

ORDINANCE NO. 2024-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING CODE OF ORDINANCE CHAPTER 22 (ENTITLED "BUILDING AND BUILDING REGULATIONS") AND CHAPTER 46 (ENTITLED "FIRE PREVENTION AND PROTECTION") TO RECODIFY THE INTERNATIONAL FIRE CODE, 2015 EDITION IN CHAPTER 46; REPEAL DUPLICATIVE AND CONFLICTING PROVISIONS OF CHAPTER 46 TO REPEAL, IN ITS ENTIRETY, ORDINANCE NO. 2001-26 AND REPLACE IT WITH THIS ORDINANCE, ADOPTING THE 2021 EDITION OF THE INTERNATIONAL FIRE CODE, INCLUDING AMENDMENTS A, B, C, D, E, F, G, H, I, K, AND L, AMEND SECTION 46-3 (OUTDOOR BURNING) AND AMEND THE TEXT RELATING TO THE FIRE MARSHAL TO COMPLY WITH THE CITY CHARTER; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 1998 City Council adopted Ordinance No. 98-17, adopting the Uniform Fire Code in Chapter 46; and in 2001 City Council adopted Ordinance No. 2001-26, adopting the International Fire Code, 2015 edition in Chapter 22; and

WHEREAS, inexplicitly, Ordinance No. 2001-26 did not repeal Ordinance No. 98-17; and

WHEREAS, additionally the office of fire marshal was created in 1979, while Burnet was still a general law city; and

WHEREAS, the purpose of this ordinance is, inter alia, to recodify the International Fire Code, Adopt the 2021 International Fire Code, amend Section 46-3 (outdoor burning) repeal all duplicative and conflicting code provisions and amend code text relating to the fire marshal to comply with the city charter; and

WHEREAS, City Council, finds, determines, and declares that publication of notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of Texas, was made by the City Secretary within the period prescribed by Section 3.14; and

WHEREAS, City Council, finds, determines, and declares that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given as required by Chapter 551 of the Texas Government Code.

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

Section One. Code amendment. City Code Chapter 22 (entitled "*Buildings and Building Regulations*"), Article VIII (entitled "*Miscellaneous Codes*"), Section 22-160 (entitled

"*International Fire Code*") is hereby amended by replacing the existing text in its entirety with the text that follows:

Sec. 22-160. *International Fire Code*. The *International Fire Code* is adopted and codified in Chapter 46, Article II of this Code.

Section Two. Code amendment. City Code Chapter 46 (entitled "*Fire Prevention and Protection*"), Article I (entitled "In General") is hereby amended by repealing Section 46-1 (entitled "*Fire zones—Established*"), said section shall be designated as reserved.

Note to publisher: Section 46-3 (entitled "*Outdoor burning*"), Section 46-4 (entitled "*Arson reward*") and Section 46-5 (entitled "*Fees for services rendered; collection*") shall not be repealed and shall remain part of the Code. This note shall not be published.

Section Three. Code amendment. Section 46-2 of the Code of Ordinances of the City of Burnet shall be amended in its entirety:

Sec. 46-2. Parking Restrictions.

(a) *Vehicles containing flammable liquids.* It shall be unlawful for any person to park any tank truck or tank trailer containing butane, propane, gasoline, kerosene, fuel oil, or liquefied petroleum gases, upon any of the streets or alleys within the city, except as provided for in subsection (b) of this section.

(b) *Trucks making deliveries within the city.* Trucks entering the city for deliveries shall, as soon as delivery can be completed, move vehicles from any street or alley within the city.

Section Four. Code amendment. City Code Chapter 46 (entitled "*Fire Prevention and Protection*"), Article II (entitled "*Fire Code*"), Section 46-26 is hereby amended by replacing the existing language in its entirety with the text set out in the attachment hereto labeled **Exhibit "A."**

Section Five. Code amendment. City Code Chapter 46 (entitled "*Fire Prevention and Protection*"), Article 1 (entitled "*outdoor burning*"), Section 46-3 is hereby amended by replacing the existing language in its entirety with the text set out in the attachment hereto labeled **Exhibit "B."**

