

ORDINANCE NO. 3 -2023

BURN ORDINANCE

WHEREAS, the Town Board of the Town of Roann is the Town legislative body and is by law authorized to adopt ordinances and resolutions for the performance of functions for the Town of Roann;

WHEREAS, the Town Board of the Town of Roann, Indiana deems it to be within the public interest to further the public safety, health, welfare, general aesthetics, and common good with the Town of Roann to establish an ordinance governing open burning within the Town limits;

This article 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 Roann, Indiana due to air pollution and fire hazards of open burning, outdoor burning and refuse burning.

**Applicability**

This article applies to all outdoor burning and refuse burning within the Town of Roann. This Ordinance does not apply to the following activities:

- (1) Outdoor grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances;
- (2) Burning in a stove, furnace, fireplace or other heating device located within a building used for human habitation or occupation unless the material being burned includes refuse as defined herein; or
- (3) The use of propane, acetylene, natural gas, heating oil, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

**Definitions**

For purposes of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Barbecue grill. A stationary or portable device, with either electric, gas, clean wood or charcoal fuel, used for the preparation of food.

Campfire or recreational fire means small outdoor fire intended for recreation or cooking, not including a fire intended for disposal of waste-wood or refuse. It is the burning of clean wood products where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit. A recreational or campfire shall have a total fuel area no greater than 36 inches in diameter and a fuel load not to exceed two feet in height. A non-combustible fire ring shall be placed stationary around all campfires/recreational fires.

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. It includes untreated and unpainted lumber or natural wood other than leaves and vines.

Fire chief means Chief of Roann Volunteer Fire Department, or other person authorized by the fire chief.

Hazardous condition. A situation where the fire department officer in charge determines that the fire may be capable of spreading or damaging other property or that the smoke emissions may be offensive to occupants of surrounding property.

Open burning means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air. It includes any burning of combustible materials out of doors. Also, the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the air, without passing through a stack or chimney from an enclosed chamber.

Outdoor burning means open burning or burning in an outdoor furnace.

Outdoor furnace means a furnace, stove, boiler or similar device, or any part thereof, designed for burning wood, coal, corn, or any other combustible material, to produce heat or energy used as a component of a heating system providing heat for interior space or water source, and that is not located within a building intended for habitation or occupation by humans.

Pit. A pit which is a sizeable hole, usually in the ground, where wood or charcoal is burned to make a bed of hot coals suitable for barbecuing meat.

Refuse means any waste material except clean wood. It includes but is not limited to garbage, rubbish, paper, leaves, grass, trade waste, trash, plastics or other waste products.

Smoke nuisance. Smoke emissions may be deemed a nuisance when a complaint is received that the smoke emissions are offensive to the complaining party.

### **General prohibition on outdoor burning and refuse burning.**

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

No person shall start, kindle, cause, allow, or maintain any form of open burning of any materials on private or public property, except as specifically authorized by this ordinance. No person shall allow the accumulation or existence of combustible material that constitutes or contributes to open burning.

### **Materials that may not be burned.**

Unless a specific written approval has been obtained from the Indiana Department of Environmental Management, or other appropriate state or federal agency, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove, or other indoor or outdoor incineration or heating device:

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(1) Refuse, 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.

(2) Waste oil or other oily wastes, unless otherwise permitted by the Indiana Department of Environmental Management.

(3) Asphalt and products containing asphalt.

(4) 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.

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

(6) Rubber, including tires and synthetic rubber-like products.

(7) Newspaper, corrugated cardboard, container board and paper products. Notwithstanding the foregoing provisions, small quantities of newspaper, paper and cardboard products may be used as starter fuel for any fire that is permitted under this article.

#### **Open burning of leaves, brush, clean wood and other vegetative debris.**

Open burning of leaves, weeds, brush, stumps, clean wood, trees and other vegetative debris is prohibited within the Town of Roann, except as specifically permitted by this article.

#### **Open burning exemptions.**

The following types of open burning are permitted:

- (1) Campfires;
- (2) Recreational fires, such as bonfires, ceremonial fires, and scouting or similar activities;
- (3) Maintenance by Town of Roann Street Department
- (4) Burning by a volunteer fire company or other duly constituted fire department of a municipality for the purpose of firefighting training, subject to approval by Indiana Department of Environmental Management pursuant to 326 I.A.C. 4-1-4.

