

ORDINANCE NO. 900

AN ORDINANCE REGULATING OPEN BURNING

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY MINETTE, ALABAMA, as follows:

ARTICLE ONE: Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Contractor means the primary contractor/builder or subcontractor for a particular construction site for which a building permit has been issued.

Fire extinguishing equipment means an approved ten-pound ABC fire extinguisher or any other equipment approved in writing in advance by the fire marshal.

Fire Chief means the Fire Chief of the City or his designee.

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.

ARTICLE TWO: Purpose.

This Ordinance is enacted to protect, preserve and promote the safety and welfare of the citizens of the City through the reduction, control and prevention of open burning.

ARTICLE THREE: Method of enforcement.

The Fire Chief and any person acting under his supervision, and any law enforcement officer is authorized to issue citations to appear in municipal court to answer charges of violations of any of the provisions of this article.

ARTICLE FOUR: Penalties.

Any person who violates or fails or refuses to obey or comply with any provision of this article shall upon conviction be punished, in addition to such other punishment, including a term of community service, as may be provided by the court, by minimum fines and penalties, for a first conviction of \$50.00 or by imprisonment for not more than ten days. For conviction of a second offense committed within one year after the date of the first offense, such person shall be punished by a fine of \$200.00 or by imprisonment for not more than 30 days or by both such fine and imprisonment. For conviction of a third or subsequent offense committed within one year after the date of the first offense, such person shall be punished by a fine of \$500.00 or by imprisonment for not more than three months or by both such fine and imprisonment.

ARTICLE FIVE: Exemptions.

Nothing contained in this article shall be construed as applying to the regular military of the United States, the duly authorized militia of the state, or the police and fire departments in the proper performance of their duty.

ARTICLE SIX: Exceptions based on undue hardship.

Applications for a permit for exception from the standards or requirements designated in this article may, on the basis of undue hardship, be made to the Fire Chief. Any permit granted under this article shall contain all conditions upon which the permit has

been granted and shall specify a reasonable time the permit shall be effective. The Fire Chief may grant the exception as applied for only if the applicant represents and the Fire Chief finds that open burning as permitted will not violate recognized safety standards, that no other reasonable alternative is available to the applicant, and that the burning can be conducted in such a manner as to be consistent with the purposes of this article. Upon the issuance of any exception permit, the Fire Chief may prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community.

ARTICLE SEVEN: Compliance.

No person shall cause, suffer, allow or permit open burning except as specifically permitted by this article.

ARTICLE EIGHT: Exceptions to prohibition.

(a) Open burning may be conducted, subject to the limitations as spelled out in the open burning permit which is issued upon approval by the Fire Chief. This grant of exception 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. The Fire Chief's approval shall be based upon his judgment as to the fire safety potential of the proposed open burning activity.

(1) Open burning of leaves and small tree limbs, less than three inches in diameter, at a residence where collection for such material is not available. The determination of availability will be made by the Fire Chief. Burning of trees or limbs cut as a commercial service by tree surgeons, landscapers or other persons is prohibited.

(2) Open burning for the disposing of materials grown on that tract of land may be conducted provided the following conditions are met:

a. Burning is done using an air curtain destructor or other approved device, at suitable sites as approved by the Fire Chief, when such device is operated in a manner satisfactory to the Fire Chief, and with a valid open burning permit obtained from the Fire Chief.

b. The burning will take place on days and hours designated by the Fire Chief. Designated days of burning will always be tentative and will be regulated according to weather conditions.

(b) Open burning as specified below may be conducted, subject to the limitations as spelled out in the safety permit which is issued upon approval by the Fire Chief. This grant of exception 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.

(1) Ceremonial fires (such as school bonfires) when the fires are approved, ignited and extinguished by fire department personnel. Each school will be permitted one permit per year.

