

## Ordinance No. 2025-07-14-3

**An Ordinance of the City of Wolfe City, Texas, Regulating Outdoor Burning to Protect Public Health and Safety; Prohibiting Unpermitted Fires, Garbage Burning, Bonfires, and Trash Fires; Allowing Small Recreational Fires with Restrictions; Establishing Open Burn Permit Requirements and Conditions; Imposing Liability for Fire Damages and Emergency Response Costs; Authorizing Liens for Unpaid Costs; Providing for Enforcement Through Immediate Extinguishment, Citations, Fines of up to \$500.00, or of up to \$2,000.00 if Violation Relates to Public Health or Safety, Restitution, and Injunctions; Repealing Prior Burning Ordinances; and Setting an Effective Date.**

Be it ordained by the City Council of the City of Wolfe City, Texas:

**Section 1: Burning Prohibited; Offense.** No person shall kindle or maintain any open fire within the corporate limits of Wolfe City except in conformity with this Ordinance. The following acts are expressly prohibited as unlawful:

- a. **Burning of Garbage:** It is **unlawful to burn household or commercial garbage** at any time within the city limits. All trash and refuse must be disposed of through the City's solid waste collection service or at an approved landfill. Burning refuse in a barrel, open pit, or open space is prohibited.
- b. **Bonfires and Trash Fires:** No person shall kindle or maintain any **bonfire or trash fire** on private or public property without a permit (see Sec. 95.02). The routine burning of leaves, brush, or construction debris is prohibited unless a permit is obtained and conditions are met. During any construction or demolition of structures, waste materials **shall not be disposed of by burning** on-site.
- c. **Specific Materials:** It is unlawful to burn electrical insulation, treated lumber, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, items containing natural or synthetic rubber, or any item or set of items which contains one or more of the previously listed materials.
- d. **Recreational Fires:** Small recreational fires (such as campfires or fire pits) for cooking, warmth, or ceremonial purposes may be allowed *only if* they are kept under control, attended at all times, and fully extinguished after use. Even such fires may be prohibited during city or county burn bans or high fire danger times.
- e. **Offense:** Any burning in violation of this section is a **Class C misdemeanor**. Each day that unauthorized burning occurs or continues is a separate offense.

**Section 2: Open Burning Permit.** The **only** legal way to conduct open burning in the City (other than small recreational or cooking fires) is to obtain an **Open Burn Permit** from the City's Fire Marshal (or other designated official):

- a. **Permit Required: Before** igniting any fire in the open (including on private land or on a public street/right-of-way), the person must secure a written permit from the Fire Marshal

or authorized city official. The permit will specify the allowed time and conditions for the burn.

- b. **Cause for Permit:** A permit will be granted **only for good cause** shown. Generally acceptable reasons might include: training fires for the fire department, disposal of vegetative debris after a storm if other disposal is not feasible, or agricultural burns if within city policy. Convenience alone is typically not good cause when alternate disposal methods exist.
- c. **Permit Restrictions:** The Fire Marshal shall impose **safety and nuisance prevention conditions** on any burn permit. At minimum, the following restrictions apply to any permitted fire:
  1. **Location:** The fire must be located at least **25 feet** from any structure or combustible fence. The area around the fire should be clear of flammable materials (such as dry grass or trash) for at least a 25-foot radius. An **approved burn pit or container** should be used when possible to help contain the fire. Such containers must be made of a non-flammable material and be sufficient to prevent the fire from spreading from the container to ground or surrounding area.
  2. **Attendance and Control:** The fire must be **constantly attended** by a competent adult. This person must have immediate access to adequate fire-extinguishing equipment, such as a connected garden hose, fire extinguisher, or water source, ready for use. The fire must be fully extinguished by the permit end time or if it becomes unsafe.
  3. **Weather Conditions:** No burning shall be conducted during high winds (over 23 miles per hour during the burn period), when winds are predicted to be less than six miles per hour during the burn period, or when the **County or City has issued a burn ban** due to drought. The Fire Marshal or other authorized city official will check weather conditions (wind direction, speed, humidity) before authorizing the burn. A permit becomes **void** if conditions change such that they become unsafe (e.g., sudden wind pickup).
  4. **Times:** Permitted burns shall generally be conducted during daylight hours, commencing no earlier than one hour after sunrise and concluding not later than one hour before sunset to allow visibility and safer control. No overnight smoldering is allowed. The fire must be extinguished by the time specified on the permit.
  5. **Materials:** Only natural materials, including trees, brush, grass leaves, branch trimmings, and other plant growth, may be burned when permitted. **Burning of prohibited materials** – such as tires, shingles, plastics, household chemicals, etc. – is never allowed even with a permit, due to toxic smoke (per TCEQ regulations). Trees, brush, grass, leaves, branch trimmings, or other plant growth may only be burned on the property on which it was generated and by the owner of the property.
  6. **Notification:** The permit holder may be required to notify the City dispatch or Fire Department immediately prior to starting the burn and after it is completed, so that any reports of smoke can be confirmed as permitted.
  7. **Revocation:** The Fire Marshal or any fire officer can **revoke the permit on the spot** and order the fire extinguished if conditions become unsafe or if the permit holder violates any conditions (for example, leaves the fire unattended or burns unauthorized materials).

