

ORDINANCE NO. 2022-0017

AN ORDINANCE OF THE CITY OF BEVERLY HILLS, TEXAS ADDING ARTICLE 5.05 OPEN BURNING TO CHAPTER 5 FIRE PREVENTION AND PROTECTION OF THE CODE OF ORDINANCES; PROVIDING FOR CLARITY IN REGARDS TO PROHIBITED BURNING WITHIN THE CITY AND PERMIT PROCEDURES FOR CERTAIN BURNING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS, TEXAS AS FOLLOWS:

Article 5.05 Open Burning is to be added to Chapter 5 Fire Prevention and Protection to include 5.05.001 Open Burning Prohibited, 5.05.002 Outdoor Wood Burners, 5.05.003. Permitted open fires, 5.05.004. Enforcement Officer, 5.05.005. Penalty.

ARTICLE 5.05 OPEN BURNING

5.05.001. Open burning prohibited.

- (a) Except as otherwise provided in sections 5.05.002 and 5.05.003, no person shall have, start, use or contribute to any fire or knowingly allow a fire to continue with the person's consent or under the person's supervision or direction or in any place fully or partially possessed or controlled by that person if the fire is used for the destruction of anything or substance including, but is not limited to: Leaves; Needles; Brush; Grass; Paper; Trash; Garbage; or Refuse.
- (b) A violation of this section shall be punishable as a municipal civil infraction.

5.05.002. Outdoor wood burners

- (a) The term "outdoor wood burners" means any device, appliance, equipment, apparatus, or structure which: (1) Is designed, intended and/or used to provide hot water heat, hot water, or steam to any associated structure; (2) Operates by burning wood; (3) Is not located within the structure to be heated. All outdoor wood burners shall be installed to meet all of the following requirements: (1) Be positioned at least 20 feet from each lot line; (2) Be positioned at least 100 feet from the primary structure on each adjacent lot; (3) Be placed in the rear yard as defined in the city's zoning ordinance; (4) Be installed by a licensed contractor, according to a mechanical permit; and (5) Be installed with an exhaust stack at least as high as the highest chimney of the primary structure on the lot on which it is placed or on an adjacent lot.
- (b) No outdoor wood burner shall be installed, put to use, or remain in use without first obtaining a permit from the city permits clerk or designee after furnishing the following information: (1) A drawing providing and identifying all of the information necessary to ensure compliance with this section. (2) Manufacturer's specifications for the outdoor wood burner. (3) Proof of compliance

with all applicable state and federal statutes, rules, regulations and permit requirements including, without limitation, all applicable state construction code, fire code and zoning provisions.

- (c) An area around an outdoor wood burner shall be free of vegetation or other combustible materials according to the greater distance of the manufacturer's specifications and recommendations or ten feet.
- (d) No fuel other than dry, natural hard wood, without additive, may be burned in an outdoor wood burner.
- (e) Outdoor wood burners and associated installations shall be subject to inspection by the city's zoning administrator and mechanical inspector at any reasonable time to ensure compliance with this section. Inspection by the mechanical inspector shall be required before any wood burner is put into service.
- (f) Nothing contained here shall authorize any installation that is a public or private nuisance, regardless of compliance with this section. This section shall not be a defense to any civil claims for nuisance or for any other cause.
- (g) To the extent that this section conflicts with the provisions of section 40-441, the provisions of this section shall control.

5.05.003. Permitted open fires.

- (a) The following open fires are allowed:
 - 1. Charcoal cookers, braziers, hibachis, grills, chimeneas, patio warmers, outdoor fireplaces or gas-fired stoves and similar semi-enclosed devices on the premises of a single-family detached residential dwelling; provided that:
 - 2. Such device is located at least 25 feet from the nearest structure which is not on the same property.
 - 3. The fires within such devices are gas lit or consist of only charcoal or clean wood, defined as natural, dried and seasoned wood that has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood product with the exception of a small amount of paper product used for the initial igniting of the fire.
 - 4. For purposes of this section a "semi-enclosed device" means a freestanding device specifically designed and manufactured for the burning of wood or charcoal with a lid, door or cover that may be securely closed. Generic rock enclosures and burn barrels, regardless of lid, do not constitute a "semi enclosed device."
 - 5. Provided that the fire does not exceed nine square feet in area with flames no higher than three feet measured from the surface of the ground or bottom of the fire box.

