to enroll. An enrollment application shall include all of the following:

1. The legal name and address of the flock owner.
2. The address and livestock premises code of the flock premises.
3. The number and type of birds in the flock.

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4. An invoice or other documentation showing that all of the birds in the flock were acquired directly from a flock enrolled under sub. (2), sub. (3) or s. ATCP 10.41.

5. A statement certifying that the flock owner keeps no other poultry or farm-raised game birds on the flock premises.

**Note:** A flock owner may request an enrollment application form by calling (608) 224-4877, by visiting the department website at [www.datcp.state.wi.us](http://www.datcp.state.wi.us), or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection  
Division of Animal Health  
P.O. Box 8911  
Madison, WI 53708-8911

(c) The department shall grant or deny an enrollment application under par. (b) within 30 days after the department receives a complete application. If the department grants enrollment, the department shall issue a certificate that documents the enrollment.

**(4) DISEASE TESTING.** Disease testing, for purposes of this section and s. ATCP 10.41, shall comply with all of the following standards:

(a) Blood samples for testing shall be drawn by one of the following:

1. An individual who has completed sample collection training, provided by the department, within 2 years prior to collecting the blood samples. The department shall charge a \$25 training fee.

**Note:** Subd. 1. is shown as amended eff. 7-1-09. Prior to 7-1-9 it reads:

1. An individual who has completed sample collection training, provided by the department, within 2 years prior to collecting the blood samples.

2. An individual approved by the federal bureau or by the state in which the blood samples are drawn, if the blood samples are drawn in another state pursuant to the national poultry improvement plan.

(b) Except as provided in par. (c) or (d):

1. An individual who draws blood samples for testing shall identify each bird with official individual identification, or with another identification number that uniquely identifies that bird.

2. An individual who draws blood samples for laboratory testing shall label each blood sample with the identification number of the bird from which it was drawn.

3. The flock owner or custodian shall isolate tested birds from untested birds until the department reviews test results and authorizes the flock owner or custodian to release tested birds from isolation.

(c) Paragraph (b) does not apply to a whole flock test of poultry or farm-raised game birds.

(d) Paragraph (b) does not apply when a test group of 30 or more birds is tested for purposes of flock classification under the national poultry improvement plan, provided that the flock owner or custodian isolates the test group from birds outside the test group until the department reviews the test results and authorizes release from isolation. If any bird in the test group tests positive, the department may require continued isolation and testing of all birds in the test group and may specify the disposition of all birds in the test group.

(e) Sample collection, on-site test methods and laboratory test methods shall comply with standards specified in the national poultry improvement plan. Laboratory tests shall be conducted by a laboratory approved by the department, the federal bureau, or another state under the national poultry improvement plan.

**Note:** See disease reporting requirements under s. ATCP 10.03.

**(5) IMPORTS.** No person may use, sell or distribute, for breeding or hatching, any poultry, poultry eggs, farm-raised game birds or farm-raised game bird eggs imported in violation of s. ATCP 10.42.

**(6) COMMINGLING.** (a) No turkey breeding flocks may be commingled with other species of domestic fowl or farm-raised game birds.

(b) No eggs of any other species of fowl may be hatched in a turkey hatchery.

(c) Birds belonging to a flock enrolled under sub. (2) or (3) or s. ATCP 10.41 may not be commingled with any birds that are not part of the flock, except at shows and exhibitions where all birds have tested negative for pullorum, fowl typhoid and, in the case of turkeys, *Mycoplasma gallisepticum*.

(d) Birds do not qualify under sub. (1) (d) if they have been commingled with birds from another flock or source, except at shows and exhibitions where all birds have tested negative for pullorum, fowl typhoid and, in the case of turkeys, *Mycoplasma gallisepticum*.

**(7) POULTRY SALES.** (a) A person who sells poultry or eggs under sub. (1) (c) shall do all of the following:

1. Report the sale to the department within 10 days, on a form provided by the department.

2. Provide, to the buyer, a copy of the current flock enrollment certificate under sub. (2) or (3).

(b) A person who sells poultry under sub. (1) (d) shall do all of the following:

1. Report the sale to the department within 10 days, on a form provided by the department.

2. Document, to the buyer, that the poultry comply with sub. (1) (d).

**Note:** A person may request a reporting form under par. (a)1. or (b)1. by calling (608) 224-4877, by visiting the department website at [www.datcp.state.wi.us](http://www.datcp.state.wi.us), or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection  
Division of Animal Health  
P.O. Box 8911  
Madison, WI 53708-8911

**(8) YOUTH EXHIBITION AT COUNTY FAIR.** (a) Subsection (1) does not apply to youth exhibition of poultry or poultry eggs at a county fair if a youth agricultural leader certifies all of the following:

1. The name and address of the youth exhibiting the poultry or eggs.

2. A description of the exhibited poultry or eggs.

3. That the youth acquired the poultry or eggs directly from a flock enrolled under sub. (2), sub. (3) or s. ATCP 10.41, and has not commingled them with poultry or eggs from any other source. This certification shall be based on written source documentation, and on an inspection of the premises where the youth keeps the poultry or eggs.

(b) A certification under par. (a) shall be all of the following:

1. Issued in writing.

2. Filed with the county fair before the youth exhibits the poultry or eggs.

(c) For purposes of this subsection, a "youth agricultural leader" means any of the following:

1. The leader of a bona fide youth agricultural organization to which the youth exhibitor belongs.

**Note:** For example, a "youth agricultural leader" might include a 4-H leader or FFA sponsor.

2. The county fair organizer, or the organizer's agent.

**Note:** For example, a "youth agricultural leader" might include a county fair superintendent or poultry exhibit coordinator.

**History:** CR 06-009: cr. Register September 2006 No. 609, eff. 10-1-06; CR 07-061: am. (4) (a) 1. Register June 2008 No. 630, eff. 7-1-09; CR 07-107: am. (1) (d) 1., (4) (b) 1., (6) (c) and (d) Register November 2008 No. 635, eff. 12-1-08; correction in (6) (c) made under s. 13.92 (4) (b) 7., Stats., Register November 2008 No. 635.

**ATCP 10.41 National poultry improvement plan.**

**(1) ANNUAL FLOCK ENROLLMENT.** The owner of a flock of poultry or farm-raised game birds may annually enroll that flock in the national poultry improvement plan. An annual enrollment expires on June 30 of each year.

**Note:** The national poultry improvement plan is on file with the department, the secretary of state and the legislative reference bureau. Copies may be obtained from the USDA website at: [www.aphis.usda.gov/vs/index.html](http://www.aphis.usda.gov/vs/index.html). A flock owner may also request a copy by calling (608) 224-4877, by visiting the department website at [www.datcp.state.wi.us](http://www.datcp.state.wi.us), or by writing to the following address:

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(2) **ENROLLMENT APPLICATION.** A flock owner shall apply for enrollment under sub. (1) on a form provided by the department. The application shall include the test results required under sub. (3), the fee required under sub. (5), and the livestock premises code of the flock premises. The department shall grant or deny an enrollment application within 30 days after the department receives a complete application.

Note: A flock owner may request an enrollment application form by calling (608) 224-4877, by visiting the department website at [www.datcp.state.wi.us](http://www.datcp.state.wi.us), or by writing to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection  
Division of Animal Health  
P.O. Box 8911  
Madison, WI 53708-8911

(3) **ANNUAL DISEASE TESTING.** An enrollment application under sub. (1) shall include proof that the flock has been tested for all of the following, within one year prior to the enrollment application date, according to the national poultry improvement plan:

- (a) Pullorum.
- (b) Fowl typhoid.
- (c) *Mycoplasma gallisepticum*, in the case of turkeys.

(4) **DISEASE-FREE CERTIFICATION.** The department may certify a flock enrolled under sub. (1) as "U.S. pullorum-typhoid clean" or "*Mycoplasma gallisepticum* clean," or both, according to standards in the national poultry improvement plan.

(5) **FEE.** An enrollment application under sub. (1) shall include the following annual enrollment fee, as applicable, based on flock type:

(a) \$40 if the flock consists solely of specialty breeds, other than breeds commonly raised for meat or egg production, and the flock owner raises the birds primarily for exhibition.

(b) \$40 if the flock owner does not hatch or collect eggs, and obtains stock solely from flocks enrolled in the national poultry improvement plan.

(c) \$60 if the flock includes farm-raised game birds, the flock owner does not hatch or collect eggs, and the flock owner obtains stock solely from flocks enrolled in the national poultry improvement plan.

(d) The following applicable fee for a breeding flock of poultry or farm-raised game birds:

1. \$80 if the flock includes no more than 1,000 breeders.
2. \$100 if the flock includes more than 1,000 breeders, but no more than 5,000 breeders.
3. \$200 if the flock includes more than 5,000 breeders, but no more than 10,000 breeders.
4. \$400 if the flock includes more than 10,000 breeders.

Note: Sub. (5) is shown as amended eff. 7-1-09. Prior to 7-1-09 it reads:  
(5) **FEE.** An enrollment application under sub. (1) shall include the following annual enrollment fee, as applicable, based on flock type:

(a) \$20 if the flock consists solely of specialty breeds, other than breeds commonly raised for meat or egg production, and the flock owner raises the birds primarily for exhibition.

(b) \$20 if the flock owner does not hatch or collect eggs, and obtains stock solely from flocks enrolled in the national poultry improvement plan.

(c) \$30 if the flock includes farm-raised game birds, the flock owner does not hatch or collect eggs, and the flock owner obtains stock solely from flocks enrolled in the national poultry improvement plan.

(d) The following applicable fee for a breeding flock of poultry or farm-raised game birds:

1. \$40 if the flock includes no more than 1,000 breeders.
2. \$50 if the flock includes more than 1,000 breeders, but no more than 5,000 breeders.
3. \$100 if the flock includes more than 5,000 breeders, but no more than 10,000 breeders.
4. \$200 if the flock includes more than 10,000 breeders.

(6) **TESTING.** Testing under this section, including test sample collection, shall comply with applicable requirements in s. ATCP 10.40 (4).

(7) **COMPLIANCE AND INSPECTION.** A flock enrolled in the national poultry improvement plan shall comply with all applicable requirements under the plan. The department shall inspect enrolled flocks and take other actions as appropriate, based on plan requirements.

History: CR 06-009: cr. Register September 2006 No. 609, eff. 10-1-06; CR 07-061: am. (5) (a) to (d) and (6) Register June 2008 No. 630, eff. 7-1-09; CR 07-107: am. (2) and (6) Register November 2008 No. 635, eff. 12-1-08.

**ATCP 10.42 Poultry imports.** (1) **IMPORT REQUIREMENTS.** Except as provided in sub. (2):

(a) No live poultry, poultry eggs for hatching, farm-raised game birds or farm-raised game bird eggs for hatching may be imported to this state unless accompanied by a valid certificate of veterinary inspection that certifies at least one of the following:

1. They originate from flocks that are enrolled in the national poultry improvement plan, or a plan that the department determines to be equivalent.

2. They originate from flocks that are classified as "U.S. pullorum-typhoid clean" and, in the case of turkeys and turkey eggs, "*Mycoplasma gallisepticum* clean" under the national poultry improvement plan or a plan that the department determines to be equivalent.

3. All individual test-eligible birds have tested negative for pullorum, fowl typhoid and, in the case of turkeys, *Mycoplasma gallisepticum* within 90 days prior to import. Tested birds shall bear official individual identification, and there shall be no change of ownership between the test sampling date and the import date.

(b) Turkey poults may not be imported from hatcheries that hatch eggs other than turkey eggs. Started poultry, other than turkey poults, may not be imported from hatcheries that hatch turkey eggs. Hatcheries shall comply with sanitation practices prescribed by the state of origin.

(2) **EXEMPTION.** Subsection (1) does not apply to poultry or farm-raised game birds that are imported directly to a slaughtering establishment for immediate slaughter.