Section Six. Code amendment. City Code Chapter 46 (entitled "*Fire Prevention and Protection*"), Article II (entitled "*Fire Code*"), is hereby amended by repealing 46-27 (entitled "*Establishment and duties of bureau of fire prevention*"), Section 46-28 (entitled "*Definitions*"), Section 46-29 (entitled "*Establishment of limits—Of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited*"), Section 46-30 (entitled "*Establishments of limits—In which storage of liquefied petroleum gases is prohibited*"), Section 46-31 (entitled "*Same—Of districts in which storage of explosives and blasting agents is to be prohibited*"), Section 46-32 (entitled "*Same—Of districts in which the storage of compressed natural gas is to be prohibited*"), Section 46-

32 (entitled "*Same—Of districts in which the storage of compressed natural gas is to be prohibited*"), Section 46-33 (entitled "*Same—Of districts in which the storage of stationary tanks of flammable cryogenic fluids are to be prohibited*"), Section 46-34 (entitled "*Same—Of districts in which the storage of hazardous materials is to be prohibited or limited*"), Section 46-35 (entitled "*Appeals*"), Section 46-46 (entitled "*New materials, processes or occupancies which may require permits*"), Section 46-37 (entitled "*Penalties for the violation of Uniform Fire Code*"), Section 46-38 (entitled "*Owners of buildings, structures or premises maintaining same as fire hazards*"), Section 46-39 (entitled "*Owners maintaining hazards within buildings, structures or premises*"), Section 46-40 (entitled "*Prosecution under sections 46-36 and 46-37; notice required*") and said sections shall be designated as reserved.

Note to publisher: Section 46-41 (entitled "*Fireworks—Prohibition of, within city; declaring nuisance*"), and Section 46-42 (entitled "*Same—Public fireworks displays; use of pyrotechnics before a proximate audience and use of flame effects before an audience*") shall not be repealed and shall remain part of the Code. This note shall not be published.

Section Seven. Code amendment. City Code Chapter 46 (entitled "*Fire Prevention and Protection*"), Article III (entitled "*Fire Marshal*") is hereby amended by replacing the existing language in its entirety with text that follows:

ARTICLE III – FIRE MARSHAL

Sec. 46-61. – Office Created.

The office of fire marshal is hereby created, as a full-time position with the city. Such office shall be situated within the fire department, the fire marshal reporting directly to the fire chief. Such office shall be filled in accordance with the City Charter, municipal ordinances and the City's personnel policies, as same may be amended from time to time. The fire marshal shall be properly qualified for the duties of such office and shall be removed only for cause.

Sec. 46-62. – Investigation of all fires.

The Fire Marshal shall investigate the cause, origin and circumstances of every fire occurring within the city by which property has been damaged or destroyed and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within 24 hours, not including Sunday, of the occurrence of such fire. The Fire Marshal shall keep in his office a record of all fires, together with all facts, statistics, and circumstances, including the origin of the fires and the amount of loss, which may be determined by the investigation required by this article.

State Law reference— Investigation of fire by state Fire Marshal, V.T.C.A., Government Code § 417.007.

Sec. 46-63. - Taking of testimony and furnishing evidence.

The Fire Marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony, on oath, of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing. If he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with the attempt to commit the crime of arson, conspiracy to defraud, or criminal conduct in connection with such fire, he shall cause such person to be lawfully arrested and charged with such offense, or either of them, and shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all information obtained by him, including a copy of all pertinent and material testimony taken in the case.

Sec. 46-64. - Summoning of witnesses.

The Fire Marshal shall have the power to summon witnesses before him to testify in relation to any matter which is, by the provisions of this article, a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto. The Fire Marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

Sec. 46-65. – Refusing To Be Sworn.

- Any witness who refuses to be sworn; who refuses to appear or testify; who disobeys any lawful order of the Fire Marshal; who fails or refuses to produce any book, paper or document touching any matter under examination; or who is guilty of any contemptuous conduct during any of the proceedings of the Fire Marshal, in the matter of the investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation, may be criminally charged with a misdemeanor. and in the event of any offense, the fire marshal shall institute a complaint to be prosecuted in the appropriate court having jurisdiction of the matters.

Sec. 46-66. – Investigations Private.

All investigations held by or under the direction of the Fire Marshal may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held. Witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

Sec. 46-67.- Authority to Enter Premises.

