

ORDINANCE #13-323

AN ORDINANCE OF THE CITY OF MASON, TEXAS PROHIBITING OUTDOOR BURNING WITHIN THE CITY LIMITS EXCEPT EXEMPTED OR WHERE SPECIFICALLY AUTHORIZED BY THE CITY BUILDING OFFICIAL; ESTABLISHING PERMIT REQUIREMENTS AND REGULATIONS FOR AUTHORIZED BURNS; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ORDINANCE; PROVIDING FOR PENALTIES NOT TO EXCEED \$500.00 FOR THE VIOLATION OF THIS ORDINANCE; ESTABLISHING MISCELLANEOUS PROVISIONS OF THIS ORDINANCE; AND REPEALING ORDINANCE #197A AND #05-290.

WHEREAS, from time to time it becomes necessary to make certain changes in the City's Ordinance relating to the above matters; and

WHEREAS, the Texas Clean Air Act (TCAA) authorizes municipalities to enact and enforce an ordinance for the control and abatement of air pollution, or any other ordinance, not inconsistent with the TCCA or the Texas Commission on Environmental Quality (TCEQ) rules or orders.

WHEREAS, the adoption of certain prohibitions and guidelines regarding outdoor burning within the City limits is in the interest of the health, safety and welfare of the citizens of the City of Mason, Texas.

***NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MASON,
TEXAS:***

SECTION 1 (of 7)

TITLE, PURPOSE and SCOPE

1.1 TITLE

This ordinance shall be known as the City of Mason Outdoor Burning Ordinance and maybe cited as such.

1.2 PURPOSE

To protect public health and safety and to prevent a public nuisance by restricting outdoor burning within the City limits.

Amended: March 12, 2018

1.3 SCOPE

This ordinance applies to all outdoor burning, except for campfires, bonfires and cooking fires. Fires built under this exception may not contain electrical insulation, treated lumber, 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 those burning must not cause a nuisance or traffic hazard.

SECTION 2 (of 7) DEFINITIONS

• **STRUCTURE CONTAINING SENSITIVE RECEPTOR (S)** A man-made structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. The term man-made structure does not include such things as range fences, roads, bridges, hunting blinds or facilities used solely for the storage of hay or other livestock feeds. 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.

• **DOMESTIC WASTE** Domestic Waste defined in 30 TAC Section 101.1(23), is the garbage and rubbish normally resulting from the functions of life within a residence. It includes food waste, food packaging, residential yard, grass, leaves and branch trimmings, and clothing. It does not include tires, construction debris that is not wood, furniture, carpet, appliances, and other items that residential households do not normally generate as waste. (TCEQ publication RG-049 Feb.2005)

SECTION 3 (of 7) PERMITS

3.1 REQUIREMENT

Outdoor burning within the City limits is strictly prohibited, unless a permit authorizing said burning is issued by the City Building Official or unless said burning is exempted from the requirements of this ordinance.

3.2 ISSUANCE

Amended: March 12, 2018

A permit authorizing a controlled burn shall be issued if the City Building Official determines the size or location of the proposed burn does not present an immediate fire hazard to surrounding structures, vegetation or other combustibles and falls within one of the following approved categories:

- 3.2a On-site burning of trees, brush, and other plant growth for right-of-way maintenance, land clearing operations, and maintenance along water canals when no practical alternative to burning exists and when the materials are generated only from that property.
- 3.2b Crop residue burning for agricultural management purposes when no practical alternative exists.
- 3.2c Brush, trees, and other plant growth causing a detrimental public health and safety condition may be burned by a county or municipal government at a site it owns upon receiving site and burn approval from TCEQ. Such a burn can only be authorized when there is no practical alternative, and it may be done no more frequently than once every two months.
- 3.2d Commercial food preparation are one time issue and will continue subject to the following conditions:
 - Only seasoned hardwood shall be used for food preparation and the burning of any other material will be cause for revocation of permit
 - No domestic waste (See definitions) shall be burned
 - Burning will be conducted in a receptor designed to contain sparks and and brands
 - Burning shall take place only between 3 am and 4 pm
 - No smoke will be allowed 1 hour before sunset or 6 pm, whichever is earlier
 - Permits shall not be transferable

If the above rules are intentionally violated the permit shall be revoked, and upon a new request a replacement permit may be issued. After permit is revoked three separate times, then a new permit may be issued only on the written approval of the City Administrator, or may be withheld if the problem is not corrected.

3.2e All permits for Outdoor Burning, with the exception of commercial food preparation, shall expire after a period of 30 days. Permits may be extended upon written request presented to the Building Official, and if authorized will extend the permit for an additional 30 days.

3.3 FEES

Permit fees required under this ordinance are contained in the Fee Schedule Ordinance as adopted by the City Commission.

Amended: March 12, 2018

SECTION 4 (of 7)
REGULATIONS

Outdoor burning which is otherwise authorized shall also be subject to the following requirements:

- 4.1** 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).
- 4.2** 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.
- 4.3** 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.
- 4.4** Burning shall be conducted in compliance with the following meteorological and timing considerations:
- 4.4a 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.
 - 4.4b 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.
 - 4.4c Burning shall not be conducted during periods of actual or predicted persistent low-level atmospheric temperature inversions.
 - 4.4d 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.
- 4.5** Any Burn Ban established by the Mason County Commissioners Court shall be effective and enforced by the City. Under a Burn Ban no outside burning shall be permitted by the Building Official

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and any outstanding permits for Outdoor Burning shall be voided immediately upon the institution of a County Burn Ban. There shall be no exemption from these regulations provided for private campfires, bonfires and cooking fires. All regulations established for a County Burn Ban by Executive Order shall be enforced within the City limits as though adopted by the City Commission. The City Administrator, or his designee, may exempt a "benefit" barbeque or other food preparation upon a request and demonstration that all necessary measures have been considered to insure the safety of the public.

SECTION 5 (of 7)
INSPECTION

The City Building Official, or another City employee working under his/her direction, shall inspect all burn sites prior to the commencement of a burn. The same shall be authorized to inspect the burn site anytime during the day(s) of or the day following the burn.

SECTION 6 (of 7)
MISCELLANIOUS PROVISIONS

6.1 ORDINANCES IN CONFLICT

Ordinance 197A and 05-290 are hereby repealed and all other ordinances of the City and any parts thereof that are in conflict with this ordinance are also hereby expressly repealed.

6.2 SEVERABILITY

If any portion of this ordinance shall be declared unconstitutional or in violation of the general laws of the State of Texas, such declaration shall not affect the remainder of this ordinance which shall remain in full force and effect.

6.3 PENALTIES

Any person burning in violation of this ordinance or any portion hereof shall, upon conviction, be guilty of a misdemeanor and assessed a fine not to exceed \$500.00. For each day any violation of this ordinance shall continue to occur, every such additional day shall be considered a separate offense and punishment shall be assessed accordingly.

6.4 LIABILITY

The party responsible for the burn remains liable for damages, injuries, or other consequences that may result from burning, even when it is carried out in compliance with these regulations.

SECTION 7 (of 7)
EFFECTIVE DATE

Amended: March 12, 2018

PASSED and APPROVED this the 8th day of April A.D. 2013.

APPROVED:

/s/ Brent Hinckley
Brent Hinckley, Mayor

ATTEST:

/s/Pattie Grote
Pattie Grote, City Secretary

Amended: March 12, 2018