

ORDINANCE NO. 09-1914

AN ORDINANCE OF THE CITY OF LAKE JACKSON, TEXAS, AMENDING CHAPTER 42 FIRE PREVENTION AND PROTECTION AND CHAPTER 82 SOLID WASTE TO THE CODE OF ORDINANCES TO ALLOW FOR LIMITED OUTDOOR BURNING; PROVIDING THAT ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH SHALL BE REPEALED TO THE EXTENT OF THE CONFLICT ONLY; PROVIDING FOR A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FIVE DAYS AFTER PUBLICATION

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAKE JACKSON, TEXAS:

Section 1: That Section 42-1 of the Code of Ordinances of the City of Lake Jackson is hereby added to read as follows:

Sec. 42-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ceremonial fire means a fire that is part of a ceremony or ritual that is prescribed by custom, ritual, protocol, or convention.

Garbage means solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, and handling and sale of produce and other food products.

Outdoor burning means any fire or smoke-producing process that is not conducted in a combustion unit.

Practical alternative means an economically, technologically, ecologically, and logistically viable alternative to air curtain incinerators.

Recreational fire means an outdoor fire that burns materials other than garbage and rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height and such fire is intended to be for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

Rubbish means nonputrescible solid waste, consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials. Noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials that will not burn at ordinary incinerator temperatures (1,600 to 1,800 degrees Fahrenheit).

Tree and shrubbery trimmings means a waste accumulation of tree branches, tree limbs, parts of trees, bushes, shrubbery, or other trimmings usually created as refuse in the case of trees and bushes.

Vegetative debris means tree and shrubbery trimmings and yard trash.

Yard trash means waste accumulation of lawn, grass, shrubbery cuttings or clippings and dry leaf rakings, free of dirt, rocks, large branches and bulky or noncombustible material.

Section 2: That Section 42-77 of the Code of Ordinances of the City of Lake Jackson is hereby added to read as follows:

Sec. 42-77. Outdoor burning.

(a) It shall be unlawful for any person to burn outdoors, or allow to be burned outdoors, within the city, any garbage, animal carcasses, rubbish, vegetative debris, except as is stated in subsections (e) and (f).

(b) It shall be unlawful for any person owning or occupying, or being in charge and control of, any premises within the city, to burn or cause to be burned uncut grass, weeds, shrubbery, or trees growing on such premises.

(c) Firefighting personnel shall be exempt from this section if the outdoor burning is solely for firefighting training and if approved by the Texas Commission on Environmental Quality.

(d) City personnel shall be exempt if the outdoor burning is limited to brush, trees, and other plant growth that are causing a detrimental public health and safety condition and the burning takes place at a site owned by the city and the city has received approval from the Texas Commission on Environmental Quality.

(e) Recreational fires shall be allowed, but are subject to the following:

1. Recreational fires may not contain electrical insulation, garbage, treated lumber, animal carcasses, rubbish, plastics, construction or demolition materials not made of wood, heavy oils, asphalt materials, potentially explosive materials, chemical waste, or items containing natural or synthetic rubber.

2. Recreational fires may not burn on the ground. Instead, all recreational fires must be held in a container such as a cast iron fire pit, chiminea, cement block fire pit, or other similar container. All containers for recreational fires shall have a spark arrestor
3. Recreational fires shall be not less than fifteen (15) feet from any structure.
4. Recreational fires shall be constantly attended until the fire is extinguished. At least one portable fire extinguisher or other on-site fire-extinguishing equipment, such as dirt, sand, or garden hose, shall be available for immediate use.
5. No recreational fires shall occur during a time in which a county burn ban is in effect for Brazoria County.

(f) Recreational fires that do not comply with the regulations in subsection (e) shall only be allowed upon written approval by the Fire Marshal.

(g) Cooking fires contained in barbeque grills, barbeque pits, and other open flame cooking devices shall be allowed, but are subject to the following:

1. In multi-family dwellings, barbeque grills, barbeque pits, and other open flame cooking devices shall not be operated on balconies or within 10 feet of combustible construction unless the buildings, balconies, and decks are protected by an automatic sprinkler system.
2. The fires shall be constantly attended until the fire is extinguished. At least one portable fire extinguisher or other on-site fire-extinguishing equipment, such as dirt, sand, or garden hose, shall be available for immediate use.

(h) Air curtain incinerators may be allowed on property that is at least twenty (20) acres.

1. The air curtain incinerators shall only be used to burn vegetative debris from land clearing operations or from an event that caused the mayor to proclaim a local state of disaster. If the burning is necessitated due to a local disaster, the ability to use the air curtain incinerator expires one year after the local state of disaster is terminated. This deadline may be extended by City Council due to extenuating circumstances.

2. To apply for permission to use an air curtain incinerator, the applicant must first obtain initial approval from the State. Once the applicant receives permission from the State, the applicant must submit a written request to the Fire Marshal. The Fire Marshal or the Fire Marshal's qualified designee shall, within fourteen calendar days, make a recommendation to the City Council to approve or deny the request. If the Fire Marshal has not made a recommendation within this time period, the applicant may submit the request directly to the City Council.

3. The City Council shall review the recommendation or review the request at their next regularly scheduled meeting.

4. No air curtain incinerator burning shall occur during a time in which a county burn ban is in effect for Brazoria County, regardless of whether the Fire Marshal or City Council has granted permission for the air curtain incinerator.

(i) The authority to burn under this article does not relieve the persons conducting the outdoor burning from responsibility for the consequences, damage, or injuries resulting

from the burning and does not exempt such persons from complying with all other applicable laws and ordinances, regulations or orders of governmental entities having jurisdiction.

(j) The fire marshal or his designee, fire chief or his designee, any code enforcement officer, or any peace officer may prohibit any and all fires or order the immediate extinguishment of any and all fires when atmospheric conditions or other circumstances make such fires an immediate threat to public safety or the smoke or ash from such fires becomes a public nuisance.

Section 3. Section 82-34 of the Code of Ordinances of the City of Lake Jackson is hereby deleted.

Section 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict only.

Section 5: A violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-5 of the Code of Ordinances of the City of Lake Jackson.

Section 6: If any part or portion of this ordinance shall be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any remaining portions or provisions of this ordinance.

Section 7: The City Secretary shall publish the caption of this ordinance within ten (10) days of final passage in the official newspaper of the City. This ordinance shall take effect and be in force five (5) days after publication in accordance with Section 3-15 of the Charter of the City of Lake Jackson, Texas.

PASSED on the first reading this 21st day of September 2009.

PASSED AND APPROVED on second reading this 5th day of October, 2009.

Bob Sipple, Mayor

ATTEST:

Alice A. Rodgers
City Secretary

APPROVED AS TO FORM:

Sherri Russell
City Attorney