

CHAPTER 92: FIRE PREVENTION; BURNING REGULATIONS

Section

Fire Prevention Code

- 92.01 Title
- 92.02 Purpose
- 92.03 Application; exceptions
- 92.04 State codes adopted
- 92.05 Enforcement authority
- 92.06 Inspections
- 92.07 Right of entry
- 92.08 Investigation of fires
- 92.09 Fire records; reports
- 92.10 Violations; notice to correct; emergency orders
- 92.11 Appeal
- 92.12 Remedies; injunctive relief
- 92.13 Violations

Outdoor and Refuse Burning

- 92.25 Applicability
- 92.26 Definitions
- 92.27 General prohibition on outdoor burning and refuse burning
- 92.28 Materials that may not be burned
- 92.29 Open burning exemptions
- 92.30 Restrictions on burning exemptions
- 92.31 Burn barrels prohibited
- 92.32 Smoke and gases
- 92.33 Liability
- 92.34 Right of entry and inspection
- 92.35 Enforcement

Fireworks

- 92.45 Use, discharge or ignition prohibited

Cross-reference:

Fire hydrants; obstruction or tampering, see §§ 95.04 and 95.30

FIRE PREVENTION CODE

§ 92.01 TITLE.

This subchapter, and all ordinances supplemental or amendatory hereto, shall be known as the "fire prevention code of the city," may be cited as such, and will be referred to herein as "this subchapter."

(1987 Code, § 6-200) (Ord. 11, 1988, passed 7-24-1988)

§ 92.02 PURPOSE.

The purpose and intent of this subchapter is to prescribe minimum requirements and controls to safeguard life, property, or public welfare from the hazards of fire and explosion arising from the storage, handling, or use of substances, materials, or devices and from conditions hazardous to life, property, or public welfare in the use or occupancy of buildings, structures, sheds, tents, lots, or premises.

(1987 Code, § 6-201) (Ord. 11, 1988, passed 7-24-1988)

§ 92.03 APPLICATION; EXCEPTIONS.

(A) The provisions of this subchapter and the building and fire safety rules of the state Fire Prevention and Building Safety Commission shall apply equally to new and existing buildings and conditions. Exceptions:

(1) Existing conditions which do not constitute a distinct hazard to life or property; or

(2) The transportation of any articles or substance under the jurisdiction of and in compliance with the regulations prescribed by the military forces of the United States.

(B) Nothing in this subchapter shall be construed, interpreted, or applied to abrogate, nullify or abolish any law, ordinance, or code adopted by the city governing the construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of buildings specifically provided herein. When any provision of this subchapter is found to be in conflict with any building, zoning, safety, health, or other applicable law, ordinance, or code of the city existing on the effective date of this subchapter or hereafter adopted, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public shall prevail.

(C) The planning, design, and construction of new buildings and structures to provide egress facilities, fire protection, and built-in fire protection equipment shall be controlled by the building rules of the state Fire Prevention and Building Safety Commission; and alterations, additions, or changes in buildings required by the provisions of this subchapter which are within the scope of those building rules shall be made in accordance therewith.

(D) Buildings built under and in full compliance with the building and fire safety laws and rules in force at the time of construction or alteration thereof, and that have been properly maintained and used for the use as originally permitted, shall be exempt from the requirements of this subchapter pertaining to any of the following matters:

(1) Fire protection of structural elements;

(2) Exits required, except as provided for existing buildings under this subchapter;

(3) Isolation of hazardous operations and mixed uses; provided, however, that the Fire Chief shall require the installation of fire safety devices or systems (fire extinguishers, fire alarms, fire detection devices, or similar systems) where they are necessary to provide safety to life. In lieu of requiring the installation of safety devices or systems or when necessary to secure safety in addition thereto, the Fire Chief shall prescribe limitations on the handling and storage of materials or substances or upon operations that are liable to cause fire, contribute to the spread of fire, or endanger life or property. Any orders issued by the Fire Chief to obtain compliance with this division shall be governed by the provisions of I.C. 36-8-17-10.

(1987 Code, § 6-202) (Ord. 11, 1988, passed 7-24-1988)

§ 92.04 STATE CODES ADOPTED.

