

BAYVIEW OUTDOOR BURNING ORDINANCE ORDINANCE NO. 2011-07-21

LAST UPDATE: September 10, 2015

LAST REVIEW: September 10, 2015

ORIGINATION: July 21, 2011

AN ORDINANCE TO REGULATE OUTDOOR BURNING IN THE TOWN OF BAYVIEW, TEXAS AND ESTABLISH THE CONDITIONS UNDER WHICH OUTDOOR BURNING MAY TAKE PLACE WITHIN THE CORPORATE LIMITS OF THE TOWN OF BAYVIEW.

WHEREAS, outdoor burning in Texas is regulated by the Texas Commission on Environmental Quality (TCEQ) under rules promulgated in the Texas Administrative Code (TAC), Title 30, Environmental Quality, Part 1, Texas Commission on Environmental Quality, Chapter 111, Control of Air Pollution, Subchapter B, Outdoor Burning; and,

WHEREAS, those rules generally prohibit outdoor burning anywhere in Texas but allow for specific exemptions from that prohibition when certain conditions are met and make application of those exemptions within a municipality subject to adoption of local ordinances for regulation of outdoor burning; and,

WHEREAS, those rules specifically state that outdoor burning may be authorized by local ordinances that regulate burning inside the corporate limits of a city or town and that are consistent with the Texas Clean Air Act, Chapter 382, Subchapter E, Authority of Local Governments, and the requirements of §111.219(3), (4), (6), and (7) of this title; and,

WHEREAS, the Town of Bayview finds that it is in the best interests of the residents of Bayview to allow outdoor burning of certain wastes, specifically agricultural and residential plant growth waste in a manner consistent with applicable state and Federal laws and regulations; and,

WHEREAS, regulation of outdoor burning is necessary in order to protect the public health and safety interests of the Town of Bayview and its residents;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF BAYVIEW TEXAS:

SECTION 1: General Prohibition on Outdoor Burning Except as specifically authorized herein, outdoor burning is prohibited within the corporate limits of the Town of Bayview.

SECTION 2: Plant Growth Waste Burning of tree cuttings, brush, grass, leaves, branch trimmings, or other plant growth waste is allowed in Bayview after a Permit is obtained from the Town of Bayview and all of the following conditions are satisfied:

1. The material burned is generated only on the property on which the burning takes place.
2. The burning is undertaken only by the owner of the property or another person authorized by the owner; however, the property owner retains full responsibility for obtaining the required Permit and for compliance with all related requirements. A person leasing property for residential or agricultural use has the same rights and responsibilities as the property owner for the purposes of outdoor burning.
3. The burning takes place at least 300 feet away from residences or other occupied structures other than those on the property where the burning takes place. Burning may take place less than 300 feet away from residences or other occupied structures if the owners or occupants of said residences or structures agree that conditions are suitable.

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4. The burn site is well clear of brush, trees, dry grass, and other combustible materials.
5. The burning takes place no earlier than sunrise and is completed no later than one hour before sunset.
6. Material is burned in small quantities; fire piles should be no more than 4 feet high and no more than 10 feet across.
7. The fire is attended by a responsible adult at all times.
8. Provisions are made for extinguishing or regulating the fire in the event that conditions change; specifically, a hose connected to a reliable water supply and capable of directing a strong stream of water onto the fire is laid out within reach of the fire; other comparable fire control provisions may also be used for small fires.
9. Wind is at least 2-3 mph and not more than 15-20 mph at the burn site.
10. Weather conditions are such that smoke is rapidly dissipated and ash and embers are not carried beyond the limits of the property on which the burning takes place.
11. The fire is immediately extinguished or otherwise controlled if the responsible person is made aware of unacceptable impacts on the occupants of nearby properties.
12. The responsible person attending the fire has immediate access to telephone services to notify local fire departments in the event that the fire becomes out of control or spreads beyond the burn site.
13. The responsible person has 1) secured a Town of Bayview burn permit 2) notified the Los Fresnos Volunteer Fire Department with the time and place of the burn. The LFVFD will inform the caller if a burn ban is in effect.

SECTION 3: Domestic Waste. Commercial waste hauling services are available to all residents of Bayview. As such, the burning of domestic waste is never authorized within the corporate limits of the Town of Bayview. Domestic waste includes but is not limited to such things as kitchen garbage, cardboard, paper, packaging (including plastics and rubber), clothing, tires, non-wood construction debris, furniture, carpet, electrical wire and appliances. This prohibition applies to all persons and all properties physically located within the corporate limits of the Town of Bayview without regard for the nature of the activity in which they are involved.

SECTION 4: Notification to the Los Fresnos Volunteer Fire Department (LFVFD) In addition to securing a Burn Permit from the Town of Bayview, the responsible person must contact the Los Fresnos Volunteer Fire Department at the telephone number listed on the Burn Permit and inform them of the location where the burning will take place and the name, address, and telephone number of the person responsible for the burning. The LFVFD will inform the caller of any burn restrictions.

SECTION 5: Penalty for Failure to Obtain a Permit Failure to obtain an Outdoor Burning Permit or comply with the terms of the Permit and Ordinance will be considered an actionable offence under Town Ordinances and may subject the person undertaking the burning to appear before the Building and Standards Commission (BSC) of the Town of Bayview. The BSC may: 1) assess a fine of up to \$500 and administrative costs of \$250 per incident and 2) revoke the Burn Permit for a Period of One Year from the date of the revocation known as the "Revocation Period" and the issuance of a One Day Burn Permit only 3) Failure to comply with the One Day Burn Permit may result in the revocation of all burn privileges for a period of one year, known as the "Prohibition Period." Separate from the Town of Bayview, additional fees and fines may be imposed by other State, County and Local authorized bodies.

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SECTION 6: Fires Other than for Waste Disposal Consistent with the TCEQ rules, outdoor burning is authorized for small 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. This allows for keeping warm during winter work, and items such as backyard barbeques, patio fire pits, chimeneas and the like. Such fires must be attended by a responsible person at all times and a means of extinguishing the fire if such need arises must be readily available.

SECTION 7: Overriding Considerations The preceding conditions notwithstanding, outdoor burning in the Town of Bayview is prohibited when a ban on burning has been announced by the Cameron County Fire Marshall or other State, County, or Local officials who are duly authorized to impose such bans. It is the duty and responsibility of persons wanting to undertake outdoor burning activities to obtain 1) an Outdoor Burning Permit and 2) verify with the Los Fresnos Volunteer Fire Department that burning is allowable and that no burn bans are in effect.

SECTION 8: Burn Permits Outdoor Burn Permits will be issued by the Town of Bayview and be valid for a PERIOD OF ONE (1) YEAR from the date of issuance. Failure to comply with the terms of either this ordinance or the Burn Permit will result in the revocation of the Burn Permit for a Period of One Year known as the "Revocation Period." Those having their permits revoked may burn using a One Day Burn Permit during the Revocation Period. Failure to comply with the One Day Burn Permit may result in the revocation of all burn privileges for a period of one year, known as the "Prohibition Period."

PASSED: By an affirmative vote of the Board of Aldermen of the Town of Bayview, Texas this 10th day of September 2015.

Approved: /S/_____ Attest: /S/_____

Leon Deason, Mayor Pro Tem

Julia Reber, Town Secretary