

# ORDINANCE NO. O-2022-008

TOWN OF LEDGEVIEW, BROWN COUNTY, WISCONSIN

AN ORDINANCE TO AMEND CHAPTER 19 REGARDING OUTDOOR BURNING IN THE TOWN OF LEDGEVIEW

**The Town Board of Supervisors of the Town of Ledgeview do hereby ordain as follows:**

**Section 1:** AN ORDINANCE TO AMEND CHAPTER 19 REGARDING OUTDOOR BURNING IN THE TOWN OF LEDGEVIEW of the Town of Ledgeview Municipal Code is hereby AMENDED to read as follows:

**§ 19-1 Purpose.**

This chapter 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 Ledgeview due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

**§ 19-2 Applicability; exceptions.**

**A.** This chapter applies to all outdoor burning and refuse burning within the Town of Ledgeview.

**B.** This chapter does not apply to:

- (1) Grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- (2) 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 § 19-4 of this chapter.
- (3) The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

**§ 19-3 Severability.**

Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

**§ 19-4 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ABOVE-GROUND FIRE STRUCTURE**

A permanently installed fire pit, stove or oven that is surrounded on the outside by a noncombustible material such as concrete, concrete block, or rocks.

**CAMPFIRE**

A small outdoor fire intended for recreation or cooking, not including a fire intended for disposal of waste wood or refuse.

**CLEAN WOOD**

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. **Commercial fire logged and pellets for pellet stoves that may use natural resins for cohesive properties are exempt.**

**CONFIDENTIAL PAPERS**

Printed material containing personal identification or financial information that the owner wishes to destroy.

**FIRE CHIEF**

The Chief of the Ledgeview Volunteer Fire Department or other person authorized by the Fire Chief.

**IN-GROUND FIRE PIT**

Fire pit located below the ground level, with the perimeter surrounded on the outside by a noncombustible

material such as concrete, concrete block, rocks, or metal.

**MANUFACTURED PORTABLE (WEBER-STYLE) DEVICE**

Commercially designed devices intended to control and contain outdoor wood or fuel fire.

**OPEN BURNING**

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.

**OUTDOOR BURNING**

Open burning or burning in an outdoor wood-fired furnace.

**OUTDOOR WOOD-FIRED FURNACE**

A wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

**REFUSE**

Any waste material except clean wood.

**RESIDENTIAL RECREATIONAL OUTDOOR BURNING**

The burning of clean wood or fuel contained in a manufactured portable (Weber-style) enclosed device or a permanent structure for recreational purposes in R-1, R-2 and R-3 Zoning Districts.

**RURAL RECREATIONAL OUTDOOR BURNING**

The burning of dead wood or fuel contained in a noncombustible portable or permanent structure for recreational purposes in R-R, AG-FP, or AG-2 Zoning Districts.

**§ 19-5 Outdoor burning prohibited.**

**A.** General prohibition on outdoor burning and refuse burning. Open burning, outdoor burning and refuse burning are prohibited in the Town of Ledgeview, unless the burning is specifically permitted by this chapter.

**When weather and fire conditions put any open burning at risk, the Fire Chief or State of WI may issue a burning ban. When a Town wide burning ban is issued, all burning is restricted including recreational fires.**

**§ 19-6 Materials that may not be burned.**

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, furnace, stove, burn barrel or any other indoor or outdoor incineration or heating device:

**A.** Rubbish or garbage, including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.

**B.** Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Ch. NR 590, Wis. Adm. Code.

**C.** Asphalt and products containing asphalt.

**D.** Treated or painted wood, including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

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

**F.** Rubber, including tires and synthetic rubberlike products.

**G.** Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance, except as provided in § 19-11 of this chapter.

**§ 19-7 Open burning of leaves, brush, clean wood and other vegetation.**

**A.** All residential recreational outdoor burning, excluding open burns as defined by this chapter, shall be contained in a noncombustible device with the following requirements:

(1) The device must be a maximum of three feet in diameter.

(2) The device must be a minimum depth of four inches.

(3) The device shall be secured and surrounded by an enclosure of noncombustible material such as concrete, concrete block, rock or metal, kept in good condition.

