

## ORDINANCE 296

<p style="text-align:center"><b>AN ORDINANCE OF THE CITY OF ELKINS, WEST VIRGINIA TO AMEND AND REVISE ELKINS CITY CODE SECTION 92.002 <u>FIRE SEASONS:</u> <u>OUTDOOR FIRES</u></b></p>
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**WHEREAS**, the Common Council of the City of Elkins, West Virginia has previously determined that the adoption of the West Virginia State Fire Code is in the best interest of the citizens and residents of the City of Elkins by safeguarding the life and property of such citizens and residents from the hazards of fire and explosion within the corporate limits of the City of Elkins; as authorized by W.Va. Code §8-12-5(15) and W.Va. Code §8-11-4; and

**WHEREAS**, the Common Council has determined that it is in the best interests of its citizens and residents to amend Elkins City Code §92.002 Fire Seasons: Outdoor Fires and to repeal and rescind two other Sections in the same Chapter that are no longer necessary in light of the amended Section; and

**NOW THEREFORE, BE IT ORDAINED and ENACTED** by the Common Council of the City of Elkins, West Virginia that (1) Elkins City Code §92.002 Fire Seasons: Outdoor Fires shall be amended as follows and (2) Elkins City Code §92.003 Burning Paper, Refuse, and the Like; In Streets and §92.018 Amendments shall be repealed and rescinded as no longer necessary:

§92.002 – Outdoor Fire: Burning for Disposal

(A) Fires to dispose of natural, untreated, and unprocessed materials (such as tree trimmings, grass, leaves, and similar garden waste) are permitted inside the City limits on the following days and times:

- 5 p.m. Thursdays to 7 a.m. Fridays
- 5 p.m. Fridays to 7 a.m. Saturdays
- 5 p.m. Saturdays to 7 a.m. Sundays

All such fires are to be fully extinguished by 7 a.m.

- (1) Prior to such fires, a permit must be applied for and received from the Chief of the Elkins Fire Department or a designee thereof. The Fire Chief shall have discretion in issuing these permits and may require changes to the proposed burning plan as necessary to reduce the risk of harm to life and property.
  - (2) Before such fires are ignited, the area immediately surrounding the material to be burned shall be cleared of other flammable material for a distance sufficient to ensure that the fire will be contained. This safety strip shall in no event measure less than 10 feet from all sides of the material to be burned.
  - (3) Fires shall be attended at all times. The issuance of permits does not relieve holders thereof from their responsibility to monitor wind and other conditions that may necessitate the cancelling or early extinguishing of otherwise permitted fires. Elkins Fire Department personnel also have the authority to order the extinguishing of any fire, permitted or not, when in their judgment it poses a risk to life or property.
- (B) Fires to dispose of non-natural materials, including but not limited to paper, garbage, lumber and other construction debris, and other refuse, are prohibited, even if contained in a “burn barrel” or similar container.
- (C) Fires to clear grasslands or forests are prohibited.
- (D) Small fires set for the purpose of food preparation or for providing light or warmth, the area around which has been cleared of flammable materials in the manner described above, are allowed whenever wind and other conditions do not render them unsafe.
- (E) Any person who sets or causes to be set any fire in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount set forth by Council from time to time.

(F) Any person who sets or causes to be set any fire that escaped the safety strip and causes damage to the lands or property of another is guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount set forth by Council from time to time.

If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and Common Council determines that it would have adopted this Ordinance without the invalid provision.

This Ordinance shall become effective upon passage.

PASSED AND APPROVED ON FIRST READING: \_\_\_\_\_,  
2022.

PASSED AND APPROVED ON SECOND AND FINAL READING THE \_\_\_\_\_  
DAY OF \_\_\_\_\_, 2022.

CITY OF ELKINS, WEST VIRGINIA

\_\_\_\_\_  
Jerry A. Marco, Mayor

Attest:

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Jessica R. Sutton, City Clerk

