

ORDINANCE NO. 2020-4
AN ORDINANCE AMENDING SECTION 8.25
OF THE TOWN OF EAST TROY MUNICIPAL CODE

The Town Board of the Town of East Troy, Walworth County, Wisconsin, does hereby ordain as follows:

1. That Chapter 8.25 of the Town of East Troy Municipal Code is hereby recreated in its entirety to read as follows:

Chapter 8.25 Outdoor and Refuse Burning.

8.25.010 Authority

This regulation is adopted under the statutory authority granted pursuant to the Wisconsin Statutes including, but not limited to, regulation of hazardous substances §167.11; negligent handling of burning material §941.10; town fire protection §60.55; town fire safety regulations §60.555; reimbursement for fire calls on town highways §60.557; and special inspection warrants under Section 66.0119 of the Wisconsin Statutes.

8.25.020 Purpose

The purpose of this Code section is to promote the public health, safety and general welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of Town of East Troy due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

8.25.030 Force and Effect

This Chapter of the Town of East Troy Municipal Code applies to all lands in the Town of East Troy, Walworth County, Wisconsin. If the provisions of this Code conflict with County, State or Federal Regulations, the most restrictive shall apply.

8.25.040 Severability

Should any portion of this ordinance Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance Chapter shall not be affected.

8.25.050 General prohibition on outdoor burning and refuse burning

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

8.25.060 Materials that may not be burned

8.25.0605. 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 without a permit. The Town of East Troy will not issue any permit, if required, 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:

8.25.0610. 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.

8.25.0615. 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.

8.25.0620. Asphalt and products containing asphalt.

8.25.0625. 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.

8.25.0630. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, films and containers.

8.25.0635. Rubber including tires and synthetic rubber-like products.

8.25.0640. Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance except as provided in Section 8.25.100 of this ordinance.

8.25.0645. No fire shall be started or permitted to continue when wind conditions create an unreasonable risk of carrying hot embers or other burning materials onto neighboring properties, which shall be presumed to occur during times when winds are forecasted to exceed ten (10) miles per hour.

8.25.0650. Owner permission required. No person shall go upon the property of another and start any fire of any kind without permission from the owner and compliance with this ordinance.

8.25.0655. Offensive odor or smoke. No person shall burn garbage, trash, wet or green yard waste, or any other substance emitting any offensive odor or smoke within the Town of East Troy.

8.25.0670. Burning close to Town property or water courses. No person shall burn any leaves, grass, brush, or construction materials within fifteen (15) feet of any Town sidewalk, street, road, building, or roadside ditches, or culverts. No person shall burn any materials near any intermittent water courses or surface waters so as to allow for ash runoff into surface waters.

8.25.0675. A person wishing to burn any material that is not allowed to be burned in this Chapter shall be required to apply for a permit to be issued by the Chief of Police for the Town of East Troy on a permit form approved by the Police Department. If the Police Chief determines that a permit can safely be issued, and permission has already been granted by the Department of Natural Resources, a permit may be issued upon the payment of the permit fee established by the Town Board. No burn permit is required for the burning of materials otherwise conditionally permitted in this Chapter.

8.25.070 Burning leaves, brush, clean wood and other vegetative debris

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

8.25.0705. 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.

8.25.0710. Except for barbecue, gas and charcoal grills, 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.

8.25.0715. Open burning shall be conducted only on the property on which the materials were generated or at a facility approved by and in accordance with provisions established by the Department of Natural Resources and the Fire Chief.

8.25.0720. Unless explicitly allowed elsewhere in this ordinance, a commercial enterprise other than an agricultural or forest management operation may open burn only at a facility approved by and in accordance with provisions established by the Department of Natural Resources and the Fire Chief.

8.25.0725. Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.

8.25.0730. Fires set for forest or wildlife habitat management are allowed with the approval of the Department of Natural Resources.

8.25.0735. 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 barrel, fire ring, or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief, if any, and this ordinance, to wit: bonfires shall be limited to natural wood or natural products with the base of the fire not to exceed thirty six (36) inches in diameter, with the flames not exceeding thirty six (36) inches in height. All bonfires, including the use of, but not limited to fire pits, or free standing fire containers shall be no less than twenty five (25) feet from any combustible material or structure. Free standing fire containers shall not be on any deck made of combustible materials that is adjacent or connected to any portion of any type of structure.

8.25.0740. 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.

8.25.0745. Burning in emergency situations such as natural disasters is allowed if approved by the Department of Natural Resources.

8.25.0750. Except for bonfires, open burning under this section shall only be conducted at a location at least 250 feet away from the nearest building that is not on the same property.

8.25.0755. Except for campfires at one of the camps located within the Town of East Troy and permitted bonfires, open burning shall only be conducted between the hours of noon and 6:00 PM.

8.25.0760. 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. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

8.25.0765. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.

8.25.0770. Except for barbecue, gas and charcoal grills, no burning shall be undertaken within 25 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.

8.25.080 Burn barrels

A burn barrel may be used in the Town of East Troy only in accordance with the following provisions:

8.25.0805. The burn barrel shall not be used to burn any of the prohibited materials listed in Section 8.25.060 of this ordinance and may only be used in accordance with the provisions of Section 8.25.100 of this ordinance.

8.25.0810. The burn barrel shall be located at least 250 feet away from the nearest building that is not on the same property as the burn barrel.

8.25.0815. The burn barrel shall have vent holes above the ash line for combustion air and shall be covered with a heavy wire screen.

8.25.0820. The burn barrel shall not serve a business.

8.25.090 Fire department practice burns

Notwithstanding any provision of this ordinance to the contrary, the East Troy Area Emergency Services District or any entity providing fire protection services to the Town, may burn a standing building if necessary for fire-fighting practice and if the practice burn complies with the requirements of the Department of Natural Resources.

8.25.100 Exemption for burning certain papers

8.25.1005. Notwithstanding Subsection 8.25.060 of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance

8.25.1010. 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.

8.25.1015. Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.

8.25.1020. A fire set for burning of a small quantity of confidential papers shall be subject to and comply with all safety provisions of this ordinance.

8.25.110 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.

8.25.120 Right of entry and inspection

The Fire Chief or any authorized officer, agent, employee or representative of the East Troy Area Emergency Services District, or any other entity providing fire protection services to the Town of East Troy, 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.

8.25.130 Enforcement and penalties

8.25.1305. The Fire Chief, Police Chief and his department, and the Town Chairman are authorized to enforce the provisions of this ordinance.

8.25.1310. The penalty for violation of any portion of this ordinance shall be a forfeiture of not less than fifty (\$50), nor more than five hundred (\$500) per incident. Penalties are doubled for second and subsequent offenses.

8.25.140 Fire District Fees

The Fire District may charge fees which bear a reasonable relationship to the Fire District's costs for any costs incurred in responding to a call for an uncontained fire.

Dated this 19th day of October, 2020.

TOWN OF EAST TROY

BY: _____
JOSEPH KLARKOWSKI, Chairman

ATTEST:

KIM BUCHANAN, Clerk