Cumberland Town Council
Ordinance 2017 – 25

Amending Burning Regulations

Whereas, the Town of Cumberland Code of Ordinances, § 00·09·92, regulates outdoor burning in the Town; and

Whereas, the Town believes that burning should only occur in residential in agricultural areas; and

Whereas, permitted burning by citizens of the Town shall be subject to strict regulations designed to advance the health and safety of individuals, property, and the environment.

Therefore, the Town Council finds that § 00·09·92 is amended and shall read as stated in Exhibit A.

It is further ordained that any provision of the Town Code which is not expressly amended by this ordinance shall remain in full force and effect.

It is further ordained that this Ordinance shall become effective upon adoption.

Ordained this 6th day of December, 2017.

Cumberland Town Council

Anna Pea, President

Joe Siefker, Vice President

Nicole Bell, Member

Aaron Cutshaw, Member
Ordinance 2017-25

Brian Gritter, Member

Attest:

Eric Salmon, Clerk-Treasurer
Exhibit A

"§ 00-09-92-05 Outdoor Fires and Open Burning Prohibited.
(A) It shall be unlawful for any person, firm, company, or otherwise to start, maintain, or allow any open burning or outdoor fire in the Town of Cumberland except in residential areas or agricultural areas. Allow outdoor fires and open burning is subject to the regulations of this chapter.

§ 00-09-92-06 Permitted Outdoor Fires and Open Burning.
(A) following outdoor fires are permitted:
   (1) Controlled fires used solely for home cooking and recreational purposes;
   (2) Fires which have been previously approved, in writing by the Cumberland Town Council, which include the following instances:
      (i) Burning refuse consisting of material resulting from a natural disaster:
      (ii) Burning for purposes of fire prevention or fire safety training;
      (iii) Ceremonial Bonfires;
      (iv) Emergency burning for spilled petroleum products when all reasonable effort to recover the spilled material have been made and failure to burn the material would result in an imminent fire hazard or water pollution; and
      (v) Burning of highly explosive or other dangerous material for which no alternative disposal method exists or where the transportation of this material is impossible.

§ 00-09-92-07 Regulations on Permitted Outdoor Fires.
(A) If an outdoor fire is permitted in § 00-09-92-06, the permitted fire shall be subject to following regulations:
   (1) The outdoor fire must be contained in a controlled structure specifically designed for the use of burning wood or charcoal including but not limited to portable fireplaces, fire pits, or chimneys.
   (2) Burning in barrels is prohibited.
   (3) Only wood products may be burned.
   (4) A permitted fire must be attended by at least one adult at all times, until the fire is completely extinguished.
   (5) If a fire creates an air pollution problem, nuisance, or fire hazard, the fire shall me immediately extinguished.
   (6) No fire shall be permitted during unfavorable weather conditions, including but not limited to, high winds, temperature inversion, or air stagnation.
   (7) Burning shall be more than 15 feet from any structure.
   (8) If a fire creates a nuisance or a health hazard, or produces any quantity of smoke or an offensive or obnoxious odor which adversely affects adjoining property owners, it must be immediately extinguished.
(B) In addition to the regulations set forth in (A) of this section, all rules of the
Indiana Department of Natural Resources and the Indiana Department of Environmental Management shall be observed at all times.

§ 00-09-92-08. Right of Entry and Inspection.
An officer of the Cumberland Police Department, Sugar Creek Fire Department, Buck Creek Fire Department, or any authorized Code Enforcement Officer of the Town of Cumberland who presents credentials may temporarily enter the property and conduct a reasonable inspection for the purpose of ascertaining compliance with the provisions of this Code.

§ 00-09-92-09 Liability.
Any person who allows the accumulation or existence of combustible material, which constitutes or contributes to a fire causing air pollution, shall not be excused from responsibility on the basis that that fire was accidental or an act of God.

§ 00-09-92-10 Penalties.
Any person, firm, or other entity in violation of any portion of this chapter shall be subject to a fine of $95.00. Each day the violation occurs or continues shall be considered a separate offense. In addition to civil penalties, the Town of Cumberland may seek injunctive relief.

§ 00-09-92-11 Payment of Fines.
All fines must be paid to the Clerk-Treasurer within 30 days of the notice. If the violator appeals the notice, as provided below, this 30-day period will be stayed until the resolution of the appeal. If the violator fails to timely pay the fine, the Clerk-Treasurer may authorize the Town Attorney to file an action for the collection of the fine in Town Court. If the Town initiates a case for the collection of a fine, the Town may recover the amount of the fine, reasonable attorney’s fees and court costs incurred in the collection case. Nothing in this Section will be construed as a punishment or criminal penalty. Penalties provided for in this section are civil in nature.

§ 00-09-92-12 Appeals and Hearings.
If a violation occurs, the Town will issue a notice of violation. The violator named in the notice may appeal the notice of violation by filing a written appeal with the Clerk-Treasurer within 15 days of receipt of the notice. Within 30 days of receipt of the appeal, the Town Council will conduct a hearing on the appeal. The Town Council will provide notice of the hearing to the appealing party at least 10 days prior to the hearing. After the hearing, the Town Council will make written findings of fact and conclusions and mail the findings and conclusions to the appealing party. The appealing party may appeal the decision to a court of competent jurisdiction by filing a written appeal within 30 days of the date of the findings and conclusions.”