

**ORDINANCE No. 2020- 08**  
**OPEN BURNING ORDINANCE**

WHEREAS, the Town of Triana, through its council and Mayor, has determined that regulation of open burning in the city limits of the Town is in the best interest of public safety and environmental preservation;

WHEREAS, the Town Council and Mayor believe that regulation of open burning is best managed through the Town Fire Department and/or Fire Chief;

WHEREAS, the Fire Department and Fire Chief have consulted with the Town Council and Mayor regarding their new duties and obligations under this ordinance and are prepared to enforce the terms thereof;

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF  
THE TOWN OF TRIANA, ALABAMA AS FOLLOWS:**

Section 1 – Purpose

This article is enacted to protect, preserve, and promote the safety and welfare of the citizens of Triana, Alabama, through the reduction, control and prevention of open burning.

Section 2 – Definitions

Except where specifically defined herein, all words used in this article shall carry their customary meanings. The word "shall" is always mandatory and not merely directory.

*Contractor* shall mean the primary contractor/builder or subcontractor for a particular construction site for which a building permit has been issued.

*Court* shall mean and refer to the Municipal Court of Triana;

*Fire extinguishing equipment* shall mean an approved ten-pound ABC fire extinguisher; or any other equipment approved in writing in advance by the fire chief.

*Fire chief* shall mean the officer or other designated authority or their duly authorized representative charged with the administration and enforcement of the fire prevention code. He or his duly authorized representative is charged with the responsibility for investigation of all fires that occur within the city.

*Open burning* shall mean the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack, duct, or chimney.

### Section 3 – Open burning prohibited, generally

No person shall cause, suffer, allow, or permit open burning except as specifically permitted by this ordinance.

### Section 4 – Exceptions

(a) Open burning as specified below may be conducted, subject to the limitations as spelled out in the open burning permit which is issued upon approval by the fire chief. This grant of exception shall in no way relieve the person responsible for such open burning from the consequences of or the damages or injuries resulting from such burning. No open burning permits shall be issued without the prior approval of the Town of Triana fire chief or his designated representative. The fire chief's approval shall be based upon his judgment as to the fire safety potential of the proposed open burning activity.

- (1) Open burning of leaves and small trees limbs, less than three (3) inches in diameter, at a residence where collection for such material is not available. The fire chief or his designated representative will make the determination of availability. Burning of trees or limbs cut as a commercial service by tree surgeons, landscapers or other persons is prohibited.
- (2) Open burning for the disposing of materials grown on that tract of land may be conducted provided the following conditions are met:
  - a. Burning is done using an air curtain destructor or other approved device, at suitable sites as approved by the fire chief, when such device is operated in a manner satisfactory to the chief, and with a valid open burning permit.
  - b. The burning will take place on days and hours designated by the chief. Designated days of burning will always be tentative and will be regulated according to weather conditions.

(b) Open burning as specified below may be conducted, subject to the limitations as spelled out in the permit which is issued upon approval by the fire chief. This grant of exception shall in no way relieve the person responsible for such open burning from the consequences of or the damages or injuries resulting from such burning.

- (1) Ceremonial fires (such as school bonfires,) when the fires are approved ignited and extinguished by Triana Fire Department personnel.
- (2) Fires set between October 1 and April 30 for the purpose of providing warmth to workers at construction sites, for which a building permit has been issued, providing the following conditions are met:
  - a. Any fire is contained in a noncombustible container not to exceed fifty-five (55) U.S. gallons, with the opening covered by an ash screen.

- b. Fire containers shall be located a minimum of twenty-five (25) feet from any structure, tree, or bush.
- c. Fire containers shall be located a minimum of twenty-five (25) from electrical lines and/or electrical service.
- d. Only clean fuel not containing garbage, rubber, plastic, metals, shingles, treated lumber, or other hazardous material is permitted.
- e. Fire extinguishing equipment as defined in section 14-102 of this article shall be located within five (5) feet of the fire container.
- f. Fires shall be extinguished when no worker is in attendance.
- g. The contractor as defined in this ordinance shall apply in advance for a permit issued in his/her name from the fire chief and shall be held liable for all permit violations on the burn site.

(c) Open burning activities specified below may be conducted without an open burning permit. Notification of intent to conduct such activity as specified below shall be made to the chief twenty-four (24) hours prior to the time the open burning activity is to begin. The person conducting any of the following open burning activities shall be responsible for the consequences of such activities and all damages or injuries resulting from such open burning.

- (1) Fires set for the training and instruction of public or private fire-fighting personnel.
- (2) Fires set by or at the direction of responsible fire control agencies for the prevention, elimination or reduction of a fire hazard.
- (3) Smokeless flares or safety flares for the combustion of waste gases.
- (4) Fires used for agricultural, horticultural and silvicultural purposes, when specifically recommended by the Alabama Extension Service or Alabama Forestry Commission, provided such fires are conducted only in situations where the actual burning is at least one thousand (1,000) feet from the closest occupied building.
- (5) Fires used to destroy pests, germs, dead animals, etc. when the open burning is being conducted in accordance with, or under the direct supervision of the local or state health department.

