ORDINANCE NO.2022-_____

AN ORDINANCE DEFINING AND LIMITING CONDITIONS FOR OPEN BURNING WITHIN THE CITY LIMITS OF THE CITY OF BRYANT; PROVIDING FOR ENFORCEMENT; AND FOR OTHER PURPOSES

WHEREAS, the City of Bryant finds it necessary to enact an ordinance to define and limit conditions for open burning within the City of Bryant; and

WHEREAS, the City of Bryant is authorized to enact and enforce laws, ordinances, resolutions, rules, or regulations for the purpose of prohibiting burning in the open pursuant to Arkansas Code Annotated § 8-4-306 (b); and

WHEREAS, the City of Bryant has the responsibility and authority to abate fire hazards through regulatory mechanisms deemed necessary and appropriate under Arkansas Code Annotated § 8-6-1703 (d).

THