

AN ORDINANCE OF THE CITY OF GARRETT TEXAS

ORDINANCE NO. 14-161

AN ORDINANCE OF THE CITY OF GARRETT, TEXAS, ESTABLISHING OUTDOOR BURNING REQUIREMENTS PURSUANT TO THE LAWS OF THE STATE OF TEXAS; PROHIBITING OUTDOOR BURNING WITHOUT PERMIT; PROVIDING FOR A PERMIT TO BURN ONLY DRY PLANT GROWTH, CROPLAND RESIDUE, TREES, AND BRUSH PILES; MAKING IT UNLAWFUL FOR ANY PERSON TO BRING INTO THE CITY MATERIALS FOR THE PURPOSE OF CONDUCTING AN OUTDOOR BURN; PROVIDING EXCEPTIONS; ESTABLISHING A PERMIT FEE; PROVIDING FOR INSPECTION OF BOTH BURN SITE AND MATERIAL TO BE BURNED; PROVIDING THAT A BURN BE A SAFE DISTANCE FROM BUILDINGS, STRUCTURES AND OTHER COMBUSTIBLE MATERIALS, AND HAVE A SUPPLY OF WATER FOR CONTROL; PROVIDING THAT NO BURN BE CONDUCTED WHEN SURFACE WIND VELOCITIES EXCEED 15 MPH; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND EVERY DAY ANY OFFENSE IS CONTINUED SHALL CONSTITUTE A NEW AND SEPARATE OFFENSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council finds that there is a growing necessity to regulate open burning and open fires within the city; and

WHEREAS, the City Council also finds that the open burning of fires affects the health, safety, and welfare of the city's citizens and negatively impacts the health, safety, and welfare of the surrounding neighborhood and City as a whole.

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

SECTION 1. DEFINITIONS

The following words and terms used in this ordinance shall have the following meaning:

City – The City of Garrett, Texas.

Person – Any person, firm, corporation, or business entity.

Outdoor Burning – Any open fire conducted within the city for the purpose of burning of certain unwanted materials. **Household Trash and Rubbish may not be burned.**

Authorized Burn Site – the location of an outdoor burn permitted by a permit issued pursuant to this ordinance.

Burn Materials – unwanted materials authorized to be burned at an outdoor burn site by permit issued pursuant to this ordinance. **Household Trash and Rubbish are not permitted burn materials. See Stction 4,A.**

SECTION 2. **OUTDOOR BURNING PROHIBITED**

It shall be unlawful for any person, firm, corporation, or business entity (hereinafter referred to as "person") to cause, suffer, allow, or permit any "outdoor burning" of combustible material within the corporate limits of the City except as provided for in this ordinance.

SECTION 3. **EXCEPTIONS-**

Outdoor burning **without a City Permit** is authorized in each of the following instances:

- A. When pursuant to a grant of authority from the Texas Air Control Board or its executive director who, before granting such authority has determine that there is no practical alternative to the outdoor burning.
- B. When the burning is for the purpose of training fire-fighting personnel and the chief of the voluntary fire department has obtained authorization either verbally or in writing from the controlling local air pollution agency.
- C. Outdoor burning consisting of 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.
- D. Outdoor burning of diseased animals in instances' where Texas State or Ellis County health officials have determine that burning is the most effective means of controlling the spread of disease.
- E. Outdoor burning of hydrocarbons from pipeline breaks and oil spills may be allowed upon proper notification to the City of Garrett and the executive director of the Texas Air Control Board if it is determined that burning is necessary to protect the public welfare.

restrictions and requirements:

- A. Burn permits will be issued **only for burning dry plant growth, cropland residue, trees, and brush piles, herein referred to as "burn materials"**.
- B. It shall be unlawful to burn electrical insulation, treated lumber, plastics, non-wood construction materials, hydrocarbon fuels and lubricants, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber.
- C. No permit will be approved until both the proposed burn site and the materials to be burned have been inspected as described above.
- D. If the burn site and the material to be burned are located two separate tracts of applicant's property requiring two inspections, an additional permit fee may be required.
- E. Prior to igniting any permitted burn, the party performing the burn shall notify **the both the Director of Public Works and the Garrett Volunteer Fire Department** to determine if the day of the intended burn is an approved burn day, and to allow the Fire Department time to notify the proper County and State agencies.
- F. The burn site shall be a safe distance from all building structures and other combustible materials. A large burn site may not be approved unless it is at least 300 feet from the nearest buildings or structures. These structures, materials, and approximate distances should be described in the application for the permit provided required by this ordinance.
- G. An effective fire break shall be maintained around the periphery of the burning material.
- H. A competent person at least 18 years of age shall be present at the burn site from the time of ignition until the fire is consumed or extinguished. A large burn may require the applicant to furnish stand-by assistance from a fire department.
- I. A supply of water to control the burn shall be provided at the site throughout the burn;
- J. No burning shall be conducted on days when surface wind velocities are predicted to exceed 15 mph;
- K. No burning shall be conducted on ozone alert days for the Dallas-Fort Worth area, or when a ban has been issued by the Texas State Fire Marshall, the Ellis County Fire Marshall, or an authorized representative of the City of Garrett;

SECTION 4. **BURN MATERIALS & OUTDOOR BURN SITE**

- A. The only "Outdoor Burn Materials" permitted to be burned at an "Outdoor Burn Site" shall be **dry plant growth, cropland residue, trees, and brush piles.**
- B. It shall be unlawful for a person to conduct an outdoor burn within the corporate limits of the city, without having first obtaining an approved permit from the city.
- C. It shall be unlawful for any person to bring into the city materials for the purpose of conducting an outdoor burn as is contemplated in this ordinance.
- D. A person owning more than one tract of property within the city may obtain a permit to transport burn materials from one tract to another tract owned by Party.

