

Ordinance 2011-03-15-2

Outdoor Burning

An Ordinance of the City of Timpson Texas prohibiting the creation of certain fires in the City limits of Timpson Texas; requiring permits for outdoor burning; providing for a penalty for violation hereof; providing that this ordinance is cumulative of all ordinances repealing all parts of ordinances in conflict; providing an enforcement clause; providing severability and open meetings clauses

Whereas, the City Council seeks to promote the health, safety, and general welfare of the community by preventing death, injuries, and property damage from wildfires within the City Limits; and

Whereas, the City Council finds that certain types of outdoor burning constitute a public nuisance that poses a significant and immediate threat to the health, safety, and welfare of City citizens and their property; and

Whereas, pursuant to Texas Local Government Code Chapter 51, the City Council has the general authority to adopt and publish an ordinance that is for the good government of the municipality

Whereas, pursuant to Texas Local Government Code Chapter 271, the City Council has the general authority to identify, prevent, and abate public nuisances; and

Whereas, pursuant to Texas Local Government Code Chapter 342 the City Council has the express authority to adopt rules for the prevention of fires; and

NOW, THEREFORE, BE IT ORDIANED BY THE CITY COUNCIL OF THE CITY OF TIMPSON, TEXAS, THAT:

Section 1.-Findings of Fact- The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions, and requirements of this ordinance are reasonable and necessary to protect the public health, safety, and quality of life.

Section 2.-Jurisdiction- This ordinance shall apply within and throughout the incorporated municipal boundary (city limits) of the City of Timpson

Section 3.-Regulations for outdoor burning

- a. Outdoor burning shall be authorized for fires used exclusively for recreational or ceremonial purposes, in the non commercial preparation of food, for supplying warmth during cold weather as defined by Title 30 of the Texas Administrative Code , or for on site burning of trees, brush, grass, leaves, branch trimming, or other plant growth, by the owner or any person authorized by the owner, and when material is generated only from that property, burning of crop residue, for

the training of firefighters, burning of carcasses, or when burning by permit issued pursuant to this ordinance as set forth

- b. An outdoor burning permit must be obtained from the City of Timpson fire marshal for any outdoor burning within the City Limits of Timpson Texas- **EXCEPTION - Burning leaves and/or grass does not require a permit**
- c. 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 phase when the fire is progressing. In cases where residual fires and/or smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard condition. In no case shall the extent of the burn area be allowed to increase after this time.
- d. Burning shall be conducted downwind or at least 300 feet (90 meters) from any structure containing sensitive receptors located on adjacent properties unless prior written approval is obtained from adjacent occupant with possessory control
- e. If at any time the burning causes 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 the effected roads in accordance with the requirements of the Shelby County Sheriff's office and the Texas Department of Public Safety or to immediately extinguish the fire.
- f. Burning shall not be commenced when wind speed is predicted to be less than six miles per hour(MPH) (five knots) or greater than 23 MPH (20 knots) during the burn period
- g. 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 must not be burned
- h. Prior to issuing any burning permit, the fire marshal or his agent shall inspect and evaluate the proposed burn. The fire marshal shall require as a condition of fire permit, all safety and precautionary measures as reasonably required to control the burn and insure the safety of adjacent properties and the public. These measures may include, but are not limited to, monitoring by member(s) of the fire department, below ground burning, trench burning, or prescribed burns.
- i. The area around the burn must be free of any combustible materials such as grass, weeds, trees, and brush for a minimum of 25 feet
- j. Burning shall be commenced only under the terms and the indicated date on the burn permit
- k. A minimum \$25.00 (twenty-five dollar) application fee will accompany each application for burn permit. Additional charges for monitoring of a controlled burn by the fire department, if required by the fire marshal, may be imposed as a condition of the permit. Additional fees will not exceed \$1000.00 (one thousand dollars).
- l. The fire marshal has the sole discretion to grant or deny permits to burn under this ordinance. Applications for permits to burn that satisfy the requirements of this ordinance and safety measures set by the fire marshal shall be granted. If for any reason the fire marshal or his agent revokes the permit, application fees WILL NOT be refunded.

Note: THE AUTHORITY TO CONDUCT OUDOOR BURNING UNDER THIS ORDINANCE 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 GOVERNMENT ENTITIES HAVING JURISDICTION, EVEN THOUGH THE BURNING IS OTHERWISE CONDUCTED IN COMPLIANCE WITH CHAPTER 30 OF THE TEXAS ADMINISTRATIVE CODE

Section 4.-Enforcement

- A. Civil and Criminal Penalties-**The City of Timpson shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for civil & criminal penalties
- B. Criminal Prosecution-** Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense.
- C. Civil Remedies-** Nothing in this Ordinance shall be construed t as a waiver of the City of Timpson or its agents right to bring civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including but not limited to the following
 - 1. Injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
 - 2. A civil penalty up to \$1000.00 a day when it is shown that the defendant was notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
 - 3. Other available relief

Section 5.-Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance , and the remainder of this ordinance shall be enforced as written.

Section 6.-Proper Notice and Meeting


It is herby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place, and

purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code

Section 7.-Effective Date

This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Texas Local Government Code.

Passed and Approved on this 15th day of March 2011



Mayor Debra P. Smith

Attest:



Tanya M. Windham, City Secretary