

TOWN OF DILLSBORO ORDINANCE 2024-~~X~~ 10 - 2

An Ordinance Regarding Open Burning and Fire Prevention in the Town of Dillsboro

WHEREAS, the Dillsboro Town Council has authority of pass local ordinances to ensure the health safety and welfare of its citizens; and

WHEREAS, regulation of open burning and the use of outdoor fire sources is necessary to prevent fires and minimize noxious smoke an odors in the community;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL, TOWN OF DILLSBORO:

§ 95.01 DESIGNATION OF CHAPTER.

This chapter shall be known and designated as the “Fire Prevention” Ordinance.

§ 95.02 DEFINITIONS.

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

BARBEQUE PIT, SMOKER, OR GRILL. A stationary or portable device, with either electric, gas, wood, or charcoal fuel, which is used for the preparation of food and is allowed by code.

FIRE PIT REGULATIONS. Regulations governing the use of fire pits and outdoor fireplaces to ensure safety, prevent fires and minimize nuisance to neighbors.

FIRE PITS. A permanently affixed or portable outdoor fire receptacle, which is made of metal, wire, or masonry and is designed to impede the spread of fire.

OPEN BURNS. Any fire or smoke-producing activity that is conducted for use of disposing of materials in a place other than an indoor or outdoor fireplace; fire pit; or barbeque pit, smoker, or grill.

OUTDOOR FIREPLACE. An enclosed and permanently affixed outdoor fire receptacle, which incorporates an affixed chimney or flue, and is constructed of brick, rock, or other masonry.

§ 95.03 OPEN BURNING

(A) No person shall start, kindle, cause, allow or maintain any form of open burning of fuels, materials, rubbish, or trash burning on private or public property, except if specifically authorized by this code. Open burns are prohibited unless a permit is obtained from the Fire Chief or, in his or her absence, an appointed representative.

(B) Permits. Permits for open burns must be kept at hand with the attendee of the burn on the premises. Upon obtaining a permit, open burns shall be limited to the following specifications:

(1) Only limbs, natural growth and other vegetative materials are permitted to be burned, except for treated lumber (pressure treated railroad ties).

(2) Open burns of vegetative matter grown on the premises in the course of agricultural operations, when it can be shown that such open burning is necessary and that no fire hazard will occur, provided the person intending to dispose of vegetative matter by open burning obtains approval from the Fire Department which has jurisdiction.

(3) Open burns are only permitted during favorable weather conditions at the discretion of the Fire Chief and/or his or her officers.

(4) Open burns must be at least 50 feet from any structure or trees.

(5) The Fire Chief or his/her officers can terminate any open burn at any time, if the Fire Chief or an officer determines in his/her sole discretion that the open burn is a nuisance to other residents or poses a danger.

(6) All open burns must be attended to at all times by an adult with a reliable water source, shovel, fire extinguisher or other approved fire extinguisher close at hand.

(C) Prohibited. The following is prohibited.

(1) Burning of any fuels, plastics, garbage, or other non-vegetative based material.

(2) No person shall burn or cause to be burned any leaves, grass, tree limbs, branches, paper, rubbish or trash upon any street, alley, or sidewalk within the town.

(3) Barrels: burning of any material in barrels is prohibited.

(D) Exceptions. The Fire Chief has discretion to issue burn permits for open burns that violate this section under special circumstances (i.e. ceremonies, school events, etc.).

§ 95.04 FIRE PITTS.

(A) The use of fire pits and outdoor fireplaces (collectively “fire pits” hereafter) are to conform with the following regulations:

- (1) Fire pits cannot be used between the hours of 1:00 a.m. and 7:00 am.
- (2) The fire must be contained in a non-combustible receptacle made of cement, block, rock, brick, clay, or sheet metal with a minimum 18-gauge thickness.
- (3) The fire box must be covered with heavy gauge metal screen with openings not larger than 13 mm (½ inch) to contain spark.
- (4) The size of the fire box shall not exceed 40 inches in any dimension.
- (5) The fire pit must be located a minimum of 20 feet from any combustible material, such as buildings, porches, and decks.
- (6) The use of the fire pit shall not cause any building fire alarm system to activate.
- (7) Fire pits cannot be placed on combustible decks or apartment balconies.
- (8) Fire pits must be situated on a non-combustible surface.
- (9) Fire pits shall be clear of overhangs, such as tree branches, utility lines and structures, including tents and canopies.
- (10) Fire pits must be attended and supervised by a competent adult property owner/resident/tenant until the fire has been completely extinguished. A legal resident/tenant of a property may use a fire pit in accordance with this section as long as the property owner or assigned management company grants written permission to the legal resident/tenant.
- (11) Any person who uses a fire pit shall have a means of extinguishing the fire readily accessible at all times.
- (12) The only permitted fuels are charcoal, seasoned firewood or manufactured logs.
- (13) Materials that cannot be burned include, but are not limited to: waste including rubbish or scrap, slimes, manure, treated or painted lumber, livestock or animal carcasses, tailings, garbage, garden refuse or scrap, any hazardous material or dangerous good, or any material that generates black smoke or an offensive odor, including insulation from electrical wiring, rubber tires, asphalt shingles, hydrocarbons, plastics, and lumber treated with wood preservatives.
- (14) Fire pits shall not be used in windy conditions where wind speed exceeds 15 miles per hour.

(15) In the event the Fire Chief, County Commissioners, or State Fire Marshal issues a burn ban, the standards of the burn ban supersede these regulations.

§ 95.05 EXCEPTIONS.

BARBEQUE PITs, SMOKERs, and GRILLs which are not on balconies of any apartment complex or within a Fire Zone Limit should one exist are exempt from these regulations.

§ 95.06 ENFORCEABILITY.

The Fire Prevention ordinances are enforceable by the Dillsboro Police Department and the Dillsboro Fire Department within the town, acting on their own initiative or at the request of the Common Council.

§ 95.07 LIABILITY.

(A) Anyone who recklessly, knowingly, or intentionally kindles, or maintains any open burning consisting of a trash fire, leaf fire, bonfire, refuse fire, or other open burning that damages property of another person or spreads to property of another person may be liable for criminal mischief.

(B) Any person who allows the accumulation or existence of combustible material which constitutes or contributes to open burning may not refute liability for violation of this chapter on the basis that said fire was set by vandals, accidental, or act of God.

(C) Any person who violates any of the provisions of this chapter or fails to comply therewith, or who shall violate or fail to comply with any order made hereunder shall be fined a sum not less than \$25 nor more than \$75. Any person who violates any of the provisions of this chapter or fails to comply therewith, or who shall violate or fail to comply with any order made hereunder, and who has a previous violation of this chapter within one year of the date of the second or subsequent violation, shall be fined a sum of not less than \$100 and not more than \$1,000.

**DILLSBORO, INDIANA
TOWN COUNCIL**

Date: October 14, 2024

Charlie Caldwell
CHARLIE CALDWELL

- Aye
- Nay
- Abstain

Tim Benning
TIM BENNING

- Aye
- Nay
- Abstain

Doug Baker
DOUG BAKER

- Aye
- Nay
- Abstain

Becky Fryman
BECKY FRYMAN

- Aye
- Nay
- Abstain

Jeri Jackson
JERRI JACKSON

- Aye
- Nay
- Abstain

ATTEST:

Rita Stevens
RITA STEVENS
Clerk-Treasurer
Town Council, Town of Dillsboro