- d. **Compliance:** Compliance with the permit conditions **deems the burning lawful** under this Ordinance. The permit itself will serve as a defense to prosecution, provided all conditions were followed. However, **failure to comply** with any permit restriction will result in the burn being considered unlawful and the person may be cited or fined.

**Section 3: Liability and Emergency Response.** Any person igniting or responsible for an open fire, even if permitted, is **liable** for any damage or emergency response costs that result from the fire getting out of control or otherwise causing harm. For example, if a permitted brush fire escapes and causes a wildfire or property damage, the permit holder may be held responsible for suppression costs and damages. This Ordinance does not relieve any person from potential civil liability for damages caused by their fire.

Additionally, if the Fire Department must be called to extinguish an unpermitted or out-of-compliance fire, the City may charge the responsible party for the **cost of the response** especially in cases of negligence or repeat offenses. The City will send the responsible party an invoice for any such cost. If the invoice is not paid by the responsible party within 30 days, a lien may be filed against the responsible party's property with interest accruing at 10 % per annum. The lien will be lifted once the outstanding balance, including interest, is paid in full by the responsible party.

**Section 4: Burn Bans and Preemption.** During times when the county or state authorities issue a **burn ban** or air quality alert prohibiting outdoor burning, those restrictions supersede any permits or allowances under this Ordinance. The City will not issue any burn permits in conflict with a county-wide burn ban. This Ordinance shall be construed in harmony with the Texas Clean Air Act and Texas Commission on Environmental Quality (**TCEQ**) rules (30 TAC §§111.201–221, *Outdoor Burning Rule*). In case of any direct conflict, the stricter provision (either state or local) will apply.

**Section 5: Enforcement and Penalties.** Enforcement of this Ordinance is by the Fire Marshal, Fire Department officers, code enforcement officers, or any peace officer of the City:

- a. **Immediate Extinguishment:** If any open fire is found in violation of Sec. 95.01 (no permit, burning illegal material, unsafe conditions), the official may **order it extinguished immediately**. The official may direct the persons on site to put out the fire, or summon the Fire Department to do so. It is **unlawful to refuse** to extinguish or to interfere with Fire Department personnel in the process of extinguishing an illegal fire.
- b. **Citation:** Violators of the burning regulations can be issued a citation to Municipal Court. The general penalty is a fine not to exceed **\$500** per incident. Each day an unlawful fire is maintained (each day burning occurs) constitutes a separate offense. If someone repeatedly violates or if illegal burning causes substantial risk, the court may impose enhanced fines (up to \$2,000 if a judge finds the violation relates to public health or safety, given the fire hazard).
- c. **Restitution:** The court may also require the offender to pay restitution for any costs incurred by the City (for fire-fighting, emergency response, or clean-up of burned waste).
- d. **Injunctive Relief:** The City may seek an injunction against any person persistently violating these burning rules, especially if it endangers the community.

**Section 6: Repeal of Prior Ordinances.** Any ordinance, resolution, policy, or part thereof previously adopted by the City that governs open burning, trash fires, bonfires, recreational fires, or related fire-prevention matters is hereby repealed in its entirety. This Ordinance wholly supersedes and replaces every prior enactment on the subject.

**Section 7: Severability.** The provisions of this Ordinance are severable. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The City Council declares that it would have adopted this Ordinance and each section hereof irrespective of the fact that any one or more sections may be declared invalid.

**Section 8: Effective Date.** This Ordinance will take effect immediately upon passage, approval, and publication.

PASSED AND APPROVED this 14<sup>th</sup> day of July, 2025



Sharion Scott  
Mayor

Attest: 

Nancy Sanders  
City Secretary