

## **ORDINANCE NO. 287**

### **CITY OF MAGEE OUTDOOR & REFUSE BURNING ORDINANCE**

#### **SECTION 1: PURPOSE**

1.1. This ordinance is intended to promote and safeguard the public health, safety, and welfare of the citizens of the City of Magee due to the fire hazards & air pollution of open burning, outdoor burning, & refuse burning.

#### **SECTION 2: APPLICABILITY**

2.1. This ordinance applies to all outdoor burning and refuse burning within the incorporated boundaries of the City of Magee.

2.2. This ordinance does not apply to grilling or cooking using charcoal, wood, propane, or natural gas in cooking or grilling devices designed & intended for outdoor use.

2.3. This ordinance does not apply to burning in a stove, furnace, fire place, or other heating device within a building used for human or animal habitation – unless the material being burned includes refuse as defined in Section 4 of this ordinance.

2.4. This ordinance does not apply to the use of propane, acetylene, natural gas, kerosene, gasoline, or other petroleum derivative in a device intended for heating, construction, or maintenance activities.

#### **SECTION 3: SEVERABILITY**

3.1. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

#### **SECTION 4: DEFINITIONS**

4.1. “Campfire” - a small outdoor fire intended for recreation or cooking not including fires meant for disposal of waste wood or refuse.

4.2. “Clean wood” - natural wood, which has not been painted, varnished, or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

4.3. “Construction or demolition waste” - building waste materials, including but not limited to roofing shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial, or industrial building or other structure.

4.4. “Fire Chief of the Magee Fire Department” - the authorized official responsible for the direction & command of all emergency services of the fire department on behalf of the City of Magee.

4.5. “Fire Marshal of the City of Magee” - the authorized official responsible for the direction, & management of all fire prevention, life safety, & related code enforcement measures with in the City. This official is charged with the implementation, management, & enforcement of this ordinance.

4.6. “Outdoor burning” – open burning *or* burning in an outdoor wood fire furnace or patio wood burning unit.

4.7. “Open burning” – the burning of materials where the products of combustion are emitted directly into the ambient air without passing through a stack or chimney. This includes burning in a burn barrel & recreational fires.

4.8. “Outdoor furnace” – a wood-fired furnace, stove, or boiler that is not located within a building intended for habitation by humans or domestic animals.

4.9. “Patio wood-burning unit” – a chiminea, patio warmer, or other portable wood burning device used for outdoor recreation, &/or heating.

4.10. “Recreational fire” - open outdoor fires burning materials other than rubbish, for pleasure, religious, ceremonial, cooking, warmth, or similar purposes. These include camp fires & bonfires.

4.10. “Refuse” - any waste material **except:** trees, limbs, pine combs, logs, brush, stumps, leaves, straw, grass clippings, other vegetative matter, & other misc materials not specifically prohibited elsewhere in this ordinance.

## **SECTION 5: GENERAL PROHIBITION OF OPEN BURNING, OUTDOOR BURNING, AND REFUSE BURNING**

5.1. Open & outdoor burning are prohibited unless the burning is specifically permitted by this ordinance.

5.2. All *allowed* open burning shall be conducted in a safe, nuisance-free manner, when wind, low humidity, or other weather conditions have minimal adverse effects and do not create a health hazard or visibility hazard on roadways, railroads, or airfields.

## **SECTION 6: OPEN BURNING OF PAPER REFUSE**

6.1. Open burning of refuse – paper products, card board, boxes, feed bags, etc, *will require the use of a container (see below).*

6.2. Open burning of refuse from a commercial, industrial, or multi-residential establishment is not allowed unless all of the following are met:

6.3. A permit from the office of the Fire Marshal is issued. *A site inspection may be required to ensure compliance prior to issuance of a permit. No burn activity shall take place without a permit, & all of the conditions from Section 6 are met. Additional requirements are possible.*

6.4. Open burning of refuse from residential properties containing *one or two family dwellings & open property* - may be allowed if all the following conditions are met:

- (a) There is no active burn ban declared.
- (b) The burning does not create a nuisance.
- (c) The material being burned is not prohibited in Section 6
- (d) The *burning of any paper products, (newspaper, confidential materials, cardboard, feed bags, boxes & etc.)*, requires the use of a metal or concrete container (burn barrel) with a metal covering device in place, (a screen that does not have any opening larger than (1”), to prevent the larger smoldering particulate or embers from becoming airborne & drifting into near by vegetation or combustible materials