The Fire Marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this subchapter, to enter upon and examine any building or premises where any fire has occurred, and other buildings and premises adjoining or near the same, which authority shall be exercised only with reason and good discretion.

Section Eight. Findings. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section Nine. Penalty. A violation of this Ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled “*General Penalty*”).

Section Ten. Cumulative. This Ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event Section 5, (entitled “*Repealer*”) shall be controlling.

Section Eleven. Repealer. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section Twelve. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

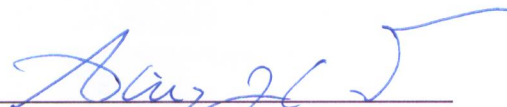
Section Thirteen. Publication. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section Fourteen. Effective Date. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed, Approved and Adopted on the 13th day of August 2024.



CITY OF BURNET



Gary Wideman, Mayor

ATTEST:



Maria Gonzales, City Secretary

EXHIBIT A

AMENDMENT to FIRE CODE

Sec. 46-26. International Fire Code.

The International Fire Code, 2021 edition, a copy of which is on file in the office of the city secretary, is hereby adopted as the fire code of the city, said adoption being inclusive of Appendices A, B, C, D, E, F, G, H, I, K, and L and such amendments as follow:

- (a) Section 101.1. Title. Insert: City of Burnet
101.1 Title. These regulations shall be known as the Fire Code of City of Burnet hereinafter referred to as "this code."
- (b) Section 103.1 Creation of agency; amend to read as follows:
Section 103.1 "Creation of Agency." Amend to read: "The Burnet Fire Department Fire Prevention Division is hereby created and the Fire Chief or his designee shall be known as the Fire Code Official. The function of the agency shall be the implementation, administration and enforcement of the provisions of this code."
- (c) Section 103.2; amend to read as follows:
"The fire code official shall be the Fire Chief or his designee."
- (d) Add section 107.1.1 To read as follows:
All applications for permits required under this Article shall be made on such form as provided by the Building Official with payment of permit fees as stated in Article XI (entitled "Fee Schedule") Table Four (entitled "Fire Code Permit Fee Schedule").
- (e) 107.3 Permit valuations. Delete this section in its entirety.
- (f) 111.1 Board of Appeals Established, Amend to read as follows:
111.1 Board of appeals established. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the Fire Chief and shall hold office at its pleasure. The board of appeals shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official.
- (g) Delete Section 111.3 Qualifications in its entirety.
- (h) Section 112.4, Violation penalties is amended as follows:
112.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction

documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a Class C Misdemeanor punishable by a fine of not more than not less than \$100 dollars or more than \$2000 dollars or by imprisonment not exceeding number of days to be at the discretion of the Judge or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

- (i) Section 113.4, Failure to comply is hereby amended as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$100 dollars or more than \$2000 dollars.

- (j) SECTION 202, GENERAL DEFINITIONS

Amend section by including and or changing the following definitions:

“ALL WEATHER DRIVING SURFACE - A driving surface that is capable of supporting the imposed loads of fire apparatus and consisting of material that is impervious to damage from wet conditions and does not produce dust during dry weather conditions. Accepted materials shall consist of concrete or asphalt correctly applied.

AMBULATORY CARE FACILITY. Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing, or similar care on a less than 24-hour basis to persons who are rendered incapable of self-preservation by the services provided or staff has accepted responsibility for care recipients already incapable. This group may include but not be limited to the following: Dialysis centers, Sedation dentistry, Surgery centers, Colonic centers, Psychiatric centers, or Procedures involving sedation.

DEFEND IN PLACE. A method of emergency response that engages building components and trained staff to provide occupant safety during an emergency. Emergency response involves remaining in place, relocating within the building, or both, without evacuating the building.

Change definition **ENERGY STORAGE SYSTEM CABINET** to read as follows:

ENERGY STORAGE SYSTEM CABINET. An enclosure containing an *energy storage system* and meeting the applicable requirements of the listing for the system. Personnel are not able to enter the enclosure other than reaching in to access components for maintenance purposes.

- (k) Section 503.2.3 Surface.

Amend to read: Fire apparatus access roads shall be designed and maintained to support imposed loads of at least 85,000 Lbs. for fire apparatus and shall be surfaced to provide all-weather driving capabilities

utilizing concrete or asphalt materials. When required by the code official a signed and sealed letter from a Geotechnical Engineer shall be provided to verify the design meets the standard.

