

CITY OF SANDY OAKS, TEXAS

ORDINANCE NO. 2018-113

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS REGULATING OUTDOOR BURNING WITHIN THE CITY, PROVIDING FOR ENFORCEMENT AND A PENALTY.

WHEREAS, the City of Sandy Oaks ("City") is a Type A General Law Municipality in Bexar County incorporated and operating under the laws of the State of Texas; and

WHEREAS, the burning of materials within the municipal boundaries of the City can create threats to the general public safety, welfare and health; and

WHEREAS, the strict regulation and control of burning is regulated by the Texas Commission on Environmental Quality ("TCEQ"); and

WHEREAS, the TCEQ allows for exceptions to the outdoor burning prohibition; and

WHEREAS, the Bexar County Commissioners' Court orders burn bans within Bexar County for specified times;

WHEREAS, the City Council desires to regulate burning in compliance with TCEQ regulations and Bexar County burn bans;

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

SECTION 1. FINDINGS OF FACT. The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. PROHIBITION ON BURNING. It shall be unlawful for any person, firm, entity, or corporation within the City limits, in any way, to intentionally, knowingly or carelessly burn or cause to be burned any combustibles, including but not limited to grass, weeds, timber, rubbish, leaves, or other natural or synthetic materials, garbage, trash, rubbish, litter, solid waste, hazardous waste or any such like substances, on any street, alley, lot or premises. The following exceptions to the prohibition on burning apply:

- A. Training of Firefighters when authorized by the local air pollution control agency under contract with the TCEQ or, if there is no such agency, the appropriate TCEQ regional office.
- B. Fires used solely for recreational or ceremonial purposes with prior written notification to, and/or inspection by, the Fire Marshal (or his or her designee) or the City Marshal, as authorized, under the guidelines established by the TCEQ. The City retains the right to rescind permission for a ceremonial fire if Fire or Law Enforcement Officers believe public safety, public order, or environmental quality is at risk. Recreational fires confined to a fire pit and conforming with Bexar-Bulverde Volunteer Fire Department Tip Sheet: Guidelines to Safe Burning in

Residential Fire Pits herein attached as Exhibit A do not require prior written notification, inspection, or authorization by listed officials.

- C. Fires used for warmth or outdoor cooking in the noncommercial preparation of food in a device designated and constructed for such a purpose in compliance with this Ordinance and TCEQ rules and regulations. No burning of waste or garbage shall be permitted in cooking devices. The operator of an outdoor cooking device shall use and maintain the device in a safe and properly operating condition when intended to be used. Such devices shall not be utilized in close proximity to a building or other combustible material.
- D. Fires burning brush, trees, grass, branch trimmings, stumps, or other plant growth may be burned under TCEQ Rules 111.201 – 111.221 if all conditions of these rules can be met, and with prior written notification to, and/or inspection by, the Fire Marshal (or their designee) or the City Marshal, as authorized and receipt of verbal or written permission issued by the City.
- E. Diseased animal carcasses may be burned when burning is the most effective means of controlling the spread of disease in compliance with TCEQ Rule 111.209(2).
- F. A veterinarian may burn animal remains and medical waste, not including sharps, associated with animals in his or her care on his or her property.
- G. None of these exceptions shall conflict with a Bexar County “burn ban.”
- H. Nothing under these exceptions or this Ordinance relieves a person, firm, entity or corporation from providing notification to the TCEQ as required by the TCEQ.

SECTION 3. DUTY TO REPORT FIRE OR SMOKE. In the event of a fire or discovery of a fire or discovery of impermissible smoke discharge caused by fire, burning or smoldering combustibles on any property, the owner, occupant or person in control of the property or person in control of the fire from which the fire or smoke is emanating shall immediately report such condition to the local fire department.

SECTION 4. LAND CLEARING. On-site land clearing may occur only in compliance with the state and federal laws and regulations. In addition to complying with the state and federal laws and regulations, a person clearing a lot of greater than two acres of selected trees, brush and plant growth originating on such property may only burn such vegetation cleared from the property with the express permission of the Fire Marshal (or his or her designee) or the City Marshal, as authorized, in compliance with any additional requirements of the state or federal laws and regulations stipulated by the Fire Marshal (or his or her designee) or the City Marshal, as authorized. A permit shall be acquired from the City and approved safety measures shall be employed.

SECTION 5. NOXIOUS SMOKE. It shall be unlawful for any person, firm entity or corporation within the City limits, in any way, to intentionally, knowingly or carelessly burn or cause to be burned any combustibles which cause noxious smoke, toxic odor or smoke of a significant quantity or quality to be released so as to inhibit the use and enjoyment of neighboring properties. Such release of smoke is hereby declared a nuisance and is hereby prohibited.

SECTION 6. CLEANUP OF PROPERTY DAMAGED BY FIRE OR SMOKE.