**6.5. Prohibited Materials - Burning of the following materials (refuse) is prohibited by MDEQ:**

- (a) Construction & demolition waste.
- (b) Hazardous substances including but not limited to batteries, house hold chemicals, pesticides, oil, gasoline, other fuels, paint, varnish, solvents, & etc., furniture & appliances.  
Tires.
- (c) Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foams, synthetic fabrics, sheathing around electrical wiring, plastic films, & plastic containers.
- (d) Treated or painted wood including but not limited to plywood, composite wood products, or other wood products that are painted, varnished or treated with preservatives.
- (e) Rubbish, garbage, household waste, animal carcasses or parts, etc.
- (f) Waste oil or other oily wastes.
- (g) Asphalt & products containing asphalt.
- (h) Rubber, synthetic, or other similar synthetic products.

## **SECTION 7: OPEN BURNING OF TREES, LOGS, STUMPS, LIMBS, PINE COMBS, BRUSH/GRASS CLIPPINGS, STRAW, LEAVES, & OTHER VEGETATIVE MATTER**

7.1. Burning trees, logs, stumps, limbs, pine combs, brush/grass clippings, straw, leaves, & other vegetative matter *do not require the use of a container (burn barrel).*

7.2. Open burning of materials listed in Section 7 is permitted at commercial, industrial, & multi-residential establishments or sites provided all of the following are met:

(a) A permit from the office of the Fire Marshal is issued. (*A site inspection may be required to insure compliance prior to the issuance of a permit. No burn activity shall take place without a permit.*)

(b) Large size piles or piles associated with land clearing operations may require the use of mechanical forced air ventilation, extra site preparation, &/or more restrictive locations, in order to receive a permit. The need for its required use will be determined by the Fire Marshal, or other designated fire official.

(c) *All conditions listed in and any local, State, or Federal regulations pertaining to clean air regulations shall be followed.*

7.3. Open burning of materials listed in section 7 is permitted at properties containing one or two family dwellings & open property – *may be allowed if the following conditions are met:*

(a) There is no active burn ban declared.

(b) The burning does not create a nuisance.

(c) The materials being burned are not prohibited in section 6.

(d) The size of the burn pile is not too large for the area in which it is located.

(e) The location of the burn pile is appropriate & meets conditions found in Section 7.

(f) Adequate site preparation has been made for the entire burn area(s).

7.4. Someone must be on site to monitor the burn area(s), the entire time the act of burning is occurring. The responsible person, must be of at least 18 yrs of age, & have the ability to notify authorities quickly in case the fire begins to spread out of control.

7.5. Camp fires, bon fires, or other small recreational or ceremonial fires will have the same requirements as open burning.

7.6. Except for campfires, bon fires, or other recreational/ceremonial fires – all open burning is restricted to daylight hours only.

**7.7. Location requirements/restrictions for open burning:**

7.7.1. Burning shall take place only upon the land of an owner, a renter, or a person of responsibility on behalf of an owner or renter.

7.7.2. No materials shall be burned upon any highway, road, street, curb, gutter, or sidewalk, or in proximity thereof whereby the products of combustion affect the traffic (vehicle or pedestrian).

7.7.3. No materials shall be burned around, under or in proximity to any part of a utility system - (electric, telephone, cable, satellite dish, natural gas, propane, etc.) - delivery or storage: poles, wires, cables, piping, meter, tank, etc.

7.7.4. Open burning shall not take place any closer than 50 ' from a structure, object, or combustibles located on the same property. Provisions shall be made to prevent the spread of fire to no closer than the same distance. With the use of burn barrels, this distance may be decreased to a distance of 15'. Larger, open piles may require that the minimum distances be increased from a place, structure, object, or combustibles.

No fires are permitted to be with in 15' of a property line, nor with in 50' of a building not on the same property. The minimum distances may be increased further if the pile is larger or its effects (smoke, heat, & embers) can threaten adjoining property.

Open burning around major roadways, railways, airports, churches cemeteries, funeral parlors, stadiums, parks, other populated facilities, or gatherings, etc, may have special requirements, restrictions, or prohibitions. The Fire Marshal shall determine the appropriate level.

