

COPY

ORDINANCE #2008- 10  
AN ORDINANCE OF THE BOARD OF COMMISSIONERS  
OF WARRICK COUNTY, INDIANA  
REGULATING OPEN BURNING

WHEREAS, general open burning may constitute a threat to the health and safety of the people of Warrick County; and

WHEREAS, Ordinance #1988-6, codified at Chapter 133 of the Code of Ordinances of Warrick County, regulates open burning; and

WHEREAS, the Board of Commissioners wish to repeal Ordinance 1988-6 and chapter 133 of the Code of Ordinances of Warrick County, and further wish to enact a new open burning ordinance as set forth below; and

WHEREAS, open burning is regulated by state statute, IC 13-17-9 and state regulation, 327 IAC 4-1, and this ordinance is intended to supplement but not replace the state statutes and state regulations on open burning.

**NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:**

**SECTION 1: Repeal of Prior Ordinance.** Warrick County Commissioners Ordinance 1988-6 and chapter 133 of the Code of Ordinances of Warrick County, are hereby repealed.

**SECTION 2: Definitions:**

- a. County: All unincorporated areas of Warrick County, Indiana.
- b. Open Burn: Means 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.
- c. Person: Means any individual, firm, partnership, corporation, association, society or other entity.
- d. Wood Products: Means material consisting of, or wholly derived from, wood or vegetation.

**SECTION 3: Allowance of open burning by state law.**

IC 13-17-9 and 326 IAC 4-1-3, as amended from time to time, allow various types of open burning, and this ordinance supplements but does not replace the state statutes and state regulations on open burning.

**SECTION 4: Open burning prohibited.**

- a. No person may openly burn in the County, except as allowed by this ordinance or otherwise allowed by state law or regulation.
- b. The Board of Commissioners may, after giving all notice required by state law, act to protect the public safety and welfare by declaring an open burn emergency. The declaration of open burn emergency may contain an expiration date or be continued until revoked by the Board. The restrictions imposed by the emergency may be limited to specific portions of the county or may be limited to particular times of the day. Subject to Indiana and federal law, no person shall set, start or attempt to set or start an open burn within the County during the duration of a declared emergency unless a permit has first been obtained from a local fire department within the county and said permit is within the possession of the person or entity attempting to set or start such open burn.

**SECTION 5: Exceptions to prohibition on open burning.**

- a. Open burning of wood products, except for leaves, shall be allowed for the following:
  1. School pep rallies;
  2. Fires used for cooking purposes;
  3. Fires used in scouting activities;
  4. Any allowed open burning of wood products as provided for by state law and state regulation; and
  5. Upon permit from a local fire department within the county.
- b. Except as allowed by state law and regulation, open burning of non-wood products shall be allowed pursuant to a permit issued by the Indiana Air Pollution Control Board, the Indiana Department of Environmental Management, and a permit by the Board of Commissioners.

**SECTION 6: General Requirements.** All allowable open burning shall conform to this Section unless exempted by the Board of Commissioners, state law or federal law:

- (a) A person who open burns any material shall extinguish the fire if the fire creates a nuisance or fire hazard.
- (b) Burning may not be conducted during unfavorable meteorological conditions such as high winds, temperature inversions, or air stagnation.
- (c) All fires must be attended at all times during burning until completely extinguished.
- (d) All asbestos containing materials must be removed before the burning of a structure.

(e) Asbestos containing materials may not be burned.

(f) All burning must comply with state and federal laws.

**SECTION 7: Enforcement.** The County may bring an action for an injunction as prescribed by state law to obtain an order restraining or enjoining continuing violations of this ordinance.

**SECTION 8: Penalty.**

a. Any person who violates any provision of this order shall be deemed guilty of a violation and, upon conviction, shall be fined pursuant to the following schedule:

- i. First offense in a calendar year: \$50.
- ii. Second offense in a calendar year: \$100.
- iii. Third offense in a calendar year: \$150.

b. Each day that a violation occurs constitutes a separate offense.

SO ORDAINED THIS 17<sup>th</sup> day of December, 2008

BOARD OF COMMISSIONERS OF WARRICK COUNTY, INDIANA

By: Don Williams  
Don Williams, President

By: Phillip H. Baxter  
Phillip H. Baxter, Commissioner

By: Nova Conner  
Nova Conner, Commissioner

ATTEST:

Lawrence C. Lacer  
Lawrence C. Lacer, Auditor, 1<sup>st</sup> Deputy  
Warrick County, Indiana