

**CITY OF RUSSELLVILLE, KENTUCKY
ORDINANCE 2008-17**

AN ORDINANCE AMENDING ORDINANCE 92-19, "AN ORDINANCE PROHIBITING THE BURNING OF LEAVES, YARD TRIMMINGS AND HOUSEHOLD RUBBISH WITHIN THE CITY LIMITS OF RUSSELLVILLE, KENTUCKY; WITH SEVERABILITY AND REPEALER CLAUSES AND PROVIDING FOR AN EFFECTIVE DATE" BY ALLOWING FOR CONTROLLED BURNS IN COMPLIANCE WITH A CONTROLLED BURN AGREEMENT; BY INCREASING THE MINIMUM FINE FOR A VIOLATOR WHO DOES NOT CONTEST A CITATION FROM \$5.00 TO \$250.00; AND PROVIDING A SEVERABILITY CLAUSE, REPEALER CLAUSE AND AN EFFECTIVE DATE

WHEREAS, Ordinance 92-19 prohibits the unlawful burning of leaves, yard trimming and rubbish; and

WHEREAS, the City Fire Department is required to respond when one is unlawfully making an unauthorized burn; and

WHEREAS, the cost to the City for making a simple run to a fire is estimated by the Fire Chief to be \$200.00, excluding the cost of water; and

WHEREAS, it would be in the interests of the health, safety and welfare of the citizens of the City of Russellville to allow for a "Controlled Burn Agreement" upon certain agreed-upon conditions; and

WHEREAS, the Fire Chief and the Code Enforcement Board have requested the City Council to consider increasing the minimum fine for violation of this Ordinance from \$5.00 to \$250.00;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL IN AND FOR THE CITY OF RUSSELLVILLE, KENTUCKY, AS FOLLOWS:

SECTION I. SUBSTANTIVE AMENDMENTS

A. A new section shall be added to allow from Controlled Burns which shall read as follows:

Any person desiring to burn natural growth, limbs and brush on his/her property may lawfully do so only by entering into a "Controlled Burn Agreement" with the City of Russellville, the model contract of which is attached to this Ordinance, incorporated by reference and made a part hereof as if fully rewritten herein.

B. In the penalty section, Subpart(a) of Ordinance 92-19 is hereby amended as follows:

(a) **CIVIL PENALTY:** Violation of this Ordinance is a civil offense. The minimum and maximum civil penalty that may be imposed is ~~\$500.00~~ 250.00 for each offense, and each day the Ordinance is violated may be considered a separate offense. If one who violates this Ordinance does not contest a citation, then the penalty for such violation shall be ~~\$5.00~~ 250.00, and each day the Ordinance is violated may be considered a separate offense.

SECTION II. SEVERABILITY CLAUSE. The provisions of this Ordinance are severable. If any sentence, clause or part of this Ordinance or the application thereof to any particular set of facts is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance, it being the legislative intent of this body to ordain and enact each other.

SECTION III. REPEAL OF EXISTING ORDINANCES. All ordinances or parts of ordinances in conflict herewith now in effect, to the extent of said conflict, are hereby repealed.

SECTION IV. EFFECTIVE DATE. This ordinance shall become effective upon passage and publication as required by law.

FIRST READING conducted on the 7th day of October, 2008.

SECOND READING AND PASSAGE on the 21st day of October, 2008.



GENE ZICK, MAYOR

ATTEST:



BOB RIGGS, CITY CLERK

Ayes: Jones, Russell; Philips, Chuck; Whipple, Jack.

Nays: Davenport, Jimmy; Stratton, Mark.

Absent: none.

Abstaining: McPherson, Lanny.

CONTROLLED BURN AGREEMENT

WHEREAS, the City of Russellville, in an effort to accommodate those citizens of the city who are desirous of burning appropriate debris, for example, natural growth, limbs and brush, within the city limits, in a manner not in violation of any City Ordinance or other law pertaining to burning, and

WHEREAS, the land owner desires to burn such debris;

WHEREAS, the landowner agrees not to burn processed wood or any man-made item of fabricated items(s), and

WHEREAS, no structures shall be burned without written consent and knowledge of the Kentucky Division of Air Quality;

NOW, THEREFORE, it is hereby agreed that the City of Russellville, hereinafter referred to as "City" and _____, hereinafter referred to as "Owner" as follows:

1. **PROPERTY LOCATION:** Owner certifies that he and/or she are the owners of a fee simple interest in a certain parcel of real estate located in the City of Russellville, and with a street address of _____.
2. **DEED:** Owners attaches to this agreement a properly recorded copy of the deed to the parcel of real property referenced above and certifies that he/or she is the current owner of said property, and that owner is lawfully possessed of said real estate without any rights thereto having been sold, leased or otherwise transferred to any third party.

3. **INSURANCE:** Owner certifies that there is currently no casualty insurance on any structure on the property to be burned upon which damage claim for casualty loss may be made by virtue of the burning.
4. **FIRE DEPARTMENT:** The City and Owner agrees that a City of Russellville Fire Department Emergency Fire Truck accompanied by two off-duty fire personnel shall be on site for the duration of the burning to observe the agreed controlled burn at the designated property location.
5. **PAYMENT:** Owner agrees to pay to the City of Russellville for the use of the emergency fire truck and the two off duty fire persons. (The cost of the use of the emergency fire truck at a cost of \$50.00 per hour, and the cost of the use of two off-duty fire persons at \$25.00 each per hour.) Payment for two-hour minimum required (\$200.00). Extra fee of \$50.00 will be applied if the truck and firemen return to the site.
6. **TIME AND DATE FOR THE BURN:** The Owners agrees that the City of Russellville will determine the appropriate date and time for the controlled burn to take place. That date and time will be as follows:

Date: _____ Time: _____

7. **TIME AND PAYMENT:** Owner agrees to make payment to the City of Russellville upon completion of the controlled burn by making full payment prior to the time the fire truck and personnel leave the property.

8. **CLEANUP:** Owner understands and agrees that the controlled burn will be at the Owner's request and that the City of Russellville will not, in any way, be responsible for any contents and/or damage resulting from the controlled burn out contemplated by this agreement. Owner agrees and accepts full responsibility for the cleanup of any and all remaining debris to the satisfaction of applicable City of Russellville Ordinances within 14 days after the completion of the controlled burn.
9. **HOLD HARMLESS:** Owner further understands and agrees to the City of Russellville harmless from any and all damages, costs of services, expenses and/or compensation on account of, or that might arise as a direct or indirect result of a controlled burn. Owner agrees, does hereby release, acquit and forever discharges the City of Russellville, its agents and/or assigns, along with all of the respective as and/or employees who might be claimed to be liable, of and from all actions, causes of action, claims, demands, costs loss of services, expenses, and compensation of account of, or in any way growing out of, any and all known and unknown property damage resulting from the controlled burn which occurred on the property location.
10. **HEIRS AND ASSIGNS:** This Control Burn Agreements shall be binding on the heirs, executors, administrators and assigns of the Owner.

IT IS SO AGREED this the date and day on which it is signed.

CITY OF RUSSELLVILLE, KENTUCKY

DATE

by: _____
CITY FIRE CHIEF OR HIS DESIGNEE

DATE

by: _____
MAYOR, CITY OF RUSSELLVILLE

ATTEST:

CITY CLERK

DATE

OWNER

DATE

OWNER