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CH9 9.1 - Open Burning Restrictions

"WHEREAS, the Town Council of the Town of Lapel, Indiana, feels it to be in the best interest of the Town of Lapel and the citizens thereof for the Town Council to adopt in its entirety Article 4, Rule 1 of 326 IA. 5-1-1 et seq restricting open burning inside the corporate limits of the Town of Lapel, Indiana."

The provisions of this chapter shall apply to the control of all burning within the Town Limits, as the limits now exist or may hereafter be established.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LAPEL, INDIANA, THAT:

Section 1. Article 4, Rule 1, Burning Regulations of the Air Pollution Control Board of the State of Indiana cited in the Indiana Administrative Code as 326 IA. 5-1-1 et seq, is hereby adopted in its entirety as follows:

326 IA. 5-1-1 Scope of Rule

Section. 1. The requirements of this rule (326 IA. 5-1) establish standards for the open burning of material which would result in emissions of regulated pollutants. This rule (326 IA. 5-1) applies everywhere in the state, except in areas where acts permitted by 326 IA. 5-1-3 or authorized by variance pursuant to 326 IA. 5-1-4 are prohibited by other state or local laws, regulations or ordinances. (Air Pollution Control Board; 326 IA. 5-1-1; filed Mar. 10, 1988, 1:20 p.m.; 11 IR 2419)

326 IA. 5-1-2 Prohibition against open burning

Section 2. No person shall open burn any material except as provided in section 3,4, or 6 of this rule (Air Pollution Control Board; 326 IA. 5-1-2; filed March 10, 1988, 1:20 p.m.; 11 IR 2419; filed Jan. 6, 1989, 3:30 p.m.; 12 IR 1126)

326 IA. 5-1-3 Exemptions

Section 3. a). The following types of fires are permitted:

1. Fires celebrating Twelfth Night Ceremonies.
2. Fires celebrating school pep rallies.
3. Fires celebrating scouting activities.
4. Fires used for recreational and cooking purposes, i.e., camp fires.
5. Only agricultural zoned property is allowed to burn wood products derived from the following farm maintenance operations:
 - a. Burning of fence rows and fields or materials derived therefrom.
 - b. Burning of natural growth derived from clearing a drainage ditch.
 - c. Burning of limbs and prunings, but only if so diseased or infected as to present a contamination problem
6. Waste oil burning: where the waste oil has been collected in a properly constructed and located pit as prescribed in 310 IA. 7-1-37(A) of the Division of Oil and Gas, Department of Natural Resources. Each oil pit may be burned once every two (2) months and all the oil must be completely burned within thirty (30) minutes after ignition.
7. Department of Natural Resources burning: in order to facilitate "prescribed" burning on DNR controlled properties for wildlife habitat maintenance, forestry purposes, and natural area management.
8. United States Department of the Interior burning: in order to facilitate a National Park Service Fire Management Plan for the Indiana Dunes National Lakeshore.

(b) All exemptions under subsection (a) of this section shall be subject to the following:

1. Only wood products shall be burned unless otherwise stated above.
2. Fires shall be attended at all times until completely extinguished.
3. If fires create an (SIC) nuisance or a fire hazard, they shall be extinguished.
4. All residential, farm and waste oil burning shall occur during daylight hours during which the fires may be replenished, but only in a manner that nearly all of the burning material is consumed by sunset.
5. No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, etc.
6. All leaf burning is prohibited. (Air Pollution Control Board; 326 IA. 5-1-3; filed March 10, 1988, 1:20 p.m.: 11 AR 2419 Cited in: 326 IA. 5-1-1; 326 IA. 5-1-2; 326 IA. 5-1-4.

326 IA. 5-1-4 Variances

Section 4 (a) Burning with prior approval of the Fire Chief or the Chiefs designated agent may be authorized for the following:

1. Emergency burning of spilled petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire hazard or water pollution problem.
2. Burning of refuse consisting of material resulting from a natural disaster.
3. Burning for the purpose of fire training.
4. Burning of natural growth derived from a clearing operation, i.e., removal of natural growth for change in use of the land.

5. Burning of highly explosive or other dangerous materials for which no alternative disposal method exists or where transportation of such materials is impossible.

(b) Burning not exempted by 326 IA. 5-1-3 may be permitted with prior receipt of a variance application and approval of the commissioner or the commissioner's designated agent. (Air Pollution Control Board; 326 IA. 5-1-4; filed Mar. 10, 1988, 1:20 p.m.: 11 IR 2420). Cited in: 326 IA. 5-1-1; 326 IA. 5-1-2. (Air Pollution Board: 326 AIC 5-1-8; files Jan. 6, 1989, 3:30 p.m.: 12 IR 1127).

