

Approved 5-17-2011

ORDINANCE NO. 05 10 2011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MUNDAY PROVIDING FOR THE REGULATION OF BURNING WITHIN THE CITY OF MUNDAY; PROVIDING A PENALTY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, unregulated, open burning and fires constitute and cause a danger and nuisance to the citizens of the City of Munday; and

WHEREAS, outdoor burning is prohibited in the corporate city limits except where the City has enacted an ordinance(s) which permits burning consistent with the Texas Clean Air Act.

WHEREAS, the Munday City Council desires to protect the citizens of the City of Munday from unregulated, open burning, and to ban all open burning and fires during certain periods of increased danger of fire spreading; and

WHEREAS, the City desires to promote health and safety and general welfare of the Citizens of Munday and finds that it is in the best interest of the citizens of Munday to control open and outdoor burning and fires within the city limits and extra territorial jurisdiction of the City of Munday during periods which the Knox County Commissioners' Court has ordered banning of open burning or ordered burn bans within Knox County, Texas; **NOW THEREFORE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUNDAY AS FOLLOWS:

Part 1. Enacted.

THAT, the following regulations regarding burning within the City of Munday are hereby established and shall read as follows:

Section 1.01 Burning Prohibited

No person, firm or corporation may cause, suffer, allow, or permit any outdoor burning within the City of Munday, except as provided by this ordinance. Burning in violation of this ordinance shall constitute a misdemeanor and upon conviction shall be punishable by a fine of not less than One Dollar (\$1.00) or more than Two Thousand Dollars (\$2,000.00). Each day the offense occurs or continues shall constitute a separate offense.

Section 1.02 Definitions

The following terms, when used in this ordinance, have the following meanings, unless the context clearly indicates otherwise.

(a) Chief – The person confirmed by the City Council of Munday as the Chief of the City of Munday Fire department

(b) Extinguished--The absence of any visible flames, glowing coals, or smoke.

(c) Refuse--Garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

(d) Structure containing sensitive receptor(s):

(1) A man-made structure utilized for human residence or business; or

(2) the containment of livestock;

(3) 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 that 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.

(e) Sunrise/Sunset--Official sunrise/sunset as set forth in the United States Naval Observatory tables available from National Weather Service offices.

Section 1.03 Burning Authorized

Burning may be authorized as described below so long as such burning is conducted in accordance with Section 1.04 of this ordinance:

(a) authorized for training fire-fighting personnel when authorized by the Texas Commission on Environmental Quality in accordance with the rules of that agency or its successor.

(b) 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.

(c) on-site burning of trees, brush, grass, leaves, branch trimmings, or other plant growth, by the owner of the property or any other person authorized by the owner, and when the material is generated only from that property.

(d) diseased animal carcass burning when burning is the most effective means of controlling the spread of disease.

(e) by veterinarians in accordance with Texas Occupations Code, §801.361, Disposal of Animal Remains;

(f) If not otherwise authorized by this ordinance, outdoor burning may be authorized by written permission from the executive director of the Texas Commission on Environmental Quality in accordance with the provision of the rules of that agency and subject to the permitting requirements of Section 1.04.

Section 1.04 Requirements for Allowable Outdoor Burning

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

(1) Any person desiring to burn material in accordance with this ordinance shall, prior to conducting the burn, make application to the Chief for a permit. The permit may be granted by the Chief at his discretion upon a showing by the applicant that the burn can be conducted in accordance with this ordinance and without endangering the public health safety or welfare of the residents of the City of Munday. The permit application shall be accompanied by a permit fee in the amount of \$20.00 to cover the administrative expenses incurred by the City in considering the permit. The permit application shall contain the following:

1. the applicant's name, address, and phone number;
2. a legal description of the property as well as the street address of the property;
3. a description of the nature of the burn to be conducted and any necessary approvals from the Texas Commission on Environmental Quality

The Chief may grant the permit, grant the permit with conditions which he finds to be appropriate or deny the permit. In the event the Chief denies the permit appeal may be made to the City Council. Notice of appeal must be filed with the City Secretary not more than five (5) days following denial by the Chief. The City Council shall hear the appeal at its next scheduled meeting for which a legal posting may be made. The decision of the City Council shall be final.

(2) 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).

(3) 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) 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 in control of the premises.

(5) 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.

Section 1.05 Liability

The authority to conduct outdoor burning under this ordinance does not exempt or excuse any 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 ordinance.

Part 2. Arson Reward

Section 2.01. Arson Reward Established

The City of Munday shall pay a reward of TWO HUNDRED FIFTY DOLLARS (\$250.00) to any person who shall furnish evidence leading to the arrest and final conviction of any person or persons found guilty of the offense of ARSON committed within the City Limits of the City of Munday, Texas.

Section 2.02. Definition

The definition of Arson is the criteria set forth in Texas Penal Code § 28.02.

Part 3. Burning During County Wide Burn Ban

THAT, all open and outdoor burning and fires in the city limits of the City of Munday shall be banned during periods when the Knox County Commissioners' Court issues orders banning the open and outdoor burning and fires. The ban within the city limits of the City of Munday shall take effect immediately following the issuance of orders from the Knox County Commissioners' Court and will remain in effect until such orders are rescinded or terminated by the Knox County Commissioners' Court.

Part 4. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Part 5. Publication

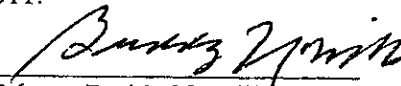
The City Secretary is authorized and direct to publish the caption and penalty prescribed by this ordinance in accordance with State Law

Part 6. Effective Date.


This ordinance shall be in force and effect from and after its publication.

This ordinance having received a majority vote, the Mayor declared it passed and duly adopted

SO ORDERED, this 17 day of MAY, 2011.


Mayor Buddy Norville

ATTEST:


Dwayne Bearden

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