- (4) The device and enclosure shall be a minimum of 15 feet from any structure, fence, property line, woodpile or any other combustible materials at all times.
- (5) Burning materials shall be contained within the device/enclosure at all times.
- (6) The fire/flames shall not extend more than three feet above the source at any time. Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief.
- (7) Fire suppression equipment shall be present (i.e., shovels, fire extinguisher, water hose or other equipment) to control the fire.
- (8) Fires shall be attended by a person 18 years old or older at all times until the fire is completely extinguished.
- (9) The property owner, renter or lessee shall be held liable for any damage caused by any fire including the cost of citations.
- (10) A renter or lessee shall notify and/or obtain written permission from the owner prior to initiating any fire pit/enclosure fire.
- (11) Residential recreational outdoor burning is strictly prohibited in any easements or land designated as conservancy.
- (12) Material for recreational fires shall not include rubbish, garbage, recyclable items, trash, or any material made of petroleum-based material and shall not contain any flammable or combustible liquids, except for devices which are designated to burn LP gas. Such LLP gas devices shall only be used per the manufacturers' listing instructions.
- (13) The property owner and/or person who have started any recreational fire shall hold the Town harmless from any and all damages caused by a recreational fire.

(14)

No recreational outdoor fire shall be started or allowed to continue until application is made to the Building Inspector, Fire Chief, or Code Enforcement Officer. Only recreational residential burning is allowed as described above. The Wisconsin DNR's air quality and waste management rules generally prohibit open burning of all materials by businesses, with some limited exceptions. When limited exceptions are allowed, DNR approval or licensing is typically required in addition to Town burning permits. As such Town burning permits will not be issued to businesses without proof that they have obtained Wisconsin DNR air permits or waste disposal licensing prior.

**B.** All rural recreational outdoor burning, excluding open burns as defined by this chapter, shall be contained in a noncombustible device with the following requirements:

- (1) The device must be a maximum of four feet in diameter.
- (2) The device must be a minimum depth of four inches.
- (3) The device shall be secured and surrounded by an enclosure of noncombustible material such as concrete, concrete block, rock or metal, kept in good condition.
- (4) The device and enclosure shall be a minimum of 25 feet from any structure, fence, property line, woodpile or any other combustible materials at all times.
- (5) Burning materials shall be contained within the device/enclosure at all times.
- (6) The fire/flames may not extend more than four feet above the source at any time, or in the case of outdoor chimneas or fireplaces, contained within the structures chimney such as an outdoor fireplace. Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief.
- (7) Fire suppression equipment shall be present (i.e., shovels, fire extinguisher, water hose or other equipment) to control the fire.
- (8) Fires shall be attended by a person 18 years old or older at all times until the fire is completely extinguished.
- (9) The property owner, renter or lessee shall be held liable for any damage caused by any fire including the cost of citations.
- (10) A renter or lessee shall notify and/or obtain written permission from the owner prior to initiating any fire pit/enclosure fire.
- (11) Rural recreational outdoor burning is strictly prohibited in any easements or land designated as

conservancy, unless specifically authorized by permit, signage or for organized activities established by the Parks Department.

~~(12) Material for recreational fires shall not include rubbish, garbage, recyclable items, trash, or any material made of petroleum-based material and shall not contain any flammable or combustible liquids, except for devices which are designated to burn natural or LP gas. Such LP gas devices shall only be used per the manufacturers' listing instructions.~~

~~(13) The property owner and/or person who have started any recreational fire shall hold the Town harmless from any and all damages caused by a recreational fire. No recreational outdoor fire shall be started or allowed to continue until application is made to Building Inspector, Fire Chief or Code Enforcement Officer.~~

~~(14) No recreational outdoor fire shall be started or allowed to continue until application is made to the Building Inspector, Fire Chief or Code Enforcement Officer.~~

#### § 19-8 Outdoor wood-fired furnaces.

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

**A.** The outdoor wood-fired furnace shall be installed and used only in an area zoned for A-2 Agricultural District or AG-FP Agricultural Farmland Preservation uses.

**B.** The outdoor wood-fired furnace shall not be used to burn any of the prohibited material listed in § 19-6 of this chapter.

**C.** The outdoor wood-fired furnace shall be located at least 300 feet from the nearest building which is not on the same property as the outdoor wood-fired furnace.

**D.** The outdoor wood-fired furnace shall have a chimney that extends at least 15 feet above the ground surface. A lesser height may be approved by the Fire Chief or designee on a case-by-case basis (as long as no violation of building code is present), if necessary, to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

**E.** The owner of the outdoor wood-fired furnace shall obtain a one-time permit from the Fire Chief or designee in accordance with § 19-10 of this chapter as well as a building permit as appropriate from the Building Inspector prior to beginning installation.

**F.** Application fee. Each application under this section shall be accompanied by the fee determined by the fee schedule adopted by the Town Board and kept on file with the Town Clerk or designee.

