

ORDINANCE 2007- 8

AN ORDINANCE OF THE TOWN OF GOLDSBY, OKLAHOMA, AMENDING ARTICLE 3, CHAPTER 7 OF THE CODE OF ORDINANCES FOR THE TOWN OF GOLDSBY, OKLAHOMA, BY ADDING A NEW SECTION 7-24 REGULATING OPEN BURNING; REGULATING AND DEFINING YARD WASTE AND ESTABLISHING CONDITIONS TO OPEN BURNING OF YARD WASTE; REGULATING AND ESTABLISHING CONDITIONS TO OPEN BURNING OF TREES, LIMBS OR VEGETATION REMOVED DURING THE PROCESS OF SITE PREPARATION FOR CONSTRUCTION OR SITE IMPROVEMENT; REGULATING AND PROVIDING FOR CONTROLLED AGRICULTURAL BURNING; ESTABLISHING EXCEPTIONS; PROVIDING FOR DISCONTINUANCE WHEN BURNING OR SMOKE EMISSIONS BECOME A NUISANCE OR SAFETY HAZARD; PROVIDING THAT ORDINANCE IS NOT AN EXEMPTION OR RELEASE FROM CIVIL OR CRIMINAL LIABILITY; PROHIBITING OPEN BURNING DURING BURN BANS; ESTABLISHING LIABILITY FOR FIRE SUPPRESSION COSTS; PROHIBITING OPEN BURNING EXCEPT IN COMPLIANCE WITH THIS ORDINANCE AND STATE LAW AND DECLARING SUCH CONDUCT TO BE AN OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, the Town of Goldsby finds that it necessary to enact an ordinance to define and limit conditions for certain open burning within the Town of Goldsby; and

WHEREAS, the Town of Goldsby is authorized to enact and enforce laws, ordinances, resolutions, rules, or regulations for the purpose of regulating or prohibiting burning in the open; and

WHEREAS, the Town of Goldsby has the authority to abate fire hazards;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GOLDSBY, OKLAHOMA THAT:

Section 1. Article 3, Chapter 7 Amended. Article 3, Chapter 7, of the Code of Ordinances for the Town of Goldsby, Oklahoma, is hereby amended to include, by adding thereto, the following under Section 7-24 of said Article 3 to be entitled **Open Burning**:

Section 7-24. Open Burning.

1. Residential Vegetation Abatement. Instances of open burning of yard waste by residents are expressly discouraged within the corporate boundaries of the Town of Goldsby. For the purpose of open burning, yard waste shall be defined as grass clippings, leaves, shrubbery trimmings, and tree trimmings less than three inches (3") in diameter, grown on the property and collected by the resident or owner of property. Open burning of yard waste shall not be allowed unless the following conditions are met:

a. The site consists of a parcel of real estate no less than one (1) acre in size.

b. Yard waste materials to be burned may be placed in a pile no larger than four feet (4') in diameter and three feet (3') in height. No more than one pile may be burned at any given time by an individual resident or property owner.

c. Burning must be at least one hundred feet (100') from the nearest structure, and must be at least fifty feet (50') from the nearest property line.

d. The fire must be attended at all times. The person attending the fire must have a charged hose and/or sufficient water supply available at the site adequate to promptly and completely extinguish the fire in the event that fire spread happens to occur.

e. Burning shall not commence before one hour after sunrise, and shall not extend beyond one hour before sunset.

f. Burning shall not be commenced or continued when conditions are hazardous by reason of dry conditions or windy conditions or during any period in which open burning is prohibited by the State Fire Marshall or there is gubernatorially proclaimed extraordinary danger from fire.

g. Burning shall not be commenced or continued when, the Fire Chief, or in the absence of the Chief the Assistant Chief, determines that weather conditions create unsafe conditions for open burning.

The person(s) conducting and the person(s) attending the open burning of yard waste shall not permit fire to escape to adjoining property, whether abutting or remote, or any structures thereon and shall be wholly responsible for the consequences of such open burning and all damages or injuries resulting from such open burning.

2. Site Improvement Burning. Open burning of trees, limbs or vegetation removed during the process of site preparation for construction or site improvement shall not be allowed unless the following conditions are met:

a. The site consists of a parcel of real estate no less than one (1) acre in size.

b. The burning is to occur at least one hundred feet (100') from all property lines encompassing the parcel and at least one hundred feet (100') from the nearest structure.

c. All surface vegetation must be removed from all surface areas adjacent to the burning materials for a distance of no less than fifty feet (50') in all directions.

- d. The fire must be attended at all times.
- e. The person(s) attending the fire must have a sufficient water supply and fire extinguishing equipment readily available at the site adequate for the control of the fire and to promptly and completely extinguish the fire in the event that fire spread happens to occur. If standby fire apparatus and/or manpower of the Goldsby Fire Department will be utilized, the site preparer or improver will pay the rate for apparatus and manpower set forth in paragraph 3, Section 7-20, Article 3, Chapter 7 of Code of Ordinances for the Town of Goldsby.
- f. Notification must be given to the Town Manager of the Town of Goldsby at least twenty-four hours prior to the intended burning of said trees, limbs or vegetation, and authorization must be obtained from the Fire Chief or, in the absence of the Chief, the Assistant Chief of the Goldsby Fire Department before burning may begin.
- g. Any such authorization obtained from the Fire Chief or, in the absence of the Chief, the Assistant Chief of the Goldsby Fire Department may be revoked and burning shall not be commenced or, if commenced, shall be immediately discontinued and extinguished when, the Fire Chief or the Assistant Chief (i) determines that weather conditions create unsafe conditions for open burning; (ii) determines that revocation will serve to prevent the creation or continuation of smoke nuisances; or (iii) determines that revocation will serve to protect the property and the health, safety, and comfort of persons from the effects of open burning; or (iv) determines that the open burning is occurring during a period in which open burning is prohibited by the State Fire Marshall or there is gubernatorially proclaimed extraordinary danger from fire.