(b) Charcoal cookers, braziers, hibachis, grills and similar devices on the ground level of any apartment building, townhouse, condominium, or similar occupancy provided that:

1. Such device is used solely for the preparation of food.
2. Such device is located not less than eight feet from every part of the building, including any portion of any balcony, overhang, or protrusion.
3. The fires within such devices are gas lit or consist of charcoal.
4. It shall be a violation of this subsection to use such devices on balconies above ground level in any apartment building, townhouse, condominium or similar occupancy.
5. Provided that the fire does not exceed nine square feet in area with flames no higher than three feet measured from the surface of the ground or bottom of the fire box.

(c) Fires confined to a fireplace or woodstove built or installed in compliance with applicable building code requirements located inside a completely enclosed building.

(d) Controlled fires caused and maintained for the training of authorized firefighters.

(e) Fires required for the prevention or control of disease or pests caused and maintained by the fire department or an appropriate state or federal agency.

(f) Campfires, bonfires and other outdoor fires for which a permit has been issued by the fire department, provided that the fire does not exceed nine square feet in area with flames no higher than three feet measured from the surface of the ground or bottom of the fire box, and provided that the fire consists of only clean wood, defined as natural, dried and seasoned wood that has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood product with the exception of a small amount of paper product used for the initial igniting of the fire.

1. Applications for permits under this subsection shall be made upon a form provided by the fire department.

2. The city council may by resolution establish a fee for such permit to cover the costs of administration.

3. Permits may be issued, with or without conditions, or denied at the discretion of the city fire chief or the fire chief's designee based upon relevant public safety criteria.

4. Only one open fire permitted pursuant to this subsection shall be allowed on the same parcel of property at the same time.

5. Open fires permitted under subsections (a) through (e) of this section do not require a permit.

6. Open fires permitted by this section shall be constantly attended and supervised by a competent person of at least 18 years of age until the fire is extinguished and is cold. The person shall have

readily available for use such fire extinguishing equipment as may be necessary for the total control of the open fire.

7. Open fires permitted by this section are allowed between the hours of 7:00 a.m. and 12:00 a.m.

8. Open fires permitted by this section shall not generate noxious odors or smoke.

9. The city fire chief, or the fire chief's designee, or any police officer, may require any open fire permitted by this section to be extinguished upon a determination that the open fire endangers persons or property or may endanger persons or property, and may cancel or revoke a previously issued permit at any time if a permittee violates this section or other applicable city ordinance or state law, or for disorderly conduct.

10. Except for charcoal or gas fires used for cooking purposes, open fires are prohibited on air quality "Ozone Action Days," as determined by the National Weather Service or the state department of natural resources and environment, or its successor agency.

11. Except for charcoal or gas fires used for cooking purposes, open fires are prohibited during dry weather conditions when the state department of natural resources and environment or its successor agency has issued a burn advisory prohibiting open fires to include burn bans issued by McLennan County.

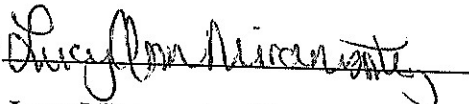
12. A violation of this section shall be punishable as a municipal civil infraction.

5.05.004. Penalty

Any person, firm or corporation who violates any provision of this article shall, upon conviction, be fined in a sum of money not to exceed \$500.00.

PASSED on this the 25th day of October, 2022.

CITY OF BEVERLY HILLS, TEXAS

By: 
Lucy Miramontez, Mayor

ATTEST:



Renee Flores, City Secretary