

ORDINANCE 2013-12

SHORT TITLE: AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF DECATUR WHICH AMENDS SECTIONS 52.08 AND 52.99 OF THE 2007 DECATUR CITY CODE OF ORDINANCES FOR THE PURPOSE OF REGULATING OPEN BURNING AND ESTABLISHING PENALTIES FOR VIOLATION THEREOF

WHEREAS, the City of Decatur has a right and duty to protect the public health, safety and general welfare of its citizens; and

WHEREAS, open burning of combustible materials can pose a danger to persons and property as a result of flying embers and release of toxic or dangerous chemicals into the open air; and

WHEREAS, open burning may further constitute a public nuisance due to noxious or offensive odors and smoke; and

WHEREAS, the Common Council has determined a need to regulate open burning as a result of such detrimental effects and risks in order to protect the public health, safety and general welfare of the citizens of the City of Decatur, Indiana, and in order to establish enforcement and penalty provisions related thereto;

NOW, THEREFORE, BE ORDAINED BY THE COMMON COUNCIL OF THE CITY OF DECATUR, INDIANA, AS FOLLOWS:

Section 1. Purpose. The purpose of this Ordinance is to amend § 52.08 and § 52.99 of the 2007 Decatur City Code of Ordinances in order to regulate open burning of combustible materials within the City of Decatur, Indiana and establish penalties for violation thereof.

Section 2. Amendment. § 52.08 and §52.99 of the 2007 Decatur City Code of Ordinances is deleted and is hereby amended to read as follows:
“ § 52.08 Regulation of Open Burning.

(A) Unless otherwise permitted in subsection (C) below, open burning of combustible materials, including but not limited to garbage, household refuse, flammable liquids, petroleum products, rubber products, recyclables, construction and/or demolition materials, yardwaste and/or leaves, is prohibited within the municipal limits of the City of Decatur, Indiana.

(B) For purposes of this § 52.08, open burning shall mean the combustion of any matter in the open, in a burn container, or in an open pit or dump where the products of combustion are emitted into the open air without passing through a stack or chimney, or combustion occurs in a device other than a state approved incinerator.

(C) The following open burning is permissible within the City limits, subject to the restrictions set forth in subsection (D) below:

1. Controlled burns conducted by the Decatur Fire Department.
2. Bon fires approved by the City of Decatur Board of Public Works and Safety.
3. Recreational campfires in open in ground pits or decorative metal containers designed for campfires.
4. Charcoal or Gas burning Grills designed for cooking.

(D) Open burning as permitted in subsection (C) 2. and 3. is subject to the following restrictions:

1. Only natural wood products shall be burned.
2. Fire shall be attended at all times until all materials are completely extinguished.
3. If a fire creates a nuisance or air pollution problem (excessive smoke or offensive odors) affecting the peace and quiet enjoyment of surrounding properties, or if a fire creates a fire hazard to surrounding properties due to blowing embers, and fire and/or law enforcement authorities receive at least two (2) complaints from different surrounding property owners about the fire, the fire shall be investigated by fire and/or law enforcement authorities. If it is determined by the responding fire or law enforcement authorities that the fire is creating a health or safety risk, the fire shall be extinguished at the direction of the responding fire or law enforcement authorities.
4. No burning shall be conducted during unfavorable conditions such as temperature inversions, high winds, air stagnation or dangerously dry conditions.

5. Any person who conducts open burning assumes all risk of personal injury or property damage arising from or related to such open burning, and shall be liable for expenses related to fire and emergency personnel responding to an emergency arising from or related to such open burning.
6. Burning may not occur on an owner's property any closer than ten (10) feet from an adjoining owner' property line.
7. No burning is permitted at the location of apartment complexes or mobile home parks due to density of residences and/or reduced lot sizes."

§ 52.99 (C) of the 2007 Decatur City Code of Ordinances is deleted and is hereby amended to read as follows:

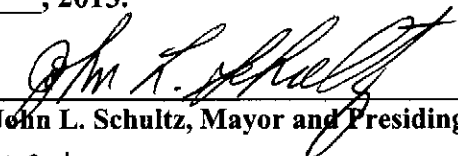
§ 52.99 PENALTY.

"(C) No notice as provided in § 52.14 (A) shall be served on any person in violation of §§ 52.08, 52.09 or 52.10. Any person who shall violate §52.08 shall be subject to a \$50.00 fine per occurrence. Any person who shall violate §§ 52.09 or 52.10 shall be subject to a fine of not less than \$10.00 nor more than \$300.00 per occurrence. Each day in which any violation continues shall be deemed a separate offense."

Section 3. Effect Of Ordinance. §52.08 and § 52.99 of the 2007 Decatur City Code Of Ordinances shall be deemed amended as set forth above upon the effective date of this Ordinance. Unless modified, amended or repealed herein, all other provisions of Chapter 52 of the 2007 Decatur Code of Ordinances shall remain in full force and effect.

Section 11. Effective Date. This Ordinance shall be effective upon its adoption, approval by the Mayor and publication as may be required by law.

ALL OF WHICH IS DULY PASSED, ADOPTED AND ORDAINED BY THE COMMON COUNCIL OF THE CITY OF DECATUR, INDIANA, ON THIS 19th DAY OF November, 2013.



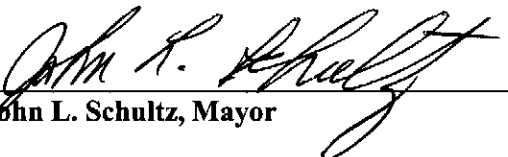
John L. Schultz, Mayor and Presiding Officer

ATTEST: 
Phyllis J. Whitright, City Clerk-Treasurer

Presented to John L. Schultz, Mayor of the City of Decatur, Indiana, for approval on this 19th day of November, 2013.


Phyllis J. Whitright, City Clerk-Treasurer

Approved by me, John L. Schultz, as Mayor of the City of Decatur, Indiana, on this 19th day of November, 2013, at 7:30 o'clock P. M.


John L. Schultz, Mayor