(5) Emergency burning of refuse consisting of material resulting from a natural disaster or other similar occurrence when authorized by proclamation of the town council president, subject to approval by the Indiana Department of Environmental Management pursuant to 326 I.A.C. 4-1-4.1, and to such restrictions as may be imposed by the fire chief.

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### **Restrictions on burning exemptions.**

All burning conducted under one or more of the burning exemptions contained hereinabove, shall be subject to the following:

- (1) Only clean wood shall be burned unless otherwise stated.
- (2) All fires shall be attended at all times until completely extinguished.
- (3) In the event a fire creates a pollution problem, threat to public health, a nuisance or a fire hazard, as determined by the fire chief, his designee, or the Town Marshal, the fire shall be immediately extinguished.
- (4) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, drought, and similar circumstances, when so declared by the fire chief, town council president, county of Wabash, or appropriate State agency.
- (5) All burning shall comply with all other applicable federal or state laws, rules and regulations.
- (6) A garden hose connected to a water supply, buckets, shovel, fire extinguisher or other approved fire-extinguishing equipment shall be readily available at the burn site.
- (7) A permit shall be required for bonfires, and large ceremonial fires and shall be obtained from the fire chief or designee, at least 24 hours in advance of the permitted open burning. Despite the foregoing, the fire chief or designee, is hereby given discretion to waive the 24-hour advance request requirement. The permit may contain additional requirements, shall be in writing and signed by the fire chief, or designee. The permit shall be kept at the location of the permitted fire and presented upon request. Notwithstanding the foregoing, a person planning on or desiring to undertake recreational campfires for scouting or family cookout activities shall not be required to obtain a burn permit for such activities.
- (8) The fire shall be attended by a responsible party at all times until completely extinguished.
- (9) If open burning creates a smoke nuisance, or a hazardous condition exists, the open burning shall be immediately extinguished.
- (10) A fire shall be located at least 10 feet away from any structure, fence or right-of-way.

### **Burn barrels.**

No person, firm or other entity shall use or maintain a burn barrel in the Town of Roann, except for personnel of the Town of Roann Street Department for maintenance responsibilities.

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### **Liability.**

Any person who conducts outdoor burning shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

### **Right of entry and inspection.**

The Fire Chief or designees, the Town Marshal of the Town of Roann who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this article. If, upon request of the inspecting officer, the responsible party refuses to extinguish the fire, the fire department shall be summoned to the location to extinguish the fire at that time.

### **Enforcement and penalties.**

The Fire Chief and designee, or the Town Marshal, are authorized to enforce the provisions of this article. Any person, firm or other entity in violation of any portion of this article shall be subject to fines in the sum of \$50.00 for the first offense, \$100.00 for the second offense, and \$200.00 for the third or subsequent offense occurring in a calendar year all together with the attorney fees incurred by the town, provided that the fine and attorney fees shall not exceed \$2,500.00 for each violation. Said fine shall be paid to the Roann Town Clerk-Treasurer within ten (10) days of receipt of the notice of violation. Every day, or part thereof, that a violation continues in existence constitutes a separate violation for which the penalties provided for herein may be imposed. In addition to civil penalties, the appropriate enforcement officers of the town may seek injunctive relief.

### **Appeal.**

Any person who receives notice of a violation of this Ordinance, may appeal. Such appeal shall be made in writing and shall be delivered personally to the Roann Town Board in care of the Roann Clerk-Treasurer within not more than seven (7) days from the date the notice of violation was received. The Roann Town Board shall conduct a hearing on said appeal at the next regularly scheduled board meeting. An appeal properly submitted under this Section shall extend the time for payment of the fine imposed herein until a determination is made by the Board at said hearing.

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This ordinance shall be in full force and effect from and after its passage by the Town Board.

Dated this 11<sup>th</sup> day of December, 2023.

TOWN OF ROANN

  
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JERRY NELSON, President

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NEIL BEVER, Board Member

  
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JEREMY FISHER, Board Member

**ATTEST:**

  
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ROBERT M. FERGUSON, JR.  
Clerk-Treasurer, Town of Roann