

STATE OF WISCONSIN TOWN OF GENESEE WAUKESHA COUNTY □
ORDINANCE NO. 14-2

AN ORDINANCE TO REPEAL ORDINANCE 12-3 AND
RECREATE A TOWN OF GENESEE
ORDINANCE TO CONTROL FIRES

WHEREAS, the Town Board wishes to ensure that persons and property in the Town are adequately protected from the risks of fires; and

WHEREAS, the Town Board finds that reasonable protection from fire can best be provided by restricting the types of fires that can be started in the Town and by limiting the circumstances when those fires can be started based upon safety considerations, with some exceptions as described herein.

NOW, THEREFORE, the Town Board of the Town of Genesee, Waukesha County, Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: GENERAL RULES.

- 1) **Open Burning Regulated.** No person, firm or corporation shall start any outdoor fire within the Town except as described in this Ordinance and as regulated by Wisconsin Administrative Code Section NR 429.04 including any amendments that may be made thereto in the future.
- 2) **Size of Fire.** Materials that are to be burned shall be in a pile that is no larger than five (5) feet in diameter and three (3) feet in height. unless an exception is granted in Section 3.
- 3) **Location.** The fire must be located at least 50 ft. from any structure, wood pile, or wooden fence, and provision shall be made to prevent the fire from spreading to within 50 ft. of such items and the fire must be located at least 15 ft. from any property line.
- 4) **Material.** The material for burning must be dry material only, not ignited with flammable or combustible liquids. Material shall not be: rubbish, garbage, trash or any material made of, or coated with, rubber, plastic, leather, or petroleum based products.
- 5) **Supervision.** The fire shall be attended by a competent person, at least 16 years of age, until the fire is extinguished.
- 6) **Time of Burn.** The fire shall only be allowed to burn during daylight hours, with the fire being started after the sun has risen and extinguished before the sun sets, except by special permission of the Fire Chief of the Fire Department having jurisdiction.
- 7) **Circumstances.** Burning is prohibited when local circumstances make the fire

potentially hazardous. Such circumstances during which burning is prohibited include, but are not limited to, thermal inversions, gusty winds, winds in excess of 15 m.p.h., ozone alerts, or very dry conditions. Burning is also prohibited at all times when a burning ban is in effect and duly issued by the Fire Chief of the Fire Department having jurisdiction.

- 8) **Inspection.** The site may be inspected by the Fire Chief of the Fire Department having jurisdiction. .
- 9) **Fire Chief Authority.** The authority granted to the Fire Chief by Wisconsin Administrative Code Section SPS 314 including any amendments that may be made thereto in the future, is delegated to and shall be exercised by the Fire Chief of the Fire Department having jurisdiction.
- 10) **Burning Ban.** All burning shall be prohibited during any period of time that a burning ban is in effect and duly issued by the Fire Chief of the Fire Department having jurisdiction.

SECTION 2: Burn Barrels. A Burn Barrel may be used in the Town of Genesee only in accordance with the following provisions:

- 1) The burn barrel shall not be used to burn any prohibited materials listed in this ordinance and may only be used in accordance with the provisions of this ordinance.
- 2) The burn barrel shall be located at least 50 feet from any structure, wood pile, or wooden fence, and provisions shall be made to prevent the fire from spreading to within 50 feet of such items and the fire burn barrel must be located at least 15 feet from any property line.
- 3) The burn barrel shall have vent holes above the ash line for combustion air and shall be covered with a heavy wire screen.
- 4) The burn barrel shall not serve a business.

SECTION 3: SPECIFIC RULES FOR BURNING OF LEAVES AND GRASS. In addition to the foregoing General Rules, except as modified herein, the burning of leaves, grass and similar vegetation shall also be subject to the requirements of this section.

- 1) **Fire suppressant.** Before starting a grass or leaf fire, a person shall have on hand and in readiness either:
 - (a) A garden hose attached to a source of water under pressure; or
 - (b) A tank or pails filled with water; or
 - (c) Portable fire extinguishing equipment of suitable size and capacity.

In addition to one or more of the foregoing, beating equipment, such as brooms or burlap sacks, must also be available.

- 2) **Constant attendance.** Persons starting grass or similar vegetation fires, or any fire for the disposal of leaves or lawn rubbish, shall remain in constant attendance of such fire, or make suitable provisions for such attendance, and must be ready and able to check such fire and keep it under control at all times.
- 3) **Exception regarding size of fire.** The size of such fire may be larger than described in the General Rules, provided that such larger size is specifically requested by the applicant, and approved by the Fire Chief of the Fire Department having jurisdiction, such approval to be noted in writing

SECTION 4: EXCEPTIONS.

The requirements of this ordinance are not applicable to the following activities, except as described below:

- 1) **Outdoor cooking.** Fires that are started for the sole purpose of cooking food outdoors, and that are located in a device or structure that is specifically designed for that purpose, including but not limited to a grill, are exempt from the requirements of this ordinance, except that the requirements of Section 5, below, shall apply.
- 2) **Diseased trees.** Fires that are started for the sole purpose of destroying trees or tree limbs that are infected with disease that could otherwise spread, including but not limited to Oak Wilt disease, may be exempt from the requirements of Section 1, subsection (2) (Size of Fire), and/or subsection (6) (Time of Burn) of this ordinance, if waived by the Fire Chief of the Fire Department having jurisdiction as may be necessary to allow for timely and adequate destruction of the infected trees or tree limbs. The Fire Chief of the Fire Department having jurisdiction may, but is not obligated to, require proof of such infection, and/or proof that no reasonable alternative is available to protect against spread of the disease before granting any such waiver. If the Fire Chief finds that the fire is subject to this exception, the Fire Chief shall note which subsections (2) and/or (6) of the General Rules are waived, and may instead establish reasonable limitations in lieu of the waived provisions that will allow the fire to proceed. All requirements of this ordinance that are not specifically waived shall apply to such fires.
- 3) **Fire Department training.** Fires that are started for the sole purpose of providing training for a fire department may be exempt from any or all requirements of this ordinance. The Fire Chief shall note which sections of this ordinance are waived, and may instead establish reasonable limitations in lieu of the waived provisions that will allow the fire to

proceed. All requirements of this ordinance that are not specifically waived shall apply to such fires.

- 4) **Recreational fires.** Campfires and fires in outdoor portable or permanent fireplaces are allowed only in compliance with the requirements of this ordinance, with the following exceptions and additional requirements:
- (a) Section 1(2) (Size of Fire) is modified for recreational fires as follows: The size of such fires must be no larger than 3 feet in diameter.
 - (b) Section 1(4) (Material) is modified for recreational fires as follows: Such fires must burn only wood.
 - (c) Section 1(6) (Time of Burn) is modified for recreational fires as follows: The allowed hours are extended in the evening beyond sunset to 11:59 p.m., and the fire must be extinguished no later than 11:59 p.m.
 - (d) Campfires shall be conducted on the ground, or in a pit dug into the ground, surrounded by a campfire ring that is no larger than 3 feet in diameter and constructed of metal, concrete, brick, rock, and/or other suitable material to prevent the spread of the fire.

SECTION 6: COST OF FIRE RESPONSE.

Any person, firm or corporation who violates the terms of this ordinance, or who burns in a manner which results in a response from a fire department, in addition to the penalties provided herein, shall be liable to the Town of Genesee for the actual costs incurred by the Town for the fire department response.

SECTION 7: PENALTY.

Any person, firm or corporation who violates the provisions of this Ordinance shall, upon being found guilty thereof, forfeit to the Town of Genesee an amount not to exceed \$200, and not less than \$100, for each violation, plus all applicable court fees and costs, and the costs of prosecution. In the event that the forfeiture imposed by a court of competent jurisdiction is not paid within the time period fixed by the court, the court is authorized to order the violator to be incarcerated in the Waukesha County Jail for a term not to exceed 90 days.

SECTION 8: REPEAL.

Town of Genesee Ordinance No. 12-3 TO CONTROL FIRES within the Town of Genesee, dated July 7, 2012 and Town of Genesee Ordinance 06-6 entitled An Ordinance to Repeal and Recreate the Town of Genesee Ordinance Regulating the Burning of Trash, Rubbish and Litter within the Town of Genesee, dated on or about April 10, 2006, are hereby repealed.

SECTION 9: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 10: EFFECTIVE DATE.

This ordinance shall take effect on January 1, 2015, upon passage and posting or publication as provided by law.

Dated this 13th day of October, 2014.

TOWN OF GENESEE

Sharon L. Leair
Sharon Leair, Town Chair

ATTEST:

Barbara A. Whitmore
Barbara A. Whitmore, Town Clerk

Published and posted this 23rd day of October, 2014.