

ORDINANCE NO. 2024-O-04

AN ORDINANCE ESTABLISHING SAFETY MEASURES AND REGULATIONS RELATED TO OPEN BURNING AND RECREATIONAL FIRES

WHEREAS, The City of Independence desires to establish greater regulations related to open burning; and

WHEREAS, the City of Independence worked closely with the Independence Fire District; and

WHEREAS, the City of Independence will abide by any Kenton County executive order regarding the burn ban period; and

NOW, THEREFORE BE IT ORDAINED BY THE CITY OF INDEPENDENCE, COUNTY OF KENTON, COMMONWEALTH OF KENTUCKY:

(Strikethrough portions are to be deleted, underlined portions are to be added as required by KRS 83A.060(3))

SECTION I

For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) **APPLICABLE LAWS**. The statutes, ordinances, rules, regulations, and orders of all governmental agencies having jurisdiction of the subject matter thereof.
- (2) **DEVELOPED LAND**. Land which has been developed by the extension of streets and utilities thereto, with completed improvements thereon for occupancy by human beings, and a certificate of occupancy issued, therefore.
- (3) **INDEPENDENCE FIRE DISTRICT (IFD)**. Any representative of Independence Fire/EMS or the entity itself.
- (4) **INDEPENDENCE POLICE DEPARTMENT (IPD)**. Any representative of Independence Police department of the entity itself.
- (5) **INDEPENDENCE FIRE/EMS CHIEF**. The Chief of the Independence Fire/EMS Department or any designee thereof.
- (6) **NO PERSON**. No human being, or any combination thereof in the form of a corporation, partnership, limited liability company, unincorporated association or otherwise.
- (7) **OPEN BURNING**. Any fire created for purposes other than recreational fire. Must be less than fifteen feet (15) high and thirty (30) feet in diameter for open burning on undeveloped land unless permission is given by IFD stating otherwise.
- (8) **PRIVATE PROPERTY**. The ownership of property by non-governmental legal entities.

(9) UNDEVELOPED LAND. Land which has not been developed by the extension of streets and utilities thereto, and completed improvements constructed thereon for occupancy by human beings, with certificates of occupancy.

(10) RECREATIONAL FIRE. Any fire designed for recreational purposes which is no larger than three feet high and three feet in diameter for open burning on private property.

RESTRICTIONS ON OPEN BURNING

Any orders by the Kenton County Fiscal Court or County Judge Executive related to Open Burning shall be applicable within the City of Independence. Further, there shall be no Open Burning from May 1 to September 30 each year. From October 1 to December 15 and from February 15 to April 30, burning within 150 feet of any woodland area is allowed only between 6 PM and 6 AM. At all times, only natural growth such as trees and tree limbs may be burned in open fires. At no time shall it be lawful to burn tires, garbage, construction and/or renovation debris, demolition debris, appliances, cars, and trailers.

OPEN BURNING

Open burning is prohibited without the permission of the IFD on undeveloped land. No person, firm or corporation shall build any outdoor fire within the city limits for the purpose of open burning including land clearing without permission of the IFD. Open burning for land clearing purposes associated with residential, commercial, or industrial development shall be limited to a maximum of two (2) contiguous acres at any one (1) time.

When open burning on undeveloped land all the following must be done throughout the duration of any open burning on undeveloped land.

- (a) The continued attendance at the proposed open burning of a competent human being, no less than eighteen (18) years of age, throughout the duration thereof; and
- (b) A communication device should be readily available to the fire attendee to communicate with emergency services, Fire/EMS and police should they be needed.
- (c) One piece of earth moving equipment, with the capacity to extinguish the open burning fire by covering it with dirt; and a qualified operator thereof.
- (d) A policy or certificate of insurance through which the applicant is insured against liability from any occurrence related to the proposed open burning must be obtained and provided to IFD or IPD upon request.
- (e) Burn piles must have a maximum diameter of thirty (30) feet. The fire may not extend more than fifteen (15) feet in height.
- (f) Burn piles must have a blower on the fire.
- (g) No open burns shall be within twenty-five (25) feet of any combustible materials or structures unless contained in an approved manner. Open burns must be at least fifty (50) feet from neighboring houses and make efforts to minimize smoke and ash from affecting surrounding homes.

