

ORDINANCE NO. 2024-03

**AN ORDINANCE REPEALING ORDINANCE 2006-03 AND
AMENDMENT 2006-04 IN ITS ENTIRETY AND CREATING
ORDINANCE 2024-03 OF THE CITY OF PINEHURST, TEXAS
ESTABLISHING DEFINITIONS, PENALTIES, AND
RESTRICTIONS ON OUTDOOR BURNING THAT OCCURS
WITHIN THE CITY OF PINEHURST, TEXAS**

WHEREAS, The City Council of the City of Pinehurst, Texas hereby repeals, modifies and/or nullifies any motion, regulation or ordinance that was passed and/or approved prior to this day dealing with open burning, and hereby replaces it with the following:

WHEREAS, the City of Pinehurst, Texas, (the “City”) has determined that outdoor burning is prohibited within the city limits, with the exception of (1) Fires for recreation, ceremonies, cooking, or warmth, (2) Fires for land clearing, and (3) Firefighter training.

WHEREAS, the City of Pinehurst, Texas has determined that an ordinance should be enacted to limit and control outdoor burning within the city limits of Pinehurst, Texas and to provide penalties for such outdoor burning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PINEHURST, TEXAS THAT:

Section 1: 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:

- (1) “Extinguishing” means the absence of any visible flames, blowing coals, or smoke.
- (2) “Outdoor Fire Container” means a non-combustible container with a protective screen to hold a small fire for recreation, ceremonies, cooking, or warmth and includes, but not limited to chimineas, outdoor brick fireplaces, fire pits, metal drums or tubs.
- (3) “Structure Containing Sensitive Receptors” means those structures that are man-made and are capable of ignition of fire.
- (4) “Sunrise/Sunset” means official sunrise/sunset as set forth in the United States Naval Observatory tables available from the National Weather Service.
- (5) “Waste Plant Growth” means trees, brush, grass, leaves, branch trimmings, or other plant growth that originated from the property on which the material grew.

Section 2: Penalty; Abatement of Nuisances

- (a) Whenever in this article an act is prohibited or is made or declared to be an unlawful offense or misdemeanor, or wherever the doing of an act is required or the failure to do any act is declared unlawful and no specific penalty is provided, the violation of any such provision shall be punished by a fine not to exceed \$2,000.00 for violation of ordinances and regulations that govern fire safety, zoning or public health and sanitation, including dumping of refuse, and violations of all remaining ordinances or regulations shall be punished by a fine not to exceed \$500.00.
- (b) Each day any violation continues will constitute a separate offense.

Section 3: Permit

- (a) Outdoor burning shall be authorized, by an approved permit only, for the disposal of materials associated with land clearing operations. Land clearing permits shall be issued by the City's Fire Marshall, Fire Chief, Code Official, or his/her designee. A permit fee established by the city will be required. The approved permit shall be posted on the property where the burning is taking place and visible to emergency personnel. No permit is required for fires associated with recreation, ceremonies, cooking, or warmth and is in an outdoor fire container.

Section 4: Restrictions

- (a) General:
 - (1) The burn shall commence no earlier than one hour after sunrise and be extinguished one hour after sunset.
 - (2) The burn must always be attended by a responsible and competent person.
 - (3) The wind speed shall be no greater than 10 miles per hour during the entire burn period. If wind speeds exceed the limit at any time during the outdoor burning, the fire must be extinguished.
 - (4) Outdoor burning must be conducted downwind or at least 30 feet from any structure containing sensitive receptors located on adjacent properties unless prior written approval is obtained from the property owner and/or occupant with possessory control.
 - (5) A water hose connected to a reliable water source or other fire extinguishing equipment must be available at the burn site.
 - (6) The burn shall be extinguished if the smoke from the fire becomes a nuisance or safety hazard to any person or public right-of-way.

- (7) Burning in drainage ditches is strictly prohibited.
- (8) All applicable rules and regulations of the Texas Commission of Environmental Quality (TCEQ) shall be followed and adhered to.
- (9) The following list of items, while not exhaustive, shall not be burned:
household solid waste, tires, petroleum products, hazardous waste, construction, or demolition waste, treated wood, furniture, carpet, electrical wire, appliances, animal carcasses, or any other item considered by federal, state, or local government to be a public hazard or nuisance.
- (10) Only waste plant growth originating from the property in which the growth grew shall be burned on site.

(b) Specific:

- (1) Outdoor burning for recreation, ceremonies, cooking, or warmth shall be in an outdoor fire container.
- (2) The size of burn pile for land clearing shall be no larger than 60 inches in diameter and 36 inches in height at any time. Exception to size of pile may be granted when distance and size of property allows and does not cause a safety hazard. Such exception must be approved by the City's Fire Marshall, Fire Chief, Code Official, or his/her designee.
- (3) Only one permitted burn will be allowed per day and will be approved on a first come and approved permit basis.
- (4) The Pinehurst Fire Department and Police Department must be placed on notice of all permitted land clearing outdoor burns a minimum of one day prior.

Section 5: Authority to Prohibit Burning During Certain Conditions

- (a) Any outdoor burn shall be extinguished when so ordered by a fire, police, code official, or city administrator.
- (b) When the state, county, or city is under a burn ban.
- (c) When outdoor burning is in violation of TCEQ or the Texas Clean Air Act.

Section 6: Liability for damages or injuries; compliance with other regulations

The authority to conduct outdoor burning under this ordinance does not exempt or excuse any person responsible from the consequences, damages or injuries resulting from the burning and does not exempt or excuse anyone from complying with all other applicable

laws or ordinances, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this article.

Section 7: Saving/Repealing Clause

All provisions of any ordinance in conflict with this ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall it abate any prosecution from being commenced for any violation of occurring prior to repeal of the ordinance. Any remaining portions of the said ordinance shall remain in full force and effect.

Section 8: Severability

Should a court of competent jurisdiction declare any section, subsection, sentence, clause, or phrase of this ordinance unconstitutional or invalid, it is expressly provided that all remaining portions of the ordinance shall remain in full force and effect.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pinehurst, Texas this 9th day of April, 2024.

/s/ Sarah McClendon
Sarah McClendon, Mayor

ATTEST:

/s/ Debbie Cormier
Debbie Cormier, City Secretary

APPROVED:

/s/ Tommy Gunn
Tommy Gunn, City Attorney



OUTDOOR BURN PERMIT (\$50)

General Information:

Date: _____

Name: _____

Organization: _____

Home Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Outdoor Burning Information:

Requesting Date to Burn: _____

Residential Commercial

Forecasted Wind Speed and Direction: _____

Burn Site Address (Same as Above): _____

Description of waste plant growth that will be burned: _____

It is the responsibility of the permit holder to ensure that outdoor burning does not begin until the permit has been approved. Outdoor burning must comply with all guidelines listed in Ordinance No. 2024-03. Failure to comply with any provision of this permit, the governing ordinance or TCEQ outdoor burning rules may result in the loss of future outdoor burning privileges and/or issued a citation/fine for such violation(s).

I hereby accept and understand all provisions of the burning permit process.

(Print Name)

(Signature)

Authorized By: _____

Title: _____

Date of Approval: _____

Date Requester was Contacted: _____