

ORDINANCE 20-02

**AN ORDINANCE OF THE CITY OF SPRING HILL, TENNESSEE, AMENDING
SPRING HILL MUNICIPAL CODE TITLE 7, CHAPTER 6: OPEN BURNING**

WHEREAS, the Board of Mayor and Aldermen of the City of Spring Hill may, pursuant to its charter and general laws of the State of Tennessee, enact regulatory ordinances protecting and promoting the general welfare, health, and safety of its citizens; and

WHEREAS, the City of Spring Hill Code of Ordinances, Title 7 Chapter 6 regulates Open Burning; and

WHEREAS, the Spring Hill Fire Department has made recommendations for amendments to Chapter 6 pertaining to open burning due to health concerns and numerous nuisance complaints of citizens; and

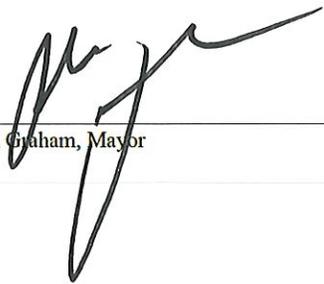
WHEREAS, the Spring Hill Board of Mayor and Aldermen desire to amend Title 7, Chapter 6 of the Spring Hill Municipal Code as recommended by the Spring Hill Fire Department.

NOW, THEREFORE, BE IT BE ORDAINED BY THE CITY OF SPRING HILL, TENNESSEE, BOARD OF MAYOR AND ALDERMEN, that Spring Hill Municipal Code Title 7, Chapter 6: Open Burning be amended as attached hereto.

BE IT FURTHER ORDAINED, that all Ordinances in conflict herewith be, and the same hereby are, repealed. Passed and adopted by the Board of Mayor and Alderman of the City of Spring Hill, Tennessee, on this 18th day of May, 2020.

Passed on First Reading: March 16, 2020

Second Reading: May 18, 2020



Rick Graham, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick M. Carter, City Attorney

SUBJECT: Ordinance 20-02, Open Burning,
Second Reading

DATE: May 4, 2020

ATTENTION: Board of Mayor & Aldermen

DEPARTMENT HEAD: Terry Hood, Fire
Chief; Tony Wallace, Fire Marshall



BACKGROUND:

The Board of Mayor and Aldermen approved Ordinance 20-02 on first reading. During the Work Session in advance of second reading, the Board expressed questions and concerns regarding the proposed amendments to the City's open burning regulations. Staff recommended deferment in order to provide additional time to address the questions and concerns raised by the Board.

Following the Work Session, staff reviewed the draft and noted that the exhibit contained in Ordinance 20-02 needed to be reformatted from the yellow highlighted version to a redline version that clearly identified both proposed deletions using strikethrough and additions underlined for easy identification. A redline version of Ordinance 20-02 has been prepared so the Board can fully understand the proposed deletions and additions as approved on first reading by the Board.

The Board raised questions and concerns primarily on the stringency of the regulations relative to homeowners and their ability to have bonfires and burn pits. Upon further research, it was confirmed by staff that the 2012 International Fire Code previously adopted by Ordinance by the City specifically regulates bonfires, burn pits, and barbeque pits including those associated with residential uses (see attached Section 307 of IFC). Staff recommends rather than attempting to recodify the provisions already contained in Section 307 of the IFC into the City Code that cross-referencing same would be appropriate and allow previously adopted standards to continue to be applicable in such instances. Staff believes further refinements are needed to clarify the existence of these provisions along with additional clarifications and revisions to clarify the manner in which open burning is to be administered.

Staff has prepared with input from the City Attorney a proposed revised draft for consideration by the Board (attached). The document reflects the appropriate and proper format for such amendments using strikethrough and underline to assist with identification of changes as well as specific provisions to assist with clarifying the existence of standards in IFC as well as proposed provisions to assist in the proper administering of the proposed amendments relative to construction sites and likewise residential, places of worship and other non-commercial uses. Only in the case of bonfires is it recommended that a permit be required with the intent to ensure compliance with proper separation requirements from combustible materials and buildings as provided in the IFC.

