

11.01 TITLE

This ordinance is entitled the "Public Health Ordinance."

11.02 AUTHORITY

The Town Board has the specific authority, powers and duties, pursuant to Sec. 66.052, (1991-1992) Wis. Stats., and Chapters 143, 144, 146, and 823, (1991-1992) Wis. Stats., pursuant to the specific statutory sections noted in this ordinance and by adoption of village powers under Sec. 60.10, (1991-1992) Wis. Stats., to regulate, control, prevent, and enforce against in the Town certain uses, activities, businesses and operations by persons that may affect public health and public sanitation in the Town.

11.03 ADOPTION OF ORDINANCE

The Town Board, by adoption of this ordinance, confirmed the specific statutory authority, powers, and duties noted in the specific sections of this ordinance and has established, by these sections and this ordinance, the regulation, control, prevention, and enforcement against certain uses, activities, businesses, and operations by persons that may affect public safety and public order within the Town.

11.04 GENERAL PROVISIONS

(1) Any person owning, occupying or in charge of any public building in the Town (as a public building is defined in Sec. 101.01(2)(g), (1991-1992) Wis. Stats.) shall keep the building clean and sanitary.

(2) No person shall cause, allow or permit any person to discharge by any means untreated domestic sewage into the waters of the state as defined in Sec. 144.01(19), (1991-1992) Wis. Stats., or into any drainage ditch governed by Chapter 88, (1991-1992) Wis. Stats., in the Town.

(3) No person shall cause, allow or permit any person to create a nuisance (as defined in Sec. 146.14, (1991-1992) Wis. Stats.) in the Town. The Town Board shall order that person to comply with Sec. 146.14, (1991-1992) Wis. Stats., and to abate or remove any such nuisance on private property and if the owner or occupant fails to comply, the Town Board or its designee or agent may enter upon this property and abate and remove such nuisance.

(4) The County of Kenosha, pursuant to Sec. 146.20, (1991-1992) Wis. Stats., has enacted a county wide septage disposal ordinance.

(5) No person shall cause, allow or permit any person to operate or maintain an animal food processing or a rendering of dead animal operation in the Town where the facilities are constructed or maintained within one/eighth (1/8) of a mile from a public highway, road, alley or street subject to the provision of Sec. 95.72, (1991-1992) Wis. Stats. No new or improved rendering or processing plant facilities on the existing premises in the Town may be constructed or maintained in the Town closer than one/eighth (1/8) of a mile from any public highway, road, alley or street. No person shall cause, allow or permit any person to operate or maintain a dead animal rendering plant or animal food processing plant or operation in the Town unless all operations are conducted to prevent, abate and remove the creation of any public nuisance.

(6) The Town of Randall designates that it is under twenty-five hundred (2,500) persons in population and that the County of Kenosha does provide for a County Health Commission or Committee.

11.05 NOXIOUS WEEDS

(1) Definition

As used in this chapter, noxious weeds as defined in Sec. 66.96(2), (1991-1992) Wis. Stats., includes the following: Canadian thistle, leafy spurge, and field bindweed (creeping Jenny) or any other weed or grass which grows to an average height of more than twelve (12) inches in those areas of the Town which are zoned residential or commercial.

(2) Weed Commissioner

(a) Appointment and Term

The Town Chairperson shall appoint one commissioner of noxious weeds on or before May 15th of each year. Such Weed Commissioner shall take the official oath, which shall be filed in the office of the Town Clerk and shall hold the office for one year and until a successor has qualified. Any adult resident of the Town is eligible for the appointment as Weed Commissioner.

(b) Duties and Powers

Every Weed Commissioner shall carefully investigate concerning the existence of noxious weeds in the Town and if any person neglects to destroy any weeds as required by Sec. 66.96, (1991-1992) Wis. Stats., or this ordinance, the Weed Commissioner shall, after first giving five (5) days' written notice by mail to the owner or occupant, destroy or cause all such weeds to be destroyed in the manner deemed to be the most economical method and for each day devoted to doing so,

the Weed Commissioner shall receive compensation as determined by the Town Board upon presenting to the Town Treasurer the account therefore, verified by oath and approved by the appointing officer. Such account shall specify by separate items the amounts chargeable to each piece of land, describing the same, and shall, after being paid by the Town Treasurer, be filed with the Town Clerk, who shall enter the amount chargeable to each tract of land in the next tax roll in a column headed "For the Destruction of Weed," as a tax on the lands upon which the weeds were destroyed, which tax shall be collected under Ch. 74, (1991-1992) Wis. Stats., except in case of lands which are exempt from taxation. A delinquent tax may be collected as is a delinquent real property tax under Chapters 74 and 75, (1991-1992) Wis. Stats., or as is a delinquent personal property tax under Chapter 74, (1991-1992) Wis. Stats. In case of railroad or other lands not taxed in the usual way the amount chargeable against the same shall be certified by the Town Clerk to the State Treasurer who shall add the amount designated therein to the sum due from the company owning, occupying or controlling the lands specified.

