

ORDINANCE NO. 2006-4-1

AN ORDINANCE REGULATING OPEN BURNING
IN THE TOWN OF MEDARYVILLE AND PROVIDING PENALTIES
FOR VIOLATIONS OF SUCH REGULATIONS

WHEREAS, the burning of leaves and other residential trash has traditionally been tolerated as acceptable means of disposal;

BUT, in recent years public awareness has greatly increased with regard to the source of pollutants in our environment; and,

WHEREAS, it is quite evident that burning in general, including clean wood products, generates smoke which by its nature contains pollutants and contaminants to the environment that are harmful to human and animal life; and,

WHEREAS, said pollutants are a danger to the health, safety and welfare of all the citizens of Medaryville; and,

WHEREAS, the health and safety factors far outweigh the traditional tolerance of burning as a means of trash disposal.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the Town of Medaryville that Ordinance No. 2006-4-1 is hereby adopted as follows:

1. Open burning is defined as 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.
2. 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.
3. Exemptions: The following types of burning are allowed:
 - a. The burning of charcoal, clean untreated wood, and other cooking fuels customarily used in an outdoor grill, traditional food cooking devices, or campfires.
 - b. Fires used for recreational or ceremonial purposes such as school pep rally fires or celebration of scout activities. Recreational or ceremonial shall meet the following conditions:
 1. Only clean untreated wood or charcoal shall be used. Paper or petroleum products can be used for ignition purposes only.
 2. The fire shall not be ignited more than 2 hours before the recreational activity is to take place and shall be extinguished upon the conclusion of the activity.
 3. The pile to be burned shall be less than 1000 cubic feet (for example 10ft x 10ft. x 10ft.)
 4. The local fire department shall be notified 24 hours in advance if the pile to be burned is more than 125 cubic feet (for example: 5ft x 5ft x 5ft).

5. The fire shall not be for disposal purposes.
6. The fire shall not be within 500 feet of a pipeline or fuel storage area.

4. Variances. Other types of fires may be approved as follows:

Any other type of fire whereby a citizen of the Town of Medaryville has obtained a variance from the provisions of this ordinance by petitioning the Common Council may be allowed. However, the Common Council cannot grant a variance for burning that would otherwise violate the provisions of the 326 Indiana Administrative Code 4-1 et seq. and as amended and Indiana Code 13-17-9.

The following types of fires may be allowed provided they do not violate any state or county law or ordinance:

- a. Fire fighter training
- b. Fire extinguisher training
- c. Vegetation propagation
- d. Leaves may be burned until such time as the Council determines otherwise.
- e. Please refer to attachment A for expanded version of variance situations based on 326 IAC 4-1-3(c) (3-8) and 326 IAC 4-1-4

5. The following conditions apply to all exemptions and variances:

- a. Burning shall be done during safe weather conditions. Burning shall not occur during high winds, temperature inversions, air stagnation, or when a pollution alert or ozone action day has been declared.
- b. Fires must be attended at all times until completely extinguished.
- c. Fires must be extinguished if they create a fire hazard, nuisance, pollution problem, or threat to public health.
- d. Fire fighting equipment adequate for the size of the fire shall be on-site and nearby during times of burning.
- e. Burning shall not be for disposal purposes.
- f. All burning shall comply with other federal, state and local laws, rules, and ordinances.

6. Enforcement: Any person found in violation of this ordinance shall be subject to the following procedures:

- a. The fire department shall issue a warning notice to a first-time violator stating that he or she is in violation. The person must then correct the violation by immediately extinguishing the fire. Failure or refusal to immediately extinguish the fire shall result in a citation being issued.
- b. Issuance of a citation to the violator shall result in the imposition of a fine (\$25.00) as administered by the Ordinance Violation Bureau pursuant to Ordinance No 2006-4-1.
- c. Failure or refusal by the violator to immediately extinguish the fire in violation of this ordinance shall also result in the Fire Department having the authority to go upon private property to extinguish said fire.

- d. Each subsequent starting, kindling, causing or allowing of a new fire after a warning notice or citation has been issued, shall be considered a separate offense.
 - e. Liability for Fire: 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 ordinance on the basis that said fire was set by vandals, accidental, or act of God.
7. The open burning provisions are enforceable by the duly appointed or law enforcement officers within the Town of Medaryville, acting on his/her own initiative or at the request of the Town Council.
8. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Council President and legal publication.

Passed and adopted this 6th day of April, 2006.

Signatures:

Council President, Gene Payne

Council Member, Roy McIlvain

Council Member, Ron Schouten

ATTEST: Clerk-Treasurer, Judy Harwood