

**ORDINANCE # 2007-01 adopted May 21, 2007**

**CITY OF SPRINGVILLE**

**AN ORDINANCE TO REGULATE OPEN BURNING WITHIN THE CITY LIMITS OF  
SPRINGVILLE, ALABAMA.**

**WHEREAS**, the City Council of the City of Springville, Alabama has determined that it is in the best interest for the public safety and welfare of the citizens of Springville to establish certain controls on open burning within the corporate limits of the City of Springville, Alabama in compliance with and in addition to those limitations imposed by County or State regulations.

**NOW THEREFORE, BE IT ORDAINED** by the City Council of the City of Springville as follows:

SECTION 1: Purpose. This ordinance is enacted to protect, preserve and promote the health, safety, welfare and peace for the citizens of Springville, Alabama through the control of open burning. It is the intent of this ordinance to establish standards that will control open burning so that it will comply with all applicable state regulations and will not be detrimental to individuals and the community in the enjoyment of life, property and conduct of business. This ordinance is not intended to supersede legislation or regulations of statewide applicability governing open burning nor does compliance with this ordinance guarantee compliance with such legislation or regulations.

SECTION 2: No person shall ignite, cause to be ignited, or maintain any open fire in the city limits of the City of Springville, Alabama, except as expressly permitted herein.

A. The following are permitted within the City of Springville without written notification to, or authorization from, the City of Springville Fire Department.

1. Open fires for the cooking of food for human consumption if contained within personal barbecues and outdoor fireplaces. Only clean fuel not containing garbage, rubbish, rubber, plastics, or other refuse is permitted.
2. Fires for recognized agricultural, silvicultural, range and wildlife management practices, as set and monitored by the Alabama Forestry Commission. Agricultural burning shall be limited to commercial operations, not to include backyard gardens and lawns.
3. Fires set in salamanders or other devices used for outdoor heating by workers or other individuals, as long as the fire is contained in a noncombustible container. Salamanders and other heating devices must use fuels appropriate for the devices and must be operated and maintained in a manner so as not to cause a public nuisance. Otherwise,

only clean wood may be burned for heating in a noncombustible container. No trash, garbage, rubber, plastic, or other refuse or synthetic materials may be burned. Consideration will be given to ambient temperature and conditions for use of warming fires.

B. The following are permitted within the corporate city limits of the City of Springville upon obtaining a written permit from the Springville Fire Department.

1. Fires for recreational or ceremonial purposes. Any person or organization intending to set a fire for recreational or ceremonial purposes shall provide written notification to the Springville Fire Department no later than three (3) working days prior to the event.
2. Fires for disposing of vegetation. Any person or organization desiring to conduct an open burn to dispose of vegetation must obtain written authorization and/or permits required for such activities from the Springville Fire Department no later than three (3) working days prior to the planned open burn. Permits issued for this permit shall require the strict adherence to the use of the air curtain incinerator (trench burner) method or equivalent, and shall meet all of the following conditions:
  - a. The location of the burning must be at least one hundred fifty (150) feet from the nearest public road/highway; at least five hundred (500) feet from the nearest residence or business not on the property on which the burning is conducted, and at least one thousand five hundred feet (1,500) feet from any school, day care, healthcare facility, park, athletic field, recreational area, church or other community activity/gathering center.
  - b. All materials to be burned shall be dry and in all respects be in a state to sustain good combustion. The amount of dirt in the material to be burned shall be minimal.
  - c. Adequate water and/or other fire control equipment shall remain on site and the fire must be monitored by an adult (21 years or older) until the fire is properly and completely extinguished.
  - d. Asphaltic materials, rubber, plastic, tires, demolition or construction waste, or any material other than vegetation shall not be burned.
  - e. Only vegetation from the authorized clearing site shall be burned. Materials shall not be imported from other sites.
  - f. No fire shall be started or combustible materials added to the fire except during



Forestry Commission.

SECTION 5: Open burning shall be conducted in compliance with this regulation as the same may be amended and revised.

SECTION 6: No open burning shall be allowed or authorized during any wildfire hazard alert issued by the City of Springville or the Alabama Forestry Commission. All open burning shall be extinguished during any stage of an official wildfire hazard alert. No open burning shall resume until the full termination of all alerts.

SECTION 7: Notwithstanding the provisions set out above, the Mayor or the Fire Chief of the City of Springville, Alabama may issue a “no Burn” order for the City of Springville at any time deemed necessary and convenient to protect the public health and safety.

SECTION 8: No open burning site shall be left unattended, until the danger of re-ignition of the burned materials has passed. Fire control equipment shall be available on site for fire control during open burning. The burn attendant shall notify emergency response personnel in the event the open burn can no longer be controlled.

Fire control equipment and/or tools must be adequate for the size of the open burn, and may include the following or similar equipment and/or tools:

- A. Fire control equipment: earth-moving equipment such as bulldozers, bobcats, farm tractors with box blades, and power blowers.
- B. Hand tools: rakes, shovels, flappers and axes.
- C. Water and hoses.

SECTION 9: It shall be unlawful for any person in the vicinity of a fire to refuse to assist in fire control, if upon command by a fireman or a police officer identified to him as such, he intentionally disobeys a reasonable order or regulation made in relation to the conduct of persons in the vicinity of a fire.

SECTION 10: Issuance of a burn permit for a specific site shall be considered prima-facie evidence that the person or entity to which the permit was issued initiated the open burn and is responsible for compliance with this ordinance. In the event an open burn is conducted, the property owner and/or his agent shall be held liable.

