

ORDINANCE NO. 2004-4

PROHIBITING AND REGULATING
OUTDOOR BURNING AND OPEN FIRES

WHEREAS, Indiana Code Sections 36-1-3-1 et. Seq. permit any town in the State of Indiana to exercise any power or perform any function necessary to the public interest in the context of its municipal or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS, the Town of Millersburg, Elkhart County, State of Indiana, is authorized pursuant to Indiana Code Section 13-17-12-1 to enact ordinances regulating air pollution;

WHEREAS, a need exists requiring the regulation of open burning in the Town of Millersburg, Indiana, in Elkhart County;

WHEREAS, the State of Indiana has adopted specific standards contained in 326 IAC 4-1-1 et. Seq. which apply everywhere throughout the State of Indiana;

WHEREAS, the Town of Millersburg, Indiana believes that the adoption of local standards by way of local ordinance shall enhance the quality of air in the Town of Millersburg, Indiana and the enforceability of the State standards and regulations;

NOW, THEREFORE, BE IT ORDAINED, ORDERED, AND RESOLVED by the Town Council of the Town of Millersburg, Indiana, as follows:

SECTION 1 APPLICATION:

All outdoor burning of any material is hereby banned and declared unlawful within the municipal corporate limits of the Town of Millersburg, Indiana except as provided in Section Two (2) below which is consistent with, but not inclusive of, the exceptions under 326 IAC 4-1-3.

SECTION 2 EXCEPTONS:

- (A) The following types of fires are permitted subject to the limitations contained below in subsection (B):
- (1) Persons may address the Town Council at a scheduled or special Town Council meeting, to request a special need or circumstance for a fire, and must be approved by the Town Council as a whole. This approval can be rescinded by the Town Council as a whole at anytime.

- (2) Campfires; It is permitted to have campfires that are contained or enclosed on all sides by stones or metal ring, providing that the fire is of all natural wood, and flames are limited to no higher than three(3) feet.
 - (3) Farm burning and burning by the Department of Natural Resources as allowed by 326 IAC 4-1-3.
 - (4) Burning with prior receipt of a variance application and approval of the Indiana Air Pollution Control Board or its designated agent as allowed by 326 IAC 4-1-4.
 - (5) Use of charcoal and or natural wood may be used in designated **cooking grills located at the town parks, but not on the ground or in any building under park control, unless permitted by park department and or Town Council as a whole.**
 - (6) Use of charcoal and or natural wood may be used in cooking grills **at private residences.**
- (B) ALL permitted fires shall be subject to the following limitations:
- (1) Only untreated wood products shall be burned unless otherwise stated.
 - (2) Fires shall be attended at all times until completely extinguished.
 - (3) If a fire creates an air pollution problem, a nuisance, a health hazard, or a fire hazard, it shall be **extinguished.**
 - (4) All farm burning shall occur between the hours of 12:00 o'clock noon and 6:00 p.m. during which times the fire may be replenished, but only in such manner that all of the burning material is consumed by 6:00 o'clock p.m.
 - (5) No burning shall be conducted unless the wind is at least five (5) mph and no more than fifteen (15) mph.
 - (6) No burning shall be conducted on property owned by another **party, to include public owned streets, roads, highways and parks except as permitted by Section A (2) above.**
 - (7) No burning shall be conducted within twenty-five (25) feet of a structure owned by another party.

SECTION 3 ENFORCEMENT AND PENALTIES

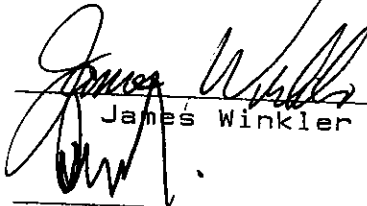
- (A) The Town of Millersburg may extinguish any fire that is in violation of this Ordinance and charge the party responsible Two Hundred Fifty Dollars (\$250.00) for each such extinguishment.
- (B) Any person found to be in violation of this ordinance shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) plus costs for each separate violation.
- (C) Any person found in violation of this Ordinance who rekindles a
|| ~~fire~~ who rekindles a

SECTION 5 DEFFECTIVE DATE

This Ordinance shall take effect following publication in accordance with the requirements of law on the 23rd of June, 2004.

ORDAINED AND ADOPTED this 23rd day of June, 2004

VOTING IN FAVOR

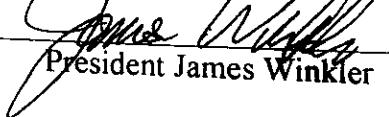

James Winkler

Dean Hawkins

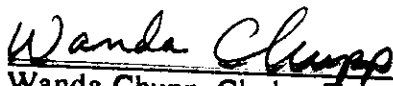

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VOTING AGAINST

TOWN COUNCIL OF THE TOWN OF MILLERSBURG, ELKHART COUNTY,
STATE OF INDIANA;

By: 
President James Winkler

ATTEST:


Wanda Chupp, Clerk - Treasurer
Town of Millersburg, Indiana