

ORDINANCE NO. 2016-O-006

**AN ORDINANCE REGULATING OPEN BURNING
AND NUISANCE FIRES AND SETTING FEES FOR VIOLATIONS**

WHEREAS, the Tri-State Fire Protection District ("District"), DuPage and Cook Counties, Illinois, is a fire protection district duly incorporated under the laws of the State of Illinois, and

WHEREAS, the Board of Trustees of the District (the "Board") has full power pursuant to Section 6 of the Act (70 ILCS 705/6), to pass all necessary ordinances, and rules and regulations for the proper management and conduct of the business of the Board for carrying into effect the objects for which the District was formed; and

WHEREAS, Section 8.20 of the Act (70 ILCS 705/8.20) grants the Board authority: (a) to "require that the district be notified of open burning within the district before it takes place" (70 ILCS 705/8.20(a)), (b) to "extinguish any open burn that presents a clear, present, and unreasonable danger to persons or adjacent property or that presents an unreasonable risk because of wind, weather, or the types of combustibles" (70 ILCS 705/8.20(b)), and (c) to "prohibit open burning within the district on an emergency basis, for a limited period of time, if (i) the atmospheric conditions or other circumstances create an unreasonable risk of fire because of wind, weather, or the types of combustibles and (ii) the resources of the fire department are not sufficient to control and suppress a fire resulting from one or more of the conditions or circumstances described in clause (i) (70 ILCS 705/8.20(d))"; and

WHEREAS, the District may enforce an ordinance adopted pursuant to Section 8.20 of the Act (70 ILCS 705/8.20) within its corporate limits except for that portion of the District located within the Village of Willow Springs, which is located within Cook County (70 ILCS 705/8.20(a)); and

WHEREAS, DuPage County and the municipalities within the DuPage County portion of the District, including the City of Darien, the Village of Willowbrook, and the Village of Burr Ridge have adopted ordinances that regulate and/or prohibit various forms of open burning; and

WHEREAS, many occupants of homes, business establishments, farms, and public buildings within the District desire from time to time to conduct open burning of various materials within the District; and

WHEREAS, a variety of nuisance fires and open burns become uncontrolled, which results in the expenditure of substantial amounts of money for the personnel and equipment sent to respond to such fires; and

WHEREAS, the cost of specialized training and equipping of the open burn monitoring and response services teams is considerable, yet the benefits often accrue to a small number of people or entities; and

WHEREAS, the Board finds that it is in the best interest of the health and safety of the District's residents, businesses and visitors to require reporting of and monitoring as necessary of open burning performed within the District as permitted by law; and

WHEREAS, the Board finds that it is in the best interest of the health and safety of the District's residents, businesses and visitors to extinguish any open burn that presents a clear, present, and unreasonable danger to persons or adjacent property or that presents an unreasonable risk because of wind, weather, or the types of combustibles, as permitted by law; and

WHEREAS, the Board finds that it is in the best interest of the health and safety of the District's residents, businesses and visitors to authorize and empower the District Fire Chief or designated representative to prohibit within the District open burning within the District on an emergency basis, for a limited period of time as permitted by law; and

WHEREAS, the Board finds that it is in the best interest of the District and the residents of the District to require that those receive the District's open burn monitoring and response services after having either (a) failed to provide notice of an open burn to the District or (b) failed to comply with an open burn prohibition announced by the District's Fire Chief, both contrary to the requirements of this Ordinance, to reimburse the District for costs resulting from monitoring and response services provided, including the costs of training and maintaining the open burn monitoring and response service teams; and

WHEREAS, the Board finds that it is in the best interest of the District to establish standard and uniform reimbursement fees for District open burn monitoring and emergency response services.

NOW, THEREFORE, Be It Ordained, by the Board of Trustees of the Tri-State Fire Protection District, DuPage and Cook Counties, Illinois, as follows:

Section One: The Board finds and determines the above recitals to be true and correct, and incorporates them as if written out here in full.

Section Two: Definitions. For the purposes of this Ordinance, the following words and phrases shall have the meanings ascribed to them in this Section:

A. **Open Burning**: Any outdoor fire that is intentionally lit that is not used for recreation or cooking.

B. **Nuisance Fire**. Any fire that is burning waste material which is designated so by the EPA, DuPage County, the City of Darien, the Village of Burr Ridge, and the Village of Willowbrook.

C. **Recreation Fire**. Recreation fires, being occasional fires such as barbeques, campfires and fire pits when used for entertainment or food preparation purposes. The only items that may be used for such fires are clean dry firewood or charcoal for food preparation purposes. Leaves, sticks, logs, branches, bushes and other landscape waste originating on the owner's property or otherwise may never be

used for a recreation fire. Recreation fires may not exceed an area dimension of six feet by six feet.

D. Waste Materials. Waste Material means all substances liquid, semi-solid or solid, other than, clean dry fire wood, charcoal and cooking or camping fuel. Waste Materials including but not limited to; garbage, trash, refuse, lumber, building materials, tires, leaves, sticks, logs, branches, bushes and other landscape waste originating on the owner's property or otherwise shall not be burned in recreation fires.

E. Patio Wood Burning Unit. A unit being a chimney, patio warmer, or other portable wood burning device used for outdoor recreation and/or heating. The only fuel source for such patio wood burning unit shall be clean dry firewood.

F. Competent Person. Anyone over the age of 18 who is not under the influence of drugs or alcohol.

G. Means of Extinguishment. A fire extinguishing system that is on hand and ready to deploy, to extinguish the open burning. This can be an appropriate sized extinguisher, a hose and water supply, or earth moving equipment. The fire shall be considered extinguished when smoke ceases to be emitted.

Section Three: Notification Requirements. All residents and business shall notify the District's Fire Chief or designated representative at least twenty-four (24) hours in advance of any open burn to take place on property within the District. No notice shall be required for a recreation fire authorized under this ordinance or other such recreation fire that does not require a special permit or special authorization from DuPage County, the City of Darien, the Village of Willowbrook or the Village of Burr Ridge. The notification shall include the following information:

- A. The name of the competent person who will be responsible for the fire;
- B. A call back phone number for the competent person / responsible party;
- C. The address of the property the burn will occur at; and

D. The approximate hours in which the open burning will occur.

The District may deny requests to conduct an open burn if warranted by current or forecasted weather conditions. There shall be absolutely no open burning if the District is under a red flag warning or drought conditions as determined by the National Weather Service.

Section Four: Open Burn Requirements.

A. Fires to be Attended. All fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a hose connected to a water supply or other fire extinguishing equipment ready for use. This person shall be responsible for notifying the local fire department before starting the fire. This person shall be responsible for notifying the District in the event the fire becomes uncontrolled.

B. Location of Fires. In general, fires shall be located not less than 50 feet from any motor vehicle and any structure, and there must be adequate provision made to prevent spreading of the fire. No fire shall exceed six feet by six feet in diameter. Any burning within 20 feet from the edge of any public roadway is strictly prohibited. Only one fire, which is not contained in a patio wood burning unit, shall exist on any property at any given time.

- i. Fires shall be located not less than 300 feet, unless otherwise specifically provided for herein, from any school, park, hospital, nursing home and/or residence of a person with a chronic respiratory disease. For the purposes of this ordinance, Forest Preserves, Designated Conservation areas and agricultural properties used for agricultural purposes are exempt from the 300 feet setback.
- ii. Fires contained in a "patio wood-burning unit," being a chimney, patio warmer, or other portable wood-burning device used for outdoor

recreation and/or heating shall be at least 15 feet from any neighboring structure.

- iii. Outdoor Cooking fires with the use of charcoal, propane or camping fuel may be located adjacent to or upon a structure.

C. Authority to Extinguish: The Board authorizes the District's Fire Chief or designated representative, and members of the fire department, to extinguish any open burn that presents a clear, present, and unreasonable danger to persons or adjacent property or that presents an unreasonable risk because of wind, weather, or the types of combustibles, as provided by law. The unreasonable risk may include the height of flames, windblown embers, the creation of hazardous fumes, or an unattended fire.

Section Five: Nothing in this Ordinance shall authorize the burning of any waste, which is subject to the restrictions and prohibitions of the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.) and the rules and regulations adopted under its authority. Nuisance fires burning Waste Materials shall be immediately extinguished.

Section Six: The District's Board authorizes the District's Fire Chief or designated representative to prohibit within the District open burning within the District on an emergency basis, for a limited period of time as provided by law (70 ILCS 705/8.20(d)).

Section Seven: Notwithstanding any other provision or rule of law, the following persons shall be jointly, or jointly and severally, liable for reimbursement of open burn monitoring and response services but only after having either (a) failed to provide notice of an open burn to the District as provided by law and this Ordinance, or (b) failed to comply with an open burn prohibition announced by the District's Fire Chief as provided by this Ordinance:

- A. the owner of the property on which open burn monitoring and response services are provided or occur; and

B. any person involved in a any activity which caused or contributed to the causation of the open burn monitoring and emergency response, including but not limited to any person filing a false report resulting in dispatch of open burn monitoring and response services.

Section Eight: The reimbursement fees for District open burn monitoring and response services imposed after having either (a) failed to provide the District notice of an open burn or (b) failed to comply with an open burn prohibition set forth in this Ordinance are as follows or otherwise provided under 70 ILCS 705/11f:

<u>Category</u>	<u>Fee</u>
Per hour per vehicle	\$250.00
Per hour per team member	\$ 70.00
Cost of all materials used in providing the response.	At cost.

Section Nine: The District's Fire Chief is hereby authorized to waive any or all of the fees due under this Ordinance. He may do so by policy or on an individual basis.

Section Ten: Any person or entity that refuses to pay or fails to pay the above-listed reimbursement fees within sixty (60) days of notice of the charge will be deemed to have violated this Ordinance. The District reserves the right to pursue all remedies at law and equity to recover charges due and owing, including the use of the services of a collection agency.

Section Eleven: The District may not enforce the terms of this Ordinance within any portion of the District located within Willow Springs, Cook County, Illinois.

Section Twelve: The provisions and sections of this Ordinance shall be deemed severable and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder.

Section Thirteen: This Ordinance shall be in full force and effect after its passage and approval as provided by law.

ADOPTED this 20th day of June, 2016, by the following roll call vote:

AYES: 3

NAYS: 0

ABSENT: 0



Eric Habercoss, President, Board of Trustees
Tri-State Fire Protection District

ATTEST:



Robert Jewell, Secretary, Board of Trustees
Tri-State Fire Protection District

STATE OF ILLINOIS)
) ss
DUPAGE COUNTY)

SECRETARY'S CERTIFICATE

I, ROBERT JEWELL, the duly qualified and acting Secretary of the Board of Trustees of the Tri-State Fire Protection District, DuPage and Cook Counties, Illinois, and the keeper of the records thereof, do hereby certify that attached hereto is a true and correct copy of an Ordinance entitled:

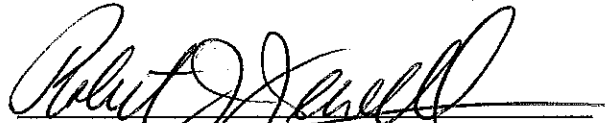
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adopted by said Board of Trustees on the 20TH day of June, 2016.

I do further certify that a quorum of said Board of Trustees was present at the said meeting, and that the Board complied with all requirements of the Illinois Open Meetings Act. Further, I certify that the Ordinance has not been amended or altered and is in full force and effect as of the date indicated below.

IN WITNESS WHEREOF, I have hereunto set my hand this 20TH day of June, 2016.


Robert Jewell, Secretary, Board of Trustees
Tri-State Fire Protection District