(2) Fires set between October 1 and April 30 for the purpose of providing warmth to workers at construction sites for which a building permit has been issued, providing the following conditions are met:

a. The fire is contained in a noncombustible container not to exceed 55 U.S. gallons, with the opening covered by an ash screen.

b. Fire containers shall be located a minimum of 25 feet from any structure, tree or bush.

c. Fire containers shall be located a minimum of 25 feet from electrical lines and/or electrical service.

d. Only clean fuel not containing garbage, rubber, plastics, metals, shingles, treated lumber, or other hazardous materials is permitted.

e. Fire extinguishing equipment shall be located within five feet of the fire container.

f. Fires shall be extinguished when no worker is in attendance.

g. The contractor shall apply in advance for a safety permit issued in his name from the fire marshal and shall be held liable for all permit violations on the burn site.

(c) Open burning activities as specified below may be conducted without either an open burning permit or a safety permit. Notification of intent to conduct such activity as specified below shall be made to the Fire Chief 24 hours prior to the time the open burning activity is to begin. The person conducting any of the following open burning activities shall be responsible for the consequences of such activities and all damages or injuries resulting from such open burning:

(1) Fires set for the training and instruction of public or private firefighting personnel.

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

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

(4) 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 situations where the actual burning is at least 1,000 feet from the closest occupied building.

(5) 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 of the local or state health department.

(d) No open burning permit, safety permit or notification is required for fires used for cooking of food, including barbecues and outdoor fireplaces. Only clean fuel not containing garbage, rubber, plastics or other refuse is permitted.

ARTICLE NINE: Permits.

Open burning permits and safety permits may be issued subject to specific conditions, consistent with standards provided in this division, in which case the conditions shall be specified in writing. The holder of a permit shall comply with conditions contained in such permit as well as all applicable provisions of this article.

ARTICLE TEN: Permit applications.

(a) Applications for open burning permits shall be in the form prescribed by the Fire Chief and shall give all the information necessary to enable the Fire Chief to make the determinations required in this division. Applications should be submitted a minimum of three days prior to the requested burn date.

(b) Application for safety permits shall be in the form prescribed by the Fire Chief and shall give all the information necessary to enable the Fire Chief to make the determination required in this division. Applications shall be submitted a reasonable time in advance of the time requested for burning.

ARTICLE ELEVEN: Action on application.

(a) The Fire Chief shall act, within a reasonable time, on an application for an open

burning permit and shall notify the applicant in writing of its approval, conditional approval or denial.

(b) The Fire Chief shall act, within a reasonable time, on an application for a safety permit and shall notify the applicant in writing of its approval, conditional approval or denial.

ARTICLE TWELVE: Permit fees.

(a) Open burning permit fees in the amount of \$5.00 per day shall be paid at the time of application. Fees shall be made payable to the city and shall be nonrefundable.

(b) Safety permits shall be issued at no charge to the applicant.

ARTICLE THIRTEEN: Transfer.

Open burning permits and safety permits shall not be transferable whether by operation of law or otherwise, either from one location to another, or from one person to another.

ARTICLE FOURTEEN: Expiration of permit.

Open burning permits and safety 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.

ARTICLE FIFTEEN: Display 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.

ARTICLE SIXTEEN: Revocation of permit.

(a) Open burning permits. Any open burning permit granted by the Fire Chief may be revoked, after notice and hearing, for any of the following causes:

- (1) Failure to comply with the provisions of this article.
- (2) Failure to comply with any conditions of the open burning permit.
- (3) For any other cause if, in the judgment of the Fire Chief, continuance of the permit is not consistent with the purposes of this article.

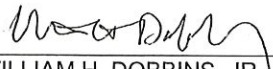
(b) Safety permits. Any safety permit granted by the Fire Chief may be revoked for any of the following causes:

- (1) Failure to comply with the provisions of this article.
- (2) Failure to comply with any conditions of the safety permit.
- (3) For any other cause if, in the judgment of the Fire Chief, continuance of the permit is not consistent with the purposes of this article.

ARTICLE SEVENTEEN: That the provisions of this Ordinance are severable and the invalidity or unenforceability of any part of this Ordinance shall not affect the enforceability and validity of any other portion.

ARTICLE EIGHTEEN: That this Ordinance shall become effective upon its adoption and publication as required by law.

ADOPTED on this the ____ day of _____, 2005.


WILLIAM H. DOBBINS, JR., Mayor
City of Bay Minette, Alabama

ATTEST:


MICHELLE HARBIN, City Clerk
Chris Miller