

**ORDINANCE NO. 2012-8**

**AN ORDINANCE AMENDING CHAPTER 100 OF THE TOWN OF EDINBURGH'S CODE REGARDING OPEN BURNING**

WHEREAS, Indiana Code 36-1-3-6, gives the legislative body of the Town of Edinburgh ("Town") the power to regulate the burning of physical objects within the Town;

**NOW, THEREFORE, BE IT ORDAINED BY THE EDINBURGH TOWN COUNCIL, AS FOLLOWS:**

**I. SECTION 1. AMENDMENTS TO CODE**

a. That the Council hereby deletes section 100.03 of Chapter 100 of the Edinburgh Town Code ("Code") in its entirety and replace the same as follows:

i. Section 100.03 is hereby created and shall state as follows:

1. Title - "§100.03 BURNING COMBUSTIBLE MATERIAL PROHIBITED ON PRIVATE PROPERTY:

2. (A) **Prohibition.** It shall be unlawful for any person to conduct open burning, outdoor burning, and refuse burning on private property within the Town unless specifically permitted by this Section.

3. (B) **Materials that may not be Burned.** Unless a specific written approval has been obtained from the Indiana Department of Environmental Management, or other appropriate state or federal agency, the following materials may not be burned in an open fire, incinerator, furnace, stove, or other indoor or outdoor incineration or heating device:

~~shingles, construction or demolition debris, or other~~

household or business wastes;

- b. Asphalt and products containing asphalt;
- c. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are glued, painted, varnished or treated with preservatives;
- d. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, synthetic fabrics, plastic films and plastic containers;
- e. Rubber including tires and synthetic rubberlike products;
- f. Newspaper, corrugated cardboard, container board and paper products. Notwithstanding the foregoing provisions, small quantities of newspaper, paper and cardboard products may be used as starter fuel for any fire that is permitted under this subchapter; and
- g. Leaves, weeds, brush, stumps, clean wood, trees and other vegetative debris, except as specifically permitted by this Section.

4. (C) **Open Burning Exceptions.** The following types of open burning are permitted:

- a. Campfires;
- b. Recreational fires, such as ceremonial fires, fires for school pep rallies and scouting or similar activities;
- c. Burning of clean wood and vegetation derived from the following maintenance operations, if approved by the Town Building Commissioner:

~~i. Vegetation from a farm, an orchard, a nursery,~~

a tree farm, a golf course, a cemetery or drainage ditch; or

ii. Wood products derived from pruning or clearing a roadside by various departments of the Town.

d. Burning by the Town's Fire Department for the purpose of fire fighting training, if approved by the Town Council; and

e. Emergency burning of refuse consisting of material resulting from a natural disaster or other similar occurrence when authorized by proclamation of the Town Council, and to such restrictions as may be imposed by the Town's Fire Chief.

5. (D) **Restrictions on Burning Exemptions.**

a. All burning conducted under one or more of the burning exemptions contained herein shall be subject to the following restrictions:

i. Only clean wood and/ or other cooking fuels customarily used in an outdoor grill and traditional food cooking devices shall be used for burning unless otherwise stated.

ii. A garden hose connected to a constant water supply, shovel, or fire extinguisher or any other fire extinguishing device shall be readily available until the burn is completely extinguished.

iii. All fires shall be attended at all times, until completely extinguished, by the presence and

~~oversight of an adult over the age of eighteen~~

(18) years.

- iv. No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, drought, and similar circumstances, when so declared by the Town Council.
- v. All burning shall comply with all other applicable federal or state laws, rules and regulations.
- vi. All permitted burning must be burned in a commercial grill; dry stacked stone, masonry, or metal fire pit; or ring within commercial manufactured portable fireplaces (collectively referred to as "Container") that meet the following conditions and restrictions:
  - 1. The Container shall be at a safe and reasonable distance from a building, structure, container of flammable liquids or vapors; or vehicles (collectively referred to as "Structures"), with all Containers, except for commercial grills being at the minimum, located at least fifteen (15) feet from the nearest Structure(s). For purposes of this section structure shall mean temporary or permanent structure and can be a structure on or adjacent to the property that contains the Container.

