

CITY OF LAVON, TEXAS
ORDINANCE NO: 2016-08-05

Revised Burn Ordinance

AN ORDINANCE OF THE CITY OF LAVON, COLLIN COUNTY, TEXAS ESTABLISHING OUTDOOR BURN REGULATIONS; PROVIDING FOR A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR REPEALING, SAVINGS, AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lavon ("City Council") seeks to protect the public safety, preserve the quality of life, promote health, welfare, convenience and enjoyment of the public in the City; and

WHEREAS, pursuant to Texas Local Government Code the City Council has the general authority to adopt and publish an ordinance or police regulation that is for the good government, peace or order of the municipality and is necessary or proper for the carrying out a power granted by law to the municipality; and

WHEREAS, City Council of the City of Lavon believes it is in the best interest of the citizens and visitors to the City, to regulate outdoor burning within the City of Lavon and Extraterritorial Jurisdiction (ETJ) where allowed by law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, COLLIN COUNTY, TEXAS:

SECTION 1. Enactment, Popular Name, Scope

1.1 Enactment

The City Council of the City of Lavon finds that the above foregoing recitals are true and correct and are hereby incorporated for all purposes as official findings of the City Council of the City of Lavon.

1.2 Popular Name

This Chapter shall be commonly cited as the "Revised Burn Ordinance."

1.3 Scope

This Chapter applies to all outdoor burning within the incorporated municipal boundaries (i.e., "city limits"), and Extraterritorial Jurisdiction (ETJ) where allowed by law.

SECTION 2. Purpose

2.1 Purpose

The purpose of a this chapter is to limit the loss of life, property and health concerns associated and contributed to activities related to burning of materials in a mostly populated area.

SECTION 3. Definitions

3.2.1 Nuisance Burning:

Any burn that creates dangerous conditions which are detrimental to the life, health and property of the citizens of the city.

3.2.2 Uncontrolled burning:

Any and all burning of trash, garbage, refuse or any other debris, unless the burning is conducted pursuant to one of the exemptions provided herein.

3.2.3 Authorized Fires:

Fires allowed by this ordinance, that do not cause undue harm to property or the public.

3.2.4 Domestic waste:

Waste generated on site by a private residence, housing not more than three families.

3.2.5 Repeat offender:

A person, business or other entity committing the same or similar offense governed by this ordinance more than 3 times within 1 calendar year.

3.2.6 Texas Commission on Environmental Quality (TCEQ)

The Texas Commission on Environmental Quality strives to protect our state's public health and natural resources consistent with sustainable economic development. Their goal is clean air, clean water, and the safe management of waste.

SECTION 4. Prohibition

4.1.1 It is unlawful for any person or entity to burn, cause to be burned, or allow any uncontrolled or nuisance burning of trash, or other debris within the incorporated municipal boundaries (i.e., "city limits"), and Extraterritorial Jurisdiction (ETJ) where allowed by law.

4.1.2 It is unlawful for any person or entity to violate TCEQ standards, Collin County Orders, other City postings, warnings or alerts.

SECTION 5. Authorized Fires

5.1.1 Outdoor burning shall be authorized for 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. Such burning shall be subject to the requirements of the Texas Commission on Environmental Quality (TCEQ).

5.2 Burning in a state-approved, enclosed incinerator.

5.3 Domestic waste burning at a property designed for and used exclusively as a private residence, housing not more than three families, when collection of domestic waste is not provided (for a fee) or authorized by the local governmental entity having jurisdiction, and when the waste is generated only from that property.

5.4 During or following an emergency situation as determined by the fire official having jurisdiction. Executed at a time and place of the fire officials discretion, so as to not endanger the public or cause undue harm.

5.5 Fires built for and used for training of the local fire department are acceptable. Those shall be limited to days in which fire training is actually occurring on scene and approved materials are being burned.

SECTION 6. Penalty.

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of not more than \$500. Each continuing day's violation under this ordinance shall constitute a separate offense.

In addition to and accumulative of all other penalties, the city shall have the right to seek injunctive relief to abate any and all violations of this ordinance for repeat offenders.

SECTION 7. Savings and Repealing Clause

All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect. This ordinance repeals Ordinance 97-06-1 in its entirety.

SECTION 8. Severability

It is hereby declared by the City Council of the City of Lavon that if any of the sections,

paragraphs, sentences, clauses or phrases of this ordinance shall be declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such event shall not affect any remaining the sections, paragraphs, sentences, clauses or phrases of this ordinance.

SECTION 9 . Enforcement

This ordinance shall be enforced by an authorized official of the City of Lavon, local fire official or peace officer, in accordance with the adopted fire code.

SECTION 10. Civil Provisions

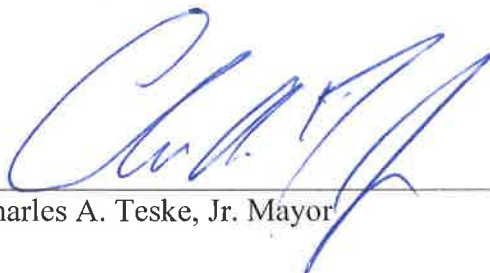
10.1 The authority to conduct outdoor burning under this ordinance does not exempt or excuse the person responsible from the consequences, damages or injuries resulting from the burning and does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations and orders of governmental entities having jurisdiction even though the burning is otherwise conducted in compliance with this section. The city does not accept responsibility for the conduct of such outdoor burning activities even if in compliance with this section.

10.2 Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law.

SECTION 11. Effective Date

This ordinance shall be in full force and effect from and after its passage and publication and it is so ordained.

PASSED AND APPROVED by the City Council of the City of Lavon, Texas, this 2nd day of August, 2016.



Charles A. Teske, Jr. Mayor

Attest:



Kim Dobbs, Interim City Secretary