STAFF RECOMMENDATION:

Staff recommends the Board amend Ordinance 20-02 to replace in its entirety the exhibit approved on first reading and to replace same with the proposed revised exhibit.

CHAPTER 6: OPEN BURNING

Section

7-601 Contractors, builders and developers

7-602 Homeowners

§ 7-601 CONTRACTORS, BUILDERS AND DEVELOPERS.

(A) (1) Burning may be by permission only of the Fire Chief with notice given to City Hall personnel at least one day prior to the planned burn; the Fire Chief must have an opportunity to inspect the site before burning commences.

(2) No burning will be allowed on dry windy days; the Fire Chief or his or her assignee will have sole authority to make weather condition related decisions.

(B) No construction debris shall be burned or buried on site, but trees and natural growth, located a minimum of 300 feet from any structure, may be burned on site during daylight hours; if the burn continues after dark, supervision by the burn applicant must be present on site.

(C) Communication by cell phone shall be made available from the site to the bulldozer operator and emergency services.

(D) Certain exceptions conforming to the most recent *Rules of the Tennessee Department of Health and Environment, Bureau of Environmental Health Services, Division of Air Pollution Control, Ch. 1200-3-4*, entitled "Open Burning" will be allowed.

(2011 Code, § 7-601)

§ 7-602 HOMEOWNERS.

(A) The Fire Chief must be notified before burning commences and will have sole authority in deciding if a burn is to be allowed.

(B) Homeowners will be allowed to burn non-toxic combustible material on their premises so long as the fire is attended, burning is done during daylight hours only and water is available in proximity to the fire.

(2011 Code, § 7-602)

CHAPTER 6: OPEN BURNING

Section

7-600 General

7-601 Contractors, builders and developers

7-602 Homeowners

§ 7-600 GENERAL

(A) No person shall cause, suffer, allow, or permit open burning within the entire city limits of the City of Spring Hill, TN except as set in following sections:

Commercial Barbeque Fireplace

Fires set by or at the direction of responsible fire control persons for training purposes or directed at the prevention, elimination, or reduction of fire hazards.

Fires set at the direction of law enforcement agencies or courts for the purpose of destruction of controlled substances and legend drugs seized as contraband. This does not include antineoplastic agents.

Routine demolition of structures via supervised open burning by responsible fire control persons will not be considered fire training or elimination of fire hazard. Demolition of structures may be conducted by open burning provided that there is unilaterally issued state of local building codes order to demolish the structure by open burning because of its structural failure. Such orders shall be recognized only where there is no other safe way to demolish the structure.

§ 7-601 CONTRACTORS, BUILDERS AND DEVELOPERS.

(A) (1) Burning may be by permission only of the ~~Fire Chief~~ Fire Marshal with notice given to City Hall personnel at least one day prior to the planned burn; the ~~Fire Chief~~ Fire Marshal must have an opportunity to inspect the site before burning commences.

(2) No burning will be allowed on dry windy days; the Fire Chief or his or her assignee will have sole authority to make weather condition related decisions.

~~(B) No construction debris shall be burned or buried on site, but trees and natural growth, located a minimum of 300 feet from any structure, may be burned on site during daylight hours; if the burn continues after dark, supervision by the burn applicant must be present on site. Warming Barrels shall be allowed at building construction sites during cold weather. Barrel must be at least fifteen feet (15') from a structure or combustible material.~~

~~—(C) Communication by cell phone shall be made available from the site to the bulldozer operator and emergency services.~~

(D) Certain exceptions conforming to the most recent *Rules of the Tennessee Department of Health and Environment, Bureau of Environmental Health Services, Division of Air Pollution Control, Ch. 1200-3-4*, entitled "Open Burning" will be allowed. Exceptions above are allowed with permit issued by the Fire Marshal.

(2011 Code, § 7-601)

§ 7-602 HOMEOWNERS.

(A) The ~~Fire Chief~~ Fire Marshal or Fire Inspector must be notified before burning commences and will have sole authority in deciding if a burn is to be allowed.