History: CR 06-009: cr. Register September 2006 No. 609, eff. 10-1-06; CR 07-107: r. and recr. (1) (a) Register November 2008 No. 635, eff. 12-1-08.

## Subchapter VII — Farm-Raised Deer

### ATCP 10.45 Farm-raised deer; disease testing.

(1) **AVAILABILITY FOR TESTING.** A keeper of farm-raised deer shall make the farm-raised deer available to the department for disease testing upon request.

(2) **RESTRAINED FOR TESTING.** A keeper of farm-raised deer shall restrain the farm-raised deer for disease testing, to ensure the safety of the farm-raised deer and the person performing the test. The keeper shall restrain the farm-raised deer by one of the following methods:

(a) By providing animal handling facilities that comply with sub. (3).

(b) By tranquilizing the farm-raised deer, to the satisfaction of the department, so they can be safely tested.

Note: The department will not tranquilize farm-raised deer for testing, and assumes no liability related to the tranquilization of farm-raised deer.

(c) By moving farm-raised deer, pursuant to a permit issued under s. ATCP 10.08 (3), to an isolation and testing facility approved under s. ATCP 10.56 (4) where the farm-raised deer can be safely tested.

(3) **HANDLING FACILITIES.** (a) Animal handling facilities under sub. (2) (a) shall include all of the following:

1. A holding pen in which farm-raised deer can be safely directed into an alleyway and then to a chute or individual restraining pen for testing.

2. An alleyway through which farm-raised deer can be safely guided into a chute or restraining pen for testing.

3. A chute or restraining pen which can safely hold farm-raised deer for testing.



**AN ORDINANCE TO AMEND SECTIONS 78-105(2)(a)3a; 78-105(2)(b)3a; 78-105(2)(c)3a; 78-105(2)(d)3a; and 78-105(2)(e)4a OF THE STOUGHTON MUNICIPAL CODE**

The Common Council of the City of Stoughton, Dane County, Wisconsin, do ordain as follows:

1. Sections 78-105(2)(a)3a; 78-105(2)(b)3a; 78-105(2)(c)3a; 78-105(2)(d)3a; 78-105(2)(e)4a and 78-206(8)(y) of the Stoughton Municipal Zoning Code are hereby amended and shall read as follows:

**Sec. 78-105(2)(a)3a Exurban Residential (ER-1) District.**

(a) Accessory Land Uses Permitted by Right:

Keeping of chickens on a lot with a single family dwelling (per section 78-206(8)(y))

**Sec. 78-105(2)(b)3a Single Family Residential (SR-3) District.**

(a) Accessory Land Uses Permitted by Right:

Keeping of chickens on a lot with a single family dwelling (per section 78-206(8)(y))

**Sec. 78-105(2)(c)3a Single Family Residential (SR-4) District.**

(a) Accessory Land Uses Permitted by Right:

Keeping of chickens on a lot with a single family dwelling (per section 78-206(8)(y))

**Sec. 78-105(2)(d)3a Single Family Residential (SR-5) District.**

(a) Accessory Land Uses Permitted by Right:

Keeping of chickens on a lot with a single family dwelling (per section 78-206(8)(y))

**Sec. 78-105(2)(e)4a Single Family Residential (SR-6) District.**

(a) Accessory Land Uses Permitted by Right:

Keeping of chickens on a lot with a single family dwelling (per section 78-206(8)(y))

## **Sec. 78-206(8)(y) Accessory Land Uses**

### **(y) Keeping of Chickens**

Description: A maximum of 4 hen chickens are allowed by right on residentially zoned property with a single family residential unit including the following requirements:

#### **1. Regulations:**

- a. No person shall keep chickens without a city license. The license must be renewed annually.
- b. No chicken coop/run shall be closer than 25 feet to any residential structure on an adjacent lot and shall be located within the rear yard.
- c. All zoning requirements related to accessory structures are exempt for chicken coops/runs that are less than 65 square feet in area.
- d. Chicken coops/runs that are 65 square feet and larger in area must conform to the accessory structure requirements of the specific zoning district where located.
- e. Any electrical work will require an electrical permit through the Department of Planning & Development.

2. This ordinance shall take effect after passage and publications as required by law.

Adopted on roll call at a regular meeting of the Common Council of the City of Stoughton held on the            day of            , 2010.

VOTE:

APPROVED:

Ayes:

\_\_\_\_\_  
Donna L. Olson, Mayor

Noes:

Adopted:

ATTEST:

Published:

\_\_\_\_\_  
Luann J. Alme, City Clerk

O - - 2010

**AN ORDINANCE TO AMEND SECTION 6-2  
OF THE STOUGHTON MUNICIPAL CODE**

The Common Council of the City of Stoughton, Dane County, Wisconsin, do ordain as follows:

1. Section 6-2 of the Stoughton Municipal Code is hereby amended to read as follows:

**Sec. 6-2 Keeping of animals, and fowl and , bees prohibited**

**(a)** No person shall keep any hoofed animal, ~~fowl~~ or bees within the city. A maximum of three rabbits may be kept out of doors as pets, but not bred for meat or sale. Dogs may be kept out of doors in appropriate enclosures with proper shelter. Small animals, reptiles, birds and fish that are housed within a residence shall be permitted. Small animals include, but are not limited to, tropical fish, parrots, parakeets, cockatiels, canaries, cockatoos, finches, love birds, house cats, guinea pigs, gerbils, hamsters, fancy mice and rats, reptiles and turtles. In no event shall poisonous snakes or those having normal adult size that exceed four feet in length or members of the genus *Canis* or genus *Felis* other than common dogs and cats be permitted to be kept as pets in the city.

**(b) A maximum of four domesticated female chickens (hens) may be kept out of doors in appropriate enclosures with proper shelter. A permit must be applied for and issued by the City Clerk prior to the keeping of chickens.**

2. This ordinance shall take effect upon its passage and publication.

Adopted on roll call at a regular meeting of the Common Council of the City of Stoughton held on the      day of      , 2010.

VOTE:

APPROVED:

Ayes:

\_\_\_\_\_  
Donna L. Olson, Mayor

Noes:

Adopted:

\_\_\_\_\_  
Luann J. Alme, City Clerk

Published:

s/common/lja/ord&res/chickens/section 6-2

O - - 2010

**AN ORDINANCE TO AMEND SECTION 14-461  
OF THE MUNICIPAL CODE**

The Common Council of the City of Stoughton, Dane County, Wisconsin, do ordain  
as follows:

1. Section 14-461 of the Stoughton Municipal Code of the City of Stoughton is  
hereby amended and shall read as follows:

14-461 License Fees.

A license shall be required for the sale of each of the following or the conduct of  
business or activity at the indicated license fee. The fees established in this section may  
be modified from time to time by council resolution, and a schedule is maintained by the  
Clerk.

**(22) Chickens.....\$15.00**

2. This ordinance shall take effect upon its passage and publication.

The above and foregoing ordinance was duly adopted by the Common Council of  
the City of Stoughton at a regular meeting held on the      day of      , 2010.

VOTE:

APPROVED:

Ayes:

\_\_\_\_\_  
Donna L. Olson, Mayor

Noes:

ATTEST:

Adopted:

Published:

\_\_\_\_\_  
Luann J. Alme, City Clerk

Original \_\_\_\_\_  
Renewal \_\_\_\_\_

## Annual License Application to Keep Chickens

An annual license is required for the keeping of any domesticated chickens in residential areas of the City of Stoughton.

A chicken license must be issued annually by March 31st of each year or the permit will be subject to a \$25 late fee. You can obtain a permit at City Hall, 381 E. Main St., Monday - Friday between the hours of 7:30 a.m. and 4:30 p.m. or by mail by completing and mailing the application form below.

**Annual Fee is \$15 per chicken**

### Permit Application

- ◆ Include self-addressed, stamped envelope with application.
- ◆ Make check payable to: City of Stoughton.
- ◆ Must be postmarked March 31st or be subject to late fee of \$25 per chicken

### Complete the Following:

Application Date: \_\_\_\_\_ Number of chickens to be kept \_\_\_\_\_

Applicant Name(please print): \_\_\_\_\_

Street Address where chickens will be housed: \_\_\_\_\_

Phone(day time): \_\_\_\_\_

**Your signature acknowledges that you have read and accept the following standards for keeping chickens in the City of Stoughton:**

1. A maximum of four female chickens (hens) and zero male chickens (roosters) may be kept within the city limits
2. Both indoor and outdoor killing or slaughtering of chickens is prohibited within the city limits
3. Proof of registration with the Department of Agriculture must be provided prior to the license being issued
4. Coops and run construction, location site plan and zoning verification must be approved by the Planning Department prior to issuance of license. You must consent to inspection of the premises by the Planning Department and/or Police Department. Coops must be kept clean as to not create an odor nuisance and defecation must be properly disposed of.
5. Selling of eggs is prohibited
6. You will abide by the Noise standards specified in Section 6-5 of the City of Stoughton Code of Ordinances
7. You will abide by the Public Nuisances – Noxious Odors standards specified in Section 58-8 of the City of Stoughton Code of Ordinances
8. The penalty for not adhering to the above standards is \$50 per occurrence and possible revocation and/or denial of license application

Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

APPROVED Clerk's Office \_\_\_\_\_

APPROVED Planning Dept. \_\_\_\_\_

Date Permit Issued: \_\_\_\_\_

**8. Mike O'Connell requests parking lot reconstruction approval for Doctor's Park, 1520 Vernon Street.**

Scheel explained the request. Mike O'Connell was available for questions.

Motion by Chenoweth to approve the parking lot reconstruction as presented. 2nd by Hohol. Motion carried 5 – 0.

**9. Mark Rosenbaum requests site plan approval for an addition at North American Fur, 205 Industrial Circle.**

Rodney Scheel explained the request. Mark Rosenbaum was available for questions.

Motion by Wieser to approve the building addition for North American Fur Auction at 205 Industrial Circle contingent on the following: Staff letter dated April 26, 2010; Stoughton Utilities letter dated April 27, 2010; and the landscaping shall be completed within 60 days. 2<sup>nd</sup> by Hohol. Motion to carried 5 – 0.

**10. Pre-Annexation Agreement for Payne & Dolan property, 793 US Highway 51 East, Town of Dunkirk.**

Scheel explained the pre-annexation agreement. A discussion took place regarding the City Attorney opinion to add language that allows the City to have the right in its sole discretion to discontinue any Urban Service Area amendment process or application at any time. Bill Buglass, Tom Matson and John Matson argued that with the money they will have invested in an Urban Service Area amendment, it is not in their best interest for the City to be able to discontinue the process. The Commissioner's agreed.

Motion by Chenoweth to recommend Council approve the pre-annexation agreement for the Payne & Dolan property at 793 US Highway 51, Town of Dunkirk contingent on striking the last sentence in section 3. C. on page 4 of the pre-annexation agreement. 2<sup>nd</sup> by Hohol. Motion to carried 5 – 0.

**11. Discuss possible Zoning Ordinance amendments pertaining to Outdoor Commercial Entertainment.**

Scheel explained the liquor licensing requirements for an outdoor alcohol consumption area and how those requirements relate to the outdoor commercial entertainment zoning requirements for the business districts in the City. A lengthy discussion took place regarding what potential changes should be considered to allow outdoor commercial entertainment in the business districts and including the distance required for specific outdoor uses from residentially zoned property. Business owners from Deaks; Pack R Place and Water's Edge were on hand for the discussion.

The Commissioner's requested staff bring an ordinance amendment back next month for review and to poll area communities to find out how outdoor commercial entertainment is regulated there.

