

**PUBLIC HEALTH AND SAFETY**

**ORDINANCE NO. 3-2001**

**OPEN BURNING REGULATION**

WHEREAS, the Common Council of the Town of Wolcott has the authority to propose and adopt ordinances to improve the health and safety of its citizenry and real property; and,

WHEREAS, the burning of leaves and other residential rubbish has, in the past, been tolerated as a means of trash disposal; and,

WHEREAS, in recent years the Town of Wolcott has improved upon its trash pickup provided to the citizenry of the Town of Wolcott including regular pick-up and disposal of yard waste, including leaves and trimmings; and,

WHEREAS, burning of yard waste, including leaves and residential trash, generates smoke by which, in its nature contains pollutants and contaminants to the environment that are harmful to the health of the citizenry of the Town of Wolcott; and,

WHEREAS, the health and safety factors far out weigh the traditional tolerance of burning as a means of trash disposal;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the Town of Wolcott, White County, State of Indiana, as follows:

1. That no person shall start, kindle, cause, allow or maintain any form of burning of leaves, grass, brush, wood of any kind, or the burning of trash, rubbish or garbage, waste oil, tires, paper or wash on private or public property within the Town of Wolcott, except as specifically authorized by this Ordinance; PUBLIC PROPERTY as used in this section shall include any public street, alley, road or other public ground; PERSON as used in this section shall include individuals, firms and corporations, together with their officers and employees;
2. That the Indiana Fire Safety Code enacted pursuant to IC 22-13-1 et sq. is hereby adopted as the town fire code, and that all open burning must comply with the regulations controlling open burning promulgated by the Indiana Air Pollution control Board (326 IAC).
3. That the Fire Chief or Town Marshal may prohibit any and all bonfires or outdoor rubbish fires whenever he deems atmospheric conditions or local circumstances make such fires hazardous to persons and property. It shall be unlawful for any person to disobey such order of the Fire Chief or Town Marshal.
4. That no person shall kindle or maintain any bonfire or rubbish fire or cause such bonfire or rubbish fire to be kindled or maintained on any private property or lands unless said

bonfire or rubbish fire is contained in an approved waste burner as set forth in Section 7, located at a safe distance from any building, pole, fence or other structure; in any event, said burner shall not be located less than ten feet from such building, pole, fence or other structure.

5. That no person shall kindle or maintain or cause to be kindled or maintained any bonfire or rubbish fire between the hours of 7:00 p.m. and 6 a.m. During such hours no person shall leave any such fire burning;
6. That any person kindling or maintaining any bonfire or rubbish fire or any person causing said bonfire or rubbish fire to be kindled or maintained shall attend the said fire or cause said fire to be attended by a competent person until such fire is extinguished. Such person shall have the necessary means for extinguishing said fire readily available in case of need.
7. That an approved burner for the purposes of this subchapter shall have the following characteristics:
  - a. the burner shall be so constructed so as to prevent the spread of fire outside of the burner itself;
  - b. the burner shall be constructed of metal or masonry with four side and a bottom so constructed as to allow no openings except for cleaning and draft, and these openings shall be so protected as to prevent the escape of sparks or fire;
  - c. the top of the burner shall be so constructed as to allow the proper escape of smoke or gases, but shall be equipped with a spark arrestor with openings no larger than one-fourth inch so as to prevent the escape of burning material;
  - d. that any person who constructs and uses a burner complying with the terms of Section 5 shall so construct and use said burner in such a way that it does not constitute a public nuisance;
8. That during the construction or demolition of buildings or other structures no waste materials or rubbish shall be disposed of by burning on the premises of such demolition or construction or in the immediate vicinity thereof without a written permit from Fire Chief;
9. That the following types of fire are permitted:
  - a. customary burning of logs and other wood products in residential fireplaces;
  - b. burning of charcoal and other food cooking fuels customarily used in outdoor grills or traditional food cooking devices;
  - c. fire celebrating Twelfth Night Ceremonies;
  - d. fire celebrating school pep rallies;
  - e. fire celebrating scouting activities;
  - f. fire used for recreational cooking purposes, i.e., campfires, BBQ grills;
  - g. industrial and/or commercial burning through methods specifically and previously approved by the Indiana Department of Environmental management, or other appropriate state, local and/or federal regulatory agencies;

- h. any other type of fires whereby a citizen of the Town of Wolcott has obtained a variance from the provisions of this Ordinance by petitioning the Common Council, providing, however, that the Common Council cannot grant a variance that would otherwise violate the provisions of 326 Indiana Administrative code 4-1 et. seq., and as amended;
10. That the Open Burning Regulations be adhered as follows:
- a. fires shall be attended at all times until completely extinguished;
  - b. if fires create a nuisance or fire hazard, they shall be extinguished.
  - c. no burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, etc.; and,
11. That any person found in violation of this Ordinance shall be subject to the following procedures:
- a. The Fire Chief or Town Marshal shall issue 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 a fire shall result in a citation then being issued.
  - b. Issuance of a citation to the violator shall result in an imposition of Fifty Dollar (\$50.00) fine administered by the Ordinance Violation Bureau through the Clerk of the Town of Wolcott.
  - c. Failure or refusal by the violator to immediately extinguish the fire in violation of this Ordinance shall also result in the Wolcott Volunteer Fire Department having the authority to go upon private property to extinguish said fire. Furthermore, in such instances where a leaf or rubbish fire results in damage to property other than the violators, including damage to public property, e.g., asphalt, or results in injury to another person, the imminent threat or damage to other party's property including public property that said fire is determined to be caused by negligence and/or the willful disregard or violation of this Ordinance, a fine of the cost expended by the Town of Wolcott to send fire suppression personnel or equipment to the location shall be assessed with said fine not to exceed One Thousand Five Hundred Dollars (\$1,500.00).
  - d. Each subsequent starting, kindling, causing or allowing of a new fire after notice of violation has been issued shall be considered a separate offense.

IT IS FURTHER ORDAINED by the Common Council, Town of Wolcott, White County, State of Indiana, that this Ordinance shall be in full force and effect from and after its passage by the common council and legal publication.

Passed and adopted by the Common Council of the Town of Wolcott, White County, State of Indiana, this 18th day of December, 2001.

YEA

NAY

James D. Mills

Susan R. Minniear

Robin D. Hensler

Attest:

Linda S. Bajzatt  
Linda S. Bajzatt, Clerk-Treasurer