

**TOWN OF PLYMOUTH
ORDINANCE NO. 2020-02**

AN ORDINANCE AMENDING AND RESTATING TOWN OF PLYMOUTH ORDINANCE NO. 1996-1, REFERRED TO AS ORDINANCE REGULATING BURNING IN THE TOWN OF PLYMOUTH.

**ORDINANCE REGULATING BURNING
IN THE
Town of Plymouth**

The Town Board of the Town of Plymouth, do ordain as follows:

SECTION 1. *Purpose.* The purpose of this subsection of the ordinances of the Town of Plymouth, is to strictly control the burning of land and/or materials in the Town of Plymouth, because of the health risk from air and water pollution, which results from such burning and to promote the interests of safety and to avoid unnecessary property damage within the Town.

SECTION 2. *Applicability.* This ordinance applies to all persons and/or property, within the town of Plymouth.

SECTION 3. *Authority.* This ordinance is enacted, pursuant to the authority of Section 66.30 of the Wisconsin Statutes, as such, deals with intergovernmental cooperation, upon the fire protection agreement, of which this municipality is a member, and upon all other lawful authority granted the Town, including 60.555 and 61.34.

SECTION 4. *Adoption of Burning Permit Guidelines.* The Burning Permit Guidelines originally issued by the Orfordville Fire Protection District on February 2, 1993, and updated on March 2, 1994, are adopted and by reference, made a part of this ordinance as if fully set forth fully herein. Any further amendments or changes to the Orfordville Fire Protection District Burning Permit Guidelines are also adopted and by reference, made a part of this Ordinance as if set forth fully herein. Any violation, of the Orfordville Fire Protection District Burning Permit Guidelines, shall be subject to the penalties provided in Section 9 below.

SECTION 5. *Recreational Campfires in R-1.* Campfires or fire pits shall be permitted in Residential District (R-1), as defined in the Town of Plymouth Zoning Ordinance, in accordance with this section.

A. Open fire pits may be used if located more than 30 feet from the nearest building, structure, lumber or wood pile, wood fence, wood deck, or any other combustible material or vegetation.

B. All aboveground portable fire pits shall be (i) commercially manufactured; (ii) no greater than 48 inches in diameter; (iii) equipped by the manufacturer with a lid.

C. All campfires and fire pits shall have screening around the burning area to prevent sparks from escaping.

D. Any recreational campfire or fire pit shall be constantly attended by a responsible adult who shall remain present until the fire is completely extinguished.

E. No combustible materials other than natural, dry wood and kindling may be burned in any recreational fire and no acceleration may be used to start such a fire.

F. Recreational fires are prohibited in the event that wind speeds or gusts reach 20 mph or higher.

The regulations set forth in this section apply to campfires and fire pits in the R-1 zoning district. Burning in other zoning districts shall not be subject to the regulations in this Section 5, but the remainder of this Ordinance shall apply.

SECTION 6. *Statutory Provisions Adopted by Reference.* The statutory provisions describing and defining rules and regulations with regard to burning in the sections of the Wisconsin Statutes, as revised, and as enumerated in Section 6 of this ordinance are adopted and by reference, made a part of this ordinance as if set forth fully herein.

SECTION 7. *Statutory Provision Enumerated.* The following statutory sections (and then successors) are adopted by reference and conduct which is the same or similar to that prohibited by such statutory provisions is prohibited in the Town of Plymouth:

1. **Section 26.14 (5) - (9) Forest fires, authority of fire fighters, compensation, penalties, civil liability.**
2. **Section 941.10 Negligent handling of burning materials**

SECTION 8. *Emergency Conditions.* Notwithstanding anything in this ordinance to the contrary, whenever it is determined by the Chief of the Orfordville Fire Protection District, that it is not prudent to burn upon any land, within the Town of Plymouth, due to dry conditions, high winds or other emergency conditions, s(he) may post or cause to be posted in five (5) or more public places within the territorial jurisdiction of the Orfordville Fire Protection District, or may place one such notice in the official publication, a notice, which shall notify all person that it is forbidden to burn or set fires within the Orfordville Fire Protection District, or any portion thereof, until further notice from the Fire Chief. After such posting and/or publication, no person or entity may set any fire upon any land and/or materials in the Orfordville Fire Protection District until the Fire Chief has declared that the emergency condition no longer exists and upon obtaining a burning permit, if required.