**AN ORDINANCE TO AMEND SECTIONS 78-206(4)(h); 78-105(4)(b)2b & 78-105(4)(c)2b  
OF THE STOUGHTON MUNICIPAL CODE**

The Common Council of the City of Stoughton, Dane County, Wisconsin, do ordain as follows:

1. Sections 78-206(4)(h); 78-105(4)(b)2b & 78-105(4)(c)2b of the Stoughton Municipal

Zoning Code are hereby amended and shall read as follows:

**Sec. 78-206(4)(h) Indoor Commercial Entertainment**

Description: Indoor commercial entertainment land uses include all land uses which provide entertainment services ~~entirely~~ primarily within an enclosed building. Outdoor seating or patio areas associated with a proposed indoor commercial entertainment land use shall be allowed subject to city approval of a site plan showing any such proposed outdoor seating or patio area. Such activities often have operating hours which extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.), bowling alleys, arcades, roller rinks, and pool halls.

**1. Regulations:**

- a. If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 150 feet, or as far as possible, of a residentially zoned property.
- b. Facility shall provide bufferyard with minimum opacity of .60 along all borders of the property abutting residentially zoned property (see Section 78-610).

**2. Parking Requirements:**

One space per every three patron seats or lockers (whichever is greater); or one space per three persons at the maximum capacity of the establishment; (whichever is greater).

**Sec. 78-105(4)(b)2b Planned Business (PB) District, Principal Land Uses Permitted as Conditional Use:**

Outdoor Commercial Entertainment (per Section 78-206(4)(i))

**Sec. 78-105(4)(c)2b Central Business (CB) District, Principal Land Uses Permitted as Conditional Use:**

~~Outdoor Commercial Entertainment (per Section 78-206(4)(i))~~

2. This ordinance shall take effect after passage and publications as required by law.

Adopted on roll call at a regular meeting of the Common Council of the City of Stoughton held on the            day of            , 2010.

VOTE:

Ayes:

Noes:

Adopted:

Published:

APPROVED:

\_\_\_\_\_  
Donna L. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Luann J. Alme, City Clerk

s:\common\mps\ordinancechanges\ch78\indoorcommercialentertainment



## VERONA

### (h) Indoor Commercial Entertainment.

(1) **Description.** Indoor commercial entertainment land uses include all land uses which provide entertainment services primarily within an enclosed building. Outdoor seating or patio areas associated with a proposed indoor commercial entertainment land use shall be allowed subject to city approval of a site plan showing any such proposed outdoor seating or patio area. Such activities often have operating hours which extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.) bowling alleys, arcades, roller rinks, and pool halls.

(2) **Permitted by Right.** Not applicable.

(3) **Conditional Use Regulations (NO, SO, NC, SC, UC, CC, SI).**

a. If located on the same side of the building as abutting residentially zoned property, no customer entrance of any kind shall be permitted within 100 feet of a residentially zoned property.

b. Facility shall provide bufferyard with minimum opacity of .60 along all borders of the property abutting residentially zoned property (see Section 13-1-249).

c. Shall comply with Section 13-1-363, standards and procedures applicable to all conditional uses.

(4) **Parking Regulations.** One space per every 3 patron seats or lockers (whichever is greater); or one space per 3 persons at the maximum capacity of the establishment; (whichever is greater).

### (i) Outdoor Commercial Entertainment.

(1) **Description.** Outdoor commercial entertainment land uses include all land uses which provide entertainment services partially or wholly outside of an enclosed building. Such activities often have the potential to be associated with nuisances related to noise, lighting, dust, trash and late operating hours. Examples of such land uses include outdoor commercial swimming pools, driving ranges, miniature golf facilities, amusement parks, drive-in theaters, go-cart tracks, and racetracks.

(2) **Permitted by Right.** Not applicable.

(3) **Conditional Use Regulations (UC).**

a. Activity areas shall not be located closer than 300 feet to a residentially zoned property.

b. Facility shall provide bufferyard with minimum opacity of .80 along all borders of the property abutting residentially zoned property (Section 13-1-249).

c. Activity areas (including drive-in movie screens) shall not be visible from any residentially-zoned property.

d. Shall comply with Section 13-1-363, standards and procedures applicable to all conditional uses.

(4) **Parking Regulations.** One space for every 3 patron seats at the maximum capacity of the establishment.

Olson; Public Works Committee's recommendation to adopt a Road Hazard Policy, Diggers Hotline Policy, Pavement and Curb Marking Policy, Traffic Parking and Street Signs Policy and Work Zone Safety Policy; and confirmation of the Mayor's appointment of Angie Halverson to the Utilities Committee. Motion carried unanimously by acclamation.

Moved by McKichan, seconded by Carter to change the order of old business items one and two. Motion carried unanimously by acclamation.

Aldersperson Weiss was counted present at 7:30 p.m.

Moved by McKichan, seconded by Olstad, to approve the City of Stoughton Policy for Parks and Recreation Advertising, as presented.

Moved by Carter, seconded by Chenoweth, to amend the policy to add language that inserts a statement that advertising is limited to purveyors of goods and services in paragraph 2. Motion carried 9-3 on roll with Alderspersons Scovotti, Tone and Weiss voting noe.

Moved by Carter, seconded by Lawrence, to strike the following in paragraph 3 – e - promoting any political or religious organization. Motion carried 9-4 on roll call with Alderspersons Chenoweth, Scovotti, Tone and Weiss voting noe.

Moved by Tone, seconded by Weiss, to table the City of Stoughton Policy for Parks and Recreation until an expert in the subtleties of advertising in alcohol advertising can be obtained and speak at the next meeting. Motion failed 1-11 on roll call with Alderspersons Carter, Chenoweth, Christianson, Hohol, Jenson, Lawrence, McKichan, Olstad, Scovotti, Swangstu and Weiss voting noe.

Moved by Chenoweth, seconded by Scovotti, to call the question. Motion carried by acclamation with Aldersperson McKichan voting noe.

Original motion to adopt the City of Stoughton Policy for Parks and Recreation Advertising, as amended carried 7-5 on roll call with Alderspersons Carter, Chenoweth, Scovotti, Tone and Weiss voting noe.

Moved by Hohol, seconded by McKichan, to adopt an ordinance to create zoning code section 78-803(2)(I) to allow exempt signage on softball/baseball outfield fencing on City owned parkland for advertising purposes.

Moved by Chenoweth, seconded by Scovotti, to table an ordinance to create zoning code section 78-803(2)(I) to allow exempt signage on softball/baseball outfield fencing on City owned parkland for advertising purposes and refer back to the Planning

Commission. Motion carried 7-5 on roll call with Alderpersons Christianson, Hohol, Lawrence, McKichan and Swangstu voting noe.

Mayor Olson closed the regular meeting and opened a public hearing to consider the intent to exercise special assessment powers for the improvement of sidewalk and curb and gutter on various streets within the City of Stoughton. There being no appearances, Mayor Olson closed the public hearing and reopened the meeting for the regular course of business.

Moved by Carter, seconded by Olstad, to adopt a final resolution authorizing improvements and levying special assessments against benefitted property in the City of Stoughton for the improvement of sidewalk and curb and gutter on various streets within the City of Stoughton, as presented. Motion carried unanimously on roll call.

Moved by Carter, seconded by Hohol, to table an agreement for advertising with the Stoughton Area Baseball Association and bring it back with the Planning Commissions recommendation on an ordinance to create zoning code section 78-803(2)(I). Motion carried unanimously by acclamation.

Moved by Hohol, seconded by Chenoweth, to adopt a resolution to proceed with a housing project for property located at 1601, 1625 and 1649 Vernon Street by Dane County Housing Authority, as presented. Motion carried unanimously on roll call.

Moved by Hohol, seconded by Chenoweth, to approve a pre-annexation agreement with Payne & Dolan for the property located at 793 US Highway 51 East in the Town of Dunkirk, as presented. Motion carried unanimously on roll call.

Moved by Chenoweth, seconded by Hohol, to adopt a resolution regarding proposed DNR rules on phosphorous, as presented. Motion carried 11-1 on roll call with Alderperson McKichan voting noe.

Alderperson Carter presented an ordinance to amend section 64-13 regarding snow and ice removal, for a first reading.

Moved by Tone, seconded by Carter, to close the meeting per State Statute 19.85(1)(e) and 19.85(1)(g) to confer with legal counsel regarding the offer to purchase property located at 314 West Main Street and to discuss the possible litigation in regards to Comfort Inn at 8:25 p.m. Motion carried unanimously on roll call.

Moved by Lawrence, seconded by Scovotti, to approve the offer to purchase for the property located at 314 West Main Street, as presented. Motion carried unanimously by acclamation.

Moved by Tone, seconded by Carter, to direct Attorney Dregne to commence with civil action to put a lien on the Comfort Inn of Stoughton property, file an injunction to prevent them from retaining any room tax from current customers and pursue forfeiture action against Comfort Inn of Stoughton. Motion carried unanimously by acclamation.

Moved by Lawrence, seconded by Chenoweth, to open the meeting at 8:49 p.m. Motion carried unanimously by acclamation.

Moved by Lawrence, seconded by Chenoweth, to adjourn the meeting at 8:49 p.m. Motion carried unanimously by acclamation.

Respectfully submitted,  
Luann J. Alme  
City Clerk/Personnel Director

**AN ORDINANCE TO CREATE SECTION 78-803(2)(I)  
OF THE STOUGHTON MUNICIPAL CODE**

The Common Council of the City of Stoughton, Dane County, Wisconsin, do ordain as follows:

1. Section 78-803(2)(I) of the Stoughton Municipal Code are hereby created and shall read as follows:

Section 78-(803)(2) Exemptions

(I) Signage on softball/baseball outfield fencing at Racetrack Park for advertising purposes. The signage and content will be controlled by City policy.

2. This ordinance shall take effect upon its passage and publication.

Adopted on roll call at a regular meeting of the Common Council of the City of Stoughton held on the     day of                      , 2010.

VOTE:

APPROVED:

Ayes:

\_\_\_\_\_  
Donna L. Olson, Mayor

Noes:

Adopted:

ATTEST:

Published:

\_\_\_\_\_  
Luann J. Alme, City Clerk

X **12. Discuss possible Building Ordinance amendment pertaining to Outdoor Furnaces.**

Scheel explained the issues related to outdoor furnaces such as smoke; smell and types of materials being burned in them. A lengthy discussion took place regarding industry standards for outdoor furnaces. Marty Lamers & Scott Wegner of the Stoughton Fire Department and Alderman Dave McKichan were on hand for the discussion. The consensus of the Commissioner's was that there should be some requirements; a permitting process and inspections for outdoor furnaces. The Commissioner's requested that staff come back next month with an ordinance amendment for further discussion and that staff check with other communities to find out how outdoor furnaces are regulated elsewhere.

**13. Future Agenda Items.** Outdoor Commercial Entertainment and Outdoor Furnaces.

**14. Adjournment.** Motion by Wieser to adjourn at 7:40 pm, 2<sup>nd</sup> by Chenoweth. Motion carried 5 – 0.

Respectfully Submitted,  
Michael Stacey

**Proposed Ordinance Amendment**  
**O- - 10**

**AN ORDINANCE TO CREATE SECTION 10-15 OF CHAPTER 10 BUILDINGS AND  
BUILDING REGULATIONS, STOUGHTON MUNICIPAL CODE**

The Common Council of the City of Stoughton, Dane County, Wisconsin, do ordain as follows:

1. Section 10-15 of the Stoughton Municipal Code is hereby created and shall read as follows:

Sec. 10-15 ~~Reserved.~~ Outdoor solid fuel-fired heating furnace.

Description: An outdoor solid fuel-fired heating furnace is any equipment, device or apparatus or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source.