(c) Enforcement

The Weed Commissioner may, after written notice given as provided above, enter upon any lands upon which any of the weeds mentioned in Sec. 66.96, (1991-1992) Wis. Stats., or in this ordinance are growing, and cut or otherwise destroy the weeds without being liable to an action for trespass or any other action for damages resulting from such entry and destruction, if and as long as reasonable care is exercised in the performance of the duty hereby imposed.

(d) Compensation

For each day expended by the Commissioner in carrying out his or her duties, other than the destruction of weeds, he or she shall receive compensation as may be determined by the Town Board to be paid out of the Town Treasury.

11.06 OUTDOOR AND REFUSE BURNING

(Recreated 12/22/2005)

(1) 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 Randall due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

(2) **Applicability**

This ordinance applies to all outdoor and refuse burning within the Town of Randall.

(a) This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.

(b) 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.

(c) 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.

(3) **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.

(4) **Definitions**

(a) **Campfire**

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

(b) **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.

(c) **Confidential Papers**

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

(d) **Refuse**

Any waste material except clean wood.

(e) Outdoor Burning

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

(f) 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.

(g) 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.

(h) Fire Chief

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

(i) Burn Barrel

A drum or cylindrical type vessel of greater length than breadth used for burning.

(5) **General Prohibition on Outdoor Burning and Refuse Burning**

Open burning, outdoor burning and refuse burning are prohibited in the Town of Randall unless the burning is specifically permitted by this ordinance.

(6) **Materials That May Not Be Burned**

Unless a specific written approval, or permit has been obtained from the Town of Randall and the Department of Natural Resources, the following materials may not be burned in an open fire, incinerator, furnace, stove or any other indoor or outdoor incineration or heating device.

(a) Rubbish or Garbage

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

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.

(c) Asphalt

Asphalt and products containing asphalt.

(d) Treated or Painted Wood

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) Plastic

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

(f) Rubber

Rubber including tires and synthetic rubber-like products.

(g) Grass Clippings

Grass clippings or any other vegetative debris except as provided for in section (7) of this ordinance.

(h) Paper Products

Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with normal recycling practices except as provided in Section (11) of this ordinance.

(7) **Open Burning**

Open burning of leaves, weeds, brush, stumps and clean wood is allowed only in accordance with the following provisions:

(a) Adverse Effects

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.

(b) Burning Ban

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.

(c) Natural Refuse

Open burning of leaves, weeds, brush and stumps shall be conducted only on the property on which the materials were generated.

(d) Agricultural Lands

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

(e) Campfires

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 fire pit or outdoor fireplace. Flames of the fire shall not extend greater than four (4) feet above the ground. Additional requirements for such fires are as follows:

1. Small fire pits shall be constructed below grade with a minimum depth of four (4) inches and a minimum of two (2) inches of non-combustible materials such as concrete block, rock, or metal above grade and shall have a maximum inside diameter of thirty (30) inches.

2. Large fire pits shall be constructed below grade with a minimum depth of four (4) inches and a minimum of two (2) inches of non-combustible materials such as concrete block, rock, or metal above grade and shall have a maximum inside diameter of sixty (60) inches.

3. Portable outdoor fireplaces (Weber-type devices) shall be placed on a non-combustible surface.

(f) Minimum clearances

Open burning under this section, not including campfires in large fire pits, shall only be conducted at a location at least thirty (30) feet from the nearest building or structure which is not on the same property, at least fifteen (15) feet from the property line, at least ten (10) feet from the

nearest building or structure which is on the same property and at a distance at least fifteen (15) feet from the ordinary high water mark.

Campfires utilizing large fire pits shall only be conducted at a location at least one hundred (100) feet from the nearest building or structure which is not on the same property, at least fifteen (15) feet from the property line, at least thirty (30) feet from the nearest building or structure which is on the same property and at a distance at least fifteen (15) feet from the ordinary high water mark.

(g) Attendance

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. Such person shall have the physical ability and means by which to control said fire and to notify proper authorities in the event control of the fire is lost. Fire extinguishing equipment necessary for total control of the fire shall be readily available for use and may include but is not necessarily limited to shovels, rakes, fire extinguishers, water hoses or other like equipment.

(h) Restrictions

No materials may be burned upon any public streets, curbs, gutters, sidewalks, drainage ways other than ditch lines, fire lanes nor on the ice of a lake, pond, stream or water body.

(i) Ozone Action Days

No open burning may be conducted on days when the Department of Natural Resources has declared an ozone action day applicable to the Town of Randall.

(j) Prohibited Hours

No open fires (Open Burning) shall be kindled or permitted to burn weekly between the hours as follows:

1. 10:00 p.m. and 9:00 a.m. - Sunday to Thursday

(k) Permitting

Burning permits are not required for open burning described in this section.

(8) **Burn Barrels**

No person shall use or maintain a burn barrel within the Town of Randall.