~~(B) Homeowners will not be allowed to burn non-toxic combustible material on their premises so long as the fire is attended, burning is done during daylight hours only and water is available in proximity to the fire or construction debris. Homeowners are allowed to have fire/BBQ pits as long as the Fire/BBQ pit is 25 feet from a structure or combustible material, this includes non-commercial fires used for cooking of food including BBQ and outdoor fire places. Non-commercial fires used for ceremonial or recreation purposes including bonfires and cookouts.~~

Bonfires must be at least fifty-feet (50') from a structure or combustible material unless they are in a fire pit, which can be twenty-five feet (25"). A permit is required for a bonfire.

(2011 Code, § 7-602)

**RULES
OF
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
BUREAU OF ENVIRONMENT
DIVISION OF AIR POLLUTION CONTROL**

**CHAPTER 1200-3-4
OPEN BURNING**

TABLE OF CONTENTS

1200-3-4-.01	Purpose	1200-3-4-.04	Exceptions to Open Burning
1200-3-4-.02	Definitions	1200-3-4-.05	Repealed
1200-3-4-.03	Open Burning Prohibited		

1200-3-4-.01 PURPOSE

It is the purpose of this chapter to establish controls on open burning so as to prevent undesirable levels of air contaminants in the atmosphere.

Authority: T.C.A. §§68-25-105 and 4-5-202. *Administrative History:* Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed September 21, 1988; effective November 6, 1988.

1200-3-4-.02 DEFINITIONS.

- (1) As used in this Rule Chapter, all terms not defined herein shall have the meaning given them in Rule Chapter 1200-3-2.
 - (a) Repealed.
 - (b) "Air Pollution Emergency Episode" is defined as air pollution alerts, warnings, or emergencies declared by the Tennessee Division of Air Pollution Control during adverse air dispersion conditions that may result in harm to public health or welfare.
 - (c) "Natural Disaster" is defined as any event commonly referred to as an "Act of God" and includes but is not limited to the following weather - related or naturally - occurring categories of events: tornadoes, hail and wind storms, snow or ice storms, flooding, and earthquakes.
 - (d) "Open Burning" is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack. Open burning includes, but is not limited to, fires located or burning in a pile on the ground, a barrel, a fire pit, or other semi-enclosure. The use of an air curtain destructor or air curtain incinerator is considered incineration subject to the permitting requirements of Rule Chapter 1200-3-9, and is explicitly not considered open burning.
 - (e) "Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, an agency, authority, commission, or department of the United States government, or of the State of Tennessee government; or any other legal entity, or their legal representative, agent, or assigns.
 - (f) Repealed.
 - (g) "Wood Waste" is defined as any product which has not lost its basic character as wood, such as bark, sawdust, chips and chemically untreated lumber whose "disposition" by open burning is to solely get rid of or destroy. Plant life of a herbaceous nature, such as leaves, whether attached,

(Rule 1200-3-4-.02, continued)

fallen, and/or collected, evergreen needles, and grasses, are not considered "wood waste". Additionally, manufactured lumber products, such as plywood, fiberboard, particleboard, and paneling, are not considered "wood waste". Painted or artificially stained wood is not considered "wood waste".

Authority: T.C.A. §§ 4-5-202, 68-201-101 et seq., and 68-25-105. *Administrative History:* Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed February 5, 1979; effective March 21, 1979. Amendment filed September 21, 1988; effective November 6, 1988. Amendment filed May 17, 1990; effective July 1, 1990. Amendment filed June 26, 2001; effective September 7, 2001. Amendment filed January 17, 2003; effective April 1, 2003. Amendment filed September 9, 2005; effective November 23, 2005. Amendment filed June 28, 2007; effective September 11, 2007.

1200-3-4-.03 OPEN BURNING PROHIBITED.

- (1) No person shall cause, suffer, allow, or permit open burning except as specifically exempted by Rule 1200-3-4-.04 EXCEPTIONS TO PROHIBITION.
- (2) Repealed.
- (3) Repealed.
- (4) The open burning of tires and other rubber products, vinyl shingles and siding, other plastics, asphalt shingles and other asphalt roofing materials, and/or asbestos containing materials is expressly prohibited, and such materials shall not be included in any open burning conducted under the provisions of Rule 1200-3-4-.04 EXCEPTIONS TO PROHIBITION.
- (5) Repealed.
- (6) Repealed.

