

ORDINANCE NO. 2015-03-02

AN ORDINANCE OF THE CITY OF WESTON, TEXAS ESTABLISHING OUTDOOR BURNING REQUIREMENTS PURSUANT TO THE LAWS OF THE STATE OF TEXAS AND CHAPTER 352.081 and 352.082; THE RULES OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ); AND PROVIDING FOR A FINE FOR VIOLATION OF THIS ORDINANCE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE.

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

WHEREAS, for the health, safety and welfare of the citizens of the City of Weston, it is necessary to control the outdoor burning of all combustible materials within the corporate limits of the City; and

WHEREAS, Texas Local Government Code Chapter 271.002 grants a municipality the powers and rights as are otherwise vested by law in the municipality to: 1) abate a nuisance; and 2) enact and enforce an ordinance for the control and abatement of air pollution;

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

SECTION 1 OUTDOOR BURNING PROHIBITED

No person, firm, corporation, or business entity (hereinafter referred to as "party") may cause, suffer, allow, or permit any outdoor burning of any combustible material within the corporate limits of the City of Weston except as provided for in this Ordinance.

SECTION 2 EXCEPTIONS

Outdoor burning without a City permit is authorized in each of the following instances:

- A. When pursuant to a written grant of authority from the Texas Commission on Environmental Quality (TCEQ) who, before granting such authority, must determine that there is no practical alternative to outdoor burning, and the burning will cause or contribute to a violation of any federal primary or secondary ambient air standard;
- B. Outdoor burning consisting of fires used solely for recreational or ceremonial purposes, or in the noncommercial preparation of food, or used exclusively for the purpose of supplying warmth during cold weather;

SECTION 3 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) PERMIT REQUIRED

Except as provided for in Section 2 of this Ordinance, no party shall perform or authorize any outdoor burning within the corporate limits of the City of Weston without first obtaining a permit for such burning from the City of Weston.

SECTION 4 PERMIT FEE & TERM

A fee of Twenty-Five Dollars (\$25) will be charged by the City or its authorized representative for a permit to conduct outdoor burning within the corporate limits of the City under this Ordinance. The permit shall be valid for a period one (1) year from its date of issue. In the event outdoor burning is prohibited by weather conditions or if a burn ban is issued in the area during said thirty (30) days, the permit may be extended one (1) time for an additional thirty (30) days at no additional cost to the applicant. The permit fee will be due and payable at the time of application for the permit and prior to the inspection described in Section 5(C) of this Ordinance. The fee shall be non-refundable after the inspection has been performed.

**SECTION 5
RESTRICTIONS AND REQUIREMENTS**

All outdoor burn permits issued by the City shall be subject to the following restrictions and requirements:

- A. Burn permits will be issued **ONLY** for burning dry leaf and grass piles, branches, and limbs;
- B. Kitchen garbage, household refuse, electrical insulation, treated lumber, plastics, non-wood or wood construction materials, hydrocarbon fuels and lubricants, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber shall **NOT** be burned;
- C. A burn permit will be issued only after the permit fee has been paid and an authorized representative of the City inspects and approves the burn site and the material to be burned;
- D. No materials shall be transported from any other site to be burned or disposed of at a permitted burn site subsequent to the site inspection described in Section 5(C) of this Ordinance;
- E. Prior to igniting any permitted burn, the party performing the burn shall consult with any of the following to determine an allowable wind speed as cited in Section 5(J).
 - a. National Weather Service
 - b. Accuweather
 - c. NOAA
- F. The burn site shall be a safe distance from all building structures and combustible materials which are not described in and covered by the burn permit;
- G. The establishment of a(n) effective fire break(s) shall be maintained around the periphery of the burning material;
- H. A competent person at least 18 years of age shall be present at the burn site from the time of ignition until the fire is consumed or extinguished;
- I. A supply of water to control the burn shall be provided at the site throughout the burn;
- J. No burning shall be allowed on days when surface wind velocities are predicted to exceed 12 mph;
- K. No burning shall be allowed on ozone alert days for the Dallas-Fort Worth area, or when a ban has been issued by the Texas State Fire Marshall, an authorized Collin County official, or an authorized representative of the City of Weston;
- L. Burns may begin no earlier than one hour after sunrise and and must be completely extinguished no later than one hour before sunset; and
- M. A copy of the burn permit shall be available on site throughout the burn.

**SECTION 6
RESPONSIBILITY FOR CONSEQUENCES**

The authority to conduct outdoor burning under this Ordinance does not exempt or excuse the party responsible for such burning from the consequences, damages, or injuries resulting from the burning, and does not exempt or excuse any party 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 Ordinance. The City of Weston does not accept responsibility for the conduct or consequences of such outdoor burning activities, even if the burning is conducted in total compliance with this Ordinance.

**SECTION 7
INTERPRETATION**

This Ordinance shall be deemed to be supplementary to Texas Local Government Code; the rules, regulations, and orders of the Texas Commission on Environmental Quality (TCEQ); and it shall not be administered in any manner which conflicts with, or is inconsistent with such codes, rules, regulations, and orders.

**SECTION 8
PENALTY**

Pursuant to Texas Local Government Code, Section 54.001, any party violating this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000). Each day of non-compliance shall constitute a separate offense punishable by the same fine.

**SECTION 9
RIGHTS AND REMEDIES**

All rights and remedies of the City of Weston are expressly saved as to any and all violations of the provisions of any other ordinances affecting truck routes or the operation of vehicles on public streets which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 10
PUBLICATION IN OFFICIAL NEWSPAPER**

The City Secretary of the City of Weston is hereby directed to publish this ordinance or its caption and penalty in the official City newspaper as required by Section 52.011 of the Texas Local Government Code.

**SECTION 11
CUMULATIVE REPEALER CLAUSE**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on the date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect

**SECTION 12
PROVISIONS SEVERABLE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, paragraphs and sections of this ordinance are 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, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 13
EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

PASSED AND APPROVED by Council this, the 10th day of March, 2015.

APPROVE

Patti Harrington
Patti Harrington, Mayor

ATTEST

Susan Coffey
Susan Coffey, City Secretary

