

**Outdoor and Refuse Burning Ordinance for the
Town of Sugar Creek, Walworth County, Wisconsin**

Ordinance No. 2023-06

SECTION 1: PURPOSE

1.00 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 due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

SECTION 2: APPLICABILITY

2.00 Applicability. This ordinance applies to all outdoor burning of any material, whether the fire is contained or not within the Town except:

- a. Grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- b. 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. Burning in a furnace, boiler or other heating device outside a building used to provide heat for human or animal habitation unless the material being burned includes refuse as defined in Section 4 of this ordinance.
- d. The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.
- e. Fires for the purpose of warming the person which comply with the terms of this ordinance for a campfire

SECTION 3: SEVERABILITY

3.00 Severability. The provisions of this Ordinance are severable. If any part or provision of any section, clause, or provision hereof is invalid or if its application to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

SECTION 4: DEFINITIONS

4.00 Definitions.

- a. "Campfire" means a small outdoor fire less than four (4) feet in diameter, intended for recreation, cooking or warming the body, not including a fire intended for disposal of waste wood or refuse. Wood used in a campfire shall be sized appropriately for a small campfire and the fire shall be confined by a control device or structure such as a barrel, fire ring or fire pit. The fire ring shall be at least 12 inches above the ground level.
- b. "Clean Wood" means 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" means printed material containing personal identification or financial information that the owner wishes to destroy.
- d. "Department of Natural Resources" means any employee of the State of Wisconsin, Department of Natural Resources empowered by that department to act on its behalf in the matter at issue.
- e. "Fire Chief" means the Chief of the Elkhorn Area Fire Department or other person authorized by the Fire Chief.
- f. "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.
- g. "Open Burning" means 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.
- h. "Outdoor Wood-fired Furnace" means a wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.
- i. "Permit." A burning permit means a permit issued by the Town of Sugar Creek as set forth in Section 11.
- j. "Refuse" means any waste material except clean wood.

SECTION 5: GENERAL PROHIBITION ON OPEN BURNING, OUTDOOR BURNING AND REFUSE BURNING

5.00 General prohibition on outdoor burning and refuse burning. Open burning, outdoor burning and refuse burning are prohibited in the Town unless the burning is specifically permitted by this ordinance.

SECTION 6: MATERIALS THAT MAY NOT BE BURNED

6.00 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, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device. The Town will not issue a permit for burning any of the following materials without air pollution control devices and a written copy of an approval by the Department of Natural Resources:

- a. Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, animal waste, 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 Chapter NR 590, Wisconsin Administrative 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 rubber-like products.
- g. Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the Walworth County recycling ordinance except as provided in Section 11 of this ordinance.

SECTION 7: OPEN BURNING OF LEAVES, BRUSH, CLEAN WOOD AND OTHER VEGETATIVE DEBRIS

7.00 Burning leaves, brush, clean wood and other vegetative debris. Open burning of leaves, weeds, brush, stumps, clean wood trimmings (less than six (6) inches in diameter) and other vegetative debris is allowed only in accordance with the following provisions:

- a. Open burning shall be conducted only on the property on which the materials were generated.
- b. Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance, with notification to the Walworth County Sheriff's Department Dispatch at 262-741-4400, and the Elkhorn Area Fire Department at 262-723-2277.
- c. Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the Fire Chief and if in accordance with other provisions of this ordinance.
- d. Open burning under this section shall only be conducted at a location at least 30 feet from the nearest building, and at least 30 feet from the adjacent lot line.
- e. No open burn shall exceed four (4) feet square and four (4) feet in height.
- f. Open burning shall only be conducted Monday through Sunday between the hours of 10:00 AM to 7:00 PM.
- g. Open burning shall be constantly attended and supervised by a sober competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available a water supply for use and such fire extinguishing equipment as may be necessary for the total control of the fire, within a radius of seventy-five feet around the fire or burning activity.
- h. Open burning shall not be conducted when the wind speed exceeds 10 miles per hour.

SECTION 8: BURN BARRELS

8.00 Burn barrels. A burn barrel may be used in the Town only in accordance with the following provisions:

- a. The burn barrel shall not be used to burn any of the prohibited materials listed in Section 6 of this ordinance and may only be used in accordance with the provisions of Section 7 of this ordinance.
- b. The burn barrel shall be located at least 30 feet from the nearest building that is not on the same property as the burn barrel.
- c. The burn barrel shall have vent holes not greater than $\frac{1}{4}$ (.25) square inch (.5"x.5" square, or 13"/16" round), located above the ash line for combustion air and shall be covered with a heavy wire screen with the openings not greater than $\frac{1}{4}$ (.25) square inch. The burn barrel shall not exceed 55 gallons.

- d. No burn barrel shall be used or located upon the premises of a commercial enterprise.
- e. A burning permit is not required for burning in a barrel when such burning takes place during the hours set forth in section 7(f) and the burn barrel meets the specifications of section 8(c).

SECTION 9: FIRE DEPARTMENT PRACTICE BURNS

9.00 Fire department practice burns.

Notwithstanding sections 5 and 6 of this ordinance, the Elkhorn Area Fire Department or another Fire Department having jurisdiction in the Town, alone or in conjunction with Gateway Technical College may burn a standing building if necessary for firefighting practice and if the practice burn complies with the requirements of the Department of Natural Resources.

SECTION 10: EXEMPTION FOR BURNING CERTAIN PAPERS

10.00 Exemption for burning certain papers.

- a. Notwithstanding Subsection 6 of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance.
- b. 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. Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.
- d. A fire set for burning of a small quantity of confidential papers shall be subject to and comply with Section 7 of this ordinance.

SECTION 11: BURNING PERMITS

11.00 Burning Permits.

- a. No person shall start or maintain any open burning without a burning permit issued by the Town of Sugar Creek and approved by the Elkhorn Area Fire Department.
- b. An outdoor campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.
- c. The cost of the permit shall be \$50.00.

- d. Any person who burns leaves, brush, clean wood or other vegetative debris under Section 7 of this ordinance shall obtain a burning permit from the Town of Sugar Creek. Permits shall not be issued without 72 hours' notice of any burning occurring.
- 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 ordinance and any additional special restrictions deemed necessary to protect public health and safety.
- g. Burning permits shall not be issued when sustained wind speeds greater than 10 mph or sustained winds of lesser speed gust to 15 mph or more. All previously issued burning permits become invalid when those conditions exist.
- h. Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

SECTION 12: LIABILITY

Liability. Any person who starts or uses an outdoor fire shall be liable to the Elkhorn Area Fire Department for all fire suppression costs if the fire is in violation of this ordinance or it endangers property not covered by the permit or persons.

SECTION 13: PERMISSION OF OWNER OR LESSEE REQUIRED FOR FIRES.

No person shall set, kindle or maintain or cause to be so any fire, or otherwise authorize such fire to be set, kindled or maintained on any public property or on any private property except: (1) property owned by the person; (2) property leased to the person; or (3) property owned by another with that owners written consent.

SECTION 14: RIGHT OF ENTRY AND INSPECTION

Right of entry and inspection. The Fire Chief or any person designated by the Fire Chief, or any authorized officer, agent, employee or representative of the Town may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

SECTION 15: ENFORCEMENT, PENALTIES AND FEES

Enforcement and penalties.

- a. The Fire Chief or his designee, or any Fire Warden appointed by any agency of the State of Wisconsin or the Town or any person authorized by the Town is authorized to enforce the provisions of this ordinance.
- b. The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than \$100 or more than \$300 plus the cost of prosecution.
- c. Burning permit fees and annual burn barrel permit fees shall be established by the Town.

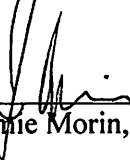
Adopted this 18th day of December, 2023.

TOWN OF SUGAR CREEK




David Robers, Chairperson

(Seal)



Jamie Morin, Supervisor #1



David Clarbour, Supervisor #2

I, Roxanne Johnson, Clerk of the Town of Sugar Creek, Walworth County, Wisconsin, certify that the foregoing is a true, correct and complete copy of an ordinance adopted by the town board of the Town of Sugar Creek on December 18, 2023.

Attest: 

Roxanne Johnson, Clerk