1. Regulations:

- a. On and after , 2010, no outdoor furnace shall be installed, erected or replaced in the City of Stoughton without the property owner first obtaining a permit from the Department of Planning & Development for such work and paying a fee for the review and inspection of the furnace installation. The fees will be the same as used for an interior furnace, plumbing and electrical. Existing outdoor furnaces shall be exempt until they are replaced or deemed a nuisance per (j) below.
- b. Outdoor furnace chimneys shall be a minimum of fifteen (15) feet in height as measured from the ground level, or must exceed the building height of the tallest building within one hundred (100) feet by three (3) feet, which ever is taller and must meet the manufacturer's installation requirements. Chimneys must be fitted with spark arresters.
- c. All outdoor furnaces shall be located a minimum of 300 feet from the nearest residentially zoned property which is not on the same property as the outdoor furnace and shall be setback a minimum of 100 feet from any property line. Outdoor furnaces must only be located within the rear yard behind the principal structure.
- d. Only commercially manufactured outdoor solid fuel-fired furnaces that are UL listed and constructed to meet the latest U.S. Environmental Protection Agency standards shall be permitted. The outdoor furnace shall be installed in accordance with the manufacturer's instructions. All electrical and plumbing shall be installed by qualified personnel and shall conform to the appropriate plumbing and electrical codes depending on structure type.
- e. The outdoor furnace shall be placed on a non-combustible, poured concrete slab of four (4) inches thick minimum with at least four (4) inches of compacted, crushed stone or sand as a base.
- f. When necessary, State of Wisconsin approval shall be necessary for installation of a furnace for any structure within the City of Stoughton except for one and two family structures.

- g. The outdoor furnace must be properly grounded including installing an independent ground rod with proper wire to the boiler for additional safety. Electrical wire must be rated and approved for direct burial if it is to be run underground or in wet conditions.
- h. Only clean, dry wood may be used to fire any permitted or legal non-conforming outdoor wood-fired furnace. Lighter fluids, gasoline and chemicals may not be used to start or fuel the fire. The manufacturers written instructions shall be followed for loading and refueling the fire. The burning of processed wood products, cardboard, trash and plastics are expressly prohibited.
- i. All outdoor furnaces shall be operated in accordance with the manufacturers directions. Any outdoor furnace in a state of disrepair, or that is damaged to such extent it does not operate in full conformance with the manufacturers specifications, as determined by the Building Inspector or designee, is considered a public nuisance and shall be taken out of service and removed from the property.
- j. In the event the operation of the outdoor furnace results in a nuisance to other properties, the Building Inspector or designee shall have the authority to order suspension or discontinuance of operation of the outdoor furnace. Any affected individuals and/or persons residing within one thousand (1000) feet of the property with an outdoor furnace may appeal the determination of the Building Inspector or designee to the Public Safety Committee which shall review the same to determine whether the outdoor furnace is injurious to health, welfare or safety of the occupants of neighboring property (ies).

2. This ordinance shall be in force and effect from and after its adoption and publication.

The above and foregoing ordinance was duly adopted by the Common Council of the City of Stoughton at a regular meeting held on the     day of     , 2010.

VOTE:

Ayes:

Noes:

Adopted:

Published:

APPROVED:

\_\_\_\_\_  
Donna L. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Luann J. Alme, City Clerk



**MODEL ORDINANCE  
FOR  
OUTDOOR BURNING, OPEN BURNING AND BURNING OF REFUSE  
A GUIDE FOR WISCONSIN COUNTIES, CITIES, VILLAGES AND TOWNS**



**Wisconsin Department of Natural Resources  
Box 7921  
Madison, WI 53707  
PUB-AM-356-2004  
September, 2004**

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This publication is available in alternative format (large print, Braille, audiotape, etc.) upon request. Please call (608) 266-2111 for more information.



# **WISCONSIN MODEL/SAMPLE ORDINANCE FOR OUTDOOR BURNING, OPEN BURNING AND BURNING OF REFUSE**

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## Part I. Introduction

This document contains a model ordinance and related material prepared to assist Wisconsin counties, cities, villages and towns in adopting local regulations related to outdoor burning and burning of refuse. The model is intended to assist these units of government in enacting their own ordinances and is meant to be advisory only. This publication was prepared in cooperation with the Wisconsin Towns Association, the Wisconsin Counties Association, the League of Wisconsin Municipalities, and the American Lung Association of Wisconsin.

Most communities in Wisconsin regulate outdoor burning and/or refuse burning in some fashion for the purpose of preventing wildfires, preventing air pollution problems or both. Municipalities are not required by state law to enact any particular provision of this model ordinance. The various provisions of this model ordinance are suggestions and examples. It is intended that a municipality "pick and choose" from among the various suggested provisions to meet its particular local needs. The only constraint is that a municipality may not enact an ordinance that's less stringent than state law. For example, state law prohibits the open burning of certain materials like plastic, rubber, treated or painted wood and asphalt products. A local municipal ordinance may not provide an exemption from the statewide ban on open burning of these materials. Further explanation is provided in the explanatory notes that accompany specific sections of the model ordinance.

The Model Ordinance (Part II of this publication) contains numerous alternatives for municipalities to consider and detailed explanations of the various provisions and alternatives. As a result, at first glance the Model Ordinance may appear to be overly lengthy and complex. However, as explained in the paragraph above, it's designed for municipalities to "pick and choose" from among the various suggested provisions to craft an ordinance that most meets their needs. An "Example Ordinance" (Part III of this publication) has been included to show municipalities what a shorter end product might look like.

**Format of this Document:** All **[underlined, bracketed bold]** sections require filling in a name, address, governmental body, distance or other information. *Shaded and italic text* shows comments or explanations. In explanations of this model/sample ordinance, the term "municipality" is meant to include counties, towns, cities and villages.

- **Availability of Electronic Copies:** This model / sample ordinance is available in electronic form on the Open Burning webpage of the Wisconsin Department of Natural Resources at: <http://www.dnr.state.wi.us/org/caer/ce/ob/>. The Ordinance is available as a PDF or as a Microsoft Word document.

## Part II.

## Model Ordinance

### Outdoor and Refuse Burning Ordinance for the [Pick one: county, city, village or town] of [name], Wisconsin.

Ordinance No. \_\_\_\_\_

*(Note to Those Drafting Ordinances: This model / sample ordinance was drafted to cover "open burning", "outdoor burning" (including open burning and burning in outdoor wood-fired furnaces) and "refuse burning" (including both open burning of refuse and indoor burning of refuse. If your municipality decides to adopt an ordinance that does not address all of these topics, then the title of the ordinance should be changed as appropriate. For example, if your ordinance doesn't apply to outdoor wood-fired furnaces then the title of the ordinance might be "Open burning and Refuse Burning".)*

#### SECTION 1: PURPOSE

**1.00 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 [Pick one: county, city, village or town] of [name] due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

#### SECTION 2: APPLICABILITY

**2.00 Applicability.** This ordinance applies to all outdoor burning and refuse burning within the [Pick one: county, city, village or town] of [name]. *[For county ordinances, insert the following:]* This county ordinance does not apply to incorporated municipalities. If a provision in a town ordinance in this county covers a provision contained in this county ordinance, the town ordinance controls.

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

**2.2.** 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 4 of this ordinance.

**2.3.** 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 3: SEVERABILITY

**3.00 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: DEFINITIONS

##### 4.00 Definitions.

**4.1.** "Campfire" means a small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.

**4.2.** "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.

**4.3.** "Confidential papers" means printed material containing personal identification or financial information that the owner wishes to destroy.

**4.4.** "Fire Chief" means the Chief of the [insert name of Fire Department] or other person authorized by the Fire Chief. *(Note to Those Drafting Ordinances: The term "Fire Chief" is used throughout this*

*model ordinance, Municipalities may, at their discretion, designate persons other than those associated with the Fire Department for many of the responsibilities in this ordinance. Also, if a municipality is served by more than one fire department, this definition should be adjusted to include both.)*

**4.5.** "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.

**4.6.** "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.

**4.7.** "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.

**4.8.** "Refuse" means any waste material except clean wood.

## **SECTION 5: GENERAL PROHIBITION ON OPEN BURNING, OUTDOOR BURNING AND REFUSE BURNING**

**5.00 General prohibition on outdoor burning and refuse burning.** Open burning, outdoor burning and refuse burning are prohibited in the **[Pick one: county, city, village or town]** of **[name]** unless the burning is specifically permitted by this ordinance.

## **SECTION 6: MATERIALS THAT MAY NOT BE BURNED**

*(Note to Those Drafting Ordinances: State administrative rules prohibit indoor or outdoor burning of the materials listed in subsections 6.10 - 6.17 with certain limited exceptions that require air pollution controls and a written approval from the Department of Natural Resources. A municipality does not have the discretion to allow burning of materials prohibited by state law.)*

### **6.00 Materials that may not be burned.**

**6.10** 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. *(Note to Those Drafting Ordinances: If your ordinance requires a permit, you may wish to use the next sentence.)* The **[Pick one: county, city, village or town]** of **[name]** 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.

**6.11.** 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.

**6.12.** 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.

**6.13.** Asphalt and products containing asphalt.

**6.14.** 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.

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

**6.16.** Rubber including tires and synthetic rubber-like products.

**6.17.** 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.

## **SECTION 7: OPEN BURNING OF LEAVES, BRUSH, CLEAN WOOD AND OTHER VEGETATIVE DEBRIS** *(Omit this section entirely if your municipality chooses not to regulate this activity)*

*(Note to Those Drafting Ordinances: Your municipality will need to decide whether to entirely prohibit burning of these materials, whether to restrict but not entirely prohibit burning of these materials, or whether to not regulate this activity. Based upon that decision, the appropriate provisions from among those suggested in this model may be chosen. If Alternative 2 (below) is chosen, subsections 7.1 and 7.2 should always be included. Subsections 7.3- 7.8 are regulatory exemptions provided in state rules. A municipality may choose to be more stringent than state rules by not including one or more of those exemptions, however, a municipality may not adopt a broader exemption that would be*

less stringent than state rules. The provisions in subsection 7.9 - 7.15 are not covered by state air pollution or waste management rules, but are suggestions that a municipality should seriously consider as issues of concern for local regulation in the ordinance.)

## **7.00 Burning leaves, brush, clean wood and other vegetative debris.**

**(Alternative 1)** Open burning of leaves, weeds, brush, stumps, clean wood, trees and other vegetative debris is prohibited (or name the particular type of material from the above list that may not be burned such as leaves).

or

**(Alternative 2)** Open burning of leaves, weeds, brush, stumps, clean wood other vegetative debris is allowed only in accordance with the following provisions (Do not include in the above list any material prohibited under alternative 1.)

**7.1.** 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.

**(Note to Those Drafting Ordinances:** Under state law in an unincorporated "intensive forest fire protection area" a burning permit must be obtained from the Department of Natural Resources or an emergency fire warden for open burning anytime the ground is not snow covered. In an unincorporated "extensive forest fire protection area" a permit is required from the Department of Natural Resources anytime the ground is not snow covered during the months of January through May. In all incorporated municipalities and in towns that are not in "intensive" or "extensive" forest fire protection areas, the municipality has the discretion to determine whether or not burning permits are required. For further information see sections 26.11 – 26.13, Wis. Stats. and Chap. NR 30, Wis. Adm. Code.

**7.2.** 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.

**(Note to Those Drafting Ordinances:** Choose from the following additional provisions that you wish to be applicable)

**7.3.** 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.

**7.4.** 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.

**7.5.** Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.

**7.6.** Fires set for forest, prairie or wildlife habitat management are allowed with the approval of the Department of Natural Resources.

**7.7.** 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.

**7.8.** 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.

**(Note to Those Drafting Ordinances:** State air pollution regulations prohibit this type of burning in certain counties in southeast Wisconsin. If your municipality is in that area, state regulations preclude this provision. Check with DNR Air Management staff for further information.)

**7.9.** In emergency situations such as natural disasters burning that would otherwise be prohibited is allowed if specifically approved by the Department of Natural Resources.