- A. All properties damaged by fire are hereby declared a nuisance and must be secured and cleaned up by the owner, occupant or person in control of the property.
- B. Any person, firm, entity or corporation responsible for any fire or impermissible smoke discharge shall institute and complete all actions necessary to remedy and assist in the remedy of all the effects of such fire and/or smoke at no cost to the City.
- C. Whenever any building or other structure is partially or totally burned, the owner or occupant of the property or the person in charge or control thereof, within ten (10) days after notice from the Fire Marshal (or his or her designee) or the City Marshal, as authorized, shall remove from the premises all refuse, debris, charred and partially burned lumber and material as directed in such notice. If such building or other structure is burned to such an extent that it is rendered incapable of being repaired, the owner or occupant of the property upon which the same is located or the person in control thereof, within ten (10) days after notice from the Fire Marshal (or his or her designee) or the City Marshal, as authorized, shall remove from the premises all of the remaining portions of the building or structure that are damaged beyond repair and immediately secure the property as directed.
- D. The Fire Marshal (or his or her designee) or the City Marshal, as authorized, may direct the owner, occupant or person in control of the property in the necessary measures to secure the premises after a fire. The owner, occupant or person in control of the property shall promptly comply with the directive of the Fire Marshal (or his or her designee) or the City Marshal, as authorized. Failure to comply with the directives of the fire marshal within ten (10) days of the notice shall be a violation of this article.
- E. When deemed necessary by the Fire Marshal (or his or her designee) or the City Marshal, as authorized, due to an imminent threat to the public safety or an attractive nuisance constituting an imminent threat, the Fire Marshal (or his or her designee) or the City Marshal, as authorized, may cause immediate cleanup to be initiated by the fire department or by an authorized individual or firm.
- F. All costs associated with such cleanup shall be borne by the owner, operator, person in control of the property or other person responsible for the fire or impermissible discharge of smoke. Failure of a person deemed responsible for a fire to pay the costs of cleanup shall be deemed a violation of this article.

SECTION 7. INSPECTION OF PREMISES EMANATING FIRE OR SMOKE.

Any premises emanating fire or smoke shall be subject to inspection by the Fire Marshal (or his or her designee), the City Marshal or the Code Enforcement Officer at any reasonable hour or at any hour in cases of suspected fire or smoke discharge.

SECTION 8. BEXAR COUNTY BURN BANS. During periods of time in which the Bexar County institutes a total burn ban for the entire County, the City prohibits any burning, except as provided in Section 2 of this Ordinance, for the duration of the burn ban.

SECTION 9. ENFORCEMENT. The civil and criminal provisions of this Ordinance shall be enforced by those persons or agencies designated by the City Council. The Fire Marshal, and his or her designee, and the City Marshal are at all times granted authority to enforce this Ordinance. The Fire Marshal or his authorized representative, or as authorized, the City Marshal, may extinguish any fire and prohibit burning until the matter can be resolved through the proper legal processes. It shall be a violation of this Ordinance to interfere with or to violate any lawful verbal or written directives of the Fire Marshal, his or her designee, the City Marshal or a Firefighter in the performance of his or her duties.

SECTION 10. PENALTY. Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or, in the case of a violation of a provision of this Ordinance that governs fire safety, zoning, or public health and sanitation a fine of not more than Two Thousand Dollars (\$2,000.00) or, in the case of a violation of a provision of this Ordinance that governs the dumping of refuse a fine of not more than Four Thousand Dollars (\$4,000). Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

SECTION 11. CONFLICTS WITH OTHER ORDINANCES. All ordinances and parts of ordinances inconsistent with or in conflict with the provisions of this Ordinance shall be and the same are hereby expressly repealed.

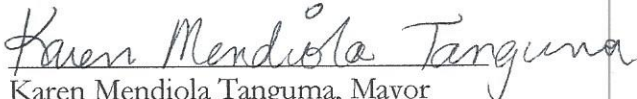
SECTION 12. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance for any reason is held invalid, illegal, or incapable of being enforced, such section, subsection, sentence, clause or phrase shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other sections, subsections, sentences, clauses or phrases hereof shall remain in full force and effect.

SECTION 13. PUBLICATION. The City Clerk is hereby authorized and directed to publish the caption of this Ordinance together with the penalty provision contained herein in the manner and for the length of time prescribed by law.

SECTION 14. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its publication as required by section 52.011 of the Local Government Code.

PASSED AND APPROVED on this 8th day of November, 2018.

CITY OF SANDY OAKS, TEXAS


Karen Mendiola Tanguma, Mayor

ATTEST:


Katherine Yelton, City Clerk



Bexar-Bulverde Volunteer Fire Department Tip Sheet: Guidelines To Safe Burning in Residential Fire Pits



Small fires are allowed in residential fire pits during a burn ban as long as:

- The fire pit has large metal sides, built up concrete blocks, or constructed of cement and rock
- The fire pit should be a minimum of 2 ft high and 3 ft wide
- The fire pit must be completely covered by a fine metal grate to prevent flying brands and embers
- The size of the fire must be appropriate for the size of the pit

During a burn ban, other than the above mentioned exception, the only thing that can be burned is household waste (no construction material), and that can only be burned if solid waste collection is not available. Before you burn during a burn ban, you must call the fire marshals office to receive a burn permit. Without one, you can receive a citation for illegal burning if a complaint is received.

Safety Tips for Fire Pits:

- **Man the Flame.** Never leave any fire unattended, especially if there are children nearby.
- **Keep an Extinguisher Handy.** Always have a means to extinguish the fire if necessary (Ex. garden hose).
- **Position is Safely.** Place or build your fire pit at least 25 feet away from any homes, buildings, or any type of combustibles. The fire pit needs to be on a solid surface and in an open area, avoiding overhead trees or rooflines.
- **Stay Three Feet From the Head.** Establish a three-foot "kid-free zone" around your fire pit. Teach your children and their friends the rule, and always watch children who are near a fire.



For more information on residential fire pits, please call the Bexar County Fire Marshal at (210) 335-0300