

ORDINANCE 362

AN ORDINANCE AMENDING CHAPTER 6 SECTION 3; OF THE CODE OF ORDINANCES; BURNING OF TRASH, GARBAGE, ETC., AND REPEALING ORDINANCE 319 BY AMENDING REGULATIONS APPLICABLE TO BURNING OF TRASH/GARBAGE, ETC. AND BURN BANS; PROVIDING A REPEAL OF ORDINANCES IN CONFLICT; PROVIDE FOR A SEVERABILITY CLAUSE; AND PROVIDE AN EFFECTIVE DATE.

WHEREAS, the City of Seven Points, Texas deems it in the best interest of the public health and safety to enact the following;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEVEN POINTS, TEXAS:

SECTION 1 – DEFINITIONS

Bulk waste: Stoves, refrigerators, water tanks, washing machines, dryers, furniture, and other similar waste materials.

Construction debris: Waste building materials resulting from construction, remodeling, repair, or demolition operations.

Dead animal: The carcass or tissue from an animal, large or small, except part of an animal used for food or other beneficial purpose in accordance with federal, state, and local laws and regulations. "dead animal" does not mean a fish or other primarily aquatic animal.

Domestic waste: Household trash includes those wastes that normally result from the function of life within a residence (ex: kitchen garbage, untreated lumber, cardboard boxes, packaging, clothing).

Burn: A fire, flame or glow while consuming a material which is to be caused to be destroyed by fire.

Fire: The inclusive term for fire, fires, flames, embers, the smoke there from, the smoldering when the flames have subsided and the smoke when the flames have subsided as long as such smoke is visible.

Grass: The inclusive term for grass, hay straw, weeds, and flowers.

Outdoor burn: The kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or chimney.

Person: Includes any individual, group, partnership, corporation, association, non-profit corporation, club, firm, company, or organization.

Personal property: Property that is owned, utilized, and maintained by an individual or members of his or her residence and acquired in the normal course of living in maintaining a residence. This specifically excludes merchandise that was purchased or acquired for resale or attained on consignment.

Trash: The inclusive term for any solid, liquid, or gaseous waste products, which may be composed wholly or partially of such materials as, but not limited to, garbage, sweepings, cleanings, rubbish, trade waste, industrial, commercial and domestic waste, rags, animal feces, plastic or plastic products, petroleum based products, rubber products, cans, bottles, containers, tires, grease, paper products including bound magazines or newspapers, food waste or by products, and animal waste and by products.

SECTION II – OUTDOOR BURNING

This section is adopted pursuant to regulations adopted by the Texas Commission on Environmental Quality (TCEQ) under the provisions of the Texas Clean Air Act (V.T.C.A., Health and Safety Code 382.001 et seq.) which grants to cities certain powers to enact and enforce ordinances regulating air contaminants and air pollution and is further adopted to promote fire prevention within the city.

SECTION III – PROHIBITED BURNING

All outdoor burning within the incorporated city limits is prohibited unless provided by exception herein. Specifically, the following acts shall be prohibited.

- 1) Outdoor burning of garbage, trash rubbish, refuse, waste, or construction debris on any property within the city limits.
- 2) Electrical insulation, treated lumber, plastics, non-wood construction/demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.
- 3) If a county wide burn ban is in effect, then burning is prohibited.

SECTION IV – PERMITTED BURNING

- A) Outdoor burning shall be authorized for fires used solely for recreational or ceremonial purposes, or in the non-commercial preparation of food, or used exclusively for the purpose of supplying warmth during cold weather. These fires shall be no larger than two (2) feet in height and three (3) feet in diameter and shall be allowed without notification to the City of Seven Points. Fires permitted pursuant to this provision may not be composed of domestic waste, bulk waste, construction debris, dead animal carcasses.
- B) Outdoor burning for agricultural purposes or land clearing will be permitted. A property owner must contact the Seven Points Police Dispatch Center before conducting a burn under this subsection and strictly follow these conditions.
 - 1) Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public roads, navigable waters, or off-site structures.
 - 2) If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post flag-persons on affected roads.
 - 3) Burning must be conducted at least 300 feet from any roadway or structure.
 - 4) Burning area must contain a dirt buffer of a minimum of 5 feet containing no vegetation.
 - 5) The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset and shall be attended by a responsible party at all times during the active burn phase.
 - 6) Burning shall not be commenced when surface wind speed is predicted to be greater than 10 miles per hour during the burn period.
 - 7) Burning shall not be conducted during periods of actual predicted low humidity (under 30%).
- C) A veterinarian may dispose of the remains of an animal and medical waste associated with the animal by burning (In this subsection, medical waste includes animal waste³, blood, gloves, sleeves, newspapers, and plastic bags, but does not include sharps) if:

- 1) The burning occurs on property owned by the veterinarian that is located within the corporate boundaries of the city;
(Ref: Texas Occupations Code Sec. 801.361 Disposal of Animal Remains)

SECTION V – RESPONSIBILITY FOR CONSEQUENCES OF OUTDOOR BURNING

- A) The authority to conduct outdoor burning under this section does not exempt, nor excuse the person from the consequences, damages, or injuries resulting from burning. It does not exempt nor excuse anyone from complying with all other applicable laws and/or ordinances, regulations and orders of governmental entities having jurisdiction even though the burning is otherwise in compliance with this section.
- B) Any person who conducts outdoor burning, whether permitted outdoor burning or not-permitted outdoor burning, will be liable for the recovery of costs associated with emergency first responders, Police, Fire, and EMS departments, or mutual aid fire departments who respond to extinguish an unwanted or out of control fire.

SECTION VI – ENFORCEMENT AUTHORITY

The Police Chief or his designee and or Code Enforcement Officer, has the authority to enforce this ordinance and to order the extinguishing of any fire in violation of this ordinance.

SECTION VII – PENALTY

Any person or entity found to be in violation of this Ordinance may be issued a citation for said violation. Each day a violation occurs shall be considered a separate offense. Any citation shall be deemed a Class C Misdemeanor and may be punishable by a fine not to exceed \$500.00 per offense.

SECTION VIII – SEVERABILITY

If any provision, section, clause, sentence, or phrase of this ordinance is for any reason held to be unconstitutional, void, invalid, or un-enforceable, the validity of the remainder of this ordinance or its application shall not be affected, it being the intent of the City Council in adopting and of the Mayor in approving this ordinance that no portion, provision, or regulation contained herein shall become inoperative or fail by way of reasons of any unconstitutionality or invalidity or any other portion, provision or regulation.

SECTION IX – REPEALER

That all other ordinances, sections, or parts of ordinances heretofore adopted by the City of Seven Points in conflict with the provisions set out above in this ordinance are hereby repealed or amended as indicated.

SECTION X – PUBLICATION

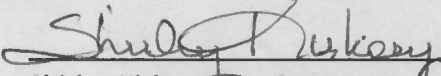
That the City Secretary is directed to cause this ordinance caption to be published in a newspaper of general circulation according to law.

SECTION XI – EFFECTIVE DATE

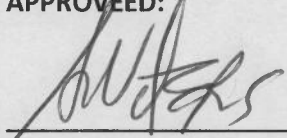
That this ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SEVEN POINTS, TEXAS, ON THIS 10TH DAY OF JUNE, 2021.

ATTEST:


Shirley Kirksey, City Secretary

APPROVED:


Skippy Waters, Mayor

