



**Maya Sanchez**  
Mayor

**Leticia Miranda**  
Alderson Place 1

**David Cantu**  
Alderson Place 2

**Miguel Najera Jr.**  
Alderson Place 3

**Rebecca Martinez-Juarez**  
Alderson Place 4

**George Almanzar**  
Alderson Place 5

ORDINANCE NO. 1707.03.01

AN ORDINANCE PROHIBITING THE OPEN OUTDOOR BURNING OF MATERIALS EXCEPT FOR CERTAIN AUTHORIZED BURNINGS AND ESTABLISHING THE CIRCUMSTANCES FOR BURN BANS WITHIN THE CITY LIMITS OF THE CITY OF SAN ELIZARIO; AUTHORIZING ENFORCEMENT AND ESTABLISHING RESPONSIBILITIES; DECLARING A NUISANCE AND PENALTY FOR VIOLATION NOT TO EXCEED \$2,000 PER DAY; AND SETTING AN EFFECTIVE DATE

RECITALS

WHEREAS, the City Council of the City of San Elizario ("City") finds that the indiscriminate open burning of materials constitutes a menace to life, limb and health to its citizens, and increases the hazard of and loss by fires; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of San Elizario:

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are adopted as facts and incorporated fully herein.

ARTICLE II. OUTDOOR BURNING PROHIBITIONS -- BURN BAN

A. Outdoor burning is prohibited in the city limits except for the following burns when conducted in compliance with the rules and regulations of the Texas Commission on Environmental Quality and the El Paso County Emergency Services District #2:

- (1) For training of firefighting personnel when requested by certified mail and when authorized in writing by the local air pollution control agency or local health unit or, if denial is not received within ten days, then authorization shall be deemed to have occurred.
- (2) Domestic waste burning at a property designed for and used exclusively as a private residence, housing not more than three families until such time that the collection of domestic waste is provided by or authorized by city, and when the waste is generated only from that property subject to meeting general requirements below.
- (3) Campfires and fires used solely for recreational or ceremonial purposes, or in the noncommercial preparation of food, or used exclusively for the purpose of supplying warmth during cold weather.
- (4) Diseased animal burning when such burning the most effective means of controlling the spread of disease.
- (5) Rural area on-site burning of trees, brush, grass, and other dry plant growth when no practical alternative to burning exists for right-of-way maintenance, land-clearing operations, and for those forest, crop, and range management purposes and such burning is in compliance with Article III, Section B below.

B. Whenever the County of El Paso orders a ban for outdoor burning, it shall be unlawful during the same time period for which such a ban is in effect for any person to intentionally or knowingly burn or cause to be burned any combustibles, including but not limited to grass, weeds, timber, rubbish, leaves, or other natural or synthetic materials, garbage, trash, rubbish, litter, solid waste, hazardous waste or any such like substances, outdoors on any street, alley, lot or premises within the city limits.

### ARTICLE III. BURN STANDARDS AND REQUIREMENTS

A. Outdoor burning permitted under this Ordinance is subject to the following standards and requirements and must additionally comply with the rules and regulations of the Texas Commission on Environmental Quality and the El Paso County Emergency Services District #2:

- (1) Burning shall be commenced only when the wind will carry smoke and other pollutants away from any city residential, recreational, commercial, or industrial area, navigable water, public road, or landing strip that may be affected by the smoke. Burning shall not be conducted when a shift in wind direction is predicted which could produce adverse effects to persons, animals, or property during the burning period.
- (2) If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the

burning to post flag-persons on affected roads in accordance with the requirements of the department of public safety.

- (3) The burning must be at least 300 feet from any adjacent properties which have residential, recreational, commercial, or industrial use.
- (4) Burning shall not be commenced when surface wind speed is predicted to be less than six mph (five knots) or greater than 15 mph (13 knots) during the burn.
- (5) Burning shall not be conducted during periods of actual or predicted persistent (12 hours or more) low-level atmospheric temperature inversions (non-surface based) or in areas covered by a current National Weather Service Air Stagnation Advisory.
- (6) Heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any material which may produce unreasonable amounts of smoke must not be burned.
- (7) No burning shall begin before 9:00 a.m., and burning must be completed within one day. To the extent possible, burning should be complete by 3:00 p.m.

~~B. It shall be unlawful for any person to intentionally or knowingly burn trees, brush, grass and other dry plant growth without having first obtained a burn permit from the El Paso County Emergency Services District #2 and filing a copy of such permit with the City Clerk prior to the start of the burn. In the case of an agricultural burn permit that requires telephone notification to the El Paso County Emergency Services District #2, telephone notice to the City Clerk prior to the start of the burn is also required.~~

#### ARTICLE IV. OFFENSE, ENFORCEMENT, AND PENALTIES

##### A. Declaration of Nuisance

Any violation of this Ordinance is declared to be a nuisance. A person violating any provision of this Ordinance is subject to criminal and civil penalties.