#### § 19-9 Fire Department practice burns.

Notwithstanding §§ 19-5 and 19-6 of this chapter, the Ledgeview 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.

#### § 19-10 Burning permits.

**A.** No person shall start or maintain any open burning without a burning permit issued by the Fire Chief or designee, ~~or Ledgeview Municipal office staff.~~

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

**C.** Any person responsible for burning leaves, brush, clean wood or other vegetative debris under § 19-7 of this chapter shall obtain a burning permit and have it approved by the Fire Chief or designee before starting the fire. The burning permit is good for a period of up to five days unless issued under special circumstance in partnership with Wisconsin DNR. Upon expiration of the burning permit, a new permit must be applied for if additional burning is needed.

**D.** The owner or occupant of the property shall obtain a one-time burning permit as required by § 19-8E for an outdoor wood-fired furnace before using the outdoor wood-fired furnace.

**E.** 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.

**F.** A burning permit issued under this section shall require compliance with all applicable provisions of this chapter and any additional special restrictions deemed necessary to protect public health and safety.

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

**H.** The Wisconsin DNR's air quality and waste management rules generally prohibit open burning of all materials by businesses, with some limited exceptions.

When limited exceptions are allowed, DNR approval or licensing is typically required in addition to Town burning permits. As such Town burning permits will not be issued to businesses without proof that they have obtained Wisconsin DNR air permits or waste disposal licensing prior.

Wisconsin's recycling laws prohibit businesses and municipalities from burning yard or landscape waste, rubbish and trash except for waste to energy facilities. In addition, commercial and government entities generally cannot burn clean wood waste, including brush, unless these entities have a woodburning facility license and accompanying air permit. The DNR has limited exceptions for land clearing and wood disposal. In the case of a burning facility permit being issued by the DNR, a burning permit or special use approval is additionally required by the Town of Ledgeview. Commercial entities burning any other material is prohibited in all cases. DNR regulations can be found in Wisconsin Administrative Code NR 502 as part of Wisconsin Statute 35.93

**I.** Special allowances are given by DNR and thus by the Town of Ledgeview for commercial activities allowed under state law. These include:

- State regulations allow brush less than 6 inches thick and weeds to be burned as part of agricultural or silvicultural activities only if the plants or trees are invasive species. Brush less than 6 inches thick may only be burned if it is an invasive species.
- Tree trunks, limbs and stumps may also be burned as part of agricultural or silvicultural activities using burning methods that are approved by the DNR's Air Program typically with permit.
- In emergency situations, such as natural disasters, brush may be burned with approval from the DNR's Waste & Materials Management Program and using methods approved by the DNR's Air Program.

#### **§ 19-11 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.

#### **§ 19-12 Right of entry; inspection.**

The Fire Chief or any authorized officer, agent, employee or representative of the Town of Ledgeview who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this chapter. NOTE: If the owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with § 66.0119, Wis. Stats.

#### **§ 19-13 Enforcement.**

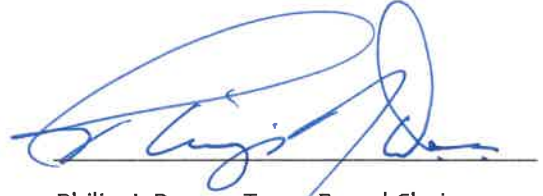
**A.** The Fire Chief and Town staff or designee of the Fire Chief are authorized to enforce the provisions of this chapter.

**Section 2:** Repeal of inconsistent ordinances. All existing town ordinances, parts of ordinances, and amendments thereto in conflict with any of the provisions of this ordinance are hereby repealed.

**Section 3:** Severability. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provision shall not be affected hereby.

**Section 4:** Effective date. This ordinance shall take effect upon passage, postage, and publication.

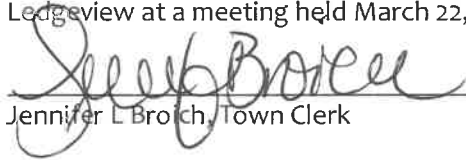
**ADOPTED** this 22<sup>nd</sup> of March, 2022.



Philip J. Danen, Town Board Chairperson  
Town of Ledgeview, Brown County, WI

ATTEST:

I, Jennifer L Broich, Clerk of the Town of Ledgeview, do hereby certify that this is a true and correct copy of the original ordinance required by law to be in my custody and which was adopted by the Town of Ledgeview at a meeting held March 22, 2022.



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Jennifer L Broich, Town Clerk

VOTE:

Yes:

5

No:

0

Abstain:

0

Published: April 25, 2022

Posted: April 22, 2022