SECTION 9. *Reimbursement.* The Town of Plymouth hereby assigns to the Orfordville Fire Protection District all of its rights under Section 60.557(1)(2) of the Wisconsin Statutes, to obtain reimbursement from the Department of Transportation/Rock County for fire calls made on a county trunk highway/state trunk highway or any highway that is any part of the national system of interstate highways.

SECTION 10. *Penalty for Violation.*

A. In addition to the power of the local policing agency to enforce this ordinance, the Chief of the Orfordville Fire Protection District, and/or his designee(s) shall be charged with enforcing this ordinance.

B. The Chief of the Orfordville Fire Protection District, and/or his designee(s) shall have the discretion to issue either a warning or a citation for any violation of this ordinance. Warnings may only be issued for a first offense.

C. If a person and/or entity is issued a citation for violating this ordinance, that person and/or entity shall be prosecuted pursuant to the established procedures of the circuit court which has jurisdiction over the territory where the offense occurred.

D. Any person issued a citation for violating this ordinance shall be fined not less than \$25, nor more than \$500 for each offense. Imprisonment in the county jail can be ordered only for failure to pay any fine that may be imposed. If imprisonment is ordered for failure to pay the fine, it shall be limited to one day of confinement for each \$25 of fine imposed.

E. If the Orfordville Fire Protection District is required to respond to a fire call as a result of a violation of this ordinance, and if a citation is issued, the person responsible for the violation may be required, in addition to any other penalties provided herein, to pay restitution to the Orfordville Fire Protection District to reimburse it for its costs in responding to the fire call. The amount of restitution to be paid under this subsection to reimburse the Orfordville Fire Protection District for its costs in responding to a fire call, shall be \$500. However, the \$500 restitution cost may be increased or decreased by the Board of Trustees, based upon relevant factors, such factors including, but not limited to, if the services rendered were substantially disproportionate to the \$500 cost, taking into consideration the time spent by personnel of the Orfordville Fire Protection District and the amount of man hours and equipment involved in response to the call. Any deviation from the \$500 charge shall require a majority vote of the Trustees attending a regular or special meeting. In determining whether or not a deviation from the \$500 restitution cost is appropriate, the trustees shall presume that the \$500 cost is appropriate unless clear and convincing proof is submitted to the Trustees indicating that it should be deviated from.

SECTION 11. *Parents' or Guardians' Liability for Minors Violating this Ordinance.*

The following persons shall be additionally liable for the violation of this ordinance if a person under the age of 18 years of age violates this ordinance: Both parents if both parents have custody of the minor, the parent having custody of the minor if only one parent has custody, or if neither party has custody of the minor, then the person or the guardian having such custody of the minor or the minor's foster parent or parents. It shall be no defense to a violation of this section that the parent or guardian was not the person actually committing the violation or that the parent or guardian had no knowledge that the violative behavior of the minor was to occur.

SECTION 12. *Severability.* The provisions of this ordinance are severable and the invalidity of any section or part thereof shall not render the entire ordinance invalid.

SECTION 13. *Repeal of Existing Conflicting Ordinances.* Existing ordinances in conflict with this ordinance are repealed.

SECTION 14. *Effective Date.* This ordinance shall be effective upon passage and publication as provided by law.

Dated this 8th day of September, 2020.



Sean Snyder, Town Board Chairperson



Brad Inman, Town Board Supervisor



Kim Dooley, Town Board Supervisor

Attest: 
Susan Douglas, Town Clerk