##### B. Penalties

###### 1. Criminal Prosecution

An offense under this Ordinance is a misdemeanor. A person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding \$2,000.00. Each day the violation exists shall constitute a separate offense.

###### 2. Civil Remedies

The City has the right to bring a civil action to enforce this Ordinance and to seek remedies including, but not limited to: a) injunctive relief to prevent specific conduct in violation of this Ordinance or to require conduct for compliance with the Ordinance; b) a civil penalty up to \$1,000.00 a day on a showing that the defendant was notified of the provisions of the Ordinance and after receiving notice,

committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and c) other available relief.

C. Enforcement Authority; Responsibilities.

1. The Fire Marshal or his designee, any code enforcement or compliance officer or any peace officer may prohibit any and all fires or order the immediate extinguishment of any and all fires when atmospheric conditions or other conditions make such fires an immediate threat to public safety or the some or ash from such fires becomes a public nuisance.
2. The authority to conduct outdoor burning under this Ordinance does not relieve the persons conducting the outdoor burning from responsibility for the consequences, damage, or injuries resulting from the burning and does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this Ordinance.

ARTICLE V. REPEALER AND SEVERABILITY

REPEALER: All ordinances, 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.

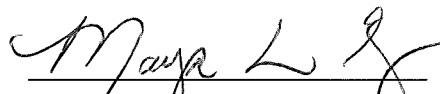
SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion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

ARTICLE VI. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

PASSED AND APPROVED this, the 8<sup>th</sup> day of August, 2017, by a vote of 5  
(ayes) to 0 (nays) to 0 (abstentions) of the City Council of San Elizario, Texas.

CITY OF SAN ELIZARIO, TEXAS

  
\_\_\_\_\_  
Maya Sanchez, Mayor



**Antonio Araujo**  
Mayor

**Leticia Miranda**  
Aldersperson Place 1

**David Cantu**  
Aldersperson Place 2



**Miguel Najera Jr.**  
Aldersperson Place 3

**Maria Covernali**  
Aldersperson Place 4

**George Almanzar**  
Aldersperson Place 5

**ORDINANCE NO. 1807.03**

**AN ORDINANCE AMENDING ORDINANCE NO. 1707.03.01 RELATING TO THE PROHIBITION OF CERTAIN OPEN OUTDOOR BURNING BY REMOVING THE REQUIREMENT OF FILING PERMITS WITH THE CITY CLERK; THE PENALTY FOR A VIOLATION IS A MISDEMEANOR WITH A FINE NOT TO EXCEED \$2,000 PER DAY.**

**RECITALS**

**WHEREAS,** the City Council of the City of San Elizario ("City") adopted Ordinance No. 1707.03.01 to ban open outdoor burning except when conducted in compliance with the rules and regulations of the Texas Commission on Environmental Quality and the El Paso County Emergency Services District #2; and

**WHEREAS,** the Ordinance requires that a copy of a permit be filed with the City Clerk prior to commencing a burn, and the City Council now determines this to be an unnecessary step in the process; and

**WHEREAS,** pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of San Elizario:

**ARTICLE I. FINDINGS OF FACT**

The foregoing recitals are adopted as facts and incorporated fully herein.

ARTICLE II. AMENDMENT TO SECTION B

That Section B of Article III of Ordinance No. 1707.03.01 is amended to read as follows:

- B. It shall be unlawful for any person to intentionally or knowingly burn trees, brush, grass and other dry plant growth without having first obtained a burn permit from the El Paso County Emergency Services District #2 prior to the start of the burn. In the case of an agricultural burn permit that requires telephone notification to the El Paso County Emergency Services District #2, such telephone notice is also required.

ARTICLE III. REMAINDER OF ORDINANCE TO BE IN EFFECT

Except as herein amended, Ordinance No. 1707.03.01 shall remain in full force and effect.

ARTICLE IV. REPEALER AND SEVERABILITY

REPEALER: All ordinances, 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.

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.

ARTICLE V. EFFECTIVE DATE

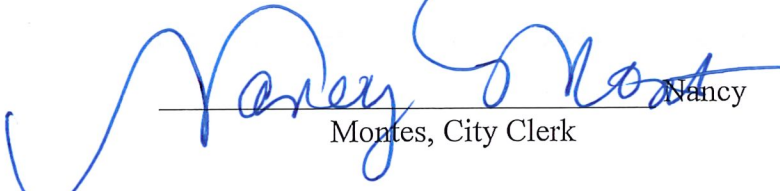
This Ordinance shall be effective immediately upon passage and publication.

**PASSED AND APPROVED** this, the 9 day of October, 2018, by a vote of 3 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of San Elizario, Texas.

CITY OF SAN ELIZARIO, TEXAS

  
Antonio Araujo, Mayor

ATTEST:

  
Nancy Montes, City Clerk

