

ORDINANCE NO. 2007-7

AN ORDINANCE OF THE KENTON, TENNESSEE, BOARD OF ALDERMEN TO REPEAL SECTION 13-102 OF THE KENTON MUNICIPAL CODE RELATING TO SMOKE, SOOT, AND CINDERS; AND ADOPTING A NEW SECTION 13-101 OF THE KENTON MUNICIPAL CODE RELATING TO THE SAME.

WHEREAS, the Kenton Board of Mayor and Aldermen has determined the need to enact and enforce modern polices for the purpose to safeguard the health, comfort, living conditions, safety, and welfare of the citizens of the community by regulating the air pollution and fire hazards of open burning and outdoor burning; and

WHEREAS, Section 1.04, paragraph (l) of the Kenton private act charter authorizes the Board of Mayor and Aldermen to "define, regulate, and prohibit any act, practice, conduct, or use of property that would be detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, or general welfare of inhabitants of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF KENTON, AS FOLLOWS:

SECTION 1. Section 13-102 of the Kenton Municipal Code relating to smoke, soot, and cinders repealed. Section 13-102 of the Kenton Municipal Code relating to smoke, soot, and cinders, is hereby repealed in its entirety.

SECTION 2. New Section 13-102 of the Kenton Municipal Code created. A new Section 13-102 of the Kenton Municipal Code is hereby adopted, to read as follows:

13-102. Outdoor and open burning, smoke, soot, cinders, etc.

- (a) Definitions. For the purpose of administering this ordinance, the following words and phrases are hereby defined:

- (1) "Campfire" means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.
- (2) "Clean wood" means natural wood which has not been painted, varnished, or coated with a similar substance; has not been treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.
- (3) "Construction and demolition waste" means building waste materials, including but not limited to waste 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) "Fire chief" means the chief of the Kenton Fire Department.
- (5) "Municipality" means the City of Kenton, Tennessee.
- (6) "Outdoor burning" means open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.
- (7) "Open burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. Open burning includes burning in a burn barrel.
- (8) "Outdoor wood-fired boiler" means a wood-fired boiler, stove, or furnace that is not located within a building intended for habitation by humans or domestic animals.
- (9) "Patio wood-burning unit" means a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- (10) "Refuse" means any waste material except trees, logs, and brush.

- (b) It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.
- (c) Open burning of refuse. Open burning of refuse is hereby prohibited. The Kenton Fire Chief shall not issue a permit to any person for the open burning of refuse.
- (d) Open burning of stumps, leaves, and grass clippings. Open burning of tree stumps, leaves, and grass clippings is hereby prohibited. The Kenton Fire Chief shall not issue a permit to any person for the open burning of stumps, leaves, or grass clippings.
- (e) Open burning of trees, logs, and brush. The open burning of trees, logs, or brush is permitted only in accordance with all of the following provisions:
  - (1) Except for campfires, patio wood-burning, and barbecue, gas, and charcoal grills, a permit issued in accordance with Section (h) of this Ordinance must be obtained prior to open burning.
  - (2) All open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways, railroads, or airfields.
  - (3) Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and cold. The person attending such open burning shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

- (4) No materials may be burned upon any street, curb, gutter, or sidewalk.
  
- (f) Outdoor wood-fired boilers. No person shall install, maintain, or use an outdoor wood-fired boiler in the City of Kenton.
  
- (f) Patio wood-burning units. A patio wood-burning unit may be installed, without the issuance of a burning permit by the City of Kenton, and used only in accordance with all of the following conditions:
  - (1) The patio wood-burning unit shall not be used to incinerate refuse.
  - (2) The patio wood-burning unit shall burn only clean wood.
  - (3) The patio wood-burning unit shall be located at least fifty (50) feet from the nearest structure which is not on the same property as the patio wood-burning unit.
  - (4) The patio wood-burning unit shall not cause a nuisance to neighbors.
  
- (g) Fire suppression training. Notwithstanding the provisions of Section 13-102(b) and Section 13-102(c) of the Kenton Municipal Code, structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions:
  - (1) The burn must be exclusively for fire suppression training. The burning shall not be used as a means to dispose of waste material including tires and other hazardous materials.
  - (2) The burn shall require the prior approval of the Board of Mayor and Aldermen.

- (3) Any standing structure that will be used in a fire suppression training exercise must be inspected by a licensed asbestos inspector. A notification of this inspection must be submitted to the Tennessee Department of Environmental Control (TDEC) at least ten (10) business days prior to the exercise.
- (4) All asbestos must be removed prior to conducting the fire suppression training. If the structure to be burned is a residential dwelling, the owner may remove the asbestos or have it removed by a licensed abatement contractor. If the structure to be burned is a commercial or industrial building, all asbestos must be removed by a licensed abatement contractor.
- (5) All ash shall be disposed of in an approved landfill or at an alternate location approved by the Tennessee Department of Environmental Control.
- (6) At least fourteen (14) days before a planned practice burn, residents located within five hundred (500) feet of the proposed burn site shall be provided written notification signed by the Fire Chief.
- (7) All fire suppression training shall conform to the guidelines established by the National Fire Protection Association (NFPA).

(h) Burning permits.

- (1) Except for campfires, patio wood-burning, and barbecue, gas, and charcoal grills, no person shall start or maintain any outdoor burning or open burning without first obtaining a burning permit issued by the Kenton Fire Chief.
- (2) When weather conditions warrant, the Fire Chief may temporarily suspend the issuance of permits for open

burning and may temporarily suspend previously issued permits for open burning.


- (3) The Fire Chief may require the provision of additional safety measures as a condition of issuing a burning permit.
  - (4) Any violation of the condition of a burning permit shall be deemed a violation of this Ordinance. Any violation of this Ordinance or the burning permit shall void the permit.
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- (i) **Liability.** A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.
  - (j) **Right of entry and inspection.** The Fire Chief, any law enforcement officer, and any other officer, agent, or employee designated by the City of Kenton may inspect any property for the purpose of ascertaining compliance with the provisions of this Ordinance.
  - (k) **Enforcement and penalties.** The Fire Chief, any law enforcement officer, and any other officer, agent, or employee designated by the City of Kenton are hereby authorized to enforce the provisions of this Ordinance. Any person, firm, association, partnership, corporation, or governmental entity found to have violated any of the provisions of this Ordinance or to have failed to comply with a duly authorized order issued pursuant to this Ordinance shall be deemed to be responsible for a civil infraction of the Kenton Municipal Code and subject to a civil fine not to exceed fifty dollars (\$50.00).

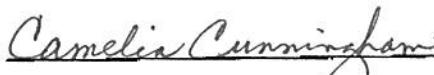
**SECTION 3. Effective date.** This Ordinance shall be in full force and effect from and after its date of passage by the Kenton Board of Mayor and Aldermen.

SECTION 4. Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by State or Federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

SECTION 5. Repealer. All ordinances and parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

PASSED AND APPROVED THIS 18<sup>th</sup> DAY OF December, 2007 BY  
A ROLL CALL VOTE OF THE KENTON BOARD OF MAYOR AND ALDERMEN.

  
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JOHN MAUGHN, MAYOR OF KENTON

ATTEST:   
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Camelia Cunningham, City Recorder

Date of First Reading	Date of Second Reading	Date of Third Reading
12-4-07	12-11-07	12-18-07