**7.10.** Open burning under [this section] or [subsections \_\_ ... , and \_\_] **(Note to Those Drafting Ordinances:** If your municipality requires a burning permit, you may want to require a permit for any open burning covered by Section 7 or you might want to require a permit for only certain types of fires. In that case, you would name the appropriate subsections of Section 7. Also see the note following Section 7.1 regarding fire permits) shall be conducted only following issuance of and in accordance with a permit issued under Section 11 of this ordinance.

**7.11** Open burning under this section shall only be conducted at a location at least **[insert a distance appropriate for the municipality.]** *(such as 100 feet, 250 feet or another greater or lesser distance)* from the nearest building which is not on the same property. *(Note: municipalities may also want to consider whether different distances should be required for different types of open burning under this section - - e.g. campfires, vs. .)*

**7.12.** Except for campfires and permitted bonfires, open burning shall only be conducted **[insert times of year and/or times of day appropriate for the municipality.]** *(Some municipalities with volunteer fire departments may want to require burning during times of the day when firefighters are more likely to be available. Other municipalities may limit burning to only daylight hours. The municipality may also limit the times of year when open burning is acceptable - - such as months with low fire hazard or times when snow cover is present.)*

**7.13.** Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age *(or use another appropriate 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.

**7.14.** No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.

**7.15.** Except for barbecue, gas and charcoal grills, no burning shall be undertaken within **[insert distance]** *(25 feet or other appropriate distance)* from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.

**7.16.** 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 **[Pick one: county, city, village or town]** of **[name]**.

**(Note to Those Drafting Ordinances: Those municipalities in areas subject to ozone advisories should consider this subsection.)**

## **SECTION 8: BURN BARRELS** *(Omit this section entirely if your municipality chooses not to regulate this activity)*

### **8.00 Burn barrels.**

**(Note to Those Drafting Ordinances: Burn barrels are often used to incinerate illegal materials (see Section 6 of this ordinance) and are frequently a source of citizen complaints when neighbors are exposed to the smoke. The smoke can cause both acute and chronic health problems. The Department of Natural Resources believes that there are better alternatives for unwanted woody and vegetative debris and, therefore, discourages the use of burn barrels. Conversely, burn barrels can be a valuable fire prevention device if used in isolated rural areas and only for small amounts of woody and vegetative debris. Therefore, statewide administrative rules do not prohibit the use of burn barrels. Whether or not to allow use of burn barrels is considered a local issue. Your municipality will need to decide whether to entirely prohibit burn barrels, whether to allow burn barrels under specified conditions, or whether not to regulate burn barrels. Based upon that decision, the appropriate provisions from among those suggested in this model may be chosen. Education about burn barrels is an important component of a program to reduce their use. A short fact sheet entitled “Burn Barrels – Unnecessary, Unneighborly and Usually Illegal” is included in the reference material in Part IV of this model ordinance. Your municipality should consider how to disseminate information concerning open burning.)**

**(Alternative 1)** No person shall use or maintain a burn barrel in the **[Pick one: county, city, village or town]** of **[name]**  
or

**(Alternative 2)** A burn barrel may be used in the **[Pick one: county, city, village or town]** of **[name]** only in accordance with the following provisions:

**8.1.** The burn barrel shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance and may only be used in accordance with the provisions of Section 7 (or subsections of Section 7 deemed appropriate) of this ordinance.

**8.2.** The burn barrel shall be located at least **[insert a distance appropriate for the municipality.]** from the nearest building that is not on the same property as the burn barrel. *(Choose a distance such as 250 feet or another greater or lesser distance as deemed appropriate for the municipality.)*

**8.3.** The burn barrel shall have vent holes above the ash line for combustion air and shall be covered with a heavy wire screen.

8.4. The burn barrel shall not serve a commercial enterprise.

8.5. The owner of the burn barrel shall obtain an annual permit from the Fire Chief in accordance with Section 12 of this ordinance.

## **SECTION 9: OUTDOOR WOOD-FIRED FURNACES** *(Omit this section entirely if your municipality chooses not to regulate this activity)*

### **9.00 Outdoor wood-fired furnaces.**

***(Note to Those Drafting Ordinances:*** State administrative rules do not regulate the installation or use of outdoor residential wood-fired furnaces, stoves or boilers, all of which are defined as "outdoor wood-fired furnaces" in this model ordinance. Outdoor wood-fired furnaces can save fossil fuels, but can also be a cause of citizen complaints. Outdoor wood-fired furnaces are designed to maintain fire over long periods of time, they are designed to operate at low temperatures when not heating and they frequently have a lower chimney height than an indoor stove. Restricted airflow and low operating temperatures can cause smoldering that results in excessive smoke. The smoke can cause both acute and chronic health problems if nearby residents are exposed. Sparsely populated rural towns will likely not need to regulate outdoor wood-fired furnaces. However, if your municipality is more developed or has had citizen complaints about outdoor wood-fired furnaces, you may want to consider the following alternatives. Your municipality will need to decide whether to entirely ban outdoor wood furnaces in certain areas, whether to allow outdoor wood furnaces under specified conditions or whether not to regulate them at all. Based upon that decision, the appropriate provisions from among those suggested in this model may be chosen.)

***(Alternative 1)*** No person shall install, use or maintain an outdoor wood-fired furnace in the ***[Pick one: county, city, village or town]*** of ***[name]***. ***(Note to Those Drafting Ordinances:*** If you want a prohibition on outdoor wood-fired furnaces to apply to only a portion of the municipality, see the suggestion in Alternative 2, section 9.1 below. In most cases, only an incorporated municipality will consider a prohibition for the entire municipality.)

***or***

***(Alternative 2)*** An outdoor wood-fired furnace may be installed and used in the ***[Pick one: county, city, village or town]*** of ***[name]*** only in accordance with the following provisions:

9.1. The outdoor wood-fired furnace shall be installed and used only in an area zoned for agricultural use. ***(Omit this section or insert other zoning areas in addition to agricultural as appropriate for the needs of your municipality.)***

9.2. The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance.

9.3. The outdoor wood-fired furnace shall be located at least ***[insert a distance appropriate for the municipality]*** from the nearest building which is not on the same property as the outdoor wood-fired furnace. ***(Choose a minimum distance such as 300 feet, 500 feet or other greater or lesser distance as appropriate for your municipality. For the reasons cited in the introductory note to this section, a substantial minimum distance is recommended.)***

9.4. The outdoor wood-fired furnace shall have a chimney that extends at least ***[insert a minimum height]*** above the ground surface. If there are any residences within ***[insert a specified distance]*** ***(A distance such as 500 feet or greater is recommended)***, the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. The Fire Chief may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors. ***(A minimum height of 15 feet is recommended or the municipality may choose another minimum height appropriate for the municipality and the required minimum separation to neighbors.)*** ***(Note to Those Drafting Ordinances:*** A chimney height equivalent to the chimney in a building should help with smoke dispersion. However, higher chimney heights may increase problems with creosote build-up. An insulated chimney as well as case-by-case discretion is recommended for that reason.)

9.5. The owner of the outdoor wood-fired furnace shall obtain an annual permit from the Fire Chief in accordance with Section 12 of this ordinance if the furnace is located within ***[insert a specified distance]***. ***(Note to Those Drafting Ordinances:*** If you want to require a permit of all outdoor wood-fired furnaces, end the sentence after the word "ordinance". If you don't want to require any permits



for outdoor wood-fired furnaces, omit this paragraph entirely. If you want to require a permit only if there are nearby neighbors, insert an appropriate distance such as 500 or 1000 feet).

## SECTION 10: FIRE DEPARTMENT PRACTICE BURNS

**(Note to Those Drafting Ordinances:** The language suggested in Section 10 regarding fire department practice burns is consistent with state administrative rules governing that activity. See s. NR 502.11(2)(c), Wis. Adm. Code. If a municipality elects not to include this section, practice burns might be prohibited by other provisions of the ordinance (e.g. the prohibitions in sections 5 and 6 of this model). If a section on practice burns is included in the ordinance, it must be at least as stringent as state regulations.)

### 10.00 Fire department practice burns.

**Alternative 1 (short version):** Notwithstanding sections 5 and 6 of this ordinance, the [insert name of 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.

or

**Alternative 2 (long version):** Except as provided in this section for fire department practice burns, an existing unwanted building in the [Pick one: county, city, village or town] of [name] may not be burned. A building, which is no longer standing, may not be used for a practice burn.

**10.1.** An existing building may be burned only by the [insert name of Fire Department] and only if the Fire Chief determines that the burning is necessary for practice and instruction of fire fighters or fire fighting equipment.

**10.2.** 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.

**10.3.** A demolition notification shall be submitted to the Department of Natural Resources and all asbestos removed prior to the practice burn.

**10.4.** All ash shall be disposed of in an approved landfill or at an alternative location approved by the Department of Natural Resources.

**10.5.** At least [insert an appropriate number of hours or days] before a planned practice burn the Fire Chief or designee shall notify residents within [insert a distance appropriate for the municipality] of the site of the proposed burn. (For example, an ordinance could require notification of residents at least 48 hours in advance if they are within 1000 feet of the proposed burn site.)

## SECTION 11: EXEMPTION FOR BURNING CERTAIN PAPERS

**11.00 Exemption for burning certain papers.** **(Note to Those Drafting Ordinances:** The Department of Natural Resources recommends that papers of a confidential nature be shredded and recycled rather than burned. This Section allows paper and cardboard products to be burned for beneficial use as starter fuel and it allows confidential papers from a residence to be burned. This exemption does not allow burning for disposal of materials that are required to be recycled. State regulations do not contain an explicit section similar to this, but the Department of Natural Resources believes that this section is consistent with state regulations and that municipalities may include this section in their ordinance at their discretion.)

**11.1.** Notwithstanding Subsection 6.17 of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance

**11.2.** 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.

**11.3.** Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.

**11.4.** A fire set for burning of a small quantity of confidential papers shall be subject to and comply with Subsections 7.1-7.3, 7.6, and 7.11-7.15 of this ordinance.

## SECTION 12: BURNING PERMITS

**12.00 Burning Permits.** **(Note to Those Drafting Ordinances:** State regulations do not require municipalities to issue burning permits. Under state law in an unincorporated "intensive forest fire protection area" a burning permit must be obtained from the Department of Natural Resources or an emergency fire

warden for open burning anytime the ground is not snow covered. In an unincorporated "extensive forest fire protection area" a permit is required from the Department of Natural Resources anytime the ground is not snow covered during the months of January through May. See Chap. NR 30, Wis. Adm. Code. In all incorporated municipalities and in towns that are not in "intensive" or "extensive" forest fire protection areas, the municipality has the discretion to determine whether or not burning permits are required. Burning permits are commonly required by local ordinance in incorporated areas and in more populous towns outside of Department of Natural Resources forest fire protection areas. Alternatives 1 and 2 for intensive and extensive forest fire protection areas do not cover burning permits for outdoor wood-fired furnaces. If your municipality wants to require permits for some or all outdoor wood-fired furnaces, choose the appropriate language in sections 12.4 through 12.7.)

**(Alternative 1: for towns in "intensive forest fire protection areas")** Except for cooking or warming fires, no person shall start or allow any open burning when the ground is not covered with snow unless the person has either obtained a burning permit from the Department of Natural Resources or an authorized emergency fire warden.

**or**

**(Alternative 2: for towns in "extensive forest fire protection areas")** Except for cooking or warming fires, no person shall start or allow any open burning during January through May when the ground is not covered with snow unless the person has either obtained a burning permit from the Department of Natural Resources or an authorized emergency fire warden.

**or**

**(Alternative 3: for consideration by incorporated municipalities and all other towns. Towns in forest fire protection areas may also want to consider the provisions of this section related to an annual permit.)**

**12.1.** No person shall start or maintain any open burning without a burning permit issued by the insert "Fire Chief", or name of other office, or title(s) of other person(s) authorized to issue burning permits].

