

ORDINANCE NO. 1611

AN ORDINANCE OF THE CITY OF LAMPASAS; REGULATING OUTDOOR BURNING WITHIN THE CITY LIMITS OF THE CITY OF LAMPASAS; ESTABLISHING THE ALLOWABLE MATERIALS, RULES AND REGULATIONS FOR BURNING; SETTING BURN PERMIT FEES; PENALTIES FOR VIOLATIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the public health, safety and welfare, require the adoption and enforcement of codes governing the hazards to life and property from fire and/or its by-products within the City of Lampasas, Texas (herein the "City"); and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAMPASAS, TEXAS, THAT:

Section 1. Findings: The preceding recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Outdoor Open Burning Code Adopted: Section 46-3 of the City of Lampasas Code of Ordinances is hereby amended to add "Outdoor Burning" which shall read as follows:

Sec. 46-3. - Outdoor open burning.

(a)

Outdoor open burning is generally prohibited anywhere within the incorporated city limits of Lampasas, Texas. There are allowable exceptions for specific situations in which burning is necessary or does not pose a threat to property or the environment, or as further allowed by this subchapter and state law. A permit issued by the Fire Marshal or his/her designee is required to exercise these exceptions.

(b)

Definitions.

Extinguished—The absence of any visible flames, glowing coals, or smoke.

Practical alternative—An economically, technologically, ecologically and logistically viable option.

Red Flag Warning - A Red Flag Warning means high fire danger with increased probability of a quickly spreading vegetation fire in the area within 24 hours. The weather criteria for red flag warnings vary based on the local vegetation type, topography, and distance from major water sources. They usually include the daily vegetation moisture content calculations, expected afternoon high temperature, afternoon minimum relative humidity and daytime wind speed.

Sensitive receptor(s)—A manmade structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. The term "sensitive live vegetation" is defined as vegetation which has potential to be damaged by smoke and

heat, examples of which include, but are not limited to: nursery production, mushroom cultivation, pharmaceutical plant production, or laboratory experiments involving plants.

Sunrise/sunset—Official sunrise/sunset as set forth in the United States Naval Observatory tables available from National Weather Service offices.

(c)

Outdoor burning exceptions. Trees, brush, and other plant growth may be burned on the property on which the material grew if they meet all of the following:

- (1) The plant waste must not have been created secondary to the work of a commercial lawn or tree cutting service or other person, group or entity providing the labor for monetary compensation.
- (2) The material must be burned by the property owner or his designee (for this purpose a designee can be a paid employee of the property owner). The property owner's designee may not be a commercial tree cutting or lawn service or any person, group or entity subcontracted for the sole purpose of providing the labor for the burn for compensation.
- (3) Commercial tree cutting services and lawn care services may not burn generally allowable material on their property if that material was brought from offsite.

(d)

Rules while conducting the burn. Once a permit for on-site burning is issued, the following rules shall be followed:

- (1) Immediately prior to igniting the controlled burn, the property owner or his designee will contact the local emergency dispatch at their non-emergency phone number and report the physical address location of the burn and a contact phone number
- (2) Open burning should be conducted at a distance to keep any structure or combustible material from igniting. Conditions that would enable fire to spread shall be eliminated prior to ignition.
- (3) Sites permitted for open burning shall provide a method to control the fire that is adequate for the fire's size, the local geography and weather conditions such as a readily available garden hose or other reasonable method of managing the fire and preventing its spread outside the boundaries of the pile. The burning material shall be constantly attended by a person 17 years of age or older who is knowledgeable in the use of the provided fire extinguishing equipment and familiar with the requirements and/or special conditions of the permit.
- (4) 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).

(5) 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.

(6) 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.

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

- a) 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.
- b) Burning shall not be commenced when surface 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. Additionally, no burning shall commence on Red Flag warning days.
- c) Burning shall not be conducted during periods of actual or predicted persistent low-level atmospheric temperature inversions.

(8) Electrical insulation, lumber that has been treated, glued, laminated, pressed, varnished, stained or painted, plastics, non-wood construction/demolition materials, fiberglass, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.

(9) The burning of pallets and/or other packaging or product handling material made from dimensional lumber by commercial end users of such products shall be specifically prohibited.

(10) 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.

(e)

Permit fee and duration. The fee for issued permits for the conducting of approved outdoor burning is subject to the following information:

Established Residential or Vacant Lots - \$15.00 for 30 calendar days

Commercial or Residential Development Property under developer control \$100.00 for 30 calendar days

* Extensions may be granted if the time period was shortened due to weather conditions, state or county issued burn bans, extended red flag warnings or any other reasonable situation as determined by the Fire Marshal. *

(f)

Revocation. The fire marshal and his/her representatives are authorized to revoke a burn permit and require that the open burning be immediately discontinued if:

(1) A complaint on the fire is received and substantiated.

(2) On inspection of the fire, it is determined that the permit conditions are not being met.

(3) It is determined that weather or other conditions not readily apparent or otherwise present at the time of issuance of the permit, have created too hazardous a condition for continued burning.

(g)

Refusal to issue permit. In addition to burn piles containing non-allowed combustible material within, the fire marshal or his representatives may refuse to issue a permit for outdoor burning where the greater good or the health, safety and welfare of the public supersedes those of the individual, even though all conditions for permit issuance are being met.

(h)

Outdoor burning allowed without permit. Burning is allowed regardless of burn ban when used solely for recreational or ceremonial purposes, in the non-commercial preparation of food, or exclusively as a means of generating warmth in cooler weather. In other words, campfires and cooking fires are allowed. Fires of this nature should be constructed in a nonflammable container. A 55-gallon barrel with a metal screen over the top is acceptable. A below ground level fire is acceptable if the ground level has an established metal or masonry border.

Fires built under this exception may not contain electrical insulation, treated lumber (including paint, stain, varnish, clear coat, or any other kind of treatment), plastics, construction or demolition materials not made of wood, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, or items containing natural or synthetic rubber. The other general requirements on allowable outdoor burning do not apply to

fires covered by this exception, but the burning must not cause a nuisance or traffic hazard.

A competent adult shall continuously attend the fire until the fire is extinguished. This person shall have a garden hose connected to a water source or other approved fire extinguishing equipment readily available for use.

(i)

Penalty. Any person who violates any of the provisions of this section shall be guilty of a class C misdemeanor and upon conviction thereof, shall be punished by a fine up to \$500.00.

Section 3. Severability. It is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

Section 4. Effective Date. This ordinance shall take effect immediately upon its approval and passage and publication as required by Charter.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is 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, Tex. Gov't. Code.*

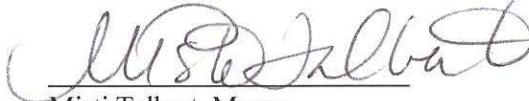
PASSED AND APPROVED on the 24th day of February, 2020.

ADOPTED on the 9th day of March, 2020.

ATTEST:


Christina Marez, City Secretary

CITY OF LAMPASAS, TEXAS


Misti Talbert, Mayor