326 IA. 5-1-5 Liability for fire.

Section 5. Any person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire causing air pollution may not refute liability for violation of this rule (236 IA. 5-1) on the basis that said fire was set by vandals, accidental, or an act of God. (Air Pollution Control Board; 326 IA. 5-1-5; files March 10, 1988, 1:20 p.m.: 11 IR 2420).

326 IA. 5-1-6 Air curtain destructors; approval; fee

Section 6 (a) An owner or operator of an air curtain destructor shall submit an application to the department to obtain a letter of approval from the commissioner prior to its installation or operation at a new site. The owner or operator shall not operate the air curtain destructor site at all times for verification by the department.

(b) Upon application for a letter of approval, an owner or operator shall pay a fee of fifty dollars (\$50.00) to the department. Fees paid by mail shall be paid by check or money order and shall be made out to: Indiana Department of Environmental Management. (Air Pollution Control Board; 326 IA. 5-1-6; filed Jan. 6, 1989, 3:30 p.m.: 12 IR 1126) Cited in: 326 IA. 5-1-2.

326 IA. 5-1-7 Air curtain destructors; approval conditions.

Section 7 (a) In order to obtain an air curtain destructor letter of approval, the owner or operator shall ensure that installation and operation of such air curtain destructor will comply with subdivisions (1) through (10) as follows. Burning shall be terminated immediately at any air curtain destructor site which does not comply with this section.

1. Only wood products shall be burned, except for minimal amounts of uncontaminated petroleum products which may be used for ignition. Merchantable wood products shall not be burned.
2. Burning shall not be conducted during unfavorable meteorological conditions such as high winds or air stagnation.
3. The air curtain destructor shall not be operated prior to one (1) hour after sunrise and combustion shall be complete by sunset.
4. An air curtain destructor site shall be located no less than five hundred (500) feet from any private residence, public roadway, power line, pipeline, fuel storage area or business.
5. An air curtain destructor site shall not be located at a landfill or transfer station as defined in 329 IA. 1.5.
6. An air curtain destructor shall not be permanently located at any site.

7. An air curtain destructor shall be attended at all times while burning and until combustion is complete. Adequate firefighting equipment shall be maintained at an air curtain destructor site at all times during operation.
8. Burning shall not create or contribute to an air pollution problem, a nuisance or a fire hazard.
9. An air curtain destructor shall be maintained and operated according to the manufacturer's recommendations.
10. The owner or operator shall provide notification in advance to the local fire department and the local health department of the dates and times that the air curtain destructor will be in operation.
 - a. An air curtain destructor letter of approval shall be valid for no longer than one (1) year.
 - b. The commissioner may add conditions to an air curtain destructor letter of approval as necessary to prevent a public nuisance or protect the public health.

(Air Pollution control Board; 326 IA. 5-1-7; filed Jan. 6, 1989, 3:30 p.m.,: 12 IR 1127). Cited in: 326 IA. 5-1-8.

326 IA. 5-1-8 Air curtain destructors; approval revocation

Section 8. The commissioner may, upon good cause, revoke an air curtain destructor letter of approval if the owner or operator:

1. violates any requirement of section 7(a)(1) through 7(a)(10) of this rule;
2. violates any condition added to the letter of approval under section 7(c) of this rule;
3. violates any other state or local rule or ordinance pertaining to the installation or operation of air curtain destructors;
4. falsifies information on an application for a letter of approval; or
5. operates an air curtain destructor in a manner which is hazardous to the public health.

(Air Pollution Board; 326 IA. 5-1-8; filed Jan. 6, 1989, 3:30 p.m.: 12 IR 1127)

Section 2. Such burning as is permissible by this Ordinance and state regulations shall be done only within the hours of 9:00 a.m. to 5:00 p.m. each day.

Section 3. When the Town Marshall or his deputies has reason to believe that a person(s) may be in violation of this Ordinance he may issue a citation to such person(s) for such violation.

Section 4. Whoever violates any of the provisions of this Ordinance shall be fined not less than fifty (\$50.00) dollars no more than five hundred (\$500.00) dollars payable through the Ordinance Violation Bureau of the Town of Lapel, Indiana.

Each day's violation shall constitute a separate offense. A separate and distinct offense shall be regarded as committed each day on which such person(s) shall continue or permit any such violation to exist.

Section 5. All persons owning, operating or in charge or control of any equipment or premises who shall cause, suffer, allow, permit or participate in any violation of this Ordinance shall be individually and collectively liable for any penalties imposed by this Ordinance. This liability shall include any person(s) who shall refuse to

comply with or who shall assist in violation of any provisions of this Ordinance. (Ord. No. 5-1999, Amendment passed 2/18/1999.)