The following burns do not require permission of the IFD:

- (a) A fire primarily for the cooking of food for non-commercial purposes, provided that only untreated wood is used as fuel.
- (b) A fire for the purposes of instruction and training in the methods of fighting fires conducted in accordance with safety standards and procedures as accepted by the Kentucky Fire Commission.
- (c) A fire for construction and other workers for comfort heating purposes when daytime temperatures are below 50 degrees, provided that excessive or unusual smoke is not created; only untreated wood is used as fuel; the fire is contained in a metal vessel that does not exceed the size of a 55-gallon drum; and the fire is not left unattended for more than fifteen (15) minutes while workers are present at the job site. Fires must be extinguished whenever workers leave the job site.
- (d) A fire for weed abatement, disease control, pest prevention, or for other recognized management practices.
- (e) A fire for the control of a public health hazard, provided that no other safe means of disposal are available.
- (f) A fire for the control or prevention of a fire or safety hazard, provided that no safe alternative is available.
- (g) A special-case fire not otherwise addressed and approved by the IFD.

RECREATIONAL

Recreational fires are allowed in a permanent fire pit or a portable fire pit. Burn permits are not required for recreational fires. No recreational fire shall be closer than ten feet from any building, shed, garage, fence, combustible materials. The location shall be no closer than ten feet from many adjoining properties line.

- (1) Fire pits.
 - (a) Any permanent fire pit built directly on the ground must have a maximum diameter of five (5) feet. The fire may not extend more than five (5) feet above the fire pit. The fire pit shall be surrounded on the outside, above ground, by non-combustible material such as, but not limited to, concrete blocks, bricks, or rocks.
 - (b) Portable fire pits are defined as devices commercially designed to control outdoor wood fires and may be used in accordance with the manufacturer's recommendations.
- (2) No multi-purpose dwellings shall be allowed to use any form of portable or permanent fire source including fire pit, fireplaces, heating elements or any other form of open flame on any balcony or under any overhanging portion of that dwelling or within ten (10) feet of any structure adjacent to the dwelling.
- (3) Materials for recreational fires shall consist of clean dry/seasoned wood that is unpainted and untreated. Material shall not include rubbish, garbage, trash, leaves, brush or garden waste or any material coated with rubber, plastic, leather, or

petroleum- based materials and may not contain any flammable or combustible liquids. The fuel used to light any materials on fire shall not be flammable liquids such as gasoline, so that it minimizes the creation and emission of air contaminants from the burning process.

(4) Attendance.

- (a) The continued attendance at the recreational burning of a competent human being, no less than 18 years of age, throughout the duration thereof.
- (b) A communication device should be readily available to the fire attendee to communicate with emergency services, Fire/EMS and police should they be needed.
- (c) Proper extinguishing agents should be readily available I.E., a water hose connected to an operable public water supply or well, fire extinguisher or other acceptable means of extinguishing a fire.

- (5) Complaints received by the IFD or IPD regarding smoke, ash or noxious odors infringing on adjacent properties will require that such fires be immediately extinguished. No recreational or open burn fires shall be started and allowed to burn when the wind directed, or wind speed will cause embers or other burning material to be carried onto any building or combustible material.

LIABILITY

Neither the IFD, IPD, the city or any other officer, agent or employee thereof shall have any liability, responsibility or obligation for any open burning permitted by this or any other city ordinance, or any injuries or damages resulting therefrom.

PENALTY

Any person who violates any provision of this chapter for which no penalty is otherwise provided, shall be guilty of a violation and shall be fined not more than one hundred dollars (\$100). In addition to the foregoing penalties, any person who fails to maintain a fire in accordance with the applicable city ordinances or negligently allows such a fire to burn out of control shall pay all costs incurred by the city or any other municipality, fire district, or other agency or entity, responding under mutual-aid for any fire, police, ambulance, or other related service provided because of the party's failure to comply with said ordinance. All applicable laws will also be enforced which will subject the violator to any applicable fines and jail time associated with violation.

SECTION II

That any section, or part of any section, or any provision of this Ordinance which is declared invalid by a Court of appropriate jurisdiction, for any reason, such declaration shall not invalidate, or adversely affect, the remainder of this Ordinance.

SECTION III

This Ordinance shall take effect and be in full force when passed, published, and recorded according to law.

Christopher J. Reinersman, Mayor

ATTEST:

Gina Rawe, City Clerk

First Reading: April 1, 2024

Second Reading: May 6, 2024

Ayes: _____

Nays: _____

Date of Publication: _____