

ORDINANCE NO. O2020-08

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF CAVE CREEK, ARIZONA, AMENDING THE TOWN OF CAVE CREEK TOWN CODE AND CREATING SECTION 130.17 ENTITLED STAGE I AND STAGE II FIRE RESTRICTIONS.

WHEREAS, the Mayor and Council deem it necessary to adopt certain regulations to protect, enhance and promote the health, safety and welfare of the Town of Cave Creek and its residents, and

WHEREAS, the Mayor and Council desire to prevent fire hazards which threaten the safety of individuals and private and public improvements, including residential, commercial and industrial dwellings,

WHEREAS, during certain times of the year due to the dry/desert like conditions, risk of fires and the terrain of the community there is a danger of fire in the community that can cause significant harm to the community and its residents.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Cave Creek, Arizona, as follows:

Section 1. Chapter 130 "General Offenses" of the Town Code is amended by adding Section 130.17, "Stage I and Stage II Fire Restrictions" as follows:

(A) The Fire Code Official shall be vested with the authority to declare a Stage I or Stage II restriction when the Fire Danger Level for the Town of Cave Creek is at Very High or Extreme.

(B) A Stage I restriction shall include the following restrictions and shall be implemented any time the Fire Danger Level of the Town is set to "Very High":

1. No smoking in any outside area with combustible ground cover, outside of vehicles, outside of residential yards or outside of designated smoking areas.
2. No spark generating activities outside of an enclosed building without first obtaining a permit from the Town of Cave Creek. Spark generating activities to include but not limited to:

Welding	Braising
Grinding	Cutting Steel
3. All current building permits must call for and pass an inspection of the area prior to undertaking any spark generating activities outside of an

enclosed structure. Spark generating activities include but are not limited to:

Welding	Braising
Grinding	Cutting Steel

4. All spark generating activities shall be PROHIBITED during days declared to have a red flag warning for the area as issued by the National Weather Service.
5. The use of ignition driven model rockets is PROHIBITED
6. The use of Fireworks and other Pyrotechnic displays are PROHIBITED
7. The use of flame in any outside area such as flame based weed removal Cooking, Warming or Campfires in all areas must have the responsible party within sight of the flame and must always be attended to until the flame has been extinguished and the coals are cold to the touch.

(C) A Stage II restriction shall include the following restrictions in addition to those found in Stage I and shall be implemented any time the Fire Danger Level of the Town is set to “Extreme”:

1. No smoking outside of vehicles, outside of residential yards or outside of designated smoking areas.
2. No spark generating activities outside of an enclosed building without first obtaining a permit from the Town of Cave Creek. Spark generating activities to include but not be limited to:

Welding	Braising
Grinding	Cutting Steel
3. All current building permits must call for and pass an inspection of the area prior to undertaking any spark generating activities outside of an enclosed structure. Spark generating activities include but are not limited to:

Welding	Braising
Grinding	Cutting Steel
4. All spark generating activities shall be prohibited during days declared to have a red flag warning for the area

5. The use of model rockets is prohibited
6. The use of Fireworks and other Pyrotechnic displays is prohibited
7. The use of flame in any outside area such as flame based weed removal is prohibited
8. Wood Burning for Cooking, Warming or Campfires or the use of charcoal in all areas is prohibited
9. The use of Tiki Torches or other devices that emit a flame is prohibited

(D) If a conflict is found to exist between the requirements of a Stage II and a Stage I Restriction the Stage II Restriction shall prevail.

(E) Definitions:

Combustible Ground Cover means ground cover that is able to catch fire easily

Vehicle means a fully enclosed form of transportation with the windows in the upright or closed position.

Residential Yards means an enclosed section of private residential property that has had all combustible ground cover removed from the area.

Designated Smoking Area means a defined area in public spaces or commercial businesses that have been designated as an area where smoking is allowed.

Red Flag Warning means a forecast warning issued by the National Weather Service in the United States to inform the public, firefighters, and land management agencies that conditions are ideal for wildland fire and other combustion, and rapid spread.

Very High Fire Danger Level in order to communicate the risk of fire to community the Town uses the National Fire Danger Warning System. Very High means Fires start easily from all causes and, immediately after ignition, spread rapidly and increase quickly in intensity. Spot fires are a constant danger. Fires

burning in light fuels may quickly develop high intensity characteristics such as long- distance spotting and fire whirlwinds when they burn into heavier fuels.

Extreme Fire Danger Level in order to communicate the risk of fire to community the Town uses the National Fire Danger Warning System. Extreme means Fires start quickly, spread furiously, and burn intensely. All fires are potentially serious. Development into high intensity burning will usually be faster and occur from smaller fires than in the very high danger class. Direct attack is rarely possible and may be dangerous except immediately after ignition. Fires that develop headway in heavy slash or dense stands of trees may be unmanageable while extreme burning conditions lasts. Under these conditions the only effective and safe control action is on the flanks until the weather changes or the fuel supply lessens.

(F) Authority to enforce violations of this section; means of enforcement

(1) The Fire Code Official or designee, any peace officer, Town Marshal, the Town Attorney, or the Town Prosecutor may issue civil code complaints to enforce violations of this section designated as civil offenses.

(2) Any person authorized pursuant to this section to issue a civil complaint may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid the issuance of a civil complaint.

(G) Liability for emergency responses related to the cause of a fire from a violation of Stage I or Stage II restrictions

(1) A person who causes a fire due to a violation of a Stage I or Stage II restriction, is liable for the expenses of any emergency response that is required to contain and extinguish such fire and such violation shall constitute negligence per se.

(2) The expenses of an emergency response are a charge against the person liable for those expenses pursuant to division (F)(1) above. The charge constitutes a debt of that person. The person's liability for the expense of an emergency response shall not exceed \$25,000.00 in total for a single incident. The liability imposed under this section is in addition to and not limitation of any other liability that may be imposed.

(3) For purposes of this division (F), the following definitions shall apply unless the context clearly indicates or requires a different meaning:

EXPENSES OF AN EMERGENCY RESPONSE mean reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to the incident.

REASONABLE COSTS includes the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who responded to the incident.

(H) Penalty. The penalty for violating any prohibition or requirement imposed by this Section is a civil penalty of not to exceed \$500.00 each occurrence unless another penalty is specifically provided for.

Section 2: This Ordinance is to be effective when publication and posting pursuant to A.R.S. S 9-812 is accomplished.

Section 3. All ordinances, or parts of ordinances, adopted by the Town in conflict with the provisions of this ordinance or any part of the Zoning Ordinance adopted herein by reference, are hereby repealed, effective as of the day this Ordinance is effective.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Cave Creek, Arizona this ____ of _____, 2020.

ATTESTED TO:

FOR THE TOWN OF CAVE CREEK:

Jane Fuller, Town Clerk

Ernie Bunch, Mayor

APPROVED AS TO FORM:

William J. Sims, Town Attorney