- (l) Section 505.1 Address Identification. Amend to read: New and existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be not less than 6 inches (152.4 mm) high with a minimum stroke width of 1 inch (25.4 mm). Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road, buildings do not immediately front a street, and/or the building cannot be viewed from the public way, a monument, pole or other sign with approved 6-inch (152.4 mm) height building numerals. Address identification shall be maintained.

Exception: R-3 Single Family occupancies shall have approved numerals of a minimum 4 inches (101.6 mm) in height and a color contrasting with the background clearly visible and legible from the street fronting the property and rear alleyway where such alleyway exists.

- (m) Section 606.1 "General." Amend to read: "Commercial kitchen exhaust hoods shall comply with the requirements of the International Mechanical Code and NFPA 96."
- (n) Section 903.2.11.8 Spray Booths and Rooms. Add section to read: New and existing spray booths and spraying rooms shall be protected by an approved automatic fire-extinguishing system.
- (o) Section 903.2.4.2 Group F-1 distilled spirits. Amend to read: An automatic sprinkler system shall be provided throughout a Group F-1 fire area used for the manufacture of distilled spirits involving more than 120 gallons of distilled spirits (>16% alcohol) in the fire area at any one time.
- (p) Section 903.2.9.3 Group S-1 distilled spirits or wine. Amend to read: An automatic sprinkler system shall be provided throughout a Group S-1 fire area used for the bulk storage of distilled spirits or wine involving more than 120 gallons of distilled spirits or wine (>16% alcohol) in the fire area at any one time.
- (q) *Section 912.2.3; add to read as follows:*
912.2.3 Hydrant Distance. An approved fire hydrant shall be located within 100 feet of the fire department connection as the fire hose lays along an unobstructed path.

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- (r) Section 1103.5.3. Group 1-2 Condition 2.

Change to read as follows:

In addition to the requirements of section 1103.5.2 existing buildings of Group I-2 condition 2 occupancy shall be equipped throughout with an approved automatic sprinkler system in accordance with 903.3.1.1 The automatic sprinkler system shall be installed as established by the adopting ordinance. The sprinkler system must be installed prior to operation or immediate "stop work" order administered upon discovery until sprinkler system is installed.

- (s) Section 1103.5.6 Spray Booths and Rooms. Add section to read: Existing spray booths and spray rooms shall be protected by an approved automatic fire-extinguishing system in accordance with Section 2404.
- (t) Section 5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited): Zones R-1, R-1E, R-2, R-2A, R-3, OS, M-1, M-2, G, NC, PUD, C-1 as described in Sec. 118 City Code of Ordinances.
- (u) Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): Zones R-1, R-1E, R-2, R-2A, R-3, OS, M-1, M-2, G, NC, PUD, C-1 as described in Sec. 118 City Code of Ordinances.
- (v) Section 5806.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): Zones R-1, R-1E, R-2, R-2A, R-3, OS, M-1, M-2, G, NC, PUD, C-1 as described in Sec. 118 City Code of Ordinances.
- (w) Section 6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted or the protection of heavily populated or congested areas): Zones R-1, R-1E, R-2, R-2A, R-3, OS, M-1, M-2, G, NC, PUD, C-1 as described in Sec. 118 City Code of Ordinances.
- (x) A101.3 Membership of Board. Amend to read as follows:
The Board shall consist of three to five voting members appointed by the Fire Chief. Each member shall serve until a successor has been appointed.
- (y) A101.3.1 Delete this paragraph.
- (z) A101.3.7 Delete this paragraph.
- (aa) A101.5.3 Change to read as follows:
When 3 members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- (bb) Section D102.1; change to read as follows:

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- (cc) D102.1 Access and loading. Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing up to 85,000 pounds (38 556 kg)
 - (dd) D104.3 Remoteness. Amend to read: Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses, or as approved by the fire code official and the City Manager or his/her designee.
 - (ee) D105.3 Proximity to building. Amend to read: Unless otherwise approved by the fire code official, one or more of the required access routes meeting this condition shall be located not less than 15 feet (4572 mm) and not greater than 30 feet (9144 mm) from the building and shall be positioned parallel to one entire side of the building. The side of the building on which the aerial fire apparatus access road is positioned shall be approved by the fire code official.
 - (ff) D106.3 Remoteness. Amend to read: Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses, or as approved by the fire code official and the City Manager or his/her designee.
 - (gg) D107.2 Remoteness. Amend to read: Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses, or as approved by the fire code official and the City Manager or his/her designee.