**12.2.** An outdoor campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.

**12.3.** Any person responsible for burning leaves, brush, clean wood or other vegetative debris under Section 7 of this ordinance shall obtain a one-time burning permit before starting the fire. The fee for each one-time burning permit shall be insert cost of one-time permit. **(Note to Those Drafting Ordinances:** Burning permits are commonly issued without a fee. Your municipality will have to decide whether or not to require a fee and how to collect it.)

**12.4.** *(Use this section if required by section 8.5 and/or section 9.5.)* The owner or occupant of the property shall obtain an annual burning permit for each insert the following as appropriate and as required by sections 8.5 and 9.5 burn barrel or outdoor wood-fired furnace before using the burn barrel or outdoor wood-fired furnace. The fee for each annual burning permit shall be insert cost of annual permit. **(Note to Those Drafting Ordinances:** Burning permits are commonly issued without a fee. Your municipality will have to decide whether or not to require a fee and how to collect it.) An annual permit expires on insert annual date of expiration of each year.

**12.5.** 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.

**12.6.** 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.

**12.7.** Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

## **SECTION 13: LIABILITY**

**13.00 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.

## **SECTION 14: RIGHT OF ENTRY AND INSPECTION**

**14.00 Right of entry and inspection.** The Fire Chief or any authorized officer, agent, employee or representative of the **[Pick one: county, city, village or town]** of **[name]** 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 66.122 and 66.123, Wis. Stats.

## **SECTION 15: ENFORCEMENT AND PENALTIES**

### **15.00 Enforcement and penalties.**

**15.1.** The Fire Chief and **[insert titles of other designated municipal officials]** are authorized to enforce the provisions of this ordinance.

**15.2.** The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than **[insert amount of minimum penalty]** or more than **[insert amount of maximum penalty]** plus the cost of prosecution. Penalties are doubled for second and subsequent offenses. **[Note to Those Drafting Ordinances: Consider penalties of \$25 minimum and \$250 maximum or some other range appropriate for the particular municipality.]**

**Part III. Example Ordinance**  
**(For a fictitious rural and suburban town in Wisconsin with a volunteer fire department and a population of 2600)**

**EXPLANATION OF THIS EXAMPLE ORDINANCE:** Following is an example of what a local ordinance might look like for a rural town. This is not an actual ordinance. The Town of Forward is fictitious. The Model Ordinance in Part II of this publication contains numerous alternatives for municipalities to consider and detailed explanations of the various provisions and alternatives. As a result, at first glance the Model Ordinance in Part II may appear to be overly lengthy and complex. This "Example Ordinance" has been included to show municipalities what a shorter end product might look like. Municipalities are urged not to use this example directly because that would not allow them to consider all the alternatives in the Part II Model Ordinance and to select the alternatives that best meet their needs.

**Outdoor and Refuse Burning Ordinance for the Town of Forward.**

**Ordinance No. 3-A-2005**

**SECTION 1: PURPOSE**

**1.00 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 Town of Forward, Victory County, Wisconsin due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

**SECTION 2: APPLICABILITY**

**2.00 Applicability.** This ordinance applies to all outdoor burning and refuse burning within the Town of Forward.

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

**2.2.** 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 4 of this ordinance.

**2.3.** 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 3: SEVERABILITY**

**3.00 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: DEFINITIONS**

**4.00 Definitions.**

**4.1.** "Campfire" means a small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.

**4.2.** "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.

**4.3.** "Confidential papers" means printed material containing personal identification or financial information that the owner wishes to destroy.

- 4.4** "Fire Chief" means the Chief of the Town of Forward Volunteer Fire Department or other person authorized by the Fire Chief
- 4.5.** "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.
- 4.6.** "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 from an enclosed chimney.
- 4.7.** "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.
- 4.8.** "Refuse" means any waste material except clean wood.

## **SECTION 5: GENERAL PROHIBITION ON OPEN BURNING, OUTDOOR BURNING AND REFUSE BURNING**

**5.00 General prohibition on outdoor burning and refuse burning.** Open burning, outdoor burning and refuse burning are prohibited in the Town of Forward unless the burning is specifically permitted by this ordinance.

## **SECTION 6: MATERIALS THAT MAY NOT BE BURNED**

### **6.00 Materials that may not be burned.**

- 6.10** 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. The Town of Forward 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.
- 6.11.** 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.
- 6.12.** 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.
- 6.13.** Asphalt and products containing asphalt.
- 6.14.** 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.
- 6.15.** Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, films and containers.
- 6.16.** Rubber including tires and synthetic rubber-like products.
- 6.17.** 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.

## **SECTION 7: OPEN BURNING OF LEAVES, BRUSH, CLEAN WOOD AND OTHER VEGETATIVE DEBRIS**

### **7.00 Burning 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:

- 7.1.** 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.
- 7.2.** 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.
- 7.3.** 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.

- 7.4.** 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.
- 7.5.** Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.
- 7.6.** Fires set for forest or wildlife habitat management are allowed with the approval of the Department of Natural Resources.
- 7.7.** 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.
- 7.8.** 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.
- 7.9.** Burning in emergency situations such as natural disasters is allowed if approved by the Department of Natural Resources.
- 7.10.** Open burning under this Section shall be conducted only following issuance of and in accordance with a permit issued under Section 11 of this ordinance.
- 7.11.** Except for campfires, open burning under this section shall only be conducted at a location at least 250 feet from the nearest building that is not on the same property.
- 7.12.** Except for campfires and permitted bonfires, open burning shall only be conducted from the hours of noon and 6:00 PM.
- 7.13.** 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.
- 7.14.** No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.
- 7.15.** 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, exit access or exit unless authorized by the Fire Chief.

## **SECTION 8: BURN BARRELS**

### **8.00 Burn barrels.**

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

- 8.1.** The burn barrel shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance and may only be used in accordance with the provisions of Section 7 of this ordinance.
- 8.2.** The burn barrel shall be located at least 250 feet from the nearest building that is not on the same property as the burn barrel.
- 8.3.** The burn barrel shall have vent holes above the ash line for combustion air and shall be covered with a heavy wire screen.
- 8.4.** The burn barrel shall not serve a business.
- 8.5.** The owner of the burn barrel shall obtain an annual permit from the Fire Chief in accordance with Section 12 of this ordinance.

## **SECTION 9: OUTDOOR WOOD-FIRED FURNACES**

### **9.00 Outdoor wood-fired furnaces.**

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

- 9.1.** The outdoor wood-fired furnace shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance.
- 9.2.** 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.
- 9.3.** 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.

## **SECTION 10: FIRE DEPARTMENT PRACTICE BURNS**

**10.00 Fire department practice burns.** Notwithstanding sections 5 and 6 of this ordinance, the Town of Forward Volunteer 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.

## **SECTION 11: EXEMPTION FOR BURNING CERTAIN PAPERS**

### **11.00 Exemption for burning certain papers.**

**11.1.** Notwithstanding Subsection 6.17 of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance

**11.2.** 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.

**11.3.** Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.

**11.4.** A fire set for burning of a small quantity of confidential papers shall be subject to and comply with Subsections 7.1-7.3, 7.6, and 7.11-7.15 of this ordinance.

## **SECTION 12: BURNING PERMITS**

### **12.00 Burning Permits.**

**12.1.** No person shall start or maintain any open burning without a burning permit issued by the Town of Forward Volunteer Fire Department.

**12.2.** An outdoor campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.

**12.3.** Any person responsible for burning leaves, brush, clean wood or other vegetative debris under Section 7 of this ordinance shall obtain a one-time burning permit before starting the fire. There is no fee for a one-time burning permit.

**12.4.** The owner or occupant of the property shall obtain an annual burning permit for each burn barrel before using the burn barrel. The fee for each annual burning permit shall be ten dollars (\$10). An annual permit expires on April 1 of each year.

**12.5.** 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.

**12.6.** 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.

**12.7.** Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

## **SECTION 13: LIABILITY**

**13.00 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.

## **SECTION 14: RIGHT OF ENTRY AND INSPECTION**

**14.00 Right of entry and inspection.** The Fire Chief or any authorized officer, agent, employee or representative of the Town of Forward Volunteer Fire Department or the Town of Forward 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 66.122 and 66.123, Wis. Stats.

## **SECTION 15: ENFORCEMENT AND PENALTIES**

### **15.00 Enforcement and penalties.**

**15.1.** The Fire Chief and the Town Chairman are authorized to enforce the provisions of this ordinance.

**15.2.** The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than twenty-five dollars (\$25) or more than two hundred fifty dollars (\$250) plus the cost of prosecution. Penalties are doubled for second and subsequent offenses.



## **Burn Barrels: Unhealthy, Unnecessary, Unneighborly and Usually Illegal.**

### **Unhealthy**

Smoke from burning garbage contains toxic compounds, often including dioxin, furans and other carcinogens. The ash, which some folks place on their garden, may contain heavy metals such as lead and cadmium.

### **Unnecessary**

If you have a burn barrel, take a look at what you're burning. Most paper and cardboard can and should be recycled. Today, waste collection service is available nearly everywhere, and the collection businesses offer wheeled carts and recycling containers for convenient, economical, end-of-driveway service.

### **Unneighborly**

You probably don't enjoy the stink of burning garbage, and neither does your neighbor. Think about how your decision to burn garbage affects others.

### **Usually Used Illegally**

Open burning of household solid wastes, whether or not in a burn barrel, is prohibited by law, with limited exceptions. This prohibition includes all plastic materials, kitchen wastes, dirty or wet paper wastes, treated or painted wood, furniture, and demolition material - or any other material that creates a nuisance. The exceptions (for households only - not businesses) include (if not prohibited by local ordinance) lawn and garden debris, small quantities of clean, untreated, unpainted wood and clean paper waste that is not recyclable. Outdoor fires for cooking, or for "warming up" are okay and do not require any special approvals unless environmental conditions pose a great risk for forest fires.

## **Wisconsin Statewide Law on Open Burning: Which Materials Are Legal To Burn?**

**Which of these household materials can be legally burned in a burn barrel or an open fire on the same property where generated?**

State law does not prohibit burning small dry quantities of the household materials with a **4**mark, if they are burned on the same property where generated. Local ordinances may be more restrictive; check with your local municipality before burning. (The number listed after the materials below refers to the legal explanations of why the item may or may not be burned.)

