

ORDINANCE NO. 411-2015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VENUS, TEXAS, ORDERING THE AMENDMENT OF THE CITY OF VENUS CODE OF ORDINANCES, CHAPTER 18 PUBLIC SAFETY, ARTICLE IV. FIRE PREVENTION, TO ADD DIVISION 3 OUTDOOR BURNING TO PROHIBIT OUTDOOR BURNING WITHIN THE CITY LIMITS AND TO PROVIDE EXCEPTIONS FOR RECREATIONAL, COOKING, AND FIRE TRAINING RELATED BURNING, CONFIRMING TEXAS OPEN MEETINGS ACT COMPLIANCE, PROVIDING A SEVERABILITY CLAUSE, PROVIDING A REPEALER CLAUSE, PROVIDING A PUBLICATION CLAUSE, PROVIDING AN EFFECTIVE DATE, AND PROVIDING A CERTIFICATION OF ADOPTION.

WHEREAS, the City of Venus, Texas ("City"), is a Type A general law city operating pursuant to the laws of the State of Texas, by and through its duly elected council members;

WHEREAS, the City is authorized and empowered to adopt and enforce ordinances, not inconsistent with state law, that are necessary to protect the welfare and safety of its inhabitants (TEXAS LOCAL GOVERNMENT CODE § 51.012);

WHEREAS, the City Council ("Council") of the City serves as the elected governing body; directly responsible for the promotion and protection of the public health and safety of its citizens and inhabitants;

WHEREAS, the Council finds for the protection of citizens' safety and health that outdoor burning should be prohibited; and

WHEREAS, the ordinances of the City are codified together in the CITY OF VENUS CODE OF ORDINANCES, hosted and managed by Municode.com;

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

SECTION A. CHAPTER 18 AMENDMENT

Chapter 18 – Public Safety, Article IV. Fire Prevention, of the CITY OF VENUS CODE OF ORDINANCES is amended to add Division 3 Outdoor Burning as follows:

Division 3 – Outdoor Burning

Sec. 18-190. – Burning Prohibited. It shall be unlawful for any person to burn trash, refuse, debris, tree limbs, garbage, household items, leaves, tires, flammable containers, animal carcasses, construction materials, roofing materials, plastics, hazardous waste, or any combustible material or substance in the open/outdoors

within the city limits. Fires for the purpose of recreation or cooking are allowed and shall be conducted as follows:

- (a) Cooking fires shall be in an enclosed chamber, barbeque pit, or barbeque grill designed to prevent the fire and embers from escaping the enclosed chamber.
- (b) Cooking fires shall only be from propane gas, wood, logs, wood chips, and/or charcoal briquettes.
- (c) Recreational fires shall be at least fifteen (15) feet from any building, structure, or fence.
- (d) Recreational fires shall only be from the burning of wood, logs, wood chips, manufactured burning logs (duraflame, etc.) and/or charcoal briquettes.
- (e) Recreational fires shall be contained in a chamber or pit designed to prevent the fire from escaping and shall be covered by a screen or other device to prevent embers from escaping.
- (f) No recreational fire chamber or fire pit fuel area shall be in excess of three (3) feet on any side or in diameter, and shall not exceed two (2) feet in height.
- (g) Recreational fires using portable outdoor fireplaces, manufactured fire pits, chimineas, or other retail designed outdoor fire chamber shall be used in accordance with manufacturer instructions and warnings.
- (h) Any and all allowed recreational fires shall be closely monitored by an adult and not left unattended for any period of time.
- (i) A portable fire extinguisher with a minimum 4-A rating, or alternative means of extinguishment such as a garden hose shall be in place and ready for immediate use during any allowed recreational fire.

Sec. 18-191. – County Burn Ban. If a county-wide burn ban is in effect, strict compliance with the burn ban order and the published requirements of the order shall be observed superseding Sec.18-190 in the county for which the ban governs. A violation of a county-wide burn order shall constitute an offense under this section.

Sec. 18-192. – Firefighter Training. Sections 18-190 and 18-191 shall not apply to firefighters participating in training exercises under the supervision of the controlling fire agency/department and if the notice and approval process provided by Texas Commission on Environmental Quality (TCEQ) in TEXAS ADMINISTRATIVE CODE Title 30, Chapter 111 are satisfied.

Sec. 18-193. – Search Warrant. If supported by a duly executed sworn affidavit and probable cause, a city police officer or code officer may seek a search warrant from the city municipal judge and/or a Johnson or Ellis County magistrate to enter and inspect an area or property for a suspected violation of this Division and its sections, but only if consent to search/inspect has been denied or the responsible party/owner cannot be identified, found and/or reached to obtain consent.

SECTION B. OPEN MEETINGS COMPLIANCE

That the meeting at which this Ordinance was approved was in all things conducted in strict compliance with the TEXAS OPEN MEETINGS ACT, TEXAS GOVERNMENT CODE, Chapter 551.

SECTION C. SEVERABILITY

Should any section, clause, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and/or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

SECTION D. REPEALER

All ordinances or parts of ordinances not consistent or conflicting with the provisions of this ordinance are hereby repealed; provided that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this ordinance. Any cause of action accruing prior to the passage of this ordinance shall continue as if this ordinance was not passed or any other ordinance had not been repealed.

SECTION E. PUBLICATION

The City Secretary is hereby directed, if required by law, to post or publish in the official newspaper of the City, the caption, publication clause and effective date clause of this ordinance in one issue of the official newspaper of the City, provided that the official newspaper is a weekly paper, in accordance with Section 52.011 of the TEXAS LOCAL GOVERNMENT CODE. The City Secretary is also hereby directed to incorporate the provisions of this Ordinance into the CITY OF VENUS CODE OF ORDINANCES by submitting it to *www.municode.com* for incorporation and online publication.

SECTION F. EFFECTIVE DATE

That this Ordinance shall become effective from and after its passage.

SECTION G. CERTIFICATION OF ADOPTION

APPROVED:

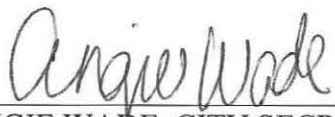

MAYOR JAMES BURGESS

PASSED: MONDAY, NOVEMBER 9, 2015

ORDINANCE BECOMES EFFECTIVE: MONDAY, NOVEMBER 9, 2015

I, the undersigned, City Secretary do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the City of Venus City Council at a regular meeting duly convened on Monday, November 9, 2015.

ATTEST:


ANGIE WADE, CITY SECRETARY

APPROVED AS TO FORM:


CASS CALLAWAY, CITY ATTORNEY