

**CITY OF OAK RIDGE**  
**KAUFMAN COUNTY, TEXAS**

**ORDINANCE 3-12**  
**OUTDOOR BURNING**

**AN ORDINANCE OF THE CITY OF OAK RIDGE, TEXAS, AMENDING ORDINANCE NUMBER 3-11, RELATING TO REGULATIONS REGARDING OUTDOOR BURNING AND CLEAN AIR PROVISIONS FOR THE CITY OF OAK RIDGE, TEXAS; PROVIDING LOCAL AMENDMENTS; ESTABLISHING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR SAID ORDINANCE TO TAKE IMMEDIATE EFFECT.**

**WHEREAS**, the City of Oak Ridge, Texas (“City”), is a Type B general-law municipality and the City Council of the City of Oak Ridge, Texas (“City Council”) has the authority to adopt regulations that the City Council considers proper for the governance of the City pursuant to Section 51.032 of the V.T.C.A., Local Government Code; and

**WHEREAS**, pursuant to Section 382.113 of the Texas Health and Safety Code, the City has the authority to enact an ordinance to abate air pollution, such as pollution created during outdoor burning; and

**WHEREAS**, an ordinance enacted by the City must be consistent with Chapter 382 of the Texas Health and Safety Code and the Texas Administrative Code and may not make unlawful a condition or act approved or authorized under the Texas Health and Safety Code and the Texas Administrative Code; and

**WHEREAS**, the City Council finds it necessary and proper to adopt regulations regarding outdoor burning and clean air provisions for the good of the citizens of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OAK RIDGE, TEXAS, THAT:**

**SECTION I.**  
**FINDINGS INCORPORATED**

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION II.**  
**ADOPTION**

**1. ADOPTION OF TEXAS OUTDOOR BURNING RULES AND CLEAN AIR ACT.**

(A) The City Council hereby adopts, for the purpose of establishing rules and regulations for outdoor burning and air quality, including permits and

penalties, [Texas Administrative Code](#), Title 30, Part 1, Chapter 111, Subchapter B “Outdoor Burning” and Texas Health and Safety Code, Chapter 382, “[Texas Clean Air Act](#),” Subchapter E (collectively referred to as the “State Rules”), current copies of which may be obtained on the Texas Legislature web site or the Texas Secretary of State web site. Provided, that the words “local air pollution control” in the Outdoor Burning rules, set forth in 30 TAC 111, shall be understood to refer to the City of Oak Ridge, or its authorized representative. Such rules are incorporated as fully as if set out at length herein, provided that all amendments to the State Rules adopted in this Chapter shall take effect, and the provisions thereof shall be controlling within the jurisdictional limits of the City.

- (B) Outdoor burning which is otherwise authorized shall also be subject to the following requirements when specified in any section of Texas Administrative Code, Title 30, Part 1, Chapter 111, Subchapter B “Outdoor Burning”.
- (1) Prior to prescribed or controlled burning for forest management purposes, the Texas Forest Service shall be notified.
  - (2) Burning must be outside the corporate limits of a city or town except where the incorporated city or town has enacted ordinances which permit burning consistent with the Texas Clean Air Act, Subchapter E, Authority of Local Governments.
  - (3) 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) 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.
  - (5) 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.
  - (6) 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.

(c) Burning shall not be conducted during periods of actual or predicted persistent low-level atmospheric temperature inversions.

(7) 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.

**2. LOCAL AMENDMENTS**

- A. Any person wishing to burn outdoors shall notify the sheriff at least thirty (30) minutes before burning begins.
- B. No burning shall be permitted after sunset and all fires must be extinguished by sunset.
- C. Residential trash must be burned in a barrel with a cover of ¼” mesh or smaller.
- D. Outdoor burning shall not be left unattended or unsupervised.
- E. A person who is burning outdoors must have a water source on hand at all times.
- F. A person attending or supervising an outdoor burning must be eighteen (18) years or older.
- G. A person who is burning outdoors must have a cell phone or “mobile communication device” in their possession when burning.

**3. PENALTY UPON FAILURE TO COMPLY**

- (A) Any person violating or failing to comply with any provision or requirement of this Ordinance, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed \$2,000.00, such offenses being violations of the health and safety ordinance of the City. A separate offense shall be deemed committed upon each day during or on which a violation or failure to comply occurs or continues to occur.
- (B) In addition to the penalties provided in this Section, any condition caused or permitted to exist in violation of any of the provisions of this Code or any ordinance shall be deemed a public nuisance and may be abated by the City as

provided by law. Any violation of any provision of this Ordinance which constitutes an immediate danger or threat to the health, safety and welfare of the public may be enjoined in a suit brought by the City for such purpose.

- (C) Unless otherwise provided under state law, allegation and evidence of a culpable mental state are not required for the proof of an offense defined by this Ordinance.”

**SECTION 3.  
SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, 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 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 unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 4.  
REPEALER CLAUSE**

Any provision of any prior ordinance of the City, whether codified or uncodified, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 5.  
EFFECTIVE DATE**

This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Oak Ridge, Texas, on this the 26<sup>th</sup> day of January 2012.

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Roy W. Perkins, Mayor  
City of Oak Ridge

ATTEST:

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Jan Shedd, City Secretary  
City of Oak Ridge