SECTION 11: Violation and Penalties.

- A. Complaint Procedure. A citizen affected by open burning, or a duly authorized municipal officer or employee wishing to make a complaint of a violation of this ordinance may present themselves to the city magistrate to commence proceedings against the person in violation of the ordinance. The complaining individual must swear under oath that the violation occurred and, if the magistrate has probable cause to believe that the offense constitutes a violation of this ordinance, a summons and complaint may be issued to the individual.
- B. Issuance of summons and complaint by Law Enforcement Officer. Any law enforcement officer of the City of Springville or any law enforcement officer of the State shall be authorized to issue a summons and complaint to any person charged with a violation of this ordinance. Such summons and complaints shall be in lieu of custodial arrest.
- C. Summons and Complaint Procedure by Law Enforcement Officer. When a person is charged with a violation of this ordinance the officer shall take the name and address of said person and any other information required by law and shall then issue the summons and complaint to the individual. Such individual shall not be taken into custody upon his written promise to appear in court at the designated time and place as evidenced by his or her signature. The signing of the summons and complaint shall serve as adequate bond for that individual. If the individual refuses to provide his or her personal written recognizance to appear by signing the summons and complaint, the authorized officer shall place the person into custody and bring them before any officer or official authorized to approve the bond.
- D. Settlement of Charges. When a person is charged with a violation of this ordinance, and when that person desires to waive legal process on the question of their innocence and plead guilty and voluntarily settle the charge, he or she may do so by pleading guilty and paying a sum to the Municipal Court Magistrate. A plea of guilty shall be accepted by the magistrate only after the defendant has executed the Notice and Waiver of Rights provision on the summons and complaint. Settlement fines will be assessed pursuant to the following schedule, which may be amended from time-to-time by the City Council:
1. First violation within twelve (12) months: \$150 fine plus court cost.
  2. Second violation within twelve (12) months: mandatory court appearance with the fine of no more than \$500 plus costs and expenses to be assessed by the court, and up to six (6) months in jail.

For the purposes of the above schedule, the twelve-month period will commence upon conviction or settlement of each violation.

- E. Payment of Fine. The fines and cost listed above may be voluntarily paid to the Municipal

Court Magistrate no later than seventy-two (72) hours before the court date shown on the summons and complaint. The magistrate shall be authorized to receive the amount in full settlement of the alleged offense and to give a receipt on behalf of the City. If such payment is made, no further criminal prosecution for that specific violation shall be instituted or maintained in municipal court. All such payments must be made by personally appearing before said magistrate.

- F. Trial. Any offender wishing to plead guilty to a violation or who is otherwise required to appear in court for a violation of this ordinance must execute a signature and written personal recognizance bond with the Court Magistrate assuring his or her appearance to answer the charge in Municipal Court of the City of Springville upon a date certain.
- G. Rights of the Defendant. Any person or entity charged with violation of this ordinance shall have the right to enter a plea of not guilty to any violation charged against said defendant and secure a trial in the Municipal Court.
- H. Failure to Appear or Property Settlement Charges. If the defendant fails to voluntarily settle his or her charges or fails to appear as specified in the summons and complaint, the Municipal Court Judge may issue a warrant for his or her arrest commanding that he or she be brought before the court to answer the charges contained in the summons and complaint. In addition, any person who willfully violates his or her written promise or bond to appear shall be guilty of the separate offense of failure to appear, which is a misdemeanor, regardless of the disposition of the charge upon which he or she was originally arrested.
- I. Review of Prior Charges. The Municipal Court, upon conviction, shall have the duty and responsibility to consider all prior charges brought against the offender (whether settled or not) and will specifically consider all charges in the past twelve (12) months.
- J. Additional Power of the Municipal Court. The municipal judge shall have the following additional legal authority in connection with this ordinance and the enforcement thereof. Said authority shall include the following:
  - 1. Upon a sworn complaint being made by a citizen, a duly authorized municipal officer or employee, or a law enforcement officer of the City of Springville to the court clerk, the court shall be authorized to issue the following orders.
    - a. To assess all costs, including restitution and extinguishing costs against said owner or responsible person.
    - b. To revoke the business privilege license of any entity responsible for repeated violations of this ordinance.

- c. To increase the amount of the fine above that specified in the schedule to the maximum allowed by law.
- 2. Upon the trial and conviction of a person or entity for a violation of any provision of this ordinance, the Municipal Court shall have the authority to issue such other terms and conditions as the court may deem proper under the circumstances, in addition to all other power and authority conferred by law

SECTION 12: If for any reason any clause, sentence, section, sub-section or provision of this ordinance, or the application therefor, to any person or circumstance, is held invalid or inoperative or unconstitutional, the remainder of the ordinance and the application thereof to all other persons and circumstances shall not be affected thereby.

SECTION 13: All ordinances or parts of ordinances and/or any resolutions adopted by the City Council of the City of Springville that conflict with provisions of this ordinance are hereby repealed.

SECTION 14: This ordinance shall become effective immediately upon its adoption, approval, and publication as required by law.

ADOPTED AND APPROVED THIS \_\_\_\_\_ DAY \_\_\_\_\_ OF 2007.

ATTEST:

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Brenda Roberts, Clerk  
By Lauri G. Jones in the absence of the Clerk

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Richard Buckner, Mayor