

ORDINANCE NO. 03-588-O

AN ORDINANCE PROHIBITING OUTDOOR BURNING; PROVIDING FOR EXEMPTIONS; ESTABLISHING PENALTIES.

WHEREAS, Section 4 of Chapter II of the Charter of the City of Columbia City provides:

Section 4. Powers of the City. The City shall have all powers which the Constitution, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers; and

WHEREAS, the above-referenced grant of power has been interpreted as affording all the legislative powers home rule constitutional provisions reserve to Oregon Cities. City of Beaverton v. International Ass'n of Fire Fighters, Local 1660, Beaverton Shop 20 Or. App. 293, 531 P.2d 730, 734 (1975); and

WHEREAS, smoke from outdoor burning in populated areas can present a serious health hazard to individuals with respiratory ailments, including children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

WHEREAS, smoke from outdoor burning is a common cause of nuisance complaints between neighbors and is often a public nuisance impacting not only residents but the traveling public; and

WHEREAS, outdoor burning is one of the most frequent nuisance-related complaints placing demands on the limited personnel resources of the Columbia River Fire & Rescue District; and

WHEREAS, smoke pollution is a historical and traditional nuisance, especially considering the proven adverse health impacts of smoke on human beings; and

WHEREAS, the City of Columbia City has an available alternative to open burning of yard debris as the City provides residents with a local yard waste disposal site twice annually; and

WHEREAS, the City Council of Columbia City finds that it is in the interest of the public health, safety, and welfare of the citizens of the City of Columbia City to strictly regulate outdoor burning.

NOW THEREFORE, THE CITY OF COLUMBIA CITY ORDAINS AS FOLLOWS:

Section 1. Recitations. The above recitations are true and correct and are incorporated herein by this reference.

Section 2. Short Title. This Ordinance shall be known as the "Outdoor Burning Ordinance."

Section 3. Prohibitions.

(a) Except as provided in Section 4 below, No person shall kindle, start, maintain or allow to be maintained, an "open outdoor fire." For purposes of this Ordinance, an "open outdoor fire" shall include any open outdoor fire within the ordinary definition and understanding of said words, and shall include but not be limited to, the outdoor burning of grass, hay, straw, or similar material, as well as commercially available fuel, wood, tree limbs, branches, leaves, trimmings, or any other woody debris, and may also include burning other inappropriate material such as waste, debris, trash, rubbish or garbage, regardless of whether the fire is in the open or contained in a fire ring, burn barrel, outdoor fireplace, trash burner, incinerator, barbecue pit, fire pit or other similar burning container.

(b) No person shall kindle, start, maintain or allow to be maintained a garbage fire or rubbish fire. A garbage fire or rubbish fire is an open outdoor fire in which the materials burned are ordinarily found in household garbage and trash, including but not limited to food packaging, cardboard and plastic food containers, as well as putrescible and nonputrescible materials.

Section 4. Exemptions. The following activities are specifically exempted from the prohibition in Section 3 above:

(a) Cooking Fire. Outdoor fire used for pleasure, religious, ceremonial, cooking or similar purposes with the fire contained in a fireplace, barbecue grill, barbecue pit, or other similar enclosure specifically designed for outdoor recreation or cooking. Notwithstanding this exception, no outdoor fire is permitted in any type of burn barrel.

(b) Recreation Fire. A fire as defined in Section 219 of the Oregon Uniform Fire Code, to wit: Recreation Fire is the burning of materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill, or barbecue pit (or other enclosure) and with a total fuel area of 3 feet (913 mm) or less in diameter

and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking or similar purposes.

(c) Biannual Burn Period. An "open outdoor fire" may be allowed by special permit during the following special burn periods:

1. A period beginning the first Saturday in April and ending the Third Sunday in April
2. A period beginning the first Saturday in November and ending the third Sunday in November.
3. Such other period as established by Resolution of the City Council.

Special Permits shall be issued by the Columbia River Fire and Rescue District Fire Marshal. A permit may be issued only for the approved burn periods and shall contain such conditions and restrictions deemed necessary by the Fire Marshal to protect public health and safety, including but not limited to compliance with the Columbia County Fire Defense Board Rules for Open Burning. The holder of such special permit shall be allowed to build an open outdoor fire under the conditions of the permit only. Any deviation from the provisions of the permit shall be a violation of this Ordinance.

(d) Training. Fires set and maintained for fire fighting training or training fire protection personnel provided all safety precautions required by the Fire Marshal are met.

(e) Emergency Fire. When an emergency is declared by motion of the City Council, the Mayor may suspend the open burning ban and permit case by case burning subject only to the written or verbal approval of the Fire Marshal, and in accordance with such conditions and restrictions deemed necessary by the Fire Marshal to protect public health and safety.

Any open outdoor fire authorized in this Section shall only be used to burn commercially available fuel, wood, tree limbs, branches, leaves, trimmings, or any other woody debris.

Section 5. Penalty.

(a) A violation of Section 3, Paragraph (a) of this Ordinance shall be considered a "B" Violation punishable by a fine of up to \$300.00

(b) A violation of Section 3, Paragraph (b) of this Ordinance or a second conviction under Section 3, Paragraph (a) of this Ordinance within 18 months shall be considered an "A" Violation punishable by a fine of up to \$600.00.

(c) A violation of the limitations on exemptions set forth in Section 4 of this Ordinance or of any special permit condition granted pursuant to this Ordinance shall be considered a "B" Violation punishable by a fine of up to \$300.00. A second conviction within 18 months for violation of the limitations set forth in Section 4 or of any special permit condition shall be an "A" Violation punishable by a fine of up to \$600.00.

(d) In addition to any fines imposed by the Court, the Court is specifically authorized to order abatement and restitution, as well as community service, not to exceed 48 hours.

Section 6. Inspection and Citation.

(a) The following are listed "Enforcement Officers" and are hereby specifically authorized by law to make such investigations and inspections as are necessary to enforce the provisions of this Ordinance, and to issue violation citations to individuals or entities to appear in the Columbia City Municipal Court:

1. Any City Police Officer, City Building Official, Public Works Superintendent, City Administrator/Recorder, the Fire Chief of Columbia River Fire and Rescue and his agents, employees, or designees authorized to perform the duties of the Ordinance, and such other employees of the City of Columbia City as are specifically identified in an Order or Resolution of the City Council. [Amended by Ord. No. 08-650-O 9/5/08]

(b) When it may be necessary to inspect any premises to enforce the provisions of this Code, any Enforcement Officer having reasonable cause to believe that there exists, upon a premises, a condition which is contrary to or in violation of this Ordinance, the Enforcement Officer, in accordance with administrative policy, may enter at reasonable times to inspect or to perform the duties imposed by this Ordinance, provided that if such premises be occupied that credentials be presented to the occupant and entry requested. If such premises be unoccupied, the Enforcement Officer shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the Enforcement Officer shall have

4-9.6

4-9.8

recourse to the remedies provided by law to secure entry, including specifically an administrative search warrant from the Municipal Court.

Section 7. [Severability.]

Section 8. Other Laws. Nothing in this Ordinance authorizes or commands or shall be interpreted as authorizing or commanding the performance of an activity which is in violation of any county, state or federal law or regulation or of any law or regulations of the Columbia River Fire & Rescue District.

Passed by the council September 18, 2003 and approved by the mayor September 19, 2003.