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Plastic Milk Jug <b>1,5</b>        | <input type="checkbox"/> Corrugated Cardboard <b>5</b>         | <input type="checkbox"/> Plastic Soda Bottles <b>1,2</b>    |
| <b>4</b> Leaves (dry) <b>8</b>                              | <input type="checkbox"/> Asphalt Sealant <b>1</b>              | <input type="checkbox"/> Magazines / Catalogues <b>5</b>    |
| <input type="checkbox"/> Treated Lumber <b>3</b>            | <input type="checkbox"/> Plastic Food Wrap <b>1</b>            | <b>4</b> Waste Mail <b>7</b>                                |
| <input type="checkbox"/> Newspaper <b>5</b>                 | <input type="checkbox"/> Plywood <b>6</b>                      | <input type="checkbox"/> OSB / Composite Board <b>6</b>     |
| <input type="checkbox"/> Insulated Electrical Wire <b>1</b> | <input type="checkbox"/> Plastic Pipe <b>1</b>                 | <input type="checkbox"/> Plastic Weed Barrier <b>1</b>      |
| <input type="checkbox"/> Rubber Hose <b>1</b>               | <input type="checkbox"/> Food Waste / Garbage <b>4</b>         | <input type="checkbox"/> Water Softener Salt Bag <b>1,2</b> |
| <input type="checkbox"/> Tires <b>1</b>                     | <input type="checkbox"/> Wooden Furniture <b>3</b>             | <b>4</b> Paper Plates / Cups <b>10</b>                      |
| <b>4</b> Tree Branches <b>8,9</b>                           | <input type="checkbox"/> Plastic siding <b>1</b>               | <b>4</b> Napkins / Paper Towel <b>10</b>                    |
| <input type="checkbox"/> Plastic Garbage Bags <b>1</b>      | <input type="checkbox"/> Aluminum Beer Cans <b>5</b>           | <b>4</b> Paper Grocery Bags <b>7</b>                        |
| <input type="checkbox"/> Waste Oil <b>4</b>                 | <b>4</b> Pine Needles <b>8</b>                                 | <input type="checkbox"/> Plastic Vapor Barrier <b>1</b>     |
| <input type="checkbox"/> Asphalt Shingles <b>1</b>          | <input type="checkbox"/> Nylon Carpet <b>1,2</b>               | <input type="checkbox"/> Plastic Toys <b>1</b>              |
| <input type="checkbox"/> Painted Siding <b>3</b>            | <input type="checkbox"/> Polystyrene Plates <b>1,2</b>         | <input type="checkbox"/> Old Building <b>11</b>             |
| <b>4</b> Clean Dry Firewood <b>9</b>                        | <input type="checkbox"/> Tar Paper <b>1</b>                    | <b>4</b> Untreated Unpainted Lumber <b>9</b>                |
| <input type="checkbox"/> Nylon Upholstery Fabric <b>1,2</b> | <input type="checkbox"/> Polystyrene Foam Packaging <b>1,2</b> |   |
|   | <input type="checkbox"/> Urethane Foam Pad <b>1,2</b>          |   |

### **Explanations & Alternatives:**



1. All plastic, rubber and asphalt materials are prohibited from open burning under state law.
2. This synthetic material is “plastic” and may not be burned.
3. Wood that is painted or chemically treated may not be burned under state law.
4. These materials are specifically prohibited from open burning under state law.
5. These materials must be recycled under state and local recycling laws. They cannot be burned. (It is legal to use a small amount of paper or cardboard material to kindle a fire.)
6. These materials contain resins and glues making them unsuitable for burning. They are not “dry unpainted, untreated wood” as referenced and exempted in the law.
7. Even though state law allows burning after removing any plastic, many local recycling programs cover these materials. Recycling is a better alternative. If recycling is not an option, proper disposal is better than burning.
8. Even though state law allows burning, composting and/or beneficial use of this material is a better alternative.
9. Clean dry unpainted untreated wood is legal to burn, but if it isn’t going to be beneficially used for heating, consider options other than burning.
10. This waste paper material is not recyclable. Proper disposal is a better option than burning. Wet paper or paper mixed with plastic can’t be burned.
11. Individuals or businesses may not burn a building. The only exception is that a building may be burned only by a fire department for training purposes after notification to DNR and removal of illegal materials.

### **Remember:**



- All materials emit **pollutants** when burned. Generally, the materials that cause the most toxic emissions are those that are prohibited from burning under state law. Try to avoid burning any waste material.
- If prohibited and allowed materials are **mixed**, they cannot be burned. Any prohibited materials must be removed before the allowed materials are burned.
- Check **local ordinances**! A local municipality may ban the burning of any material even if statewide regulations allow it.
- Check for **burning permits**. Even if the material is legal to burn, the DNR or the local municipality often requires a burning permit. During periods of high fire hazard, burning may be prohibited.
- Consider other **alternatives**. Even if the material is legal to burn, more environmentally sound alternatives are available.
- This information only applies to small quantities of **household** waste being burned on the same property where generated. The regulations do not allow **businesses** to burn the same materials that a household may. If in question, consult the regulations.

### **Additional Information:**



- For additional information, contact your DNR service center or log onto the DNR Open Burning Web site: <http://dnr.wi.gov/org/caer/ce/ob/>.
- Does your municipality have an open burning ordinance? Check with your local clerk or fire chief.
- For additional information on burning permits log onto the DNR Forest Fire Prevention Web site: <http://dnr.wi.gov/org/land/forestry/Fire/index.htm>.
- The open burning regulations are in ch. NR 429 and s. NR 502.11, Wis. Adm. Code.
- For games, educational resources and fun on open burning activities, students and teachers should log on to Air Defenders web site: <http://www.airdefenders.org/>. This site is filled with information and activities all about open burning and respiratory health.
- Looking for a presentation about open burning? Contact the Department of Natural Resources Bureau of Air Management at 608-266-7718.
- You can download an electronic copy of this Model Ordinance from the WDNR Web site <http://www.dnr.state.wi.us/org/caer/ce/ob/>. The Ordinance is available as a PDF or as a Microsoft Word document.
- For more information on open burning, and what is happening nationally on the issue, log onto EPA's Open Burning Web site: <http://www.epa.gov.epaoswer/non-hw/muncpl/backyard/>.

## Rodney J. Scheel

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**From:** Thomas K. Larson [tlarson@chippewafalls-wi.gov]  
**Sent:** Thursday, December 31, 2009 9:53 AM  
**To:** Scott Wegner; wsfca\_members@lists.wsfca.com  
**Subject:** RE: [Wsfca\_members] Outdoor Wood Boilers / furnace regulations.

In Chippewa Falls we have been trying to get a permanent ban on the outdoor wood burning boilers/furnances (OWF's) due to the heavy smoke they emit and the air quality issues since 2005. However our City Council feels there is a future generation unit that will not emit the heavy smoke. With that being said, our city council has addressed this issue yearly and always imposes a one year moratorium banning these types of units.

We just met two weeks ago and the council voted to extend the moratorium banning OWF's in the city limits for three more additional years through December 31, 2012.

Thomas K. Larson, Fire Chief  
Chippewa Falls Fire & Emergency Services  
211 Bay Street  
Chippewa Falls, WI 54729  
Office (715) 723-5710  
Cell (715) 828-0731  
FAX (715) 726-2751

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From: wsfca\_members-bounces@lists.wsfca.com on behalf of swegner@ci.stoughton.wi.us  
Sent: Thu 12/31/2009 8:48 AM  
To: wsfca\_members@lists.wsfca.com  
Subject: [Wsfca\_members] Outdoor Wood Boilers / furnace regulations.

Hello All,

I am interested in Cities that have regulations and ordinances regarding the permitting, placement and operation of outdoor wood burning boilers / furnaces. I'm having difficulty locating ordinances from Cities in my area. I have plenty of Town Ordinances, DNR regulations and Manufacturers recommendations. Please only Cities reply.

Thank you in advance.

Sincerely,

Scott Wegner

Deputy Chief / Fire Marshal

Stoughton Fire Department

401 E. Main Street

Stoughton WI 53589

swegner@ci.stoughton.wi.us

Cell 608-209-7753

Station 608-873-7218

**CHAPTER 8.26****OUTDOOR WOOD BURNING FURNACES PROHIBITED****Sections:**

<b>8.26.010</b>	<b>Intent and Purpose</b>
<b>8.26.020</b>	<b>Definition</b>
<b>8.26.030</b>	<b>State Law Empowerment and Incorporation – Conflicts</b>
<b>8.26.040</b>	<b>Prohibition of Outdoor Wood Burning Furnaces</b>
<b>8.26.050</b>	<b>Nonconforming Use.</b>
<b>8.26.060</b>	<b>Enforcement and Inspections</b>
<b>8.26.070</b>	<b>Severability</b>
<b>8.26.080</b>	<b>Effective Date</b>
<b>8.26.090</b>	<b>Violation – Penalty – Injunctive Relief</b>

**8.26.010 Intent and Purpose.** The Common Council of the City of Janesville hereby find that:

- A. It is recognized and found that wood smoke is hazardous to an individual's health and may affect the health of the general public when they are involuntarily exposed to the presence of wood smoke.
- B. Reliable scientific studies, including studies conducted by the Environmental Protection Agency (EPA), have shown that breathing wood smoke is a significant health hazard particularly to children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory functions, including asthmatics and those with obstructive airway disease.
- C. This Chapter is adopted for the purpose of protecting the public health, safety, comfort, and the general welfare of the people of the City of Janesville; educating citizens affected by this ordinance; and assisting property owners and managers in maintaining compliance.

**8.26.020 Definition.** Outdoor wood burning furnace: A furnace, or similar device, designed and intended, and/or used, through the burning of wood, for the purpose of heating the principal structure or another accessory structure on the premises. These types of furnaces are characterized by a short stack height. They are typically located out-of-doors and are contained in free-standing structures, or enclosed within another accessory structure, such as a garage or corral. This definition includes outside wood burning water stoves.

**8.26.030 State Law Empowerment and Incorporated – Conflicts.**

- A. This chapter is authorized by Wisconsin Law including, but not limited to, Section 101.123(2) (c) of the Wisconsin State Statutes, as from time to time are amended or renumbered.
- B. Section 101.123 of the Wisconsin State Statutes, as from time to time amended or renumbered, is incorporated herein by reference and made a part of this Chapter as if fully set forth verbatim.
- C. Any action prohibited or required by state law so incorporated herein is prohibited or required, as applicable, by this Chapter.
- D. This Chapter is consistent with the intent and goals of the provisions set forth in Section 101.123 of the Wisconsin State Statutes, as from time to time amended or renumbered. This Chapter also acts as a local supplement to the provisions of the state statutes.
- E. In the event of any conflict between any word, term, definition, provision, section, or requirement specifically set forth in this Chapter and those set forth elsewhere in this Chapter, other ordinances, State Statute or State Administrative Code, and/or the degree permitted by law, the more restrictive shall govern.
- F. In the event of any conflict between any word, term, definition, provision, section or requirement specifically set forth in this Chapter and those set forth in any state statute or state administrative code incorporated into and made a part of this Chapter by reference, the more restrictive provision shall take precedence and govern at all times, to the extent provided by law. In no event, however, shall a prohibition against the use of wood burning furnaces, or a requirement mandated by state statute or state law be modified, waived, or amended by the application of this Chapter.

**8.26.040 Prohibition of Outdoor Wood Burning Furnaces in the City of Janesville.** It shall be unlawful for any person to operate or use an outdoor wood burning furnace in the City of Janesville.

**8.26.050 Nonconforming Use.**

- A. Continuation of Nonconforming Uses. The lawful use of any existing “outdoor wood burning furnace” existing at the time of the effective date of this Chapter may be continued, although such use does not conform to the provisions of this law as hereinafter provided.

- B. Extension or enlargement. No non-conforming or pre-existing “outdoor wood burning furnace” shall hereafter be extended, enlarged, or expanded.
- C. Abandonment and discontinuance. Any currently existing and used “outdoor wood burning furnace” which is abandoned or not used for a period of twelve (12) consecutive months shall not be permitted to be re-established as a non-conforming use, cannot be used, and must be immediately removed by the property owner from the subject premises. If the property owner fails to remove the “outdoor wood burning furnace” by the end of said twelve months, the City of Janesville Code Enforcement Officer shall give written notice by certified mail, personal service, or posting to the property owner upon which the “outdoor wood burning furnace” is located. Such notice shall provide that such person shall remove the same within fifteen (15) days of the notice. Should the “outdoor wood burning furnace” not be removed in the time specified, the Code Enforcement Officer shall arrange for the removal of the “outdoor wood burning furnace.” The cost of said removal shall be charged to the owner of said premises. Said cost if not paid within thirty (30) days shall be assessed and collected in the same manner, by the same proceedings, at the same time, under the same penalties, and having the same lien upon the property so assessed as the General City of Janesville Tax and as a part thereof.
- D. Termination. At such time as the useful life of a non-conforming or pre-existing “outdoor wood burning furnace” has elapsed or would need to be repaired to function properly, the unit cannot be replaced and must be abandoned, not used, and removed from the property immediately.

**8.26.060 Enforcement and Inspection.** The City of Janesville Department of Housing, Building and Neighborhood Services, and affiliated officials shall have the power, whenever they deem it necessary, to enter upon the premises/property to inspect and ascertain compliance with the requirements of this ordinance.