EXHIBIT B

AMENDMENT to FIRE CODE

Sec. 46-3. Outdoor burning.

(a) Outdoor burning within the incorporated City Limits of Burnet, Texas is prohibited except as provided by permit of the fire marshal, local AHJ or their representative(s); or as further allowed by this subchapter and state law.

(b) *Definitions.*

Extinguished—The absence of any visible flames, glowing coals, or smoke.

Practical alternative—An economically, technologically, ecologically and logistically viable option.

Sensitive receptor(s)—A manmade structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. 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.

Sunrise/sunset—Official sunrise/sunset as set forth in the United States Naval Observatory tables available from National Weather Service offices.

(c) *Permitted burning.* The on-site burning of trees, brush, and other plant growth for property upkeep, right-of-way maintenance, land clearing operations, and maintenance along water canals when no practical alternative to burning exists, when the materials are generated only from that property and when a permit is issued in compliance with the following requirements:

- (1) The minimum lot size to conduct outdoor burning is one acre.
- (2) Commercial properties will not be issued a burn permit, exception for development.
- (3) On-site land clearing on lots two (2) acres or greater upon which the owner intends to clear the lot itself of selected trees, brush and other plant growth. When approved by the Fire Marshal.
- (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 with possessory control.
- (5) Open burning must not be conducted within 50 feet of any structure or combustible material. Conditions that would enable fire to spread within 50 feet of a structure shall be eliminated prior to ignition. **Exception:** Distance from structures and other combustibles may be reduced to 15 feet if the fire is to be contained in an approved burning appliance.

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- (6) Each day prior to burning the permit holder shall contact the local emergency dispatcher on a non-emergency phone line.
 - (7) Sites permitted for open burning shall have a readily available garden hose or other reasonable method of conveying water or other approved fire extinguishing equipment. The burning material shall be constantly attended by a person 17 years of age or older who is knowledgeable in the use of the onsite fire extinguishing equipment and familiar with the requirements of the permit.
 - (8) 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).
 - 9) 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.
 - (10) 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.
 - (11) Electrical insulation, lumber that has been treated, glued, laminated, pressed, varnished, stained or painted, plastics, non-wood construction/demolition materials, fiberglass, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.
 - (12) The authority to conduct outdoor burning under this regulation 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 regulation.

- (d) *Permit fee and duration.* Issued permits for the conducting of approved outdoor burning shall pay a fee as established by city ordinance. Burning is allowed for no more than 30 consecutive days. Extensions may be granted if the time period was shortened due to weather conditions, state or county issued burn bans, or any other reasonable reason as determined by the fire marshal.
- (e) *Revocation.* The fire marshal and his representatives are authorized to revoke a burn permit and require that the open burning be immediately discontinued if:
 - (1) A complaint on the fire is received and substantiated.
 - (2) On inspection of the fire, it is determined that the permit conditions are not being met.
 - (3) It is determined that weather or other conditions not readily apparent or otherwise present at the time of issuance of the permit, have created too hazardous a condition for continued burning.
- (f) *Refusal to issue permit.* In instances where the greater good or the health, safety and welfare of the public supersedes those of the individual, or in times of a state or county issued burn ban; the fire marshal or his representatives may refuse to issue a permit for outdoor burning even though all conditions for permit issuance are being met.
- (g) *Allowable nonpermitted outdoor burning.* 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. These fires shall be no larger than two feet in height and three feet in diameter and shall be allowed without permit or notification of the local authority.
- (h) *Penalty.* Any person who violates any of the provisions of this section shall be guilty of a class C misdemeanor and upon conviction thereof, shall be punished by a fine not less than \$100.00 nor greater than \$2,000.00.

(Code 1979, ch. 5, § 5; Ord. No. 2006-18, § 2, 8-8-06)

Cross reference(s)—Solid waste, ch. 90.