

ORDINANCE NO.

04132023C

AN ORDINANCE OF THE CITY OF LITTLE RIVER-ACADEMY, TEXAS, ADOPTING REGULATIONS TO REGULATE OUTDOOR BURNING WITHIN THE CITY; PROVIDING FOR THE ENFORCEMENT OF BURNING REGULATIONS AND PENALTIES FOR VIOLATIONS OF THE CITY'S OUTDOOR BURNING REGULATIONS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, SAVINGS, EFFECTIVE DATE, AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the regulation, management, and control of burning on property within the City of Little River-Academy, Texas, (herein the "City") is essential to the public health, safety, and welfare of the community;

WHEREAS, outdoor burning and the risk of fire represents a serious threat to the residents of the City of Little River-Academy as well as to the property and homes of the residents of the City as well as the environment and natural resources of the City;

WHEREAS, the City Council for the City of Little River-Academy ("City Council") finds that the regulation and prevention of outdoor burning is necessary for the public health of the citizens and the protection of the environment and natural resources of the City; and

WHEREAS, it is reasonable and necessary that the City to adopt reasonable regulations prohibiting outdoor burning and regulating certain forms of outdoor burning, providing for penalties and the authority to enforce these regulations,

WHEREAS, that the need to permit the reasonable burning of grass, weeds, timber, leaves and vegetative substances, subject to reasonable limitations, in a predominantly rural community is necessary;

WHEREAS, the reasonable burning of grass, weeds, timber, leaves and vegetative substances and other such materials shall be permitted within the corporate limits of the City;

WHEREAS, the City Council is authorized by the Texas Health & Safety Code Chapter 382, Subchapter E (The Texas Clean Air Act) and the rules of the Texas Commission on Environmental Quality adopted under 30 Tex. Admin Code Section 111.219, to adopt an ordinance permitting burning within the corporate limits of the City consistent with state law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LITTLE RIVER-ACADEMY, TEXAS, THAT:

Section 1. Authority. This ordinance is adopted pursuant to the authority given to the City by the police powers and authority of the City under Texas law, the Constitution, and the codes and the laws of the State of Texas, including but not limited to Chapter 51, Tex. Loc. Gov't. Code.

Section 2. Findings of Fact. The foregoing findings and recitations set out in the preamble of this Ordinance are found to be true and correct and that they are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 3. Adoption of Burning Regulations. The City Council hereby adopts the Outdoor Burning Regulations to regulate outdoor burning within the City as set forth below:

ARTICLE I. OUTDOOR BURNING REGULATIONS

Section 1. Permitted Burning Subject to Conditions. Burning permitted by this Ordinance shall be permitted within the City limits of the City of Little River-Academy subject to the following conditions:

(a) Burning shall be commenced and conducted only when wind direction and other meteorological conditions are such that smoke and other pollutants will not cause adverse effects to any public road, landing strip, navigable water, or off-site structure containing sensitive receptor(s).

(b) If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post flag-persons on affected roads.

(c) Burning must be conducted downwind of or at least 300 feet (90 meters) from any structure containing sensitive receptors located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessory control.

(d) Burning shall be conducted in compliance with the following meteorological and timing considerations:

1. The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset and shall be attended by a responsible party at all times during the active burn phase when the fire is progressing. In cases where residual fires and/or smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard condition. In no case shall the extent of the burn area be allowed to increase after this time.
 2. Burning shall not be commenced when surface wind speed is predicted to be less than six miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period.
 3. Burning shall not be conducted during periods of actual or predicted persistent low-level atmospheric temperature inversions.
- (e) Electrical insulation, treated lumber, plastics, non-wood construction/demolition

materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.

Section 2. Prohibited Burning. Burning of any solid waste, which includes garbage, or hazardous waste is prohibited and shall never be permitted within the City for any reason or purpose. The terms "solid waste" and "hazardous waste" shall have the meaning as defined under Texas law.

Section 3. Land Clearing. On-site land clearing may occur only in compliance with the state and federal laws and regulations. In addition to complying with the state and federal laws and regulations, a person clearing a lot of greater than two acres of selected trees, brush and plant growth originating on such property may only burn such vegetation cleared from the property with the express permission of the fire marshal in compliance with any additional requirements of the state or federal laws and regulations stipulated by the fire marshal.

Section 4. Duty to Report Fire or Smoke. In the event of a fire or discovery of a fire or discovery of impermissible smoke discharge caused by fire, burning or smoldering combustibles on any property, the owner, occupant, or person in control of the property or person in control of the fire from which the fire or smoke is emanating shall immediately report such condition to the local fire department.