(A) The following fire safety rules of the state Fire Prevention and Building Safety Commission as set out in 675 I.A.C. 22 are incorporated by reference in this code, and shall include later amendments to that article as the same are published in the Indiana Register or the I.A.C. with effective dates as fixed therein:

- (1) State Flammable and Combustible Liquids and Gases Code, 675 I.A.C. 22-1; and
- (2) State Fire Prevention Code, 675 I.A.C. 22-2.

(B) Copies of adopted fire safety rules, codes, and standards are on file in the office of the Clerk- Treasurer.

(1987 Code, § 6-203) (Ord. 11, 1988, passed 7-24-1988)

§ 92.05 ENFORCEMENT AUTHORITY.

(A) It shall be the duty and responsibility of the Chief of the Fire Department, or the officer or designee who is an ex officio assistant to the State Fire Marshal under I.C. 36-8-17-5(a), to enforce the provisions of this subchapter. The designated enforcement officer of this subchapter is herein referred to as the Fire Chief.

(B) The Fire Chief shall cooperate with the Building Commissioner responsible for the enforcement of the code of building laws and orders required to be enforced in the city pursuant to I.C. 36-7-2-9.

(1987 Code, § 6-204) (Ord. 11, 1988, passed 7-24-1988)

§ 92.06 INSPECTIONS.

(A) The Fire Chief shall cause to be inspected all structures and premises except the interiors of private single-family dwellings, and dwelling units in two- family and multi-family dwellings for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with firefighting operations, endanger life, or any violations of the provisions or intent of this subchapter affecting fire safety.

(B) (1) Whenever in the enforcement of this subchapter the responsibility of more than one official of the city is involved, it shall be their duty to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors nor multiple or conflicting orders.

(2) Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance, or code of the city not within the inspector's authority to enforce, the inspector shall report the findings to the official having jurisdiction.

(1987 Code, § 6-205) (Ord. 11, 1988, passed 7-24-1988)

§ 92.07 RIGHT OF ENTRY.

Whenever necessary for the purpose of enforcing the provisions of this subchapter, or whenever the Fire Chief or authorized inspector has reasonable cause to believe that there exists in any structure or upon any premises, any condition which makes the structure or premises unsafe, the Fire Chief or fire inspector shall be permitted to enter the structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Fire Chief by this subchapter; provided that if the structure or premises be occupied, the Fire Chief or fire inspector shall first present proper credentials and request entry. If entry is refused, the Fire Chief shall have recourse to every remedy provided by law to secure entry.

(1987 Code, § 6-206) (Ord. 11, 1988, passed 7-24-1988) Penalty, see § 10.99

§ 92.08 INVESTIGATION OF FIRES.

The Fire Chief shall investigate, or cause to be investigated, every fire or explosion occurring within the city that is of a suspicious nature or which involves the loss of life or serious injury or causes destruction or damage to property. The investigation shall be initiated immediately upon the occurrence of the fire or explosion; and if it appears that such an occurrence is of a suspicious nature, the Fire Chief shall take charge immediately of the physical evidence, and in order to preserve any physical evidence relating to the cause or origin of that fire or explosion, take means to prevent access by any person or persons to the buildings, structure, or premises until the evidence has been properly processed. The Fire Chief shall notify the office of the State Fire Marshal pursuant to I.C. 36-8-17-7 for further investigations into these matters and shall further cooperate with that office in the collection of evidence and prosecution of the case.

(1987 Code, § 6-207) (Ord. 11, 1988, passed 7-24-1988)

§ 92.09 FIRE RECORDS; REPORTS.

(A) The Fire Chief shall keep a record of all fires and all facts concerning the same, including investigation findings and statistics and information as to the cause, origin, and the extent of fires and the damage caused thereby.

(B) The Fire Chief shall submit a report of each fire occurring within the city to the office of the State Fire Marshal in accordance with I.C. 36-8-17-7, and in the form as prescribed by that office.

(1987 Code, § 6-208) (Ord. 11, 1988, passed 7-24-1988)

§ 92.10 VIOLATIONS; NOTICE TO CORRECT; EMERGENCY ORDERS.

