

ORDINANCE 2022-05  
BURNING ORDINANCE

The Town Board of the Town of Elba, Dodge County, Wisconsin, pursuant to section 60.555 of the Wisconsin Statutes, by this ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, resolves and orders as follows:

1. OUTDOOR BURNING RESTRICTIONS

(1) Outdoor Burning Prohibited: No person shall cause, allow, or permit outdoor burning of refuse, garbage, plant life or other combustible material within the Town, except as permitted under subsection (2).

(2) Exceptions: A person shall be permitted to perform outdoor burning within the Town if any of the following apply:

(a) Outdoor burning in connection with the preparation of food or recreational activities.

(b) Small outdoor flames for welding, acetylene torches, safety flares, heating tar or similar applications.

(c) Any outdoor burning which does not exceed 12 feet in diameter.

(d) Any outdoor burning which exceeds 12 feet in diameter for which the person performing the outdoor burning has contacted Dodge County Sheriff's Office Dispatch non-emergency line, currently 920-386-3729, in advance of the burning.

(e) A fire set for the purpose of training public or private firefighting personnel.

(f) A fire set or required by a public officer for the abatement of nuisances, and which is necessary in carrying out public health functions.

(3) Placement: Any outdoor burning must be located at least ten (10) feet from property lines and at least ten (10) feet from any building or structure. However, outdoor burning may occur closer to a property line, or across a property line, with the consent of the adjoining landowner.

(4) Nuisance to be Extinguished: Notwithstanding subsection (2), any fire deemed to be a public health nuisance by the Fire Chief or his or her designee shall be extinguished immediately.

(5) Emergency Provisions: Notwithstanding any other provision to the contrary, the Fire Chief, in time of extreme dryness or drought, deficiency in the water supply or by reason of any other emergency is authorized to prohibit the setting of any or certain fires upon any lands within the Fire Chief's jurisdiction in the Town by providing published notice of the declared emergency and the scope of the declaration on the date that the emergency is declared to begin. Further, during any response to a fire emergency, the Town of Elba's designated Fire Departments have the authority to order whatever is necessary and expedient for the health, safety, welfare, and

good order of the Town of Elba, including restriction and removal of unnecessary traffic, vehicular, or pedestrians.

(6) Modifications: The Fire Chief shall have power to modify any of the provisions contained in this ordinance upon application in writing by the owner or the lessee, of his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the ordinance, provided that public safety be secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Fire Chief thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

(7) Control of Outdoor Burning: No person shall allow any outdoor burning to become a public health nuisance.

(8) Penalty: Any person who shall violate any of the provisions of this ordinance or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall fail to comply with orders of the Fire Chief shall be subject to a forfeiture of not less than \$200.00 and, in addition, for the actual costs and expenses incurred by the Town in relation thereto, including, but not limited to, the costs of prosecution.

(9) Fire Chief Jurisdiction: In this ordinance, any provision referring to the Fire Chief shall refer to the Chief of the Fire Department that has jurisdiction of the portion of the Town of Elba that is involved with this ordinance.

10) Responsibility for Costs: In addition to the penalty provided under subsection (8), any person who violates any of the provisions of this ordinance through a negligent or intentional act, as determined in the sole discretion of the Fire Chief, thereby creating a situation requiring an emergency response from the Fire Departments, shall be liable for all direct and indirect costs incurred by the Town's Fire Departments in responding to the situation created by the person. In the event that the person creating the situation is a minor, the parents of the minor shall be responsible for such direct or indirect costs. If more than one person is responsible for the creation of the situation, then each person shall be jointly and separately liable for the direct and indirect costs incurred by the Town's Fire Departments. The rights conferred by this section are in addition to any statutory or common law rights available to the Town to seek recovery of costs.

(11) Severability: If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

(12) The Fire Chief will require approval of the Town Board for modifications or enforcements of this ordinance.

The Town Clerk shall publish this resolution under section 60.80 of the Wisconsin Statutes. This ordinance shall become effective upon adoption by the Town Board and the forfeiture penalties shall become effective upon publication.

This ordinance is effective on publication or posting.

The town clerk shall properly publish this ordinance as required under s. 60.80 Wis. stats.

Adopted this 19<sup>th</sup> day of July 2022.

Attest:

Lai Koenig-Fry

Town Clerk

John V. Dole  
Chairman

[Signature]  
Supervisor

Roll Call Vote

Yes – Paul

Yes – Peter

Yes - Jerry

[Signature]  
Supervisor