Section 5. Noxious smoke. It shall be unlawful for any person within the city limits, in any way, to intentionally, knowingly or carelessly burn or cause to be burned any combustibles which cause noxious smoke, toxic odor [odor] or smoke of a significant quantity or quality to be released so as to inhibit the use and enjoyment of neighboring properties. Such release of smoke is hereby declared a nuisance and is hereby prohibited.

Section 6. Outdoor Cooking Devices. The operator of an outdoor cooking device shall use and maintain the device in a safe and properly operating condition when intended to be used. Such devices shall not be utilized in close proximity to a building or other combustible materials.

Section 7. Burn Bans. During periods of time in which Bell County adopts or institutes a burn ban for the entire county, burning is prohibited within the City in accordance with such burn ban.

Section 8. Cleanup of Property Damaged by Fire or Smoke.

(a) All properties damaged by fire are hereby declared a nuisance and must be secured and cleaned up by the owner, occupant or person in control of the property.

(b) Any person, firm or corporation responsible for any fire or impermissible smoke discharge shall institute and complete all actions necessary to remedy and assist in the remedy of all the effects of such fire and/or smoke at no cost to the city.

(c) Whenever any building or other structure is partially or totally burned, the owner or occupant of the property or the person in charge or control thereof, within ten (10) days after notice

from the fire marshal, shall remove from the premises all refuse, debris, charred and partially burned lumber and material as directed in such notice. If such building or other structure is burned to such an extent that it is rendered incapable of being repaired, the owner or occupant of the property upon which the same is located or the person in control thereof, within ten (10) days after notice from the fire marshal, shall remove from the premises all of the remaining portions of the building or structure that are damaged beyond repair and immediately secure the property as directed.

(d) The fire marshal may direct the owner, occupant or person in control of the property in the necessary measures to secure the premises after a fire. The owner, occupant or person in control of the property shall promptly comply with the directive of the fire marshal. Failure to comply with the written directives of the fire marshal within ten (10) days of the notice shall be a violation of this article.

(e) When deemed necessary by the fire marshal due to an imminent threat to the public safety or an attractive nuisance constituting an imminent threat, the fire marshal may cause immediate cleanup to be initiated by the fire department or by an authorized individual or firm.

(f) All costs associated with such cleanup shall be borne by the owner, operator, person in control of the property or other person responsible for the fire or impermissible discharge of smoke. Failure of a person deemed responsible for a fire to pay the costs of cleanup shall be deemed a violation of this article.

Section 9. Inspection of Premises Emanating Fire or Smoke. Any premises emanating fire or smoke shall be subject to inspection by the fire marshal, or authorized representative, the city marshal or the code enforcement officer at any reasonable hour or at any hour in cases of suspected fire or smoke discharge.

ARTICLE II. GENERAL PROVISIONS

Section 1. Penalty. A violation of this article implicates fire safety and affects the public health and safety. Accordingly, any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine or penalty not to exceed two thousand dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

Section 2. Enforcement. The civil and criminal provisions of this Ordinance shall be enforced by those persons or agencies designated by the City. Licensed peace officers employed or designated by the City and the Bell County Fire Marshal ("Fire Marshal"), and his or her designee, are at all times granted authority to enforce this Ordinance. The Fire Marshal or his authorized representative and the Little River Volunteer Fire Department under the supervision of the Fire Chief may extinguish any fire until the matter can be resolved through the proper legal processes. A peace officer employed or designated by the City and the Fire Marshal, or his authorized representative, may further prohibit burning until the matter can be resolved through the proper legal processes. It shall be a violation of this Ordinance to interfere with or to violate any lawful verbal or written directives of the Fire Marshal or a peace officer in the performance of his or her duties.

Section 3. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict only. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City regulating or applicable to outdoor burning or the responsibilities, the terms and provisions of this Ordinance shall govern.

Section 4. Severability. If any provision, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance shall not be affected. No portion of this ordinance shall be inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, therefore, all provisions of this Ordinance are declared to be severable.

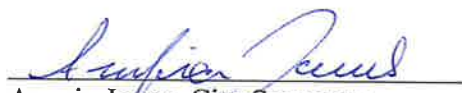
Section 5. Savings Clause. All rights and remedies of the City of Little River-Academy are expressly saved as to any and all violations of the provisions of any ordinances affecting animals, licensing and registration within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 6. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the *Tex. Loc. Gov't. Code*.

Section 7. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code*.

PASSED AND APPROVED on this the 13th day of April, 2023.

ATTEST:


Anyisia Jones, City Secretary

CITY OF LITTLE RIVER-ACADEMY, TEXAS


Drew Lanham, Mayor