

**Town of Sumner**  
**ORDINANCE 2018-0312**  
**Regulating Burning**

**STATE OF WISCONSIN**

Town of Sumner  
Jefferson County

**Section 1. Title and Purpose:** This Ordinance is titled *Ordinance #2018-0312, Regulating Burning* and repeals *Ordinance # B-101, and Amendments B-1.03 and B-1.04* in their entirety. The purpose of this ordinance is to regulate burning in the Town of Sumner by describing conditions under which burning is allowed, defining the process by which a no-fee burning permit is obtained, prohibiting materials to be burned, and the penalties and forfeitures that will be assessed if a burning permit has not been obtained, a fire escapes, or there are violations of other sections of this ordinance.

**Section 2. Authority:** The Town Board of the Town of Sumner, Jefferson County, Wisconsin has the specific authority under s. 60.22 Wis. Stats. to enact this ordinance and to provide for penalties and forfeitures for its breach.

**Section 3. Adoption of Ordinance:** The Town Board of the Town of Sumner, Jefferson County Wisconsin, on a roll-call vote with a quorum present and voting and proper notice having been given, do ordain as follows:

**Section 4. Prohibited Burning:**

**A.** It shall be unlawful for any person, private business, or public agency to set fire upon any land within the Town of Sumner in any area which the Town Board, a County Authority, or a Fire Department of the Town, has declared a “burning ban”: that is, a verbal or written notice prohibiting the setting of any fires within districts of/or within the Town of Sumner.

**B.** The setting of uncontained fires, excepting those addressed in Section 5 shall be unlawful unless a no-fee burning permit has been obtained from the Town Board Chair, Town Clerk, or a Town Board Supervisor. A burning permit is a written approval given to a person when they comply with the process and regulations in subs. B1, B2, B3, B6, B7, and B8 of this Section.

**1.** The Town Chair, Town Clerk, or a Town Supervisor is contacted by phone or in person on the day of setting the fire, at least one hour before setting the fire and is provided the address or location of the proposed setting(s) of fire and the name of the individual(s) who will set and attend the fire, and a contact phone number. A permit may cover a period of up to five days.

**2.** The individual seeking a permit affirms that they will contact the Jefferson County Sheriff’s Department Dispatch Center by phone to report the intent to burn on each day of the approved permit, no less than one-hour before setting the fire.

**3.** The individual seeking a permit in the Edgerton Fire Protection District affirms they will follow the guidelines and restrictions of the District (as applicable) and Town of Sumner Ordinance # 2018-0312.

**4.** The Town officer issuing the permit will make a paper record of the request and forward it to the Town Clerk to record the burning permit.

**5.** Burning permits will not be issued when a burn ban is in effect within a district or within the Town. The Town maintains the authority to prohibit open flames, contained or open burning, sources of ignition, and any other form of fire or smoking material when the location or circumstances makes it a hazard.

**6.** No materials may be burned with a Town burning permit unless they are allowable under NR Wis. Adm. Code and/or Wisconsin DNR permitting requirements. Only dry materials may be burned. Materials that may not be burned include, but are not limited to; rubbish,

waste oils, asphalt products, treated woods, plastics, rubber, furniture, tires, and materials that must be recycled in accordance with Town of Sumner *Ordinance 2017-0415A-Recycling and Waste Management*, with the exception of dry yard wastes. Small amounts of paper or cardboard used as starter fuel for a fire are allowed under this Ordinance.

7. All allowed burning shall be conducted in a safe and pollution free manner when wind and weather conditions are such as to minimize adverse effects and prevent escape of the fire.

8. A competent person must attend any fire, whether contained or open, until such fire is fully extinguished.

9. Controlled burns and back-burns, whether conducted by a property owner, private business, or a public agency shall comply with all Sections of this Ordinance.

10. The use of unmanned, free floating sky lanterns and similar devices utilizing an open flame are prohibited.

#### **Section 5. Allowable Burning:**

A. **Contained fires** that are allowed within the Town include those set within cooking or grilling appliances, or those entirely confined by a control device or structure such as a barrel, fire ring, or fire-pit, and, those contained and used for the purpose of warming of persons, cooking of food, or destruction of confidential documents.

B. **Recreational fires.** The noncommercial (residential only) burning of allowable materials (see Section 4 B6 for those materials that shall not be burned) for pleasure, religious, ceremonial, cooking, or similar purposes when the fuel is not contained in an incinerator, grill, or pit are only allowed when the total fuel area does not exceed three feet (3') in diameter and two feet (2') in height. Recreational fires shall be located at least twenty-five feet (25') from a structure and open burning and bon fires shall be at located at least fifty feet (50') from a structure or building.

C. **Permits shall not be required** for contained fires and recreational fires when they are conducted in conformance with this Section, Section 4.B.8, and a burning ban under Section 4. A. has not been called.

#### **Section 6. Penalties for Escaped Fires:**

A. A person, business, or public agency setting, utilizing, or maintaining a contained or permitted outdoor fire within the Town of Sumner shall be responsible for attending the fire and may be responsible for fire suppression costs and any other liability resulting from damage caused by an escaped fire at the discretion of the Town Board if there are likely and reasonably foreseen reasons for the escape of the fire, such as: the permit holder absent from the burn, setting the fire too close to combustible materials or structures, failure to screen burning ash.

