

CITY OF HORSESHOE BAY

OUTDOOR BURNING REGULATION

ORDINANCE NO. ORD 07-06-19A

AN ORDINANCE OF THE CITY OF HORSESHOE BAY, TEXAS REGULATING OUTDOOR BURNING WITHIN THE CITY OF HORSESHOE BAY; REQUIRING A PERMIT FROM THE CITY TO ENGAGE IN LAWFUL BURNING OUTDOORS; PROVIDING A PENALTY OF UP TO \$2000.00 FOR VIOLATION; PROVIDING FOR SEVERANCE, REPEAL OF CONFLICTS, AND AN EFFECTIVE DATE

WHEREAS, outdoor burning within the City of Horseshoe Bay (City) poses a fire safety risk and is a cause of air pollution; and

WHEREAS, pursuant to section 382.113 of the Health and Safety Code a municipality may enact ordinances for the control and abatement of air pollution consistent with the Texas Clean Air Act; and

WHEREAS, the City Council of the City is of the opinion that it is in the best interest of the citizens of the City to establish reasonable regulations regarding outdoor burning within the City;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. OUTDOOR BURN REGULATIONS

(a) Scope

The provisions of this Ordinance shall apply within the City Limits (i.e., incorporated municipal boundary).

(b) General Prohibition

Unless specifically excepted from the requirement to obtain a permit by section II.(d), no person shall cause, suffer, allow or permit any outdoor burning within the City Limits without obtaining a burn permit from the City Fire Department.

(c) Definitions

(1) *Acceptable cooking receptacles* shall mean cooking or barbeque devices (whether these are stationary or portable) such as smokers, hibachis, or kivas. The Fire Chief of the City Fire Department has the authority to determine whether an item which is not listed under this definition is an acceptable cooking receptacle.

(2) *Extinguished* shall mean the absence of any visible flames, glowing coals, or smoke.

(3) *Requesting party* shall mean the person requesting the burn permit and the individual who is responsible for the burn; this may also be the property owner.

(4) *Structure containing a sensitive receptor(s)* shall mean a man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation.

(5) *Sunrise/Sunset* shall mean official sunrise/sunset as set forth in the United States Naval Observatory tables available from the National Weather Service offices.

(d) Exceptions to Burn Permit

The following situations do not require a burn permit:

- (1) Fire Department training fires within the requirements of the state law,
- (2) fires within fireplaces,
- (3) outside noncommercial cooking fires in acceptable cooking receptacles, or
- (4) small warming fires within containers.

(e) Permitting

(1) A burn permit shall be requested and received prior to any outdoor burning. The burn permit shall be requested in writing from the Fire Department at least five (5) working days in advance of the requested burn date.

(2) The requesting party shall provide the following on their burn permit application:

- (A) The requestor's name,
- (B) The requestor's address,
- (C) The requestor's phone number,
- (D) The property owner of the proposed burn site's name and phone number (if this is different from the requesting party's),

- (E) The address of the proposed burn site,
 - (F) The date requested for the burn, and
 - (G) The time of the burn.
- (3) Fire officials may inspect the site and conditions before either approving or disapproving the burn and shall notify the requesting party of their determination.
- (4) If at any time the Fire Department determines that due to changing conditions or due to increased safety risks, the burn permit may be cancelled and/or order the requesting and/or responsible party to extinguish the fire. If the requesting and/or responsible party can not be located or refuses to extinguish the fire, the Fire Department is authorized to enter the property and extinguish the fire at the owner's expense.
- (5) The City Council is authorized to create and require the use of a form to facilitate requests for outdoor burning permits.

(f) Requirements for Outdoor Burning

- (1) Fire officials may prohibit any outside fire when atmospheric and environmental conditions or local circumstances make such fires hazardous or unsafe regardless of whether a permit is required.
- (2) All outdoor burning shall be limited to the burning of brush, grass, leaves, trees and vegetation that has been generated only from that property where the burn is to occur. Items that can not be burned include: household wastes or garbage, electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber.
- (3) All outdoor burning, regardless of whether a permit has been obtained, shall also be subject to the following requirements:
- (A) Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public road, landing strip, navigable water, or off-site structure containing sensitive receptor(s).
 - (B) If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post flag-persons on affected roads and extinguish the fire.
 - (C) Burning must be conducted downwind of or at least 300 feet (90 meters) from any structure containing sensitive receptors located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control.

(D) Burning shall be conducted in compliance with the following meteorological and timing considerations:

(i) The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset, and shall be attended by a responsible party at all times during the active burn. In cases where residual fires and/or smoldering objects continue to emit smoke after this time, such areas shall be extinguished. In no case shall the extent of the burn area be allowed to increase after this time.

(ii) Burning shall not be commenced when surface wind speed is predicted to be less than six (6) miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period.

(iii) Burning shall not be conducted during periods of actual or predicted persistent low-level atmospheric temperature inversions.

(iv) A means of fire control and extinguishment must be readily available on site at all times. Fifty-five gallon drums of water may be allowed if a water line is unavailable.

(v) Burning shall not endanger any other property or structure.

(g) Responsibility for Consequences of Outdoor Burning

(1) The authority to conduct outdoor burning under this regulation does not exempt or excuse any person responsible from the consequences, damages, or injuries resulting from the burning and does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this regulation.

(2) If the Fire Department determines that a burn is creating an unsafe condition and orders the responsible party to extinguish the burn and that party refuses to do so the Fire Department is authorized to extinguish the burn. The fee for extinguishing that burn will be charged to the person who requested the burn permit. That fee will be calculated on a per hour basis for the cost of equipment and personnel. This fee is currently set at \$150 per hour and shall be calculated in no less than one-half hour increments.

(h) Penalty for Violation

The Penalty for violation of this ordinance carries a fine not to exceed \$2,000. Each violation is a separate offense.