The person(s) and/or entity conducting the site improvement open burning shall not permit fire to escape to adjoining property, whether abutting or remote, or any structures thereon and shall be wholly responsible for the consequences of such open burning and all damages or injuries resulting from such open burning.

3. Controlled Agricultural Burns. It shall not be an offense for an owner of croplands, rangelands, grasslands, or other wild lands within the corporate limits of the Town of Goldsby in the A-1 Zoning Classification to set the croplands, rangelands, grasslands, or other wild lands on fire for the purposes of:

- a. Managing and manipulating plant species present whether grass, weeds, brush, or trees; and
- b. Destroying detrimental or unwanted plants, plant parts, shrubs or trees on the croplands, rangelands, grasslands, or other wild lands; and

- c. Cedar tree eradication;
provided such owner
- d. strictly complies with the provisions Article 16 of Title 2 of the Oklahoma Statutes applicable to prescribed or controlled burning;
- e. provides to the Town Manager of the Town of Goldsby the burning notification plan as specified in Section 16-28.2 of said Article 16;
- f. notifies the Goldsby Fire Department within 48 hours before conducting the open burning that the open burning will be conducted;
- g. provides adequate firelines, manpower, and fire fighting equipment for the control of the fire, watches over the fire until it is extinguished, and does not permit fire to escape to adjoining land.

4. Exceptions. Open burning activities as specified below may be conducted without the prior authorization of the Town of Goldsby. Except in emergencies, notice of intent to conduct the open burning activities described in sub-paragraphs a, b, & d next below shall be made to the Town Manager of the Town of Goldsby at least twenty-four hours prior to the intended open burning activity.

- a. Fires set for training and instruction of public firefighting personnel.
- b. Fires set by or at the direction of public fire control agencies or fire departments for the prevention, elimination or reduction of a fire hazard.
- c. Safety flares.
- d. Fires used to destroy pests, germs, bacteria, or dead animals when the open burning is conducted to protect the public health or welfare and is conducted with and under the direct supervision of personnel of the municipal, county or state health department.
- e. Fires for cooking of food safely confined in cooking apparatus such as barbecue grills and masonry outdoor fireplaces.

5. Nuisance or Safety Hazard. Smoke emissions from permissible open burning shall not be allowed to become a nuisance or safety hazard. In the event that such emissions are identified by the Goldsby Fire Department to be of an offensive nature to surrounding landowners and/or is determined to be detrimental to the general safety and well being of the public, the Goldsby Fire Department may require discontinuance and extinguishment of such open burning

without recourse. Open burning shall not be allowed to become a safety hazard. In the event that any such open burning is identified by the Goldsby Fire Department to be detrimental to the general safety and well being of the public, the Goldsby Fire Department may require discontinuance and extinguishment of such open burning without recourse.

6. No Exemption of Release From Liability. The provisions of this section shall not be construed to exempt or release a person from civil liability for damages or injury incurred as a result of the open burn or for criminal liability as imposed pursuant to the Oklahoma Forestry Code or the Code of Ordinances for the Town of Goldsby.

7. Burn Ban. It shall be unlawful and an offense for any person to conduct any open burning within the corporate limits of the Town of Goldsby where, because of emergency drought conditions, there is gubernatorially proclaimed extraordinary danger from fire except back fires or similar wildfire control fires set by or at the direction of public fire control agencies or fire departments for the prevention, elimination or reduction of a fire hazard.

8. Liability for Fire Suppression Costs; Civil Liability. Whoever while conducting any open burning within the corporate limits of the Town of Goldsby allows such fire to spread or escape containment shall, in addition to all other penalties provided by law, be liable for payment of all reasonable costs and expenses incurred in suppressing the fire. The costs and expenses shall be payable to the Town of Goldsby and/or other governmental units responding to such fire. When the costs and expenses are not paid within ninety (90) days after written notice of demand, it shall be the duty of the municipal attorney having jurisdiction to take proper legal proceedings for collection. The liability for costs of suppression shall exist whether there is criminal prosecution or not and the liability shall extend to the person or persons causing, directing, or permitting the activity as well as to the actual violator.

9. Offense. It shall be unlawful and an offense for any person to cause, direct, or conduct or to permit another to conduct on such person's lands or leasehold any open burning within the corporate limits of the Town of Goldsby without having complied with the provisions of this Section 7-24 and with the Laws of the State of Oklahoma. It shall be unlawful and an offense for any person to fail or refuse to discontinue and extinguish an open burn when directed to do so by any official of the Town of Goldsby or the Goldsby Fire Department.

Section 2. Emergency. It being necessary for the preservation of the public health, safety, peace and welfare of the citizens and residents of the Town of Goldsby, Oklahoma, that this Ordinance shall become effective immediately, an emergency is hereby declared to exist, by reason whereof, this Ordinance shall take full force and effect immediately upon its adoption, as provided by law.

PASSED, APPROVED AND ADOPTED this 30th day of July, 2007.

ATTEST:

TOWN OF GOLDSBY

Viige Andrews
Town Clerk
(SEAL)

Cissy Sead
Mayor

