

ORDINANCE NO. 2011- 4

**AN ORDINANCE REGULATING OPEN BURNING, OUTDOOR  
BURNING, AND REFUSE BURNING**

**WHEREAS**, the Town Council of the Town of Elberfeld, Indiana has determined that it is in the best interest of the health, safety and welfare of the Town of Elberfeld, Indiana to regulate open burning, outdoor burning and refuse burning to control air pollution and fire hazards;

**THEREFORE, BE IT ORDAINED BY** the Town Council of the Town of Elberfeld, Indiana as follows:

**Section 1: Applicability**

As set forth in Section 3, this Ordinance applies to all outdoor burning and refuse burning within the Town of Elberfeld, with the following exceptions:

(a) This Ordinance does not apply to grilling or cooking using charcoal, clean 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 2 of this Ordinance.

(c) This Ordinance does not apply to outdoor fire pits for heating using clean wood, charcoal, propane or natural gas, in a noncombustible container that is sufficiently vented to induce adequate combustion and has enclosed sides, a solid bottom, and a mesh cover. All fire pit fires must be attended at all times. The fire pit size is limited to 36 inches in diameter, if circular, or 36 inches on each side, if rectangular. The fire pit container must either be elevated or placed on a surface having no vegetation or combustible material. Concrete, asphalt, gravel, brick, stone or concrete pavers, or similar surfaces, are acceptable.

(d) This Ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene, in a device that is intended for heating, construction or maintenance activities.

**Section 2: Definitions**

For the purpose of this Ordinance, the following definitions will apply:

(a) "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.

(b) "Fire Chief" means the Chief of the Elberfeld Volunteer Fire Department.

(c) "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.

(d) "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.

(e) "Outdoor-Wood Fired Furnace" means a furnace, stove or boiler intended for burning clean wood that is not located in a building intended for habitation by humans or domestic animals .

(f) "Refuse" means any waste material except clean wood.

### **Section 3: Open Burning, Outdoor Burning and Refuse Burning Ban**

Unless otherwise permitted in this Ordinance, open burning, outdoor burning and refuse burning, including leaves, weeds, brush, stumps, trees and other vegetated debris, are prohibited within the Town of Elberfeld.

### **Section 4: Materials That May Not be Burned**

The following materials may not be burned under any circumstances within the Town of Elberfeld:

(a) Rubbish or garbage including, but not limited to, food waste, food packaging, animal carcasses, any painted materials, furniture, composite shingles, construction or demolition debris, or other household or business waste;

(b) Asphalt and products containing asphalt;

(c) 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;

(d) Any plastic materials, including but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, synthetic fabrics, plastic films and plastic containers;

(e) Rubber including tires and synthetic rubber like products;

(f) Newspaper, corrugated cardboard, container board, office paper and other materials.

### **Section 5: Outdoor Wood Fired Furnaces**

Outdoor wood fired furnaces shall not be used to burn any of the prohibited materials listed in Section 3 and Section 4 of this Ordinance.

## **Section 6: Fire Department Practice Burns**

Notwithstanding Section 3 and Section 4 of this Ordinance, the Elberfeld Volunteer Fire Department may burn a standing building for firefighting practice if the practice burn complies with the requirements of the Indiana Department of Natural Resources and the Department of Environmental Management. At least 14 days before the planned practice burn, the Fire Chief or designee shall make available at common and public places a notice of "live burn" including the day, place and time that the burn is to take place.

## **Section 7: Right of Entry and Inspection**

The Elberfeld Town Marshall's Office or the Fire Chief may inspect any property for the purpose of ascertaining compliance with the provisions of this Ordinance.

## **Section 8: Costs of Fire Suppression**

A person utilizing or maintaining an outdoor fire in violation of this Ordinance shall be responsible for all fire suppression costs incurred by the Elberfeld Volunteer Fire Department.

## **Section 9: Enforcement and Penalties**

(a) The Elberfeld Town Marshall and the Elberfeld Fire Chief are authorized to enforce the provisions of this Ordinance.

(b) A person who violates this Ordinance shall be subject to the following fines:

First offense: \$100.00

Second offense: \$200.00

Third and subsequent offenses: \$250.00

## **Section 10: Legal Action**

In the event the person who violates this Ordinance refuses to pay the costs set out in Section 8 or the fines set forth in Section 9, the Town of Elberfeld may initiate legal action for collection of this debt, including attorney fees.

## **Section 11: Severability**

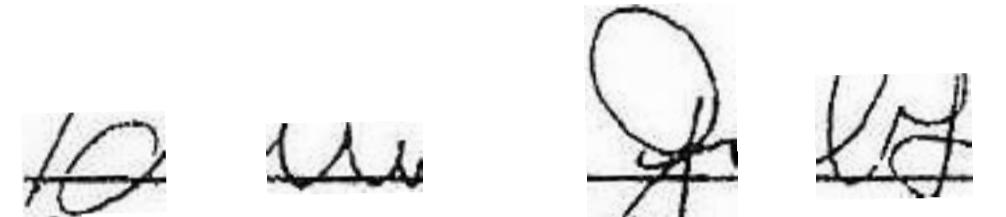
Should any portion of this Ordinance be declared unconstitutional or otherwise invalid by a court of common jurisdiction, the remainder of this Ordinance shall not be affected.

**Section 12: Conflicting Ordinances**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**PASSED AND ADOPTED** by the Town Council of the Town of Elberfeld,  
Indiana, this 18 day of July, 2011.

ELBERFELD TOWN COUNCIL

  
Steve Gibson, President

  
Duane Erwin, Councilman

  
Scott Dowers, Councilman