

**ORDINANCE NO. 2011\_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 8-1 OF THE CITY CODE TO ADD ARTICLE 7 GRANTING THE CITY MANAGER AND DIRECTOR OF THE PARKS AND RECREATION DEPARTMENT AUTHORITY TO ISSUE BURN BAN ORDERS FOR CITY PARKS AND NATURE PRESERVES; CREATING AN OFFENSE AND PROVIDING FOR CRIMINAL PENALTIES; AND DECLARING AN EMERGENCY**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1. COUNCIL FINDINGS.**

- (A) The City of Austin has the authority to prohibit activities in its parks that present hazards to the public health or to property that would be exacerbated by the burning of combustible materials in City Parks and Nature Preserves.
- (B) The severity of the 2010-2011 drought in Central Texas has made wildfires a serious potential hazard to the peace, health, safety, and property of Austin residents.
- (C) The long-term forecast for the Central Texas region anticipates more abnormally dry weather through the winter, keeping the possibility of wildfires a serious risk for the foreseeable future.
- (D) A compelling need exists to grant the city manager and the director authority to issue burn ban orders for Parks and Nature Preserves.

**PART 2.** Chapter 8-1 of the City Code is amended to add Article 7, Restrictions on Outdoor Burning.

**ARTICLE 7. RESTRICTIONS ON OUTDOOR BURNING**

**8-1-91: DEFINITIONS.**

In this Article:

- (A) The term “BURN” or “BURNING” means the ignition of a Combustible Material which could create flames or sparks that could result in a fire. This includes, but is not limited to, welding, lighting campfires, use of equipment other than a propane-fueled grill or stove to grill or bar-b-que food, and use of any tool that could create a flame or spark.

- (B) The term “COMBUSTIBLE MATERIAL” means any material that is capable of catching fire.
- (C) The term “DIRECTOR” means the Director of the Parks and Recreation Department.
- (D) The term “SMOKE” OR “SMOKING” means lighting, inhaling, exhaling, burning, holding, carrying or discarding any lighted cigar, cigarette, pipe, weed, or plant.

#### **8-1-92: BURN BAN ORDER.**

The city manager or the director may issue a burn ban order for City Parks and Nature Preserves when it is determined that weather conditions create a significant fire hazard or a wildfire danger. The city manager or the director shall determine when the burn ban ends.

#### **8-1-93: NOTICES.**

- (A) Notice of Order. The director shall post notice of a burn ban order on the city website, at public entrances, and in heavy traffic areas of each Park and Nature Preserve. In addition, the director shall issue a notice to local media.
- (B) Notice of Termination of Order. The director shall post notice of the termination of a burn ban order on the city website. In addition, the director shall remove the notices of the burn ban orders in Parks and Nature Preserves, and shall issue a notice to local media.

#### **8-1-94: OFFENSE.**

- (A) A person commits an offense if the person performs any of the following activities in a Park or Nature Preserve while a burn ban order is in effect:
  - (i) Smokes.
  - (ii) Burns a Combustible Material or engages in an activity in a Park or Nature Preserve which creates a flame or spark that could result in a fire.
- (B) For purposes of (A) (ii) above, a person may not Burn a Combustible Material in a Park or Nature Preserve even if the material is contained within an enclosure which is intended to contain all flames or sparks.

(C) This ordinance does not apply to a person who Burns a Combustible Material if the Burn:

- (i) Is conducted by a prescribed burn manager certified under Section 153.048, Texas Natural Resources Code, and meets the standards of Section 153.047, Texas Natural Resources Code;
- (ii) Is performed by city employees, city contractors, or utility employees in the performance of their official duties, or
- (iii) Involves actions taken by public safety employees in the performance of their official duties that are necessary to the delivery of those services.

**8-1-95: PENALTY.**

(A) A person who violates this Article commits a criminal offense. An offense under this Article is punishable by a fine not less than \$300.00 and not to exceed \$500.00. A culpable mental state is not required for a violation of this Article, and need not be proved.

(B) Each violation is a separate violation.

(C) This section is cumulative of other laws providing enforcement authority.

**PART 2: EFFECTIVE DATE.**

The Council finds that the current drought conditions and wildfire danger constitutes an emergency. Because of this emergency, this ordinance takes effect immediately upon its passage for the immediate preservation of the public peace, public health, and safety.

**PASSED AND APPROVED**

\_\_\_\_\_, 2011      § \_\_\_\_\_  
                                 § \_\_\_\_\_  
                                 § \_\_\_\_\_  
                                 Lee Leffingwell  
                                 Mayor

**APPROVED:** \_\_\_\_\_  
Karen M. Kennard  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk