

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR LAKE COUNTY, OREGON

In the Matter of Prohibiting the Burning of Waste and Restricting Open Burning )  
 ) ORDINANCE  
 ) NO. 106

WHEREAS, the health, safety and welfare of the citizens of the Town of Lakeview and the surrounding Urban Growth Boundary are adversely affected by the deterioration of air quality within that area; and

WHEREAS, unrestricted open burning and the burning of waste are injurious to public health and are another source of deterioration of 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 COUNTY OF LAKE 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 within the Urban Growth Boundary of Lakeview.

SECTION 2 Definitions: As used in this ordinance, the following words, except where the content clearly indicates otherwise, mean:

(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 obtained from the Lakeview Fire Department indicating that an open burning activity, which would otherwise be prohibited by this ordinance, is permissible under certain circumstances.

(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 from the interior of a residence and includes, without limitation, solid fuel burning stoves, fireplaces or woodstoves 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/propane fire or artificial fireplace logs.

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

(g) Yellow Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts increased PM2.5 concentrations over the following 24 hour period. A Yellow Day forecast signifies that average PM2.5 concentrations are expected to reach levels of health concern, but which are not expected to approach 30 µg/m3.

(h) Red Day: An Air Quality Advisory provided by the Town of Lakeview which forecasts average PM2.5 concentrations at levels which are at risk of reaching and/or exceeding 30 µg/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 Urban Growth Boundary of the Town of Lakeview.

SECTION 4. RESTRICTIONS ON OPEN BURNING: All open burning is absolutely prohibited within the Urban Growth Boundary of the Town of Lakeview from and including November 1<sup>st</sup> through the end of February of the following year. Open burning which is not prohibited by the terms of this ordinance, may be permitted if a permit for the same has been obtained by the Lakeview Fire Department within the Urban Growth Boundary of the Town of Lakeview (see Section 5).

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 and the surrounding Urban Growth Boundary subject to such reasonable terms and conditions as the Fire Chief or designee, in their sole discretion, shall deem advisable for the protection of the residents of the Town of Lakeview and surrounding Urban Growth Boundary. 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 shall 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 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 of Lakeview 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 public peace, health and safety of Lake County and its inhabitants, an emergency is hereby declared to exist and this ordinance shall be in full force and effect after its passage by the Board of Commissioners for Lake County.

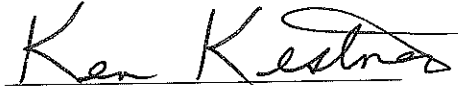
Dated this 2 day of Sept., 2014



Dan Shoun, Chairman



Bradley J. Winters, Vice-Chair



Ken Kestner, Commissioner