~~2. The Container shall have vent holes~~

above the ash line for combustion air and shall be covered with heavy wire screen or grate.

3. The Container shall not serve a commercial enterprise.

4. The Container shall not be placed on a combustible surface.

b. The size of material burned shall not exceed 4 feet by 4 feet by 2 feet high

c. In the event a fire creates a pollution problem, threat to public health, a nuisance or a fire hazard, the fire shall be immediately extinguished.

6. (E) **Smoke and Gases**. It shall be unlawful to cause or permit the emission or escape of any foul or noxious smoke, fumes, gases or ash, dust, soot or cinders into the open air in such quantities as to cause injury or annoyance to the public or damage to any property or to have a natural tendency to do so within the Town, even if the burning is in compliance with all regulations contained herein.

7. (F) **Liability**.

a. Any person who conducts outdoor burning shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

b. Any person who allows the accumulation or existence of combustible material on property owned or occupied by such person and which constitutes or contributes to a fire causing air pollution may not refute liability for violation of this subchapter or 326 I.A.C. 4-1, as amended from time to time, on the basis

that the fire was set by vandals, accident, or act of

God.

8. (G) **Right of Entry and Inspection**. Upon reasonable cause, the Town's Fire Chief; Marshal; Building Commissioner and/or designee of the same who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this Section and issuing citations for the penalties provided in Section (H).

9. (H) **Penalties**. The penalties for violating this ordinance shall be as follows:

- a. First Offense - \$25.00
- b. Second Offense - \$100.00
- c. Third Offense - \$250.00
- d. Fourth Offense - \$500

**II. SECTION 2. PUBLIC BENEFIT**

- a. That the Edinburgh Town Council finds that this Ordinance will be in the best interest of the Town and for the benefit of the public and residence of the Town.

**III. SECTION 3. REPEALER**

- a. All ordinances or parts of ordinances in conflict with provisions of this Ordinance are hereby repealed.

**IV. SECTION 4. SEVERABILITY**

- a. Should any section or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be unconstitutional or invalid.

**V. SECTION 5. PUBLIC NOTICE**

- a. In accordance with Indiana Code 36-4-6-14(b), Indiana Code 5-3-1-2(h), this Ordinance shall be published in newspapers of general circulation in

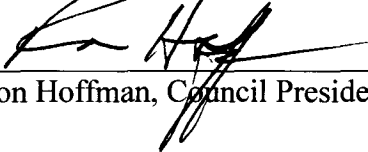
days after it is adopted by Council.

**VI. SECTION 6. EFFECTIVE DATE**

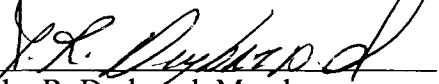
- a. This ordinance shall be in full force and effect within two (2) weeks after the date of the publication described in Section 5.


ADOPTED this 25<sup>th</sup> day of June, 2012.

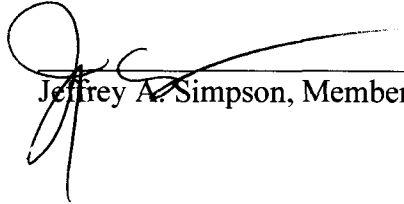
**EDINBURGH TOWN COUNCIL**

  
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Ron Hoffman, Council President

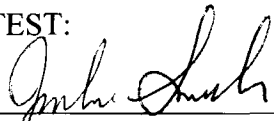
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Curtis Rooks, Vice President

  
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John R. Drybread, Member

  
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Kami Ervin, Member

  
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Jeffrey A. Simpson, Member

ATTEST:

  
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Jackie L. Smith, Clerk-Treasurer