(A) Whenever the Fire Chief observes an apparent or actual violation of a provision of this subchapter or other ordinance under the Fire Chief's jurisdiction, the Fire Chief shall prepare a written notice of violation and order describing the condition deemed unsafe and specifying a reasonable time for the required repairs or improvements to be made to correct the violation. The written notice of violation of this code shall be served upon the owner, a duly authorized agent, or upon the occupant or other person responsible for the conditions under violation. The notice of violation shall be served either by delivering a copy of same to the person or persons by ordinary mail to the last known post office address, delivered in person, or by delivering it to and leaving it in the possession of any person in charge of the premises, or in the case the person is not found upon the premises, by affixing a copy thereof, in a conspicuous place at the entrance door, or avenue of access; and this procedure shall be deemed the equivalent of personal notice.

(B) If the notice of violation and order is not complied with within the time specified by the Fire Chief, and if no review of the order has been initiated under I.C. 36-8-17-10, the Fire Chief shall request the legal counsel of the city to institute the appropriate legal proceedings to restrain, correct, or abate the violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this subchapter or of any order or discretion made pursuant thereto.

(C) Temporary or emergency orders issued by the Fire Chief under I.C. 36-8-17-9(b) shall first be approved by the State Fire Marshal.

(D) When, in the opinion of the Fire Chief, there is actual and potential danger to the occupants or those in the proximity of any building, structure, or premises because of unsafe structural conditions, or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, the Fire Chief may issue an emergency order, with oral approval of the State Fire Marshal, for the immediate evacuation of the building, structure, or premises. All of the occupants so notified shall immediately leave the building, structure, or premises and persons shall not enter or reenter until authorized to do so by the Fire Chief. Any person who shall refuse to leave, interfere with the evacuation of other occupants, or continue any operation after having been given an evacuation order except any work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed in violation of this subchapter.

(1987 Code, § 6-209) (Ord. 11, 1988, passed 7-24-1988) Penalty, see § 10.99

§ 92.11 APPEAL.

(A) A person who is aggrieved by an order issued pursuant to § 92.10 of this code or I.C. 36-8-17-9, shall have the opportunity to informally discuss the order with the State Fire Marshal, who may modify or reverse the order.

(B) An order issued pursuant to § 92.10 of this code or I.C. 36-8-17-9, or an order affirmed or modified by the State Fire Marshal, may be appealed to the state Fire Prevention and Building Safety Commission under I.C. 4-21.5-3-7.

(1987 Code, § 6-210) (Ord. 11, 1988, passed 7-24-1988)

§ 92.12 REMEDIES; INJUNCTIVE RELIEF.

The attorney for the city upon receipt of a written notice from the Fire Chief, that after having issued lawful notice and order to abate a violation of this subchapter, and after a reasonable time for compliance has expired, shall bring action in the Circuit or Superior Court of the county, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Fire Chief, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this subchapter.

(1987 Code, § 6-211) (Ord. 11, 1988, passed 7-24-1988) Penalty, see § 10.99

§ 92.13 VIOLATIONS.

If any person, firm, or corporation shall violate any of the provisions of this subchapter, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Fire Chief, or shall fail neglect or refuse to obey any lawful order given by the Fire Chief in connection with the provisions of this subchapter, for each violation, failure, or refusal, that person, firm, or corporation shall be fined. Each day of unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offense.

(1987 Code, § 6-212) (Ord. 11, 1988, passed 7-24-1988) Penalty, see § 10.99

OUTDOOR AND REFUSE BURNING

§ 92.25 APPLICABILITY.

This subchapter applies to all outdoor burning and refuse burning within the city, except burning in "outdoor wood-fired hydronic heaters" as may be regulated pursuant to this code. This subchapter does not apply to burning which does not create a nuisance or a fire hazard and which is attended by a responsible person at all times until completely extinguished and is done for the following purposes:

- (A) Outdoor grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances; or
- (B) The use of propane, acetylene, natural gas, heating oil, or kerosene in a device intended for heating, construction, or maintenance activities.

(Ord. 6, 2009, passed 3-23-2009)

§ 92.26 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAMPFIRE. Small outdoor fire intended for recreation or cooking, not including a fire intended for disposal of waste wood or refuse.

CLEAN WOOD. Natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives, and does not contain resins or glues as in plywood or other composite wood products.

FIRE CHIEF. The Chief of the Seymour Fire Department, or other person authorized by the Fire Chief.

OPEN BURNING. Kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air.

OUTDOOR BURNING. Open burning or burning in an unapproved device or container.