B. Any person, business, or agency that allows a fire under their control to escape, shall be liable as follows:

1. If a contained or permitted fire, a forfeiture of Fifty Dollars (\$50.00).
2. If an un-permitted fire, a forfeiture of at least One Hundred Dollars (\$100.00) in addition to the costs of suppression of the resulting fire.
3. Or, as the forfeiture may be changed in the Town of Sumner Fee Schedule as adopted.

#### **Section 7. Authority to Discontinue Fires:**

A. The Town of Sumner, the Fort Atkinson Fire Department, and the Edgerton Fire Protection District are authorized under this Ordinance to require any fire or smoke be immediately discontinued if the fire is determined to be in violation of Town of Sumner Ordinances or if the fire constitutes a hazardous condition.

B. The Fort Atkinson Fire Department and the Edgerton Fire Protection District have the authority under this Ordinance to extinguish any fire that is in non-compliance with Town of Sumner Ordinances or the fire constitutes a hazardous condition.

C. Representative Police, Sheriffs, and other enforcement agencies have the authority under this ordinance to render necessary assistance in its enforcement when requested to do so by the Town of Sumner, the Fort Atkinson Fire Department, or the Edgerton Fire Protection District.

**Section 8. Malicious Fires:** Any person(s) who shall willfully and maliciously set a fire within the Town of Sumner will be prosecuted in accordance with state, county, and/or other applicable jurisdictions of law.

**Section 9. Burning Prohibited in Town Right-of Way:** Burning on any portion of Town property or right-of-way is strictly prohibited. Town property and right-of ways include but are not limited to passageways, roads and their attendant right-of-way, culverts, ditches, beaches, and in Town parks except as allowed in provided or portable grills. Additional penalties may apply for violations of this Section under Town of Sumner *Ordinance #2017-1014-C- Public Nuisances and Health Hazards*.

**Section 10. Exceptions:** This Ordinance does not apply to Fire Department practice burns conducted in accordance with NR 502.11(2) (c) Wis. Adm. Code; or outdoor wood-fired furnaces installed and maintained under SPS323 or SPS364 Wis. Adm. Code. Other exceptions to this Ordinance may, or will be made in accordance with NR 429.04.

**Section 11. Penalty Provisions:** Any person who violates any of the provisions of this ordinance shall be subject to a forfeiture of no less than \$50.00 and not more than \$500.00 as may be assessed by the Town Board or its designee.

**Section 12. Collection of Penalties and Costs:** The Town of Sumner will employ Town of Sumner *Ordinance # 2017-1014, Forfeitures and Citations for Violations of Town Ordinances* to assess and recover forfeitures, penalties, costs, and damages from persons who violate this ordinance; and may pursue any other appropriate legal or collection actions.

**Section 13. Severability:** If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

**Section 14. Nonexclusivity:** Adoption of this Ordinance in no way precludes the adoption of any other ordinance providing for enforcement of any law or ordinance relating to the same or other subject matter.

**Effective Date:** This Ordinance shall take effect after passage and adoption by the Town Board and publication and posting as required under s. 60.80, Wis. Stats.

Adopted this 12<sup>th</sup> day of March, 2018.

\_\_\_\_\_ John Dohner, Jr., Chairman

\_\_\_\_\_ Randall Burdick, Supervisor I

\_\_\_\_\_ Rosemary Olson, Supervisor II

Attest: \_\_\_\_\_ Glendan Rewoldt, Clerk

Ayes: \_\_\_\_\_ Noes: \_\_\_\_\_ Absent: \_\_\_\_\_

Published: \_\_\_\_\_

Posted: \_\_\_\_\_

**TOWN OF SUMNER - BURN PERMIT**  
 Town of Sumner Burning Ordinance #2018-0312

PERMIT # \_\_\_\_\_ (MAXIMUM 5 DAYS)

Today's Date	Date(s) of Burn	Number of Days	Materials to be Burned	Issuant Initials

**Permits may be issued for up to 5 (five) days, however, no person shall fail to consider existing wind and weather conditions and to take action reasonably necessary to control any fire which he or she has set anywhere in the Town.**

**IF A FIRE ESCAPES, CALL 911 IMMEDIATELY.**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Fire District/Department: \_\_\_\_\_

Address of burn if different than above: \_\_\_\_\_

**YOU MUST CALL THE JEFFERSON COUNTY SHERIFF'S DEPARTMENT AT (920)-674-7310 THE DAY OF EACH BURN AND NO LATER THAN ONE-HOUR PRIOR TO SETTING THE FIRE.**

- Call the Edgerton Fire Protection District each time you are issued a Burn Permit by the Town of Sumner. **Phone Number: 608-884-3327**
- The Fort Atkinson Fire Department does not need to be contacted when you are issued a Burn Permit by the Town of Sumner.

All burning initiated pursuant to this permit shall be conducted in accordance with applicable provisions of Wisconsin Statutes, Wisconsin Administrative Code, Jefferson County Ordinances, and Town of Sumner Ordinances with respect to size, management, control, materials, and any applicable air pollution requirements.

RECOMMENDED TOOLS: Rake & Shovel - Cell Phone - Fire Extinguisher - Water

Issued by: \_\_\_\_\_

Filed with Glendan Rewoldt, Clerk, Town of Sumner – DATE: \_\_\_\_\_