

Brenda DeShields-Circuit Clerk
Benton County, AR
Book/Pgs: 2016/57231
Term/Cashier: CASH3/Jill Madick
09/21/2016 1:39:45PM
Trans: 394379
Total Fees: \$25.00

Book 2016 Page 57231
Recorded in the Above
DEED: Book & Page
09/21/2016

ORDINANCE NO. 104

AN ORDINANCE TO ALLOW BURNING OF CERTAIN STRUCTURES FOR THE ELIMINATION OF FIRE HAZARDS FROM DILAPIDATED OR CONDEMNED STRUCTURES, AND FOR OTHER PURPOSES;

WHEREAS, there are dilapidated structures, such as barns, sheds, houses and chicken houses, in the Town of Avoca, and

WHEREAS, such dilapidated structures can be a fire and safety hazard and as such, a hazard to the health of the residents of the Town of Avoca;

WHEREAS, there needs to be a process for citizens to obtain authorization to burn dilapidated structures on their own property and to carry out that burning;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVOCA, ARKANSAS, AS FOLLOWS:

1. Permit Required. A person desiring to burn a structure on his or her own property inside the Town of Avoca because the structure is or could become a fire hazard shall first apply for a permit from the Avoca Fire Department on an application form to be provided by the Fire Department. The permit application shall include the name of the owner of the property and any person having an interest in the structure proposed to be burned. The application shall also include a description of and the address of the structure proposed to be burned.

2. Inspection. After a structure burn permit application is received but before the permit is issued, the fire chief or his designee shall inspect the property. The inspection shall be by a person who is certified under Regulation 21 of the regulations of the Arkansas Pollution Control & Ecology Commission related to asbestos. In the event the Avoca Fire Department does not have an employee qualified to make the inspection related to asbestos, then a qualified person shall be obtained to make the inspection and the cost of the qualified person shall be paid by the applicant. Such inspection shall determine (a) whether the structure to be burned and the surrounding property is a current fire hazard or may become one, (b) whether hazardous materials, including specifically but not limited to asbestos, are present, and (c) whether other

circumstances exist regarding the structure or surrounding property that would otherwise make the structure or property unsuitable for destruction by burning. If one or more conditions exist that prevent the issuance of the permit, the Fire Chief or his designee shall notify the applicant of the problem and allow the applicant to correct the problem, after which the structure and surrounding property will be re-inspected. The presence of asbestos in the structure will always cause the structure to fail the inspection and permit not issued.

3. **Issuance of Permit.** If the structure and surrounding property pass the inspection, the Fire Chief or his designee shall issue the permit upon the payment of a \$25.00 fee by the applicant, payable to the Avoca Fire Department. The permit will allow the applicant to burn the structure in compliance with the other provisions set forth in this Ordinance. The permit will be effective beginning ten days after it is issued and will terminate sixty days after it is issued. A copy of the approved permit will be immediately sent by the Fire Department to the Arkansas Department of Environmental Quality – Air Division, 5301 Northshore Drive, North Little Rock, AR 72118-5317 (or such other future address of the division or its successor).

4. **Central Communications Notification.** Prior to setting fire to the structure approved for burning, the applicant must contact Central Communications (Cen Com) for Benton County and inform Cen Com of the applicant's approved permit and the applicant's intent to burn the structure. Cen Com must approve the timing of the burning based on weather conditions and any other criteria used by Cen Com. The applicant shall follow any and all instructions given by Central Communications, including, but not limited to, attending the fire and having appropriate fire control measures in place. If Cen Com does not approve the burning of the structure, the Fire Chief or his designee shall have the right to extend the effective date of the permit by up to sixty additional days in order for favorable conditions for the burning to exist.

5. **Post-Burn Inspection.** After the burn is completed, the applicant shall notify the Fire Chief or his designee that the structure has been burned. The Fire Chief shall inspect the burn site to determine if any further danger exists.

6. **Non-Fire Hazard Burn Permission.** Permission to burn a structure on a person's property that is not a fire hazard and is not likely to become a fire hazard can only be obtained from the Arkansas Department of Environmental Quality (ADEQ) (or its successor agency). However, a person who obtains a permit from the ADEQ (or its successor agency) shall otherwise follow the requirements of this Ordinance.

7. **Penalty for Violation.** Any person who violates this Ordinance shall be guilty of a misdemeanor and shall be punished by a fine up to \$500. This penalty shall be in addition to any penalty for violation of any state law.

Book 2016 Page 57233
Recorded in the Above
DEED Book & Page
09/21/2016

8. Emergency clause. This Ordinance is necessary to eliminate fire hazards; therefore an emergency is hereby declared, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 13th day of September, 2016.

APPROVED


Mayor JORDAN SULLIVAN

ATTEST:


Recorder Treasurer, DIANE BOWEN

Benton County, AR
I certify this instrument was filed on
09/21/2016 1:39:45PM
and recorded in DEED Book
2016 at pages 57231 - 57233
Brenda DeShields-Circuit Clerk