SECTION 5. **PROCEDURE FOR OBTAINING REQUIRED PERMIT**

The City Secretary shall have available a form similar to the combined "Application & Permit Form" attached hereto as Exhibit "A".

This combined form will serve as the application for the permit; a place for the inspector to sign when the required inspections are made; and a place for the City Secretary to sign to approve & grant the permit when it is returned to the City Secretary for final approval.

When this form is first completed and filed with the City Secretary together with the Permit Fee of \$20.00 Dollars, the City Secretary will provide the applicant with a signed copy and forward a copy to the Director of Public works.

The applicant will then contact the Director of Public works and work out a time for the inspections. **The fee shall be non-refundable after the inspections has been performed.** After the inspections have been made the applicant will take the document to the City Secretary who will approve and issue the permit. The permit shall be valid for a period of **15 days** from its date of Approval. In the event the outdoor burning is prohibited by weather conditions or if a burn ban is issued in the area during said 15 days, the permit may be extended one time for an additional 15 days at no additional permit fee from the applicant.

Except as otherwise provided for in this ordinance no person shall perform or authorize any outdoor burning within the corporate limits of the City without first obtaining the approved permit mentioned above.

SECTION 6. **RESTRICTIONS & REQUIREMENTS.**

All outdoor burn permits issued by the City shall be subject to the following

City of Garrett Combined Application & Permit
Outdoor Burn Permit

Applicant's Name: _____
Address: _____, Garrett, Texas, Zip _____
Phone: _____, E-Mail _____

Physical Location of Burn Site: _____
Physical Location of Burn Materials: _____
Material to be burned: _____

No Household Trash

Describe adjacent structures, combustible materials, and approximate distances from the Burn Site:

I (we), the undersigned, will comply fully with the Garrett Outdoor Burn Policy as set out in the attached City of Garrett Ordinance No. _____.

Signature

Signature Date

Permit Fee: Twenty Dollars (\$20), due and payable to the City of Garrett at the time this application is submitted to the City Secretary. . **Fee not returnable after inspections made**
Permit Term: The permit shall be valid for a period of 15 days from the date of final approval. In the event burning is prohibited by weather conditions or if a **burn ban is issued** in the area during the initial (15) day term, a one-time extension of (15) days may be granted at no additional cost to the applicant.

Application Received

Permit Fee Paid By _____ Date _____ Permit No. _____

By _____, City Secretary

Burn Site Inspected By: _____ Date Inspected _____

Burn Materials Inspected By _____ Date Inspected _____

(Fifteen (15) Days Extension Granted: [] Yes [] No By: _____)

Final Approval of Burn Permit

Burn Permit No. _____ Approved and Issued to _____ Date _____

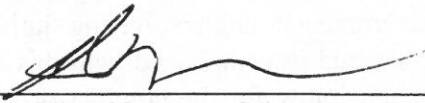
By _____
City Secretary, Garrett, Texas

SECTION 12. EFFECTIVE DATE

This ordinance shall take effect immediately after its passage and publication of its caption, as the law in such cases provides.

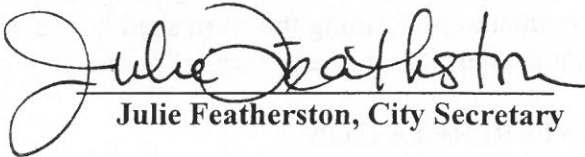
DULY ADOPTED by the City Council of the City of Garrett, Texas, the 24 day of July, 2014.

APPROVED:



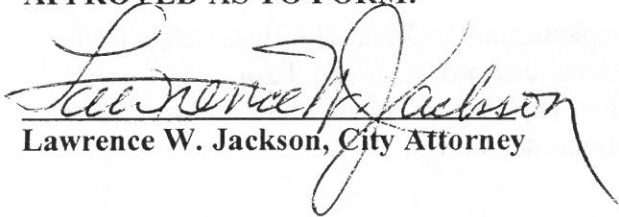
Matt Newsom, Mayor

ATTEST:



Julie Featherston, City Secretary

APPROVED AS TO FORM:



Lawrence W. Jackson, City Attorney

- L. Burns shall be performed only between sunrise and sunset; and
- M. A copy of the approved burn permit shall be available on site throughout the burn.

SECTION 7. RESPONSIBILITY

The authority to conduct outdoor burning under this Ordinance does not exempt or excuse the party responsible for such burn from the consequences, damages, or injuries resulting from the burning, and does not exempt or excuse any party 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 Ordinance. The City of Garrett does not accept responsibility for the conduct or consequences of such outdoor burning activities, even if the burning is conducted in total compliance with this Ordinance. Applicant shall have his own insurance and shall indemnify City from all claims, damages, or injuries, including deaths, resulting from the burn. Applicant's conduct in performing the Burn shall be the act of an Independent Contractor, and not for the city, or in any form of partnership or contract with the city.

SECTION 8. INTERPRETATION

This Ordinance shall be deemed to be supplementary to Texas Health & Safety Code Section 382.001, and the rules, regulations, and orders of the Texas Air Control Board, and it shall not be administered in any manner which conflicts with, or is inconsistent with such codes, rules, regulations, and orders.

SECTION 9. REPEALING CLAUSE

All parts of ordinances of the city inconsistent or in conflict with the provisions of this ordinance are hereby repealed, but otherwise remain in full force and effect.

SECTION 10. SEVERABILITY CLAUSE

If any article, paragraph, subdivision, clause, or provision of this ordinance shall be adjudged in valid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional

SECTION 11. PENALTY CLAUSE

Any person firm or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and every day any offense is continued shall constitute a new and separate offense.