

CITY OF HILLSBORO

ORDINANCE NO. 1468

AN ORDINANCE AMENDING CHAPTERS 27 AND 17
REGULATING OPEN BURNING

ADOPTED BY THE

CITY COUNCIL

OF THE

CITY OF HILLSBORO

THIS 27th DAY OF NOVEMBER, 2007

Published in pamphlet form by authority of the City Council of the City of Hillsboro,
Montgomery County, Illinois, this 27th day of November, 2007.

STATE OF ILLINOIS)
)
COUNTY OF MONTGOMERY) SS.
)
CITY OF HILLSBORO)

I, Dave Booher, City Clerk of the City of Hillsboro, Illinois, do hereby certify that I am the City Clerk of the said City of Hillsboro, Illinois, and as such am the keeper of the records and seal thereof; that the foregoing is a true, complete and correct copy of Ordinance No. 1468 of said City and that said ordinance, which is an Ordinance Amending Chapters 27 and 17 Regulating Open Burning, was passed by the Council of the City of Hillsboro, by yea and nay vote on the 27th day of November, 2007, and said Ordinance was signed by the Mayor of said City on the 27th day of November, 2007, and was then deposited in the office of the City Clerk of said City and filed therein, and that the same was recorded in the Record of Ordinances of said City on the 27th day of November, 2007.

Given under my hand and seal of the corporation of the City of Hillsboro, Illinois, this 27th day of November, A.D., 2007.

/S/ David A. Booher
CLERK OF THE CITY OF HILLSBORO

**AN ORDINANCE AMENDING CHAPTERS 27 AND 17
REGULATING OPEN BURNING**

WHEREAS, Chapter 27, Article IX of the Revised Code of Ordinances of Hillsboro, Illinois regulates open burning; and

WHEREAS, It is in the best interest of the health and safety of the residents of the City of Hillsboro that its ordinance regulating burning are consolidated into one Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Hillsboro, Illinois, as follows:

SECTION 1: That Chapter 17 of the Revised Code of Ordinances of Hillsboro, Illinois is hereby amended by deleting Section 17-1-4 and adding the following:

17-1-4 PLACEMENT OF RESIDENTIAL WASTE RECEPTACLES.

Residential waste receptacles, garbage cans, refuse, and refuse containers shall not be set at curbside earlier than 6:00 p.m. of the evening prior to the scheduled pick-up day during the months of April through October or sooner than 4:00 p.m. during the months of November through March. Said containers shall be removed from the curbside as quickly as possible after pickup, but not later than 11:59 p.m. the evening of the scheduled pick-up day.

17-1-5 BURNING PROHIBITED. It shall be unlawful at any time to burn under any circumstances any discarded, used, or unconsumed garbage, refuse, or other such waste material of any description, including but not limited offal, plastic, hair, feathers, bones, manure or animal waste, oil, rubber, or synthetic objects; provided, however, that this section does not apply to burning that is consistent with the provisions contained in Article IX of Chapter 27.

17-1-6 LANDSCAPE WASTE. It shall be unlawful for any person to cause or allow the open dumping or disposal of any landscape waste at any site in the City, or upon the public highways or other public property, except at a site approved by the Illinois Environmental Protection Agency and pursuant to regulations adopted by the Illinois Pollution Control Board. For purposes of this Section, "landscape waste" means any vegetable or plant refuse, except garbage. The term includes clean wood, trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, grass clippings, shrubbery, plant prunings, and yard trimmings or combinations thereof. This Section does not apply to the disposal of landscape waste that is consistent with the provisions contained in Article IX of Chapter 27.

SECTION 2: That Chapter 25 of the Revised Code of Ordinances of Hillsboro, Illinois is hereby amended by adding the following to Section 25-1-1:

(R) To start, cause, or allow open burning or any outdoor fire in violation of Article IX, Chapter 27.

SECTION 3: That Chapter 27 of the Revised Code of Ordinances of Hillsboro, Illinois is hereby amended by deleting Section 27-4-6 in its entirety.

SECTION 4: That Chapter 27 of the Revised Code of Ordinances of Hillsboro, Illinois is amended by deleting Article IX in its entirety and replacing it with the following:

27-9-1 **DEFINITIONS.** Terms used in this Article shall have the following meanings:

CAMPFIRE. A small open outdoor fire intended for recreation, cooking, or ceremonial purposes, not including a fire intended for disposal.

LANDSCAPE WASTE. Any vegetable or plant refuse, except garbage. The term includes clean wood, trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, grass clippings, shrubbery, plant prunings, and yard trimmings or combinations thereof.

OPEN BURNING. The burning or kindling of any materials wherein the products of combustion are emitted directly into the air, without passing through a stack or chimney.

PAPER. Notebook paper, cardboard, newspaper, magazines, paper containers, or other paper or wooden packaging.

RESPONSIBLE ADULT. An individual 18 years or older who is not under the influence of drugs or alcohol of suffering from any other disability which would impair his or her ability to properly supervise a fire.

