

ORDINANCE NO. 829

AN ORDINANCE PROHIBITING THE BURNING OF WASTE AND RESTRICTING OPEN BURNING WITHIN THE TOWN OF LAKEVIEW; PROVIDING PENALTIES FOR A VIOLATION HEREOF; REPEALING ORDINANCE NO. 749 AND DECLARING AN EMERGENCY.

WHEREAS, the health, safety and welfare of the citizens of the Town of Lakeview are adversely affected by the deterioration of air quality within the Town limits; and

WHEREAS, unrestricted open burning and the burning of waste are injurious to public health and are a primary source of causing deteriorated air quality; and

WHEREAS, an open burning and waste burning curtailment ordinance is essential in complying with the provisions of the federal Clean Air Act and to assure healthful air quality; now, therefore,

THE COUNCIL OF THE TOWN OF LAKEVIEW ORDAINS AS FOLLOWS:

Section 1. - Purpose: The purpose of this Ordinance is to establish rules to control, reduce and prevent air pollution caused by the burning of waste and open burning by prohibiting the burning of waste and partially restricting open burning.

Section 2. - Definitions: For the purpose of this Ordinance, the following definitions are hereby established:

(a) Open Burning. Any burning conducted in such a manner that combustion air and combustion products may not be effectively controlled including, but not limited to, burning conducted in outdoor open fires, burn barrels and backyard incinerators.

(b) Permit. Written or oral evidence indicating that an open burning activity, which would otherwise be prohibited by this Ordinance, is permissible under certain circumstances, which permit is obtainable from the Lakeview Fire Department.

(c) Person. A person means and includes individuals, corporations, associations, partnerships, public and municipal corporations, political subdivisions of the state and any agencies thereof, and the federal government and any agencies thereof.

(d) Solid Fuel Burning Device. A device designed for solid fuel combustion so that usable heat is derived for the interior of a residence and includes, without limitation, solid fuel burning stoves, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel. Solid Fuel Burning Devices do not include barbecue devices, natural gas fire and artificial fireplaces logs or pellet stoves.

(e) Waste. Wet or dry garbage, plastic, wire insulation, automobile parts, asphalt, petroleum products, petroleum treated materials, rubber products, animal remains, or animal or vegetable matter resulting from the preparation, cooking or service of food, disposable diapers, styrofoam, chemically treated lumber, or any other material, including commercial and industrial waste, which normally emits dense smoke or noxious odors.

(f) Green Advisory Day. An Air Quality Advisory provided by the Town of Lakeview which forecasts acceptable air quality for the following 24 hour period.

(g) Yellow Advisory Day. An Air Quality Advisory provided by the Town of Lakeview which forecasts increased PM 2.5 concentrations over the following 24 hour period. A Yellow Day forecast signifies that average PM 2.5 concentrations are expected to reach levels of health concern, but which are not expected to approach the 24 hour national ambient air quality particulate health standard of 35 ug/m³.

(h) Red Advisory Day. An Air Quality Advisory provided by the Town of Lakeview which forecasts average PM 2.5 concentrations at levels which are at risk of reaching and/or exceeding the 24 hour national ambient air quality particulate health standard of 35 ug/m³.

Section 3. - Burning of Waste: The burning of waste at any time, whether by open burning or in a solid fuel burning device as defined herein, is prohibited within the Town of Lakeview.

Section 4. - Restrictions on Open Burning: All open burning is absolutely prohibited within the Town of Lakeview from and including November 1st through February 28th of each year. Open burning which is not prohibited by the terms of this Ordinance, may be permitted if a permit for the same is obtained from the Lakeview Fire Department.

Section 5. - Open Burning Permits. An open burning permit shall only be issued for a Green Advisory Day. A permit shall only be used on the day that it is issued and all open burning shall be completed prior to 5:00 p.m. The Fire Chief of the Town of Lakeview or his designee is hereby authorized to issue such permits to residents of the Town of Lakeview subject to such reasonable terms and conditions as the Fire Chief or his designee, in their sole discretion, shall deem advisable for the protection of the residents of the Town of Lakeview. The terms and conditions of all open burning permits issued shall be subject to those burning conditions as set forth in Section 6 below. The issuance of a permit imposes no liability on the Town of Lakeview for any damage caused by open burning and the sole risk thereof lies with the person obtaining the permit.

Section 6. - Conditions of Open Burning Permit: Any open burning permit issued pursuant to Section 5 above, whether such permit is issued orally or in written form, shall be subject to the following conditions:

- (a) Waste may not be burned.
- (b) Open burning piles shall not exceed 6 feet in diameter and 4 feet in height, shall have a 6 foot clearance around the pile and shall not be closer than 20 feet from any combustible material.
- (c) Permits will be issued on green days only.

- (d) Open burning must be continuously attended by an adult 18 years of age or older who has immediate access to a pressurized hose.
- (e) All open burning must be commenced and completed between the hours of 8:00 a.m. and 5:00 p.m. on the date the permit is issued.

Section 7. - Abatement, Enforcement and Penalties: Any violation of this Ordinance or non-compliance with any of the provisions hereof may be subject to legal proceedings to abate or enjoin such violation for non-compliance.

In addition to or in lieu of abatement or injunctive proceedings, any violation of this Ordinance may be commenced by the issuance of a citation and shall be prosecuted in the Lake County Circuit Court as a Class B Violation pursuant to the provisions of of ORS 153.008, ORS 153.012 and ORS 153.018 as now in effect or as may be amended from time to time.

The Town's Fire Chief, or his designee, will have primary responsibility for the enforcement of the regulations as contained in this Ordinance.

Section 8. - Severability: If any section, subsection, sentence or clause, or any portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

Section 9. - Emergency and Effective Date. This Ordinance and its purposes being necessary for the preservation of the public peace, health and safety of the citizens of the Town of Lakeview, an emergency is hereby declared to exist and this Ordinance shall take effect immediately upon its adoption by the Town Council.

A motion was made to read this Ordinance by title only and such motion passed unanimously. Thereafter, the Ordinance was read by title only and was adopted as indicated below.

Passed by the Town Council by a vote as follows:

4 In Favor

0 Opposed

Adopted this 11th day of March, 2008.



Rick Watson, Mayor

Attest:



Christy Sarina, Town Recorder