## **SECTION 8: AGRICULTURAL OR SILVICULTURAL (FORESTRY) BURNING**

8.1. "Agricultural/silvicultural burning" is the open burning of weeds, brush, crop stubble, cut over land for timber planting preparation & underneath standing timber. This type of burning is considered an ecological burn. It is done for habitat care &/or improvement, benefiting wildlife, the habitat, or is a recognized agricultural practice. This practice requires a permit from the Mississippi Forestry Commission, in addition to any City requirements, prior to any burning of acreage.

8.2. The Fire Marshal or the Fire Chief shall maintain jurisdiction over the any potential burn site with in the city.

8.3. Site preparations shall be made prior to any large scale burn of this magnitude including but not limited to preparing adequate fire lanes around the entire burn area.

## **SECTION 9: PATIO WOOD-BURNING UNITS**

9.1. A patio wood burning unit may be used in accordance to the following conditions: The wood-burning unit shall be used for clean wood only. The wood-burning unit shall not be used to burn any refuse.

## **SECTION 10: LIABILITY**

10.1. A person utilizing or maintaining an outdoor fire may be responsible for any potential costs for fire suppression required & assumes any liability resulting from damage caused by the fire.

## **SECTION 11: RIGHT OF ENTRY & INSPECTION**

11.1. The Fire Marshal and his deputies, the Fire Chief and his designated officers, representatives of the Magee Fire Department, or any authorized agent, on behalf of the Fire Marshal or the Fire Chief who presents official credentials, may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

## **SECTION 12: AUTHORITY TO EXTINGUISH**

12.1. The Fire Marshal and his deputies, the Fire Chief and his officers, or any authorized agent on behalf of the Fire Marshal, or the Fire Chief, may order the extinguishment of any fire(s) from open burning that creates or adds to a hazardous or objectionable situation.

**SECTION 13: ATTENDANCE**

13.1. Attendance for all open burning is **required**. Open burning, bonfires, ceremonial, or other recreational fires shall be constantly attended/monitored until the fire is extinguished. Any fires found burning, but not attended, shall be extinguished by the fire department. An attendant shall be of responsible age & competency and shall be able to ensure that a fire remains in its confined area, or able to call for assistance if it begins to spread out of control.

**SECTION 14: ENFORCEMENT AND PENALTIES**

14.1. The Office of the Fire Marshal shall enforce the provisions of this ordinance. The Police Department or the Office of the Fire Marshal, may issue citations for violations of this ordinance. The penalty for violations of this ordinance shall not exceed \$500.00, inclusive of court costs.

**SECTION 15: PUBLICATION AND EFFECT**

15.1. The City Clerk shall cause this Ordinance to be published at least one time in a newspaper authorized by law to publish legal notices in and for the City of Magee, Mississippi.

15.2. This Ordinance shall take effect and be in force as provided by law.

This Ordinance was reduced to writing and read, considered, and approved, section by section, and approved as a whole in its entirety at the regular public meeting of the Board of Aldermen of the City of Magee held on October 18, 2022, at Magee City Hall, the regular place of meeting of the Board of Aldermen of said city and the vote on final passages was taken by "yeas" and "nays." A Motion to adopt this Ordinance was made by Alderman Steele and was seconded by Alderman Hickman.

Whereupon, the motion to adopt this Ordinance was put before the Board by the Mayor, and the aldermen voted as follows:

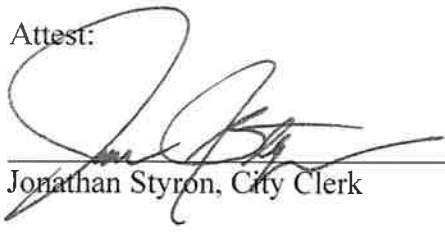
	Yea	Nay
Alderman Honea	X	_____
Alderman Hickman	X	_____
Alderman Grubbs	X	_____
Alderman Brown	X	_____
Alderman Steele	X	_____

This ordinance having received the affirmative vote of a majority of the Board of Aldermen of the City of Magee, Mississippi, shall be in force according to its provisions.

SO ORDAINED this the 18<sup>th</sup> day of October, 2022.

  
Dale Berry, Mayor

Attest:



Jonathan Styron, City Clerk