SAFE. Burning that is conducted in conformance with all local and state regulations.

SMOLDER. A fire that is burning without a flame and with smoke.

SUNRISE. The time of sunrise for the date in question as published in the Illinois State Journal-Register.

SUNSET. The time of sunset for the date in question as published in the Illinois State Journal-Register.

27-9-2 **APPLICABILITY.** This ordinance applies to all open burning and outdoor fires involving the burning of any and all materials or fuels within the City of Hillsboro, with the following exceptions:

(A) This ordinance does not prohibit or regulate the burning of fuels in domestic fireplaces, in areas where such burning is consistent with the other laws, provided that no garbage shall be burned in such cases.

(B) This ordinance does not prohibit, regulate, or apply to grilling, barbecuing, or cooking using charcoal, wood, propane, or natural gas.

(C) This ordinance does not prohibit, regulate, or apply to campfires used for cooking, recreational, or ceremonial purposes, provided that the fire is confined by a control device or structure, such as fire ring or fire pit. A fire ring shall be constructed of rocks or other similar non-combustible materials.

(D) This ordinance does not prohibit, regulate, or apply to outdoor wood-fired furnaces, in areas where such burning is consistent with the other laws, provided that no garbage shall be burned in such cases.

(E) This ordinance does not prohibit, regulate, or apply to the burning of refuse in any chamber or apparatus, provided that such chamber or apparatus is designed for the purpose of disposing of the class of refuse being burned.

(F) This ordinance does not prohibit, regulate, or apply to the burning of wood or any other material pursuant to a permit obtained from the Illinois Environmental Protection Agency and in compliance with such requirements.

(G) This ordinance does not prohibit or regulate fires set by the City of Hillsboro or its employees, agents, or contractors, or by any other governmental entity; when done within the scope of their governmental duties.

27-9-3 **GENERAL PROHIBITION.** All open burning and outdoor fires in the City of Hillsboro are prohibited unless in accordance with this ordinance.

27-9-4 **EXCEPTION TO PROHIBITION.** Burning of landscape waste is allowed only in accordance with each of the following provisions, conditions, restrictions, and limitations:

(A) Open burning shall be conducted in a safe, nuisance-free manner and only if it does not create a health hazard or a visibility hazard on roadways, alleyways, highways, sidewalks, railroad tracks, or air fields. Fires must be immediately extinguished if they create a fire hazard, nuisance, pollution problem, or threat to public health. Any fire which continues after conditions have changed so that it is no longer appropriate for burning shall be extinguished promptly by the person or persons starting or tending the fire.

(B) Open burning shall be conducted only when wind, weather, and atmospheric conditions are such as to readily dissipate contaminants and minimize adverse effects.

(C) Open burning shall be conducted only on the premises on which the landscape waste was generated.

(D) There shall be no burning of wet landscape waste. Landscape waste may be burned only when the landscape waste has a moisture content sufficiently low enough to allow an open and visible flame to burn and not smolder.

(E) No person may burn trash, rubbish, garbage, or general household waste or commercial waste, or construction or demolition debris, except that small quantities of paper or dimensional lumber may be used as a starter fuel to kindle or rekindle a fire.

(F) No landscape waste may be burned upon any paved or unpaved street, highway, road, roadway, curb, alley, gutter, sidewalk, right-of-way, or other public property, except for designated areas set aside for such purpose by the City of Hillsboro.

(G) All fires shall be constantly attended and supervised by a responsible adult until the fire is fully extinguished. The responsible adult should have readily available for use such proper extinguishing equipment adequate for the size of the fire as may be necessary for the total control of the fire.

(H) The Hillsboro Fire Department shall be notified in advance if the pile to be burned exceeds 1,000 cubic feet.

(I) All burning shall comply with other federal, state, and local laws, rules, and ordinances.

27-9-5 HOURS OF BURNING.

(A) Open burning of landscape waste is permitted after 10:00 a.m. and before sunset on Mondays through Fridays; provided, however, that there shall be no open burning of landscape waste prior to 4:00 p.m. on days when school is in session in the following areas:

(1) Hilltop Drive, Briarwood Drive, and Haley Drive;

(2) An area bounded by East Fairground Avenue on the South, East Tremont Street on the North, Lakeview Drive on the East, and Vandalia Street on the West; and

(3) An area bounded by Yale Avenue on the South, Highland Avenue on the North, South Oak Street on the East, and Cedar Street on the West.

(B) Open burning of landscape waste is permitted after sunrise and before sunset on Saturdays and Sundays.

(C) In any event, every fire must be completely extinguished and smoke free at the time of sunset for the date in question.

(D) No open burning of landscape waste is permitted on Halloween or on the days designated by the City of Hillsboro for trick-or-treating.

(E) The Commissioner of Public Works may establish times wherein the public works department shall perform extra or special cleanup activities. During these cleanup times, days and hours of allowed open burning of landscape waste may be amended or suspended.

27-9-6 **ENCOURAGED AND RECOMMENDED ALTERNATIVES TO OPEN BURNING OF LANDSCAPE WASTE.** The City of Hillsboro encourages and recommends the following alternatives to open burning of landscape waste:

(A) Shredding of leaves while mowing and leaving the mulch on the lawn to add nutrients to the soil;

(B) Mulching of grass clippings and/or shredding of leaves while mowing and using shredded leaves and/or grass clippings to mulch around shrubs and garden plants; and

(C) Mulching of grass clippings and/or shredding of leaves while mowing, collecting clippings and shredded leaves, and creating an on-site compost pile.

27-9-7 **EMERGENCY BURNING BAN.** In the event of extreme weather conditions or other necessary circumstances, the Mayor, in his sole discretion, may temporarily ban all open burning permitted by this ordinance for a period not to exceed seven (7) days. The Mayor may extend any temporary ban for a period not to exceed thirty (30) days with the advice and consent of the City Council.

27-9-8 **RIGHT OF ENTRY AND INSPECTION.** All duly acting city officials shall have authority to enter and inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

27-9-9 **LIABILITY.**

(A) In the absence of any evidence to the contrary, the owner and the resident of the property on which a fire is located in violation of this ordinance shall be presumed to be responsible for such fire and shall be jointly liable.

(B) Any person who allows the accumulation or existence of combustible material which constitutes or contributes to open burning may not refute liability for violation of this ordinance on the basis that said fire was set by vandals, an accident, or an act of God.

(C) Any person responsible for an outdoor fire shall be liable for all fire suppression costs and any other liability resulting from damage caused by the fire.

27-9-10 **ADMINISTRATION.** The provisions of this ordinance are enforceable by the Code Enforcement Officer or the Police Department acting on his/her/their own initiative or at the request of the Mayor or of any City Council member. The Code Enforcement Officer or the Police Department may order the extinguishment of any fire, which, in the opinion of the officer on duty, violates this ordinance or generates excessive smoke.

27-9-11 **PENALTIES.** All actions in violation of this ordinance are hereby determined and defined to constitute a threat to public health, and, the enforcement of this ordinance being in the public interest and necessary to the safety of the residents of the City of Hillsboro, any person found in violation of this ordinance shall be subject to the following procedures:

(A) The Code Enforcement Officer or the Police Department shall issue a warning notice to a first-time violator stating that he or she is in violation if, in the discretion of the officer, there was no injury to person, there was no damage to property, and the safety of others was not jeopardized. The person must then correct the violation by immediately extinguishing the fire. Failure or refusal to immediately extinguish the fire shall result in a citation being issued.

(B) Issuance of a citation to the violator shall result in the imposition of a minimum fine of **Fifty Dollars (\$50.00)** for the first violation, **One Hundred Fifty Dollars (\$150.00)** for the second violation, **Two Hundred Fifty Dollars (\$250.00)** for the third violation, and not less than **Three Hundred Dollars (\$300.00)** for any subsequent violation. In no event shall the fine exceed **Seven Hundred Fifty Dollars (\$750.00)**. To avoid prosecution for a first or second offense under this Article, a violator may, within ten (10) days of receiving a citation, settle the citation by payment of one-half (1/2) of the specified fine to the Hillsboro City Clerk.

(C) Failure or refusal by the violator to immediately extinguish the fire in violation of this ordinance shall also result in the Fire Department having the authority to go upon private property to extinguish said fire. Any violator shall be liable for the costs of extinguishing any illegal fire.

(D) Each subsequent starting, kindling, causing, or allowing of a new fire after a warning notice or citation has been issued shall be considered a separate offense. Each day on which any violation occurs shall constitute a separate offense. Each provision, condition, restriction, or limitation of this Article which is violated shall constitute a separate offense.

(E) In addition to such fine or penalty and extinguishment costs, any person violating the provisions of this ordinance shall also be required to pay the cost of any other expenses, fees, costs, and disbursements incurred by the City of Hillsboro in enforcing or prosecuting the terms of this ordinance.

27-9-13 **PROSECUTION.** Prosecution of violations of this ordinance may be conducted by the City Attorney in the name of the City of Hillsboro, unless the violator for a first or second offense under this Article, has, within ten (10) days of receiving a citation, settled the citation by payment of one-half (1/2) of the specified fine to the Hillsboro City Clerk.

SECTION 5: SEVERABILITY. In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable full force and effect. If any part of this ordinance is found to be invalid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in effect.

SECTION 6: CONFLICTING ORDINANCES. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the City of Hillsboro prior to the effective date of this ordinance.

SECTION 7: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

Ayes: 5

Nays: 0

Introduced: November 27, 2007

Passed: November 27, 2007

Approved: November 27, 2007

/S/ William M. Baran
Mayor

ATTEST:

/S/ Cheryl Whitten
City Clerk – Pro Tem