

ORDINANCE 2019-03

**AN ORDINANCE AMENDING SECTION 94 OF THE CITY OF AUSTIN, INDIANA
CODE OF ORDINANCES REGULATING OPEN BURNING**

WHEREAS, the Common Council of the City of Austin desires to amend Section 94 of the Code of Ordinances which regulates open burning in the City of Austin.

THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF AUSTIN that Section 94 of the Code of Ordinances is hereby amended and recodified as follows:

SECTION 1: OPEN BURNING RESTRICTED; GENERAL PROHIBITIONS.

- A. This section shall supplement and further implement the Indiana Fire Code as published by the Indiana Fire Prevention and Building Safety Commission.
- B. Notwithstanding anything else in this section, open fires which burn substantial quantities of leaves, paper, garbage, rubbish, grass, trade waste, plastics, or other similar items, are prohibited.
- C. Any person who knowingly allows the accumulation or existence of combustible material constituting an unreasonable fire hazard or who intentionally kindles or maintains any open burning in violation of this section shall be subject to the penalties hereunder.

SECTION 2: EXCEPTIONS.

- A. No one shall kindle or maintain any open burning (which means any burning of combustible materials outdoors) within the corporate limits of the city except as follows, and then only in a situation where it is reasonably unlikely that the open burning may be spread to or damage other property, or that the smoke and/or fumes emissions would be a nuisance to person upon adjacent property.
- B. Exemptions for which no permit is required:

1. Recreational campfires with a total area no greater than 36 inches in diameter; and
2. A reasonably sized and located barbecue pit or grill where either electricity, gas, wood, or charcoal is used for the preparation of food.

SECTION 3: BURNING ALLOWED WITH PERMIT.

- A. Exemptions allowed with appropriate permit(s):
1. Bonfires larger than the recreational campfire as defined above;
 2. Other burning may be allowed by permit from the Clerk-Treasurer, so long as in compliance with applicable requirements of other authority, including but not limited to the Indiana Department of Environmental Management and the Federal Environmental Protection Agency.
- B. A resident must apply for a permit from the Clerk-Treasurer prior to igniting any fire that is not permitted herein. There is no application or permit fee.
- C. Said permit shall be issued in the discretion of the Clerk-Treasurer.

SECTION 4: GENERAL REGULATIONS OF PERMITTED BURNING.

- A. All open burning shall be located a safe distance from structures, fences, and public rights-of-way, and always attended until completely extinguished. There shall be a hose connected to a water supply source, shovels, fire extinguishers, or other adequate fire extinguishing equipment readily available.
- B. Where permits are required, they shall be issued by the Clerk-Treasurer or under its direction and on forms in accordance with policies and procedures established from time-to-time by that Department. A permitted fire must always have the original permit properly authorized by the Clerk-Treasurer in proximity to the burn site during which the open burning permitted is occurring.

SECTION 5. ENFORCEMENT AND PENALTY.

- A. The provisions of this chapter are enforceable by any law or ordinance enforcement officers with jurisdiction within the city limits of the city.
- B. Any person who violates any provision of this chapter shall be deemed guilty of a violation and shall be fined pursuant to the following schedule:
 - 1. First offense in a one-year period: \$250.00; and
 - 2. Second and all additional offenses in a one-year period: \$1,000.00.
- C. Each day that a violation occurs constitutes a separate offense.

SECTION 6: SEVERABILITY.

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the other remaining parts.

SECTION 7: OTHER APPLICABLE LAWS.

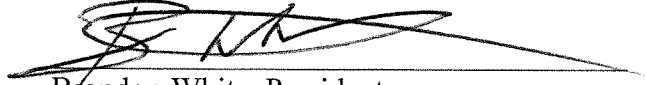
This section shall not be interpreted or construed to permit open burning where it is otherwise restricted by other applicable state or federal laws.

SECTION 8. EFFECTIVE DATE.

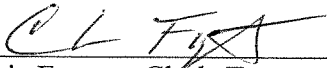
This Ordinance shall become effective from and after its passage by the Council and after publication as required by law.

PASSED AND ADOPTED by the Common Council of the City of Austin, Indiana on the 11th day of February 2019 by a vote of 5 to 0.

Common Council City of Austin, Indiana


Brandon White, President


Attest:


Chris Fugate, Clerk-Treasurer

Presented by me to the Mayor of the City of Austin for his approval or veto pursuant to Indiana Code § 36-4-6-15 and 16, this 11th day of February 2019 at 6:41 p.m.


Chris Fugate, Clerk-Treasurer

This Ordinance having been passed by the legislative body and presented to me is approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16(a)(1), this 11th day of February 2019 at 6:42 p.m.


Dillo Bush, Mayor

Attest:


Chris Fugate, Clerk-Treasurer

PREPARED BY: Joshua Stigdon
Houston, Thompson and Lewis, PC
49 E. Wardell St.
Scottsburg, IN 47170