

ORDINANCE NO. _____

CITY OF WOODCREEK, TEXAS

AN ORDINANCE AMENDING THE CITY OF WOODCREEK CODE OF ORDINANCES AT TITLE IX ("GENERAL REGULATIONS"), CHAPTER 93 ("FIRE PREVENTION AND PROTECTION"); PROVIDING FOR ENACTMENT, REPEALER, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE, AND FINDING PROPER NOTICE AND MEETING.

WHEREAS, the City Council recognizes the importance of fire safety, prevention and protection; and

WHEREAS, the City Council finds that the fire response systems available to the City to be adequate, but limited, and therefore preventative measures are essential; and

WHEREAS, the City Council further finds that the City of Woodcreek has a duty and responsibility to uphold regulations as set by the local regulatory authority for fire prevention and safety; and

WHEREAS, the City Council understands that the City of Woodcreek has a duty and responsibility to enforce such regulations as outlined by the local regulatory authority and may add additional limitations under the framework of fire prevention and safety as determined necessary by the governing body; and

WHEREAS, the City Council thus finds it desirable and reasonable to create, update, and maintain a municipal ordinance for fire safety and prevention to ensure the health and safety of all residents; and

WHEREAS, section 51.012 of the Local Government Code provides a Type A general law municipality, such as the City of Woodcreek, Texas, may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Woodcreek:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Chapter 93 (“Fire Prevention and Protection”) of the Code of Ordinances of the City of Woodcreek is amended so as to read in accordance with Attachments A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. REPEALER

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby authorized and directed to record and publish the language of Chapter 93 as amended by this Ordinance, in the City's Code of Ordinances.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon its passage and the publication of caption of this ordinance as provided by law.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was attended by a quorum of the City Council, was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. 27

PASSED & APPROVED this, the ___ day of October 2023, by a vote of ____ (ayes) to ____ (nays) and ____ (abstentions) of the City Council of Woodcreek, Texas.

Jeff Rasco, Mayor

Suzanne Mac Kenzie, City Secretary

Attachment "A"

City of Woodcreek

CODE OF ORDINANCES

TITLE IX: GENERAL REGULATIONS

CHAPTER 93: FIRE PREVENTION AND PROTECTION

GENERAL PROVISIONS

§ 93.01 ARSON REWARD.

(A) The City hereby offers a reward of \$500.00 to anyone who secures and furnishes information which results in arrest and conviction of any person or persons who commit the crime of arson within the City's corporate limits.

(B) This reward is a standing offer and shall be paid out of the General Fund of the City.

OPEN BURNING

§ 93.15 TITLE.

This subchapter shall be known, cited, and commonly referred to as the "Open Burning Ordinance of the City of Woodcreek".

§ 93.16 PURPOSE.

The purpose of this subchapter is to protect public safety and property within the City.

§ 93.17 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Open burning. Any burning of brush, trash, wood, plastics, leaves, waste products or similar materials outdoors, other than in an incinerator designed and constructed for such purpose and having a written permit issued by the Fire Marshal.

Trash. Anything worthless and useless, building materials, twigs, trees, limbs, rubbish, garbage, rags and brush.

§ 93.18 OPEN BURNING PROHIBITED; RESTRICTIONS.

(A) It shall be unlawful for any person to burn any garbage, trash, brush or other waste, lumber, plastic or organic material outdoors within the City.

(B) The Fire Marshal, City Marshal and all City officials are granted the authority and responsibility of enforcing the following provisions of this subchapter.

(1) Open burning within the City is declared to be a public nuisance and hazard to adjoining property.

(2) Open burning is prohibited at all times when a burn ban has been declared by Hays County.

(3) Absent a burn ban, small fires are permitted in residential fire pits or chimineas provided:

(a) The fire pit or chiminea is not located within five feet of a residence or structure;

(b) The fire pit has large metal sides, built up concrete blocks, or is constructed of cement, rock, or similar non-flammable/non-conductive materials;

(c) The chiminea is placed on a non-flammable stand or is elevated to not be placed directly on the ground and/or structure.

(d) The fire pit or chiminea must be completely covered by a spark arrestor or similar fine metal grate to prevent flying sparks and embers;

(e) All fire pits must be based on a solid, non-flammable surface (rock, brick);

(f) Non-commercial preparation of food utilizing a bar-b-que, grill, or smoker or individual device;

(g) The fire must be attended at all times; and

(h) The property owner or the fire attendant has the means to extinguish the fire at all times, if necessary.

(4) Any governmental entity, with permission from the City, may conduct open burning in the City limits to correct an obvious hazardous condition or to conduct fire training.

(5) It shall be unlawful for any person or persons to violate any verbal or written directive of the Fire Marshal, City Marshal or any City official when the directive prohibits, restricts, limits or sets guidelines for open burning.

(6) The Fire Marshal, City Marshal and all other officers of the City are granted the authority to enforce the provisions of this subchapter and impose temporary restrictions upon the use of outdoor fire pits or chimineas as conditions warrant.

§ 93.19 LIABILITY.

In addition to penalties provided in § 93.99 of this chapter, any person or persons conducting open burning shall be liable for property damage or injury, if any, caused as a result of his, her or their open burning.

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this Code of Ordinances.

(B) Any person, firm or corporation who violates any provisions of §§ 93.15 through 93.19 of this chapter, or any order made under authority of §§ 93.15 through 93.19 of this chapter, or who causes or permits any such violation of §§ 93.15 through 93.19 of this chapter, shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed \$2,000.00. Each and every day on which any violation is committed or permitted to continue shall constitute a separate offense and shall be punished as such.