Authority: T.C.A. §§4-5-202, 68-201-101 et seq., and 68-25-104. *Administrative History:* Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed September 21, 1988; effective November 6, 1988. Amendment filed March 5, 1993; effective April 19, 1993. Amendment filed November 22, 1993; effective February 5, 1994. Amendment filed April 7, 1995; effective June 21, 1995. Amendment filed June 26, 2001; effective September 7, 2001. Amendment filed July 9, 2001; effective September 22, 2001. Amendment filed January 17, 2003; effective April 1, 2003. Amendment filed September 9, 2005; effective November 23, 2005.

1200-3-4-.04 EXCEPTIONS TO PROHIBITION.

- (1) Open burning, as listed below, may be conducted subject to specified limitations. This grant of exception shall in no way relieve the person responsible for such burning from the consequences, damages, injuries, or claims resulting from such burning.
 - (a) Repealed.
 - (b) Fires used for cooking of food or for ceremonial, recreational or comfort-heating purposes, including barbecues, campfires, and outdoor fireplaces.
 - (c) Fires set by or at the direction of responsible fire control persons solely for training purposes, such as, for fire source training at fire academies or for local fire department training. However, routine demolition of structures via supervised open burning by responsible fire control persons is not considered fire training. Additionally, the person responsible for such burning, unless conducted at a recognized fire training academy, must certify compliance with the following requirements by written statement. The certification must be delivered to the Division of Air

(Rule 1200-3-4-.04, continued)

Pollution Control at the appropriate regional Environmental Field Office at least ten (10) working days prior to commencing the burn:

1. The open burning is being conducted solely for fire training purposes;
 2. All vinyl siding, carpet, vinyl flooring, asphalt roofing materials, and any other materials expressly prohibited in Rule 1200-3-4-.03, have been removed. However, the provisions of Rule 1200-3-4-.03(4) as it pertains solely to "other rubber products" and "other plastics" are waived for incidental plastic or rubber materials which are an integral part of a structure used for fire training, such as plastic plumbing, fixtures, and conduit; electrical wiring insulation, connections, switches, and fixtures; interior trim; glues and resins in manufactured wood products; and vinyl window and door frames. Sheathing, decking, roofing, exterior siding and trim, and structural load-bearing members whose composition is primarily rubber or plastics are not considered incidental;
 3. All regulated asbestos containing materials have been removed in accordance with Rule 1200-3-11-.02; and
 4. A traffic hazard will not be caused by the air contaminants generated by the fire training.
- (d) Fires consisting solely of vegetation grown on the property of the burn site. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils, wood waste, or other ignition devices approved by the Technical Secretary.
- (e) Fires disposing of "wood waste" solely for the disposition of such wood waste as provided in T.C.A. §68-201-115(c). Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.
- (f) Fires solely for the burning of bodies of dead animals, including poultry, where no other safe and/or practical disposal method exists. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils, vegetation grown on the property of the burn site, and wood waste.
- (g) Smokeless flares or safety flares for the combustion of waste gases, provided other remaining applicable conditions of these regulations are met.
- (h) Such other open burning as may be approved by the Tennessee Air Pollution Control Board where there is no other practical, safe, and/or lawful method of disposal. Documentation demonstrating why the general open burning regulations cannot be met must be submitted.
- (i) Fires set at the direction of law enforcement agencies or courts solely for the purpose of destruction of controlled substances and legend drugs seized as contraband. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils, and wood waste. The provisions of Rule 1200-3-4-.03(4) as it pertains solely to "other rubber products" and "other plastics" are waived for incidental plastic or rubber containers of said contraband.
- (j) Fires consisting solely of vegetation, manufactured lumber products not chemically treated to prevent insect or rot damage, such as plywood, fiberboard, and paneling, uncoated paper and uncoated cardboard subject to the following conditions:
1. The site of such burning is not nearer than one-half mile to an airport, hospital, nursing home, school, Federal or State highway, national reservation, national or state park, wildlife area, national or state forest, and/or occupied structures except such structures as may be located on the same property as the burning site.

