

# COTTONWOOD HEIGHTS

## ORDINANCE NO. 206

### AN ORDINANCE AMENDING SECTION 9.77.030, COTTONWOOD HEIGHTS CODE (FIRE RESTRICTIONS IN WILDLAND INTERFACE AREAS)

**WHEREAS**, effective 14 January 2005, the city council (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) adopted a code of ordinances (the “*Code*”) for the City; and

**WHEREAS**, following adoption of the Code, the Council determined that regulation of certain fires in wildland interface areas in the City is necessary to protect against wildfire risk in those areas; and

**WHEREAS**, effective 19 July 2005, the Council enacted Ordinance No. 27 prohibiting the discharge of fireworks, certain smoking in the open and the use of open fires in those portions of the City located to the East of Wasatch Boulevard; and

**WHEREAS**, effective 23 May 2006, the Council enacted Ordinance No. 46 affirming that the prohibitions specified in Ordinance No. 27 perpetually would remain in effect until such future time as the Council specifically amends or repeals such prohibitions through adoption of an ordinance specifically effecting such amendment or repeal; and

**WHEREAS**, effective 25 July 2006, the Council enacted Ordinance No. 60 expanding the prohibitions specified in Ordinance Nos. 27 and 46 to include Little Cottonwood Park, located at approximately 1763 East Siesta Drive in the City; and

**WHEREAS**, effective 26 June 2007, the Council enacted Ordinance No. 90 expanding the prohibitions in Ordinance Nos. 27, 46 and 60 to include certain additional wildland interface areas in the City; and

**WHEREAS**, on 12 February 2008, the Council enacted Ordinance 109 codifying the fire restrictions contained in Ordinance Nos. 27, 46, 60 and 90 by amending Title 9 of the Code to add new Chapter 9.77, entitled “Fire Restrictions in Wildland Interface Areas” (“*Chapter 9.77*”); and

**WHEREAS**, on 2 July 2012, the Council enacted Ordinance 192 amending Chapter 9.77 to, *inter alia*, (a) include as protected areas approximately 13 additional mountainous, brush-covered or forest-covered areas in the City which Unified Fire Authority (“*UFA*”), the City’s fire enforcement authority, recommended to be included as protected wildland interface areas under Chapter 9.77, and (b) prohibit fireworks within 300’ of any such area (the “*Protected Radius*”), as recommended by UFA to enhance the protections for the City’s wildland interface areas; and

**WHEREAS**, recently, UFA has recommended that the Protected Radius be relaxed to allow the use is so-called “class C common state approved” fireworks (“*Legal Fireworks*”) to be used outside a 50’ radius (rather than a 300’ radius) around any protected wildland interface areas under Chapter 9.77, but to continue to prohibit aerial fireworks (“*Aerial Devices*”) in a 300’ Protected Radius; and

**WHEREAS**, the Council met in regular session on 18 June 2013 to consider, among other things, amending code section 9.77.030 (“*Section 9.77.030*”) to reduce the Protected Radius from 300' to 50' for Legal Fireworks but to maintain the 300' Protected Radius for Aerial Devices; and

**WHEREAS**, after careful consideration of, *inter alia*, recommendations of the UFA, public comment, and the Council’s finding that discharging Legal Fireworks within 50,' and discharging Aerial Devices within 300', of the wildland interface areas designated in Chapter 9.77 will significantly increase the risk of potentially devastating wildfires in the City, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to so amend Section 9.77.030 as proposed;

**NOW, THEREFORE, BE IT ORDAINED** by the city council of the city of Cottonwood Heights as follows:

Section 1. **Amendment of Section 9.77.030.** The Council hereby amends section 9.77.030 as shown on the attached exhibit, with additions to current Section 9.77.030 being underlined or otherwise shown as additions, and deletions to current Section 9.77.030 being ~~struck through~~ or otherwise shown as deletions.

Section 2. **Action of Officers.** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this ordinance (this “*Ordinance*”), whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

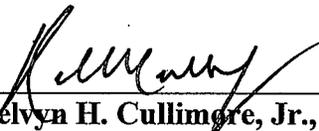
Section 3. **Severability.** It is hereby declared that all parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 4. **Repealer.** All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 5. **Effective Date.** This Ordinance, assigned no. 206, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City’s recorder, or such later date as may be required by Utah statute.

**PASSED AND APPROVED** this 18<sup>th</sup> day of June 2013.

**COTTONWOOD HEIGHTS CITY COUNCIL**

By   
Kelyva H. Cullimore, Jr., Mayor



  
Linda W. Dunlavy, Recorder

**VOTING:**

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton <i>Absent</i>	Yea <input type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael J. Peterson <i>Absent</i>	Yea <input type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

**DEPOSITED** in the Recorder's office this 18<sup>th</sup> day of June 2013.

**POSTED** this 19 day of June 2013.

600007.1

**9.77.030 Fire restrictions.**

A. The following fire-restrictions on open flames and smoking are imposed on and over, and within three hundred (300) feet of, all wildland interface areas in the city:

1A. Setting, building, maintaining, attending or using open flames of any kind is prohibited, except campfires built within the facilities provided for them in improved campgrounds, picnic areas or permanently improved places of habitation; and

2B. Smoking is prohibited, except within an enclosed vehicle or building, a developed recreation site or while stopped in the center of an area of at least ten feet in diameter that is barren or cleared to mineral soil; and

BC. The following restrictions on Discharging or using any kind of fireworks, tracer ammunition or other pyrotechnic devices are imposed:

1. Discharging or using any kind of "aerial device" firework, tracer ammunition or other pyrotechnic devices on, over, or within 300 feet of, any wildland interface area in the city is prohibited; and

2. Discharging or using any kind of class C common state approved explosives on, over, or within 50 feet of, any wildland interface area in the city is prohibited.

C. The following definitions are applicable to this section:

1. "Class C common state approved explosives" is as defined in UTAH CODE ANN. 53-7-202(5), as amended.

2. "Aerial device" firework is as defined in UTAH ADMINISTRATIVE RULES R710-2-2(2.2) AND R710-2-6(6.3.1), as amended.