

ORDINANCE NO. 04-002

OUTDOOR BURNING ORDINANCE

Section 1. Adoption of Texas Administrative Code

The City of New Berlin, Texas, hereby adopts the outdoor burning rules as outlined in Title 30 of the Texas Administrative Code, Sections 111.201-111.221. If a conflict occurs between Title 30 of the Texas Administrative Code , Sections 111.201-111.221 and this ordinance, the stricter of the two codes shall prevail.

Section 2. General Prohibition

No person may cause, suffer, allow, or permit any outdoor burning within the city limits of the City of New Berlin, except as provided in this ordinance. The burning of household trash, garbage of any form, or municipal solid waste is prohibited within the city limits. It shall also be unlawful for any person to light or have lighted any fire in any street, alley, thoroughfare or public property. Outdoor disposal or disposition of any material capable of igniting spontaneously, with the exception of the storage of fossil fuels, shall not be allowed. No furniture, construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber shall be burned.

Section 3. Exceptions

Only fires, under the conditions described below, will be permitted:

- a. **Fire Training.** Outdoor burning shall be authorized for training of firefighting personnel when requested in writing and authorized by the Guadalupe County Fire Marshall's office. The burning shall be authorized if notice of denial is not received within ten (10) working days after the date of postmark or date of personal delivery of the request.
- b. **Domestic Outdoor Fires.** Fires are allowed out-of-doors for cooking or warmth provided such a fire is built in a fireproof container, such as a barbecue pit or chimenea, made of brick, stone, metal, or other fireproof material in such a manner to prevent said fire from escaping. Domestic outdoor fires do not require a burn permit.
- c. **Domestic Waste Fires.** Fires are allowed at a property designed for and used exclusively as a private residence, housing not more than three (3) families, when collection of domestic waste is not provided or authorized by the local government entity having jurisdiction, and when the waste is generated only from that property. Provision of waste collection refers to collection at the

premises where the waste is generated. The term "domestic waste" is defined as wastes normally resulting from the function of life within a residence that can be burned including such things as kitchen garbage, untreated lumber, cardboard boxes, packaging (including plastics and rubber), clothing, grass, leaves, and branch trimmings. Examples of wastes not considered domestic waste which cannot be burned, include such things as tires, non-wood construction debris, furniture, carpet, electrical wire, and appliances. Domestic waste must be burned in a burn barrel or other trash container equipped with a screen or metal grid to keep burning material contained.

- d. Special permission must be obtained for the burning of Domestic Waste that will not be burned inside a burn barrel or other trash container equipped with a screen or metal grid. See Section 4 below for obtaining permission to burn.
- e. Land Clearing. Special permission must be obtained for the burning of vegetation in the clearing of land. See Section 4 below for obtaining permission to burn.

Section 4. Requirements for Authorization.

Application for a "Permit to Burn" shall be made to the New Berlin Volunteer Fire Department Fire Chief in writing by the owner, operator, or other person in control of the property upon which the burning is to occur. The application shall indicate the permitted address, applicant's name, address, and telephone number, and valid driver's license or identification number.

- a. The permit is effective for thirty (30) days from the date of issuance.
- b. The requestor must obtain final approval to burn from the Guadalupe County Sheriff's office immediately prior to the start of burning to ensure that weather conditions will be conducive to this type of burning.
- c. The permit is automatically voided if the Guadalupe County Sheriff's Office considers the conditions unsafe, or if the Guadalupe County Commissioner's Court has adopted a countywide burn ban after the permit is issued.

Section 5. Countywide Burn Ban.

During periods of time in which the County of Guadalupe, Texas institutes a total burn ban for the unincorporated areas within the county, the City of New Berlin prohibits any burning, except as provided in Section 3 (a) and (b) herein, for the duration of the burn ban.

Section 6. Fee for Permit.

The fee for a "Permit to Burn" shall be paid before the permit is issued. The fee for said permit shall be Ten Dollars (\$10.00).

Section 7. General Requirements for Burning.

- a. Requestor must contact the New Berlin Volunteer Fire Department prior to burning. The Fire Chief, or his designee, may inspect the burn site and materials to ensure that no prohibited materials are included and that general requirements are being followed.
- b. Burning is permitted only when the wind direction and other meteorological conditions are such that the smoke and other pollutants will not present a hazard to any public road or have an effect on any building structure.
- c. If at any time the burning causes or may tend to cause smoke to blow onto or across a street, roadway, or highway, it is the responsibility of the person initiating the burn to post flag-persons on the affected roads.
- d. Fires must be kept downwind of, or at least 300 feet away, from any neighboring structure.
- e. Burning shall not commence when the surface wind speed is predicted to be less than six miles per hour (6 mph or 5 knots) or greater than twenty-three miles per hour (23 mph or 20 knots) during the burn period.
- f. Burning shall not be conducted during periods of actual or predicted persistent low-level atmospheric temperature inversions.
- g. Burning may begin no earlier than one hour after sunrise and must end the same day no later than one hour before sunset.
- h. A responsible party must be present while the burn is active. Such persons shall have a water hose connected to a reliable water supply or have other fire extinguishing equipment readily available for use.
- i. Any residual fires and/or smoldering objects that continue to emit smoke must be extinguished at the end of the burn.
- j. Only brush/vegetation generated and gathered from the burn site area will be permitted. There shall be no importation of brush from any other properties for the purpose of burning.

Section 8. Parallel Requirements.

The authority to conduct outdoor burning under this ordinance does not exempt or excuse the requestor from complying with all other applicable laws or ordinances, regulations, and orders of any governmental entity having jurisdiction, even though the burning is otherwise conducted in compliance with this ordinance.

Section 9. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provisions and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 10. Remedies.

Violators of this ordinance shall be issued a citation and upon conviction for such violation shall be punished by a penalty of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).

Section 11. Effective Date.


The provisions of this ordinance shall become effective upon its passage, approval, and publication.

PASSED AND APPROVED on this the 19th day of July, 2004.



Mayor

Attest:



City Secretary