(d) No open burning permit is required for fires used for cooking of food including barbecues and outdoor fireplaces. Only clean fuel not containing garbage, rubber, plastics, or other refuse is permitted.

#### Section 5 – Open Burning Permits

(a) **Permits.** Open burning permits may be issued subject to specified conditions, consistent with standards provided herein, in which case the conditions shall be specified in writing. The holder of a

permit shall comply with conditions contained in such permit as well as all applicable provisions of this article.

(b) **Permit applications.** Applications for open burning permits shall be in the form prescribed by the fire chief and shall give all the information necessary to enable the chief to make the determinations herein required. Applications should be submitted a minimum of three (3) days prior to the requested burn date.

(c) **Action on application.** The chief shall act, within a reasonable time, on an application for an open burning permit and shall notify the applicant in writing of its approval, conditional approval, or denial.

(d) **Permit fees.** Open burning permit fees in the amount of fifty dollars (\$50.00) per permit shall be paid at the time of application. Fees shall be made payable to the Triana Fire Department and shall be nonrefundable.

(e) **Revocation of permit.** Any open burning permit granted by the chief may be revoked after 7-days' notice for any of the following causes.

- (1) Failure to comply with the provisions of this article;
- (2) Failure to comply with any conditions of the open burning permit;
- (3) For any other cause if, in the judgment of the chief, continuance of the permit is not consistent with the purposes of this article;

(f) **Transfer.** Open burning permits shall not be transferable whether by operation of law or otherwise, either from one (1) location to another, or from one (1) person to another.

(g) **Expiration of permit.** Open burning permits shall expire on the date specified on the face of the permit. In no event, however, may an open burning permit be issued which has expiration dated of longer than ten (10) days from the burn start date.

(h) **Display of permits.** Permits shall be displayed and available for inspection at the open burning site by any and all town officials who may request to see the permits.

#### Section 6 – “No Burn” Orders

The fire chief or the deputy fire chief may from time to time issue temporary "no burn" orders at any time when such officer shall deem burning of the items eligible for a permit to be dangerous to the property or residents of the city or its police jurisdiction.

#### Section 7 – Burning of Dangerous or Hazardous Material

No permit shall be issued for the burning of any materials which may produce dangerous, noxious, or toxic fumes, smoke, odors, or which may be considered dangerous to the health and general

welfare of the people of the city. All permits issued under this ordinance shall be deemed to include the prohibitions detailed in this Section.

Section 8 – Undue Hardship

Applications for a permit for exception from the standards or requirements designated in this article may, on the basis of undue hardship, be made to the chief. Any permit granted hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective. The chief may grant the exception as applied for only if the applicant represents, and the chief finds, that open burning as permitted will not violate recognized safety standards, that no other reasonable alternative is available to the applicant, and that the burning can be conducted in such a manner as to be consistent with the purposes of this article. Upon the issuance of any exception permit, the chief may prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community.

Section 9 – Penalties

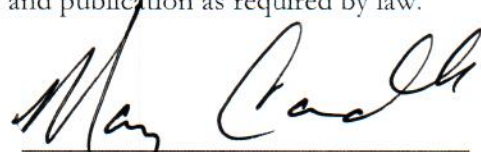
Any person who violates or fails or refuses to obey or comply with any provision of this article shall, upon conviction, be punished, in addition to such other punishment, including a term of community service, as may be provided by the Court, by minimum fines and penalties, for a first conviction of one hundred dollars (\$100.00) or by imprisonment for not more than ten (10) days; for conviction of a second offense committed within one (1) year after the date of the first offense, such person shall be punished by a fine of two hundred dollars (\$200.00) or by imprisonment for not more than thirty (30) days or by both such fine and imprisonment; for conviction of a third or subsequent offense committed within one (1) year after the date of the first offense, such person shall be punished by a fine of five hundred dollars (\$500.00) or by imprisonment for not more than three (3) months or by both such fine and imprisonment.

Section 10 – Enforcement

Any law enforcement officer of the Town of Triana, including but not limited to the chief of police and any officer or deputy of the police department, and the building inspector or any authorized employee from the Inspection Department, are hereby authorized to issue citations to offenders to appear in municipal court to answer charges/allegations of violations of any of the provisions of this article.

Section 11 – Applicability

This ordinance shall be in effect immediately upon adoption and publication as required by law.

  
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Mayor Mary Caudle

ATTEST:

  
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Sharon Humphrey, Clerk

Certification of Clerk

I, the undersigned, as Clerk of the Town of Triana, Alabama, hereby certify that the foregoing Ordinance No. 2020-8 was approved and adopted by the Council of the Town of Triana at a regular meeting held on the 22 day of June, 2020

  
Sharon Humphrey - Clerk / Mayor