**8.26.070 Severability.** The provisions of this Chapter are severable. If any provision or section is held to be invalid or unconstitutional or if the application of any provision or section to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions, sections or applications of this Chapter which can be given effect without the invalid or unconstitutional provision, section, or applications. It is hereby declared to be the intent of the Common Council that this Chapter would have been adopted had any invalid or unconstitutional provision or application not been included herein.

**8.26.080 Effective Date.** This Chapter shall be effective upon adoption by the common council.

**8.26.090      Violation – Penalty – Injunctive Relief.**

- A. Any owner, proprietor, manager, or other person in charge of or who uses a property in violation of any provision of this Chapter upon conviction shall be required to forfeit and pay not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) plus the costs of prosecution. Each day of violation shall constitute a separate offense for which a separate penalty may be imposed.
  
- B. Injunctive Relief. Consistent with Section 101.123(9) of the Wisconsin State Statutes, as from time to time amended or renumbered, notwithstanding Section 165.60 of the Wisconsin State Statutes, the City, state, local officials, including, but not limited to, sworn peace officers, building/code inspectors, and any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this section. The City may also seek, and the court may grant, other related injunctive relief to abate or prevent repeated violations and to seek compliance.



RICE LAKE

**CITY ORDINANCE #08-10  
AN ORDINANCE REGULATING THE USE AND INSTALLATION OF  
SOLID FUEL-FIRED OUTDOOR HEATING DEVICES**

**SEC I.**

The Common Council of the City of Rice Lake hereby ordains as follows:

Chapter 182, Pollution, Section 182-3 is hereby created to read as follows:

**A. Solid Fuel-fired Outdoor Heating Devices.**

- (1) **Intent and Purpose.** The Common Council of the City of Rice Lake has the authority to exercise its police powers for the general health, welfare and safety of the residents of the City. It is recognized and found that the type of fuel used by and the scale and duration of the burning by solid fuel-fired outdoor heating devices and the smoke and particulate emissions emanating therefrom create noxious and hazardous smoke, soot, fumes, odors and air pollution that can be detrimental to citizens' health, and can deprive neighboring property owners/users of the enjoyment of their property or premises when such devices are located in an urban setting. Such devices are hereby declared to be a public nuisance.
- (2) **Definition.** Solid fuel-fired outdoor heating device means any equipment, device or apparatus, or any part thereof, which is installed or constructed for the purpose of combustion of fuel to produce heat, hot water and/or energy that is used as a component of a heating system providing heat for the interior of a building or for a pool, where the equipment, device or apparatus is located outside of the building or pool for which the heat, hot water and/or energy is to be generated. Said device shall be deemed to be outdoors, even if it is located in a building.
- (3) **Prohibition of Solid Fuel-fired Outdoor Heating Devices.** It shall be unlawful for any person to install, construct, operate or use a solid fuel-fired outdoor heating device within any Residential zoning districts in the City of Rice Lake, except as set forth at subsection (4).
- (4) **Nonconforming Use.**
  - (a) The lawful use or operation of any solid fuel-fired outdoor heating device, existing as of the effective date of this section, may be continued, subject to the requirements of this subsection.
  - (b) The property owner of any solid fuel-fired outdoor heating device existing as of the effective date of this section shall, within six (6) months of the effective date of this section, register said device with the City of Rice Lake building inspector and receive a permit evidencing its status as a non-conforming use under this section. At the time of registration, the applicant shall pay to the City Clerk-Treasurer a fee for as set forth in the fee schedule adopted as part of the annual budget document.
  - (c) No non-conforming solid fuel-fired outdoor heating device shall hereafter be extended, enlarged, or expanded.
  - (d) Any solid fuel-fired outdoor heating device existing as of the effective date of this section, which use has been discontinued for a period of twelve (12) consecutive months, shall not be permitted to be re-established as a non-conforming use, cannot be used or operated, and must be immediately removed by the property owner from the subject premises. If the property owner fails to remove the solid fuel-fired outdoor heating device at the end of said twelve (12) months, the City shall give written notice by certified mail or personal service. Such notice shall provide that such person shall remove the solid fuel-fired outdoor heating device within fifteen (15) days of the notice.
  - (e) Solid fuel-fired outdoor heating devices permitted to be used or operated pursuant to subsection (4)(a) shall be required to use clean wood or wood specifically permitted by

the manufacturer as fuel. Clean wood is defined as 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. The use of the following materials as fuel is strictly prohibited:

1. 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.
  2. Kerosene, gasoline or petroleum products.
  3. Asphalt and products containing asphalt.
  4. Wood or wood products, other than clean wood.
  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 rubber-like products.
  7. Newspaper, corrugated cardboard, container board and office paper.
- (5) The fire chief, police chief, building inspector or their subordinates are authorized to enforce the provisions of this section.
- (6) Violations shall be subject to penalties in §1-20. This section shall not preclude the City from maintaining any appropriate action to prevent or remove a violation of this section.
- (7) Severability. The provisions of this section are severable. If any provision or subsection is held to be invalid or unconstitutional or if the application of any provision or subsection to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions, subsections or applications of this section which can be given effect without the invalid or unconstitutional provision, subsection, or applications. It is hereby declared to be the intent of the Common Council that this section would have been adopted had any invalid or unconstitutional provision or application not been included herein.

## SEC. II

This ordinance shall take effect after its passage and publication as provided by law

## SEC. III

Passed, approved and adopted by the Common Council of the City of Rice Lake on the 27<sup>th</sup> day of May, 2008.

CITY OF RICE LAKE

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Daniel J. Fitzgerald, Mayor

ATTEST:

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Kathleen V. Morse, MMC/CMTW/WCPC  
City Clerk/Treasurer

1<sup>st</sup> reading – May 13, 2008  
2<sup>nd</sup> reading – May 27, 2008  
Publish – June 4, 2008

**10.12 PROHIBITION ON USE OF OUTDOOR WOOD-FIRED BOILER** (2219 01/24/06, 2222 03/28/06, 2230 07/11/2006)

- (1) For purposes of this ordinance, the following definitions shall apply:
  - (a) An “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, and is regularly used to heat water, or some other substance, that is then conveyed to directly or indirectly heat a building or to heat water. This definition shall not include a furnace or stove providing direct radiant heat, used occasionally for area heating within an accessory building.
  - (a) “Nuisance” means to substantially annoy, injure or endanger the comfort, health, repose or safety of anyone residing or working within 200 feet of the property with the outdoor wood-fired furnace.
    1. No person shall install, use or maintain an outdoor wood-fired furnace in the City of Baraboo.
    2. If an existing outdoor wood-fired furnace was installed and operational prior to the effective date of this ordinance the furnace may be permitted as a non-conforming installation. In that case, the owner of the outdoor wood-fired furnace shall obtain an annual permit in accordance with subsection (4) of this ordinance. A burning permit for a non-conforming installation shall require that the existing outdoor wood-fired furnace may not cause a nuisance. If the City of Baraboo determines that a non-conforming installation is causing a nuisance pursuant to the procedures as set forth in subsection (5) of this ordinance, the permit shall be revoked.
    3. Permitting of Existing Furnace. Any person with an outdoor wood-fired furnace installed and operating prior to January 10, 2006, may apply for a permit to retain the use and operating of the furnace. The permit shall be issued by the City Clerk based upon an application form provided by that office. Permits issued pursuant to this section shall not be transferable to the new owner of an existing furnace. Outdoor wood-fired furnaces shall be subject to the prohibition on the burning of certain materials as set forth in §5.19(5), Code of Ordinances.
    4. Procedure to Revoke Permit. In the event that a complaint is received by the City as to the operation of any outdoor wood-fired furnace with a permit, the complaint shall be referred to the Fire Chief for investigation. The Fire Chief shall then determine whether the operation of the furnace is a nuisance, as defined by this ordinance. In the event that the Fire Chief determines that the operation of the furnace is a nuisance, notice of the revocation of the permit shall be provided to the holder of the permit by certified mail. The holder of the permit shall have the right to appeal the determination of the Fire Chief as to nuisance by filing a petition for review with the Administrative Review Appeals Board of the City as established in Chapter 6, Code of Ordinances, within 15 days of the date of delivery of the notice of revocation.

- (6) Any person who shall violate any of the provisions of this section or who shall permit or allow a violation of this section, shall be subject to a penalty as provided in §25.04 of this Code.

Town of Beloit

**ORDINANCE NO. 05-13**

**AN ORDINANCE AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES OF THE TOWN OF BELOIT BY ADDING A SECTION REGULATING THE PLACEMENT, INSTALLATION, OPERATION AND MAINTENANCE OF OUTDOOR WOOD FIRED FURNACES.**

The Board of Supervisors of the Town of Beloit, Rock County, Wisconsin, do ordain as follows:

**SECTION I. CHAPTER AMENDED.** Chapter 15 of the Code of Ordinances of the Town of Beloit is hereby AMENDED by adding Section 15-1-17 to read as follows:

**SEC 15-1-17 OUTDOOR WOOD-FIRED FURNACES**

- (a). On and after August 1, 2005 no outdoor wood-fired furnace shall be installed, erected or replaced in the Town of Beloit without the owner first obtaining a permit from the Town Building Official for such work and paying a fee for the review and inspection of the furnace installation. The fee shall be established, from time to time, by resolution of the Town Board. The permit shall be visibly displayed on the furnace.
- (b). For the purposes of this ordinance an outdoor wood-fired furnace is any furnace, or boiler designed to burn wood, where the unit is not located within a building not intended for habitation by humans or domestic animals.
- (c). Only outdoor wood fired furnaces that are UL listed and constructed to meet the latest U.S. Environmental Protection Agency standards shall be permitted. The furnaces shall be installed in accordance with the manufacturer's instructions. All electrical and plumbing shall be performed by qualified personnel and conform to the uniform building, electrical and plumbing codes.
- (d). The boiler shall be placed on a non-combustible, poured concrete slab a minimum of four (4) inches thick with at least four (4) inches of compacted, crushed stone as a base.
- (e). The unit must be grounded by the electrical wire connections and an independent ground rod with a proper wire to the boiler for additional safety. Electrical wire must be rated and approved for direct burial if it is to be run underground or in wet conditions.
- (f). Chimneys shall be a minimum of fifteen feet (15') high as measured from ground level, or exceed the eve height of the tallest building within one hundred feet (100'), which ever is taller. Chimneys must be fitted with spark arresters.
- (g). Outdoor Wood Fired Furnaces shall be located no closer than one hundred feet (100') from any property line and fifty feet (50') from any inhabited dwelling on the same property.
- (h). The other provisions of this ordinance notwithstanding, all outdoor wood-fired furnaces in operation on or after April 1, 2006 must conform to the minimum chimney standards established herein.

(i). Only clean, dry wood may be used to fire any permitted or unpermitted outdoor wood-fired furnace. Lighter fluids, gasoline and chemicals may not be used to start or fuel the fire. The manufacturers written instructions shall be followed for loading and refueling the fire. The burning of processed wood products, cardboard, trash and plastics are expressly prohibited.

(j). All outdoor wood-fired furnaces, permitted or unpermitted, shall be operated in accordance with the manufactures directions. Any outdoor wood fired furnace in a state of disrepair, or that is damaged to such an extent it does not operate in full conformance with the manufacturers specifications, is a public nuisance and shall be taken out of service and removed from the property.

**SECTION II. EFFECTIVE DATE.** This Ordinance shall take effect upon passage and publication as provided by law.

**ADOPTED** this 20th day of June, 2005.

**TOWN OF BELOIT, WISCONSIN**

Don Wagoner  
Town Chairman

Attest: Karyn DeVault  
Town Clerk

Published and/or Posted June 20<sup>th</sup>, 2005