

ORDINANCE NO. 282-2007

AN ORDINANCE REGULATING THE OPEN BURNING OF DEBRIS AND OTHER MATERIALS IN THE CITY OF SPANISH FORT, ALABAMA

WHEREAS, the City Council has received numerous complaints from citizens regarding the open burning of debris and other materials within the corporate limits of the City; and

WHEREAS, the City Council has worked with the company providing residential garbage and trash pick up to provide for the collection of yard debris and other garbage on a weekly basis; and

WHEREAS, the City Council recognizes that there are other viable methods for the disposal of yard debris, garbage and other materials, including, but not limited to, the use of commercial debris removal services; and

WHEREAS, the City Council believes that it is in the best interest of the City and necessary to protect the health, safety, and welfare of the citizens to regulate the use of open burning within the corporate limits of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:

SECTION 1. Definitions. The following words, terms and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. Mayor means the Mayor of the City of Spanish Fort, Alabama, or his designee.
- B. Fire Chief means the Chief of the Spanish Fort Volunteer Fire and Rescue Department or his designee.
- C. Open Burning means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack, duct or chimney.

SECTION 2. Prohibition Against Open Burning. No person shall cause, allow or permit open burning of debris or other materials or kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained without a permit or other proper authorization. No waste materials, rubbish, trees, bushes or brush cleared for construction or demolition of buildings or structures shall be disposed of by burning on the premises or in the immediate vicinity by the owner, the contractor or any other person, unless a permit or other proper authorization has been obtained to burn said waste materials.

SECTION 3. Exception by Authorization or Permit. Open burning may be conducted, subject to the limitations set forth in an open burning permit issued by the Mayor and subject to the terms and conditions of this Ordinance, as follows:

- (A) Open burning of leaves and small tree limbs, less than three inches in diameter, at a residence where the collection of such material is not available. The determination of availability will be made by the Mayor. Burning of trees or limbs as a commercial service by tree surgeons, landscapers or other persons is strictly prohibited.
- (B) Open burning for the disposal of materials grown on a parcel of property may be conducted on that parcel of property provided the following conditions are met:

(1) Burning is done using an air curtain destructor or other approved device which has a proven or demonstrable ability to limit or reduce the smoke, fumes and other negative impacts resulting from such burning. Burning shall only be allowed at suitable sites as approved by the Mayor taking into consideration the use of surrounding property.

(2) Burning will take place on days and hours designated by the Mayor. Designated days of burning will always be tentative and regulated according to weather conditions. The Mayor shall have the right to revoke or modify the permit based on weather conditions.

(C) Ceremonial fires (such as school bonfires) when the fires are approved, ignited and extinguished by fire department personnel.

SECTION 4. Exceptions-No Permit Required. The following open burning activities may be conducted without a permit, as long as notification of intent to conduct such a burning activity is given to the Fire Chief at least 24 hours prior to the time the open burning activity is to begin:

(A) Fire set for the training and instruction of public or private fire fighting personnel.

(B) Fire set by or at the direction of responsible fire control agencies for the prevention, elimination or reduction of a fire hazard.

(C) Smokeless flares or safety flares for the combustion of waste gases.

(D) Fires used for agricultural, horticultural and silvicultural purposes when specifically recommended by the state extension service or the state forestry commission, provided such fires are conducted only in areas where the actual burning is at least 1,000 feet from the closest occupied building.

(E) Fires used to destroy pests, germs, dead animals, etc., when the open burning is being conducted in accordance with or under the direct supervision of personnel from the local or state health department.

(F) No open burning permit or notification of intent is required for fires used for the cooking of food or fires contained in outdoor fireplaces for personal use in an individual yard or patio area, including barbeque grills, permanent fireplaces or manufactured outdoor fireplaces. The burning of garbage, rubber, plastics, leaves or other refuse shall be prohibited.

SECTION 5. Open Burning Permits. Open burning permits may be issued, subject to specific conditions, consistent with the standards provided in this Ordinance, and said permits shall be set forth in writing. The holder of the permit shall comply with all conditions contained within such permit as well as all applicable provisions of this Ordinance.

SECTION 6. Permit Applications. Applications for open burning permits shall be in a form prescribed by the Mayor and shall give all of the information necessary to enable the Mayor to make the determinations required by this Ordinance. The Mayor shall have the right to include any and all conditions deemed necessary for the issuance of the permit, and the Mayor may also require the Fire Chief's approval of the open burning permit prior to its issuance. Application should be submitted at a minimum of seven (7) days prior to the requested burn start date.

SECTION 7. Fees. Open burning permit fees in the amount of \$25.00 per day shall be paid at the time of application. Fees should be made payable to the City and shall be non-refundable.

SECTION 8. Transfer of Permits. Open burning permits and authorizations provided by this Ordinance shall not be transferable whether by operation of law or otherwise, either from one location to another, or from one person to another.

SECTION 9. Expiration of Permits. Open burning permits shall expire on the date specified on the face of the permit. In no event, however, may an open burning permit be issued which has an expiration date of longer than ten days from the burn start date. All burning activities shall be completed on or before the expiration of the permit.

SECTION 10. Display and Inspection of Permits. Permits shall be displayed and available for inspection at the open burning site by any and all persons who may request to see the permits.

SECTION 11. Revocation of Permits. (a) Any open burning permit granted by the Mayor may be revoked for any of the following reasons:

- (A) Failure to comply with the provisions of this Ordinance.
- (B) Failure to comply with any conditions of the open burning permit.
- (C) For any other cause if, in the judgment of the Mayor, continuance of the permit is not consistent with the purposes of this Ordinance.

SECTION 12. Supervision and Liability. Any person to whom such permit is issued shall supervise all burning authorized by the permit. The grant of the permit shall in no way relieve the person responsible for such open burning from the consequences of or the damages or injuries resulting from such burning, including but not limited to, personal injury, property damage or fire suppression costs.

SECTION 13. Denial of Permit Application. The Mayor may deny any application for a permit hereunder, if the Mayor deems the proposed burning to be dangerous to the health, welfare and safety of the residents of the City or its police jurisdiction, or to any property in the City or its police jurisdiction.

SECTION 14. “No Burning” Orders. The Mayor may, from time to time, issue temporary “no burning” orders at any time the Mayor determines that the burning of items authorized under this Ordinance would be dangerous to the property or residents of the City or its police jurisdiction.

SECTION 15. Appeals to the City Council. Any person aggrieved by a decision of the Mayor may appeal to the City Council at its next regular meeting.

SECTION 16. Penalties. Any person violating any provision of this Ordinance shall be punished by a fine of not less than \$100.00 nor more than \$500.00, and said person shall pay all fire suppression costs incurred by the City or any other agency involved in extinguishing a fire in violation of this Ordinance.

SECTION 17. Exemption. Nothing contained in this Ordinance shall be construed as applying to the regular military of the United States, the duly authorized militia of the state, or the police or fire departments in the proper performance of their duties.

SECTION 18. Repealer Clause. Any ordinance heretofore adopted by the City Council of the City of Spanish Fort, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION 19. Severability Clause. If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 20. Effective Date. This Ordinance shall become effective upon its adoption or as otherwise required by state law.

ADOPTED AND APPROVED this *16th* day of *April, 2007*.

Joseph C. Bonner
Mayor

ATTEST:

Mary Lynn Williams, MMC
City Clerk