

Ordinance No. 2018-05-15

**AN ORDINANCE TO REGULATE OPEN BURNING WITHIN THE CITY LIMITS OF THE CITY OF
ARGO, ALABAMA.**

WHEREAS, the City Council of the City of Argo, Alabama has determined it is in the best interest for the public safety and welfare of the citizens of Argo to establish certain controls on open burning within the corporate limits of the City of Argo, Alabama in compliance with limitations imposed by County or State regulations.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Argo as follows:

SECTION 1: Purpose. This ordinance is enacted to protect, preserve and promote the health, safety, welfare, and peace for the citizens of the City of Argo, Alabama through the control of open burning. It is the intent of this ordinance to establish standards that will control open burning so that it will comply with all applicable state regulations and will not be detrimental to individuals and the community in the enjoyment of life, property, and conduct of business. This ordinance is not intended to supersede legislation or regulations of statewide applicability governing open burning nor does compliance with this ordinance guarantee compliance with such legislation or regulations.

SECTION 2: Open Burning

- (1) No person shall ignite, cause to be ignited, permit to be ignited, or maintain any open fire except as follows:
 - (a) Open fires for the cooking of food for human consumption on other than commercial premises;
 - (b) Fires for recreational or ceremonial purposes;
 - (c) Fires to abate a fire hazard, providing the hazard is so declared by the City of Argo Fire Department;
 - (d) Fires for prevention or control of disease or pests;
 - (e) Fires for training personnel in the methods of fighting fires, provided that all requirements of ADEM admin Code R. 335-3-11-.02(12) are met/
 - (f) Fires for the disposal of dangerous materials where there is no practical alternate method of disposal and burning is approved by the Fire Chief;
 - (g) Fires set for recognized agricultural, silvicultural, range, and wildlife management practices;
 - (h) Fires set in salamanders or other devices, utilizing only wood, vegetation, coal, propane, kerosene fuel oil or used oil (used oil as defined in ADEM Admin. Code Chapter 335-14-17) as fuel, and used by construction or other workers for heating purposes;

- (i) Open fires specifically or expressly approved by the Fire Chief.
- (2) Open Burning may also be conducted for the purposes listed below and if it meets all the requirements of this paragraph. Authority to conduct open burning under the provisions of this paragraph does not exempt or excuse a person from the consequences, damages, or injuries which may result from such conduct, nor does it exempt or excuse a person from complying with all applicable laws, ordinances, regulations, and orders of governmental entities having jurisdiction, even though the open burning is conducted as specified in this paragraph.
 - (a) Open burning of vegetation or untreated wood may be conducted if it is generated by clearing or maintaining land, or from demolition or operations conducted for any of the following purposes:
 1. Erection of any structure;
 2. Construction of any transportation, utility, or communications line;
 3. Maintenance of rights-of-way;
 4. Development or modification of a recreational or commercial area;
 5. Plant husbandry practices.
 - (b) Open burning authorized by this paragraph shall comply with the following conditions:
 1. The burning must take place on the property on which the combustible fuel originates;
 2. The location of the burning must be at least 500 feet from the nearest occupied dwelling other than a dwelling located on the property on which the burning is conducted.
 3. The burning must be controlled so as to avoid creating a traffic hazard on any public road, street, or highway as a result of the air contaminants emitted;
 4. Only vegetation or untreated wood may be burned. It is unauthorized to open burn heavy oils, asphalt products, plastics, vinyl materials, insulation, paper, cardboard, natural or synthetic rubber, salvage or scrap materials, chemicals, garbage, treated or painted wood, or any trash;
 5. Initial burning may be commenced only between the hours of 08:00 a.m. and 3:00 p.m. No combustible material is to be added to the fire between 3:00 p.m. and 8:00 a.m. the following day;
 6. Burning shall be conducted only when there is good ventilation and when the prevailing wind direction is away from any built-up area in the vicinity. No burning shall be conducted in areas under a current air stagnation advisory issued by the National Weather Service or during a "Drought Emergency" declared by the Governor;
 7. The fire shall be attended at all times.

(C) The Fire Chief or his authorized representative may impose additional conditions to cover specific open burning situations where additional controls or requirements are deemed necessary to minimize air pollution.

SECTION 3: The open burning of materials other than vegetation or untreated wood, except as otherwise provided for in this regulation, is at all times prohibited.

SECTION 4: Anyone igniting or maintaining an open fire allowed or authorized under the conditions above is responsible for compliance with all applicable fire control regulations, including but not limited to the obtaining of permits or permission from local fire jurisdiction, County Health Department, any other appropriate local, County or State officials or agencies, including the Alabama Forestry Commission.