(9) **Outdoor Wood-Fired Furnaces**

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

(a) **Usage Provisions**

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

(b) **Minimum Clearances**

The outdoor wood-fired furnace shall be located at least 50 feet from the nearest building which is not on the same property as the outdoor wood-fired furnace.

(c) **Chimney Requirements**

The outdoor wood-fired furnace shall have a chimney that extends at least twenty (20) feet above the ground surface. If there are any residences within 200 feet, 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.

(d) **Permitting**

The owner of the outdoor wood-fired furnace shall obtain a permit every five years from the Town of Randall in accordance with Section (12) of this ordinance.

(10) **Exemption**

Notwithstanding sections 5 and 6 of this ordinance, the creation and maintenance of fires in the discharge of governmental functions being supervised and attended by members of the Randall Fire Department or Town maintenance crews shall be allowed. Burning provided for by this exemption shall include, but is not limited to, the burning of a standing building for the purposes of fire fighting practice providing the practice burn complies with the requirements of the Department of Natural Resources.

(11) **Exemption for Burning Certain Papers**

(a) Starter Fuel

Notwithstanding section (6) subsection (h) of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance.

(b) Confidential Papers

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.

(c) Commercial Enterprise

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

(d) Compliance

A fire set for burning of a small quantity of confidential papers shall be subject to and comply with section (7) subsections (a), (b), and (f) thru (k) of this ordinance.

(12) **Permits**

(a) Permits issued under this section shall be issued only after inspection by the Randall Fire Chief has been completed.

(b) 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.

(c) Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance shall void the permit.

(d) Burning permits may be obtained from the town clerk at the Randall Town Hall. The fee for issuance of a Randall burning permit is twenty-five (\$25.00) dollars.

(13) **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.

(14) **Right of Entry and Inspection**

The Fire Chief or any authorized officer, agent, employee or representative of the Town of Randall 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.

(15) **Enforcement and Penalties**

(a) Enforcement

The Randall Fire Chief, Enforcement Officer, Town Board Chairman or any Town Board Supervisor is authorized to enforce the provisions of this ordinance.

(b) Penalties

The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than twenty-five dollars (\$25.00) or more than two hundred and fifty dollars (\$250.00), plus the cost of prosecution. Penalties are doubled for second and again for each subsequent offense.

11.07 OTHER ANIMALS AND FOWL

(1) No person shall keep, harbor, feed or breed any horses, mules, jackasses, llamas, sheep, cows, goats, swine, fox, beaver, mink, otter, martin, rabbits, raccoon, camels, skunks, chickens, turkeys, ducks or geese on any parcel or lot containing less than two (2) acres of green space in any R-2, R-3, R-4, R-5, R-6, R-7, R-8, R-9, R-10, R-11, or R-12 Residential District as defined in the Kenosha County General Zoning and Shore land/Floodplain Zoning Ordinance. Any person now owning or possessing any such animals or fowl in any such district and owning less than two (2) acres of green space of land shall be permitted to keep such animals or fowl described herein until such animals or fowl shall be disposed of. Such owner shall not be permitted to add to or replace the animals or fowl on the premises as of the date of this subsection.

(2) In the R-1 Residential District as defined in the Kenosha County General Zoning and Shore land/Floodplain Zoning Ordinance, owners may keep anyone of the following classifications of animals or fowl on parcels containing two (2) acres of green space or more in size:

(a) HORSES: Not more than one (1) horse for each two (2) acres of green space.

(b) DAIRY COWS AND GOATS: Not more than one (1) dairy cow or one (1) goat for each two (2) acres of green space.

(c) FOWL: A flock of not more than twenty (20) chickens, or twenty (20) geese or ducks for each two (2) acres of green space.

(d) RABBITS: Not more than twenty (20) rabbits for each two (2) acres of green space.

provided that no person shall keep any of the animals or fowl set forth above for any commercial purposes; the keeping of such animals shall be limited to the residential use of the owner's premises.

(3) The owner of any of the animals permitted to be kept in the residential districts under subparagraph (1) and (2) above, shall do all things necessary to prevent such keeping from becoming a nuisance. No building permit for an animal or fowl shelter shall be granted unless the Building Inspector shall visit the premises and determine that the construction of such shelter is located on the owner's premises with sufficient setbacks from the property lines and structures of adjoining properties as to prevent such shelter from becoming a nuisance to neighbors.

(4) **Definitions**

(a) Green Space - That ground area of a parcel of land which is unimpeded from the ground to the sky by any main or accessory structure. Driveways, parking lots and storage areas for vehicles and vehicular materials shall not be considered as green space.

(b) Residential Use - Those uses which are consistent with the support or recreation of a single family who reside on the parcel of land.

(c) Acre - A measure of land, equal to forty three thousand and five hundred and sixty (43,560) square feet (sq. ft.).

(5) **Enforcement**

This section shall be enforced by any Town Supervisor, any Town Enforcement Officer or the Building Inspector.

11.10 PENALTY

Except as otherwise provided herein, any person found in violation of any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in Section 25.04, of this Code of Ordinances.