

ORDINANCE NO. 12-2007

**An Ordinance Banning Outdoor Fires in Unincorporated
Areas of Clark County, Indiana**

WHEREAS, the Board of Commissioners of Clark County ("Board") is the County Executive under I. C. 36-2-2-2 and also functions as the County legislative body under I. C. 36-1-2-9(1) and, as County Executive, the Commissioners ("Commissioners") are authorized by law to establish administrative policy on behalf of Clark County government ("Clark," the "County," or "Clark County") as appropriate hereafter;

WHEREAS, the Board, pursuant to I.C. 36-8-2-8 is authorized by Indiana law to regulate the introduction of any substance or odor into the air;

WHEREAS, the Board is authorized under I.C. 36-8-2-4 to regulate conduct that might endanger the public health, safety or welfare;

WHEREAS, due to extremely dry weather conditions in 2007, the Board deems it necessary to the public interest to impose an ban, with appropriate enforcement elements, upon the starting of outdoor fires in the circumstances described below for unincorporated areas of Clark County, Indiana;

NOW, THEREFORE, be it ordained by the Board as follows:

1. That each and every recital as set forth hereinabove is incorporated into and made a part of this Ordinance;
2. That it is hereby ordained to be prohibited for any person, business, entity or group of persons or groups of businesses to conduct any outdoor burning of wood, brush, trash, refuse or any materials that are burnable and combustible by fires ignited on the ground, at any location, in unincorporated areas of Clark County, Indiana;

3. That the Sheriff of Clark County, Indiana, the County Engineer and any law enforcement officer in Clark County, Indiana is authorized to issue a citation to any person/entity/business who is engaged in any conduct, participation, aiding or support of the outdoor fires prohibited by this Ordinance. Upon the issuance of such a citation, a copy of same shall be filed with the Clerk of the Clark Superior Court No. 3 for civil prosecution as an Ordinance violation;

4. That an attorney designated by the Board shall be authorized to civilly prosecute the Ordinance violations that are prohibited by this Ordinance. Upon proof of a violation of this Ordinance, by a preponderance of evidence presented to the Court, the Court shall enter judgment against the violator and shall impose the following additional sanctions:

- a. a fine for violation of this Ordinance in an amount not less than \$225.00 and not more than \$500.00;
- b. all costs and attorneys fees incurred by the County, and by the Clerk or the Court, for management and prosecuting the Citation and Ordinance violation;
- c. any additional actual damages that are the consequence, or proximately caused by, the burning that is a violation of this Ordinance;
- d. costs as are determined and imposed by the Court;
- e. all trials pursuant to this Ordinance shall be to the Court, without a jury;
- f. this Ordinance shall remain in full force and effect, after publication as required by law, until such time as it is otherwise modified or revoked by the Board;

SO ORDAINED THIS 20TH DAY OF SEPTEMBER, 2007.

Members voting Aye:

Mr. Edward Ryan
Karl W. Guthrie

Members voting Nay:

Mike Moore

ATTEST:

Barbara Haas
Auditor of Clark County