SECTION 5: Open burning shall be conducted in compliance with this regulation as the same may be amended and revised.

SECTION 6: No open burning shall be allowed or authorized during any wildfire hazard alert issued by the City of Argo or the Alabama Forestry Commission. All open burning shall be extinguished during any stage of an official wildfire hazard alert. No open burning shall resume until the full termination of all alerts.

SECTION 7: Notwithstanding the provisions set out above, the Mayor, or the Fire Chief of the City of Argo, Alabama may issue a "No Burn" order for the City of Argo at any time deemed necessary and convenient to protect the public health and safety.

SECTION 8: No open burning site shall be left unattended, until the danger of re-ignition of the burned materials has passed. Fire control equipment shall be available on site for fire control during open burning. The burn attendant shall notify emergency response personnel in the event the open burn can no longer be controlled.

Fire control equipment and/or tools must be adequate for the size of the open burn, and may include the following or similar equipment and/or tools:

- A. Fire control equipment: earth-moving equipment such as bulldozers, bobcats, farm tractors with box blades, and power blowers.
- B. Hand tools: rakes, shovels, flappers and axes.
- C. Water and hoses.

SECTION 9: It shall be unlawful for any person in the vicinity of a fire to refuse to assist in fire control, if upon command by a fireman or a police officer identified to him as such, he intentionally disobeys a reasonable order or regulation made in relation to the conduct of persons in the vicinity of a fire.

SECTION 10: Issuance of a burn permit for a specific site shall be considered prima-facie evidence that the person or entity to which the permit was issued initiated the open burn and is responsible for compliance with this ordinance. In the event an open burn is conducted, the property owner and/or his agent shall be held liable.

SECTION 11: Violation and Penalties.

- A. Complaint Procedure. A citizen affected by open burning, or duly authorized municipal officer or employee wishing to make a complaint of a violation of this ordinance may present themselves to the city magistrate to commence proceedings against the person in violation of the ordinance. The complaining individual must swear under oath that the violation occurred and, if the magistrate has probable cause to believe that the offense constitutes a violation of this ordinance, a summons and complaint may be issued to the individual.
- B. Issuance of summons and complaint by Law Enforcement Officer. Any law enforcement officer of the City of Argo or any law enforcement officer of the State shall be authorized to issue a summons and complaint to any person charged with a violation of this ordinance. Such summons and complaints shall be in lieu of custodial arrest.
- C. Summons and Complaint Procedure by Law Enforcement Officer. When a person is charged with a violation of this ordinance the officer shall take the name and address of said person and any other information required by law and shall then issue the summons and complaint to the individual. Such individual shall not be taken into custody upon his or her signature. The signing of the summons and complaint shall serve as adequate bond for that individual. If the individual refuses to provide his or her personal written recognizance to appear by signing the summons and complaint, the authorized officer shall place the person into custody and bring them before any officer official authorized to approve the bond.
- D. Settlement of Charges. When a person is charged with a violation of this ordinance, and when that person desires to waive legal process on the question of their innocence and plead guilty and voluntarily settle the charge, he or she may do so by pleading guilty and paying a sum to the Municipal Court Magistrate. A plea of guilty shall be accepted by the magistrate only after the defendant has executed the Notice and Waiver of Rights provision on the summons and complaint. Settlement fines will be assessed pursuant to the following schedule, which may be amended from time-to-time by the City Council:
 - 1. First Violation within (12) months: \$150 fine plus court cost.

2. Second violation within twelve (12) months: mandatory court appearance with the fine of no more than \$500 plus costs and expenses to be assessed by the court, and up to six (6) months in jail.

For the purposes of the above schedule, the twelve-month period will commence upon conviction or settlement of each violation.

