

**ORDINANCE  
NO. 2020-07**

AN ORDINANCE OF THE CITY OF TODD MISSION, TEXAS AMENDING THE CODE OF ORDINANCES OF THE CITY OF TODD MISSION BY ADOPTING AN ORDINANCE PERMITTING OUTDOOR BURNING WITHIN THE CORPORATE LIMITS OF THE CITY OF TODD MISSION CONSISTENT WITH THE OUTDOOR BURNING RULE OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; PROVIDING FOR A FINE IN AN AMOUNT UP TO \$2,000 FOR A VIOLATION; PROVIDING FOR SEVERABILITY; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

**WHEREAS**, the City of Todd Mission is a Type A General Law City of the State of Texas;

**WHEREAS**, the City of Todd Mission may enact ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants;

**WHEREAS**, the City of Todd Mission may enforce each rule, ordinance, or police regulation of the municipality;

**WHEREAS**, the Texas Commission on Environmental Quality has prescribed the Outdoor Burning Rule for the State of Texas, found in Subchapter B of Chapter 111 of Title 30 of the Texas Administrative Code, prohibiting outdoor burning except as provided by the Outdoor Burning Rule;

**WHEREAS**, the Outdoor Burning Rule for the State of Texas allows an incorporated city or town to enact ordinances which permit burning consistent with the Outdoor Burning Rule and the Texas Clean Air Act, Subchapter E, Authority of Local Governments;

**WHEREAS**, limited authorization for outdoor burning governs fire safety and protects and promotes the public health and sanitation; and

**WHEREAS**, the Board of Aldermen of the City of Todd Mission wishes to enact an ordinance authorizing limited outdoor burning within the corporate limits of the City of Todd Mission consistent with the Outdoor Burning Rule and the Texas Clean Air Act; NOW THEREFORE,

**BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF TODD MISSION, TEXAS:**

**Section 1.** That the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct and are incorporated herein for all purposes.

**Section 2.** That the City of Todd Mission Code of Ordinances is amended to add the following ordinance authorizing limited outdoor burning consistent with Subchapter B of Chapter 111, Title 30 of the Texas Administrative Code and the Texas Clean Air Act.

## **OUTDOOR BURNING**

### **Sec. 1. Definitions.**

That, unless the context clearly requires otherwise, in this Ordinance:

(1) "Land clearing" means the uprooting, cutting, or clearing of vegetation in connection with conversion for the construction of buildings, rights-of-way, residential, commercial, or industrial development, or the clearing of vegetation to enhance property value, access, or production. It does not include the maintenance burning of on-site property wastes such as fallen limbs, branches, or leaves, or other wastes from routine property clean-up activities, nor does it include burning following clearing for ecological restoration.

(2) "Domestic waste" means the garbage and rubbish normally resulting from the functions of life within a residence. Domestic Waste shall include kitchen garbage, branch trimmings under twenty pounds and less than three feet in length, grass, and leaves. Domestic Waste does not include furniture, carpet, appliances, insulation, electrical wire, tires, chemical waste, construction materials or other items not included in the definition of Domestic Waste.

(3) "Drought conditions" means the existence of a long-term deficit of moisture creating atypically severe conditions with increased wildfire occurrence as defined by the Texas Forest Service through the use of the Keetch-Byram Drought Index or, when that index is not available, through the use of a comparable measurement that takes into consideration the burning index, spread component, or ignition component for the particular area.

**Sec. 2. Prohibition Against Outdoor Burning.**

Outdoor burning shall not be allowed within the corporate limits of the City of Todd Mission except as specifically authorized in this Ordinance.

**Sec. 3. Authorization for Cooking and Recreational Fires.**

Fires burning wood or charcoal and used for the non-commercial preparation of food or used for recreation and wholly contained within a metal, brick or stone basin or fireplace or pit no greater than six feet in diameter or six feet in length and width, shall be an authorized exception to the general prohibition against outdoor burning.

**Sec.4. Authorization for Fires Used for Land Clearing.**

Fires used for Land Clearing for parcels of real property comprised of City lots shall be an authorized exception to the general prohibition against outdoor burning. Persons desiring to use fire for Land Clearing must receive a Land Clearing permit from the City of Todd Mission.

**Sec. 5. Authorization for Fires Used for the Disposal of Domestic Waste.**

Fires used for the disposal of Domestic Waste shall be an authorized exception to the general prohibition against outdoor burning if or when the City of Todd Mission does not provide for trash collection for the Domestic Waste. The outdoor burn must not cause nuisance or traffic hazard.

**Sec. 6. Authorization for Burn Ban.**

Following a determination by the Texas Forest Service that drought conditions exist in the any portion of Grimes, Montgomery or Waller County, the City Council by Resolution may prohibit or restrict outdoor burning in general or outdoor burning of a particular substance in all or part of the City if drought conditions have been determined to exist. A Resolution adopted under this section must specify the period during which outdoor burning is prohibited or restricted.

**Sec. 7. Conflict with Outdoor Burning Rule or Texas Clean Air Act.**

That any conflict between this Ordinance and the Outdoor Burning Rule or the Texas Clean Air Act shall be resolved in favor of the Outdoor Burning Rule and the Texas Clean Air Act.

**Section 3.** That a violation of this Ordinance shall be punishable by a fine and the penalty for violating this Ordinance shall be a maximum fine of \$2,000 for an offense that occurs after the passage of this Ordinance, and each day a violation exists shall be a separate offense.

**Section 4.** That if any provision of this Ordinance shall be held to be invalid or unconstitutional, the remainder of such Ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

**Section 5.** That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required.

**PASSED AND APPROVED** this the 12<sup>th</sup> day of March, A.D., 2020.

APPROVED:

  
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George Coulam, Mayor

ATTEST:

  
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Julie Lunsford, City Secretary