

STARKE COUNTY COMMISSIONERS ORDINANCE 2020- 003**COUNTY HIGHWAYS:
PROHIBITION OF UNAUTHORIZED BURNING
ON COUNTY HIGHWAY RIGHTS-OF-WAY**

WHEREAS, pursuant to Ind. Code §§ 8-17-1-1 and 2 the Board of Commissioners of Starke County (the "Commissioners") have authority over the county highways, roads, bridges and culverts, including maintenance thereof, and pursuant to I.C. § 8-17-1-40 the Commissioners possess authority to adopt ordinances regulating traffic on any highway in the county highway system; and,

WHEREAS, the County Highway Superintendent has determined that burning of leaves brush, building materials or other materials or substances on paved roads may cause severe damage to the pavement surface and that unauthorized burning anywhere on the county right-of-way poses a unacceptable safety risk to vehicular traffic due to flames and smoke and that improperly managed fires may spread and cause damage both on and off the county right-of-way; and,

WHEREAS, the County Highway Superintendent has recommended that Starke County ban all burning from paved areas on county highway rights-of-way and also ban unauthorized burning from unpaved areas of the county highway rights-of-way; and,

WHEREAS, the Commissioners, being duly advised, find that the recommendations of the County Highway Supervisor are in the best interests of improving transportation throughout the county, and of maintaining county highways and roads in an orderly and cost effective manner, and are in the best interests of the safety and welfare of the public, and therefore the Commissioners hereby adopt and approve the recommendations of the County Highway Superintendent by enactment of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED that the Starke County Code be amended to add Commissioners' Ordinance 2020-____, COUNTY HIGHWAYS: PROHIBITION OF UNAUTHORIZED BURNING ON COUNTY HIGHWAY RIGHTS-OF-WAY as follows:

Section I. Unauthorized Fires on County Rights-of-Way Prohibited

1. Open fires on or within five (5) feet of any paved area on or within a County Highway right-of-way are prohibited.
2. Fires on or within a County Highway right-of-way, but at least five (5) feet from any paved area are also prohibited, but may be authorized by express written permission of the County Highway Superintendent. The County Highway Superintendent shall, in his or her discretion, determine the facts, documentation and supporting commitments required to support permission for authorized burning on a county right-of-way, which may include requiring a burn plan, proof of insurance and burn qualifications according to the Superintendent's reasonable discretion. In addition the Superintendent may be make permission to burn subject to reasonable conditions including notice to neighboring persons and fire departments, and subject to appropriate weather conditions and such other conditions as the Superintendent shall determine.

Section II. Fines and Penalties

Violators of this Ordinance are subject to a maximum fine of \$ 300.00 for each day a violation exists, and in addition shall be required to pay to Starke County all costs incurred by the county including the reasonable costs of fire suppression, pavement repairs, damages caused to persons using the highway for travel, and for damages caused to lands and improvements caused by any prohibited fire or burning as defined herein.

Section III. Supplemental to Other Open Burning Prohibitions

This Ordinance is supplemental to any and all other laws, ordinances, rules or policies prohibiting open burning, including any environmental or public safety regulation. The intention of this Ordinance is to address the specific problems caused by burning on pavements and public rights-of-way. This Ordinance is not intended to supersede or any other burning ban, and therefore a penalty assessed hereunder shall not preclude assessment of a penalty under another such law, ordinance, rule or policy.

Section IV . Effective Date

The prohibition of burning hereunder shall take effect immediately upon passage; fines and penalties hereunder shall take effect after publication as required by Indian law.

Presented to the Board of Commissioners of Starke County, Indiana, and approved on the final reading the 6th day of January, 2020, by the following vote:

COMMISSIONERS OF STARKE COUNTY

VOTE

yes



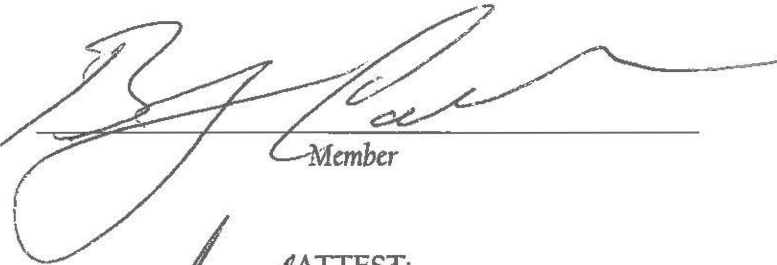
President

yes




Vice President

yes



Member

ATTEST:



Rachel Oesterreich, Auditor
Of Starke County Indiana