- E. Payment of Fine. The fines and cost listed above may be voluntarily paid to the Municipal Court Magistrate no later than seventy-two (72) hours before the court date shown on the summons and complaint. The magistrate shall be authorized to receive the amount in full settlement of the alleged offense and to give a receipt on behalf of the City. If such payment is made, no further criminal prosecution for that specific violation shall be instituted or maintained in municipal court. All such payments must be made by personally appearing before said magistrate.
- F. Trial. Any offender wishing to plead guilty to a violation or who is otherwise required to appear in court for a violation of this ordinance must execute a signature and written personal recognizance bond with the Court Magistrate assuring his or her appearance to answer the charge in Municipal Court of the City of Argo upon a date certain.
- G. Rights of the Defendant. Any person or entity charged with violation of this ordinance shall have the right to enter a plea of not guilty to any violation charged against said defendant and secure a trial in the Municipal Court.
- H. Failure to Appear or Property Settlement Charges. If the defendant fails to voluntarily settle his or her charges or fails to appear as specified in the summons and complaint, the Municipal Court Judge may issue a warrant for his or her arrest commanding that he or she be brought before the court to answer the charges contained in the summons and complaint. In addition, any person who willfully violates his or her written promise or bond to appear shall be guilty of the separate offense of failure to appear, which is a misdemeanor, regardless of the disposition of the charge upon which he or she was originally arrested.
- I. Review of Prior Charges. The Municipal Court, upon conviction, shall have the duty and responsibility to consider all prior charges brought against the offender (whether settled or not) and will specifically consider all charges in the past twelve (12) months.
- J. Additional Power of the Municipal Court. The municipal judge shall have the following additional legal authority in connection with this ordinance and the enforcement thereof. Said authority shall include the following:

1. Upon sworn complaint being made by a citizen, a duly authorized municipal officer or employee, or a law enforcement officer of the City of Argo to the court clerk, the court shall be authorized to issue the following orders.
 - a. To assess all costs, including restitution and extinguishing costs against said owner or responsible person.
 - b. To revoke the business privilege license of any entity responsible for repeated violations of this ordinance.
 - c. To increase the amount of the fine above that specified in the schedule to the maximum allowed by law.
2. Upon trial and conviction of a person or entity for a violation of any provision of this ordinance, the Municipal Court shall have the authority to issue such other terms and conditions as the court may deem proper under the circumstances, in addition to all other power and authority conferred by law.

SECTION 12: Fees and Duration

1. Residential Burn Permits will be issued at no charge to the owner of the property for a period of no greater than 7 days.
2. Commercial Burn Permits will be issued to owner/contractor responsible for burning at a cost of \$50.00 for a period of no greater than 30 days.

SECTION 13: If for any reason any clause, sentence, section, sub-section or provision of this ordinance, or the application therefor, to any person or circumstance, is held invalid or inoperative or unconstitutional, the remainder of the ordinance and the application thereof to all other persons and circumstances shall not be affected thereby.

SECTION 14: All ordinances or parts of ordinances and/or any resolutions adopted by the City Council or the City of Argo that conflict with provisions of this ordinance are hereby repealed.

SECTION 15: This ordinance shall become effective immediately upon its adoption, approval, and publication as required by law.

ADOPTED AND APPROVED this 11 day of June, 2018

ATTEST:



Casie Bethune, City Clerk

APPROVED this 11 day of June, 2018



Betty Bradley, Mayor

Emergency #

911

Argo Fire & Rescue

Fire Chief's Office

Burn Permit

Date: _____

Location: _____

Name or Company Requesting Permit: _____

Contact Person: _____ Phone #: _____

Material to be Burned: _____

Permit start date: _____ Termination of Permit date: _____

Guidelines as set forth by city of ordinance:

- 1) Location of fire recommended to be a minimum of 100 foot from all structures. Must be 500 foot from any building not located on the property of which the burning is being conducted. Additionally, location of burn shall not cause safety concern for vehicles utilizing a public roadway.
- 2) Only natural vegetation and untreated wood are allowed to be burned. Asphalt materials, Tires, Garbage, rubber, synthetic materials, oils and fuels are not allowed to be burned.
- 3) Size of burn pile must be kept small enough to be managed by individual conducting the burn.
- 4) Burning shall be allowed between the hours of 8:00 A.M and 3:00 P.M. No new material may be added to a fire unless during those hours.
- 5) Burn Permit can be revoked at any time by the Fire Chief or his authorized representative if any conditions are violated, or if justified nuisance complaints are received.
- 6) Fires must be attended at all times and fire control equipment such as water hose, tractor, etc must be available while burn is being conducted.
- 7) It is the applicants responsibility to ensure that any other required permits are obtained if required.
- 8) This permit is not transferable from person or place noted above.
- 9) Signature of the applicant indicates that the applicant accepts full responsibility for any damages caused by fire, and may subsequently be charged for operational cost if fire department is needed to extinguish a fire that has gotten out of control.
- 10) If a complaint is received and an individual indicates that the smoke being produced is causing a health concern the fire must be extinguished.

Applicant Signature: _____

Fire Chief/ authorized representative: _____