

ORDINANCE NO. 07-05

AN ORDINANCE OF THE TOWN OF DOUBLE OAK, TEXAS, AMENDING ARTICLE 5.100 (“OUTDOOR BURNING”) OF CHAPTER 5 (“FIRE PREVENTION AND PROTECTION”) OF THE CODE OF ORDINANCES OF THE TOWN OF DOUBLE OAK, TEXAS, TO AMEND REGULATIONS RELATING TO OUTDOOR BURNING; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00); AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DOUBLE OAK, TEXAS:

SECTION 1. That Article 5.100 (“Outdoor Burning”) of Chapter 5 (“Fire Prevention and Protection”) of the Code of Ordinances of the Town of Double Oak, Texas, be and is hereby amended by replacing Article 5.100 in its entirety with a new Article 5.100, without amendment, repeal or change to any other article, part or provision of Chapter 5, such that Article 5.100 shall read in its entirety as follows:

“CHAPTER 5

FIRE PREVENTION AND PROTECTION

ARTICLE 5.100 OUTDOOR BURNING

Sec. 5.101 In General

No person may cause, suffer, allow, or permit any outdoor burning within the corporate limits of the Town of Double, Texas except as provided for in this article.

Sec. 5.102 County Burn Ban

Notwithstanding any other provision of this article, outdoor burning of any kind is prohibited at all times in which a burn ban issued by Denton County is in effect, with the following exceptions:

- (1) cooking and the noncommercial preparation of food utilizing LPG (light propane gas) grills or charcoal grills, or

(2) for purposes not enumerated in this article only when authorized by written permission from the executive director or his designee of the Texas Commission on Environmental Quality or under other circumstances specifically authorized by regulations, rules, or orders issued by the Texas Commission on Environmental Quality.

Sec. 5.103 Small Fires for Disposal of Branches, Brush and Grass

(a) Except as provided in Section 5.104 of this article, all outdoor burning shall be limited to small fires only. As used in this section, "small fires" means fires not to exceed 5 feet in diameter and 4 feet in height.

(b) Small fires may be allowed solely for the disposal of tree branches, brush, non-treated wood and dry leaves and grass. Any such fire, however, shall not involve the burning of electrical insulation, treated lumber, plastics, construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical waste, items containing natural or synthetic rubber, wet or green leaves, or any material that may cause dense smoke or public nuisance. Such burning shall first be authorized by and logged with any appropriate Denton County department with authority over outdoor burning.

(c) When outdoor burning is authorized under this section, the fire shall be at least 50 feet from any combustible materials or structures, and at least 50 feet from any overhead and/or buried utility lines and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure. Burning will not be allowed in any drainage ditch next to any public roadway.

(d) Outdoor burning authorized by this section shall not be started before one hour after sunrise and shall be fully extinguished one hour before sunset. An ample and sufficient supply of water or other substance designed and manufactured for the purpose of fire extinguishment shall be immediately available so as to limit, control and extinguish the fire at all times. Any and all outdoor burning shall be done under the constant supervision of a property owner or occupant of the property on which the fire occurs who is at least 17 years of age. The fire shall be completely extinguished prior to the departure of any person supervising the fire, and no fire shall be left unattended.

Sec. 5.104 Recreational and Ceremonial Fires

(a) Outdoor burning and outdoor fires may be allowed under this section only when such fire does not exceed 3 feet in diameter and 2 feet in height. Outdoor burning under this section may be allowed for fires solely for recreational and ceremonial use, for the creation of warmth in cold weather, or for cooking and noncommercial food preparation. Any such burning however, shall not involve the burning of leaves, grasses, electrical insulation, treated lumber, plastics, construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical waste, items containing

natural or synthetic rubber, wet or green leaves, or any material that may cause dense smoke or public nuisance.

(b) Recreational fires shall not be conducted within 15 feet of a structure or combustible material and shall not be larger than 3 feet diameter and 2 feet in height, and shall be contained in an approved fire containment device (outdoor fire place, masonry fire pit, etc.) Other fires allowed under this section shall be at least 50 feet from any combustible materials or structures, and at least 50 feet from any overhead and/or buried utility lines and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure. No fire shall be allowed in any drainage ditch next to any public roadway.

Sec. 5.105 Enforcement; Responsibility

(a) When outdoor burning is authorized under this article, the town, the Double Oak Fire Department, or any appropriate law enforcement agency or authority may inspect the fire and may prohibit same or order at its discretion that the fire be terminated if the fire may constitute a hazard or public nuisance. It shall be an offense punishable as provided for hereinafter for any person to fail or refuse to comply with a lawful order issued hereunder.

(b) The authority to conduct outdoor burning under this article does not exempt or excuse the person responsible from the consequences, damages, or injuries which may in any way result from the burn or fire and does not exempt or excuse any person from complying with all applicable laws, ordinances, regulations or orders of governmental entities having jurisdiction even if the fire is otherwise conducted in compliance with such authority. The town does not accept responsibility and shall not be liable for any conduct or result of such outdoor burning activities even if conducted in compliance with this article.

Sec. 5.106 Penalties

Any person, individual, firm, corporation or association violating any provision of this article shall be deemed guilty of a misdemeanor and shall upon conviction be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense."

SECTION 2. That any provisions of the ordinances of the Town of Double Oak in conflict with the provisions of this ordinance be and same are hereby repealed and any provisions not so in conflict shall remain in force and effect.

SECTION 3. That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when

the offense was committed and the former law is continued in effect for this purpose.

SECTION 4. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 5. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the Town of Double Oak, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.

SECTION 6. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

DULY ADOPTED by the Town Council of the Town of Double Oak, Texas on the 20th day of August, 2007.

APPROVED:


MAYOR

ATTEST:


TOWN SECRETARY

APPROVED AS TO FORM:


TOWN ATTORNEY