

CITY OF DRIPPING SPRINGS

ORDINANCE No. # 5600.10

BURN BAN

AN ORDINANCE ENACTING CHAPTER 8, ARTICLE 8.03 OF THE DRIPPING SPRINGS CODE OF ORDINANCES; PROVIDING FOR A BURN BAN IN THE CITY LIMITS TO COINCIDE WITH A BURN BAN ENACTED BY HAYS COUNTY; PROHIBITING SPECIFIC OUTDOOR BURNING ACTIVITIES AND THE CREATION OF CERTAIN FIRES AND DISCHARGE OF CERTAIN AIRIAL FIREWORKS WITHIN THE CITY LIMITS UNDER SPECIFIC CIRCUMSTANCES; PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; A PURPOSE; DEFINITIONS; EXCEPTIONS; AN EFFECTIVE DATE; ENFORCEMENT CLAUSE INCLUDING INJUNCTIVE RELIEF AND A CRIMINAL FINE NOT TO EXCEED \$2,000 AND CIVIL PENALTIES NOT TO EXCEED \$500 PER VIOLATION; SEVERABILITY; AND PROPER NOTICE AND A MEETING

WHEREAS the City of Dripping Springs is currently experiencing a severe and elongated drought with conditions being critical to all within the City Limits and neighboring communities in Hays County, Texas; and

WHEREAS the City Council seeks to promote the health, safety and general welfare of the community by preventing death, injuries and property damage from wildfires within the City Limits; and

WHEREAS the City Council finds that the dry foliage and weather conditions within the City are conducive to wildfires that may result in serious bodily injury, death, and property damage; and

WHEREAS the City Council finds that, under specific drought-related conditions, certain types of outdoor burning and aerial fireworks constitute a public nuisance that pose a significant threat to the health, safety, and welfare of City citizens and their property; and

WHEREAS pursuant to Texas Local Government Code Chapter 51, the City Council has the general authority to adopt and publish an ordinance or police regulation that is for the good government, peace or order of the municipality and is necessary or proper for the carrying out a power granted by law to the municipality; and

WHEREAS pursuant to Texas Local Government Code Chapter 217, the City Council has the general authority to identify, prevent and abate public nuisances; and

WHEREAS, pursuant to Texas Occupations Code Section 2154.004, the City Council has the

authority to regulate or prohibit the discharge of fireworks within the City Limits;
and

WHEREAS pursuant to Texas Local Government Chapter 342, the City Council has the express authority to adopt rules for the prevention of fires; and

WHEREAS the City Council finds Hays County's use of the *Keetch-Byram Drought Index* and the statutory standards set forth in Texas Government Code Chapter 418 provide the Hays County Judge and Hays County Commissioners Court with adequate, reasonable, and sufficient criteria and procedures for enacting a Burn Ban, as that term is defined and applied in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Dripping Springs City Council:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Chapter 8, Article 8.03 of the City of Dripping Springs Code of Ordinances is hereby established so to read in accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as stated on *Attachment A*.

3. REPEALER

To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City’s Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication of caption.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the 10th day of May 2011, by a vote of 5 (*ayes*) to 0 (*nays*) to 0 (*abstentions*) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:

by: _____
Mayor Todd Purcell

ATTEST:

Jo Ann Touchstone, City Secretary

APPROVED AS TO FORM:
Alan J. Bojorquez, City Attorney

City of Dripping Springs

CODE OF ORDINANCES

CHAPTER 8: FIRE PREVENTION AND PROTECTION

ARTICLE 8.03. BURN BAN

Division 1. Generally

8.03.1. Popular Name

This Article shall be commonly cited as the “Burn Ban Ordinance.”

8.03.2. Purpose

This Article provides restrictions during specific drought-related conditions on the lawful burning outdoors in order to protect public health, safety and welfare; to preserve public and private property; and maintain the ecology and delicate wildlife. This Article provides for a Burn Ban inside the City Limits to coincide with a Burn Ban that has been effectuated by Hays County for the same duration and scope of activities.

Division 2. Burn Ban

8.03.3. County Burn Ban

By and through the enactment of this Article, the City Council recognizes and acknowledges any prohibition on outdoor burning and/or fireworks effectuated by Hays County, Texas. For purposes of this Article, the term County Burn Ban includes a local disaster declaration or resolution promulgated by the Hays County Judge or effectuated by the Hays County Commissioners Court, including (but not limited to) actions in the form of an order or proclamation.

8.03.4. City Burn Ban

There shall be throughout the City Limits a prohibition on outdoor burning and/or fireworks effectuated by the City Council, by and through this Article, to run concurrently with a County Burn Ban. A City Burn Ban shall be in effect within the City Limits immediately upon the declaration of a County Burn Ban. Upon enactment of this Article, no further action of the City Council shall be required.

8.03.5. Prohibition

It shall be unlawful for any person in the City Limits to perform any action in violation of the terms, conditions or restrictions of a County Burn Ban, as implemented in the form of a City Burn Ban under this Article.

Division 3. Enforcement

8.03.6. Generally

The City shall have the power to administer and enforce the provisions of this Article as may be required by governing law. Any person violating any provision of this Article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Article is hereby declared to be a nuisance.

8.03.7. Criminal Prosecution

Any person violating any provision of this Article shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00). Each day that a provision of this Article is violated shall constitute a separate offense, each offense being a misdemeanor.

8.03.8. Civil Remedies

Nothing in this Article shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Article and to seek remedies as allowed by law, including, but not limited to the following:

- (a) *Injunctive relief* to prevent specific conduct that violates the Article or to require specific conduct that is necessary for compliance with the Article; and
- (b) *Civil penalty* up to five hundred dollars (\$500.00) a day to be deposited in the Landscaping Fund, when it is shown that the defendant was actually notified of the provisions of the Article and after receiving notice committed acts in violation of the Article or failed to take action necessary for compliance with the Article; and
- (c) *Stop Work Order* to halt activities not being performed in accordance with this Article. The City shall issue a stop work order and all work shall immediately cease. No further activity shall be undertaken on the project as long as a stop work order is in effect; and
- (d) *other available relief.*