

COPY

**ORDINANCE NO. 72**

**AN ORDINANCE GOVERNING THE DISPOSAL OF WASTE MATERIALS AT CONSTRUCTION SITES; TO PROHIBIT THE BURNING OF CONSTRUCTION DEBRIS AND TO REQUIRE THAT SUCH MATERIALS BE PROPERLY DISPOSED OF IN A PROPER WASTE RECEPTACLE; TO PROHIBIT OPEN FIRES AT CONSTRUCTION SITES, EXCEPT IN VERY LIMITED CIRCUMSTANCES; TO DEEM THE BURNING OF CONSTRUCTION DEBRIS AND OPEN FIRES AT CONSTRUCTION SITES TO BE A PUBLIC NUISANCE; AND TO DECLARE AN EMERGENCY AND FOR OTHER PURPOSES**

**WHEREAS**, it is the purpose of this ordinance to safeguard the air resources within the City of Goshen by controlling or abating present air pollution and preventing new air pollution within the City, to enhance the quality of the environment, to prevent the creation of a nuisance, and to safeguard the public health, safety, and welfare of the citizens of the City of Goshen; and

**WHEREAS**, the City of Goshen is presently without a means of controlling the disposal of construction debris at construction sites; and

**WHEREAS**, the preservation of the air resources and the public health, safety, and welfare of the citizens of the City of Goshen make it vitally necessary to address this issue as soon as possible;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GOSHEN:**

**SECTION 1. Definitions.**

- a. "Construction debris" shall include, but is not limited to lumber, roofing materials, cans, glass, bottles, garbage, trash, and any other materials created by or through the use of construction, remodeling, or demolition.
- b. "Construction sites" shall include, but are not limited to, any site, location, place, or other premises where construction, remodeling, demolition, and the like are being conducted or performed.
- c. "Contractor" shall include all contractors, builders, and remodelers who are regularly employed in the construction, building, and remodeling business.

**SECTION 2.** The presence of construction, remodeling, or demolition work at any construction site shall be prima facie evidence that construction debris is being created and accumulated on such premises.

**SECTION 3. Public Nuisances.**

- a. The creation or emission of air pollution caused by the burning of construction debris is considered to be a public nuisance.

- b. The creation or emission of air pollution caused by open fires at construction sites is considered to be a public nuisance.

SECTION 4. Prohibitions.

- a. It shall be unlawful to burn any construction debris.
- b. It shall be unlawful to have any open fires at construction sites.

SECTION 5. Dumpster at Construction Site Mandatory. It shall be required that every contractor maintain at the construction site an appropriately sized waste disposal container or dumpster and when full, the contractor shall cause the contents of such container or dumpster to be regularly collected and disposed of during construction, remodeling, or demolition activities.

- a. Such container or dumpster must be a minimum size of 8 feet X 8 feet X 4 feet for disposal of all construction materials.
- b. The contractor is responsible for the cost of the container or dumpster rental and/or ownership and disposal.
- c. The appropriate container or dumpster must be on the construction site no later than three (3) days after which such construction begins.
- d. The contractor is responsible for promptly removing the container or dumpster following completion of all construction activities.

SECTION 6. Exception. Open fires are permitted at a construction site only for the purpose of warming persons on the site during cold weather provided that such fires:

- (i) Shall be fueled only by wood or wood products;
- (ii) Must be controlled to the degree necessary to prevent a fire risk or local nuisance; and
- (iii) Must be confined within a container made of nonflammable material.

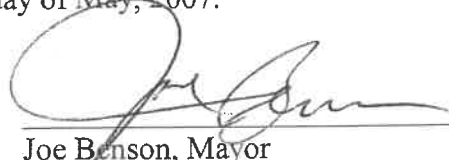
SECTION 7. Enforcement. The Building Official and City Marshal shall have the responsibility and authority to enforce this ordinance and both shall have the authority to issue citations to any person, firm or corporation violating any of the provisions of this ordinance.

SECTION 8. Penalty. Any person, firm or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than (\$30.00) and not more than (\$250.00) for each offense.


SECTION 9. EMERGENCY CLAUSE: Since there are no current regulations regarding the disposal of construction debris at construction sites, and in the interest of the public health and welfare of the people, and to maintain to the greatest extent possible the cleanliness of the air resources of the City of Goshen with the purpose that the least possible harm should be done to human, plant, or animal life or to property, to prevent the creation of nuisances, and to maintain

public enjoyment of the City's natural resources and enhance the quality of the environment, an emergency exists and this Ordinance, being necessary for the immediate protection of the health, safety, and welfare of the citizens of Goshen, Arkansas, shall be in effect immediately upon its passage, approval, and publication.

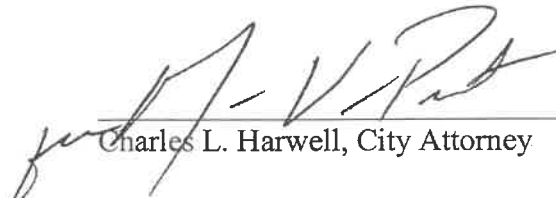
PASSED AND APPROVED this 8<sup>th</sup> day of May, 2007.

  
\_\_\_\_\_  
Joe Benson, Mayor

ATTEST:

  
\_\_\_\_\_  
Cheryl Whilloch, City Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Charles L. Harwell, City Attorney

ROLL CALL VOTE ADOPTING THE ORDINANCE

Names Of Those Voting YEA

Andy Bethell  
Joshua Lockhart  
Max Poye  
Paula Anderson

Absent

Jamie Boyd  
Brian Buell

Names Of Those Voting NAY

None

ROLL CALL VOTE ADOPTING THE EMERGENCY CLAUSE

Names Of Those Voting YEA

Andy Bethell  
Joshua Lockhart  
Max Poye  
Paula Anderson

Names Of Those Voting NAY

None

Absent

Jamie Boyd  
Brian Buell