REFUSE. Any waste material except clean wood.

(Ord. 6, 2009, passed 3-23-2009)

§ 92.27 GENERAL PROHIBITION ON OUTDOOR BURNING AND REFUSE BURNING.

Open burning, outdoor burning, and refuse burning are prohibited in the city unless the burning is specifically permitted by this subchapter.

(Ord. 6, 2009, passed 3-23-2009) Penalty, see § 92.99

§ 92.28 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:

- (A) Rubbish or garbage, including but not limited to, food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite 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 subchapter.

(Ord. 6, 2009, passed 3-23-2009) Penalty, see § 92.99

§ 92.29 OPEN BURNING EXEMPTIONS.

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 Board of Public Works and Safety of the city:
 - (1) Vegetation from a farm, an orchard, a nursery, a tree farm, a golf course, a cemetery or drainage ditch; or
 - (2) Wood products derived from pruning or clearing a roadside by various departments of city government.
- (D) By variance obtained from the Indiana Air Pollution Control Board Commissioner or the Commissioner's designated agent if approved by the Board of Public Works and Safety of the city;
- (E) An owner or operator of an air curtain destructor subject to approval of Indiana Department of Environmental Management

pursuant to 326 I.A.C. 4-1-6 *et seq.*, if approved by the Board of Public Works and Safety of the city;

(F) Burning by the Fire Department for the purpose of fire fighting training, subject to approval by Indiana Department of Environmental Management pursuant to 326 I.A.C. 4-1-4, if approved by the Board of Public Works and Safety of the city; and

(G) Emergency burning of refuse consisting of material resulting from a natural disaster or other similar occurrence when authorized by proclamation of the Mayor, subject to approval by the Indiana Department of Environmental Management pursuant to 326 I.A.C. 4-1-4.1, and to such restrictions as may be imposed by the Fire Chief.

(Ord. 6, 2009, passed 3-23-2009)

§ 92.30 RESTRICTIONS ON BURNING EXEMPTIONS.

(A) All burning conducted under one or more of the burning exemptions contained in § 92.29 herein shall be subject to the following:

(1) Only clean wood shall be burned unless otherwise stated.

(2) All fires shall be attended at all times until completely extinguished.

(3) 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 Fire Chief or the Mayor.

(4) All burning shall comply with all other applicable federal or state laws, rules and regulations.

(B) 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.

(Ord. 6, 2009, passed 3-23-2009)

§ 92.31 BURN BARRELS PROHIBITED.

No person, firm or other entity shall use or maintain a burn barrel in the city.

(Ord. 6, 2009, passed 3-23-2009) Penalty, see § 92.99

§ 92.32 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 city, even if the burning is in compliance with all regulations contained herein.

(Ord. 6, 2009, passed 3-23-2009) Penalty, see § 92.99

§ 92.33 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.

(Ord. 6, 2009, passed 3-23-2009)

§ 92.34 RIGHT OF ENTRY AND INSPECTION.

Upon reasonable cause, the Fire Chief, police officers or any authorized building commissioner of the city who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this subchapter.

(Ord. 6, 2009, passed 3-23-2009)

§ 92.35 ENFORCEMENT.

The Fire Chief, the Building Commissioner or their designees, and the Police Department are authorized to enforce the provisions of this subchapter.

(Ord. 6, 2009, passed 3-23-2009)

FIREWORKS

§ 92.45 USE, DISCHARGE OR IGNITION PROHIBITED.

(A) The use, discharge or ignition of consumer fireworks by any person or other entity is prohibited in the corporate limits of the city except during the following periods:

(1) Between the hours of 5:00 p.m. and two hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9 each year;

(2) Between the hours of 10:00 a.m. and 12:00 midnight on July 4 each year; and

(3) Between the hours of 10:00 a.m. on December 31 until 1:00 a.m. the next day each year.

(B) Consumer fireworks shall have the meaning as set forth in I.C. 22-11-14-1 as may be amended from time to time.

(C) The use, discharge or ignition of all other fireworks shall be governed by Indiana state statutes.

(Ord. 6, 2009, passed 3-23-2009)

§ 92.99 PENALTY.

Violations of this chapter shall be subject to the penalty provisions of § 10.99.

(Ord. 6, 2009, passed 3-23-2009)