(Rule 1200-3-4-.04, continued)

2. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils, and wood waste.
 3. The person responsible for such burning must certify compliance with the distance requirements by written statement. The certification must include the types and amounts of materials projected to be burned, and must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Field Office at least ten (10) working days prior to commencing the burn.
- (k) Fires consisting solely of non-radioactive, explosive, shock sensitive, chemically unstable, or highly reactive wastes, packaging, or contaminated or potentially contaminated combustible materials. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils, and wood waste. The provisions of Rule 1200-3-4-.03(4) as it pertains solely to "other rubber products" and "other plastics" are waived for this exception. Open burning conducted under this exception is only allowed where no other safe means of disposal exists.
- (l) Fires consisting solely of materials resulting from a natural disaster, and when conducted in conformity with the following conditions:
1. Fires disposing of structural and household materials and vegetation are allowed only when those structures or materials are destroyed or severely damaged by natural disaster. Input from Emergency Management personnel may be requested in determining qualification with this criterion. The provisions of Rule 1200-3-4-.03(4) pertaining to structural and household materials may be waived if the persons seeking to open burn under this provision make a reasonable effort to remove all expressly prohibited material from the structural remains before ignition. The Technical Secretary reserves the right to inspect the proposed materials to be burned before ignition. The alternative use of chippers and grinders, landfilling, or on-site burial of waste in lieu of burning, if lawful, is encouraged;
 2. If a governmental collective burn site for disposing of structural and household materials and vegetation damaged by a natural disaster is planned, the person responsible for such burning must notify the Division of Air Pollution Control of the proposed location. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Field Office at least three (3) days prior to commencing the burn. The Division may request that alternate sites be identified to minimize impact to air quality. The alternative use of chippers and grinders in lieu of burning is encouraged;
 3. A traffic hazard will not be caused by the air contaminants generated by the fire;
 4. No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn; and
 5. Open burning conducted under this exception is only allowed where no other safe and/or practical means of disposal is available.
- (2) The Technical Secretary reserves the right to require a person to cease or limit open burning if emissions from the fires are deemed by the Technical Secretary or his designee to jeopardize public health or welfare, create a public nuisance or safety hazard, create a potential safety hazard, or interfere with the attainment or maintenance of the air quality standards.
- (3) Any exception to the open burning prohibition granted by this Rule Chapter does not relieve any person of the responsibility to obtain a permit required by any other agency, or of complying with other applicable requirements, ordinances, or restrictions.

(Rule 1200-3-4-.04, continued)

- (4) Failure to adhere to any applicable provision or condition of an exception to the open burning prohibition shall be construed as a violation of this Rule Chapter and is subject to applicable provisions of the rules and statutes of the Tennessee Department of Environment and Conservation, Division of Air Pollution Control and such corrective/punitive measures that may be deemed appropriate by the Technical Secretary of the Tennessee Air Pollution Control Board.

Authority: T.C.A. §§4-5-202, 68-201-101 et seq., and 68-25-105. **Administrative History:** Original rule certified June 7, 1974. Amendment filed January 10, 1977; effective February 9, 1977. Amendment filed February 5, 1979; effective March 21, 1979. Amendment filed May 7, 1979; effective June 21, 1979. Amendment filed September 21, 1988; effective November 6, 1988. Amendment filed May 17, 1990; effective July 1, 1990. Amendment filed March 5, 1993; effective April 19, 1993. Amendment filed April 7, 1995; effective June 21, 1995. Amendment filed June 26, 2001; effective September 7, 2001. Amendment filed March 25, 2003; effective June 8, 2003. Amendment filed September 9, 2005; effective November 23, 2005. Amendment filed June 28, 2007; effective September 11, 2007.

1200-3-4-.05 REPEALED.

Authority: T.C.A. §§68-25-105, 68-201-101 et seq., and 4-5-202. **Administrative History:** Original rule filed September 21, 1988; effective November 6, 1988. Amendment filed April 18, 1994; effective July 2, 1994. Amendment filed April 7, 1995; effective June 21, 1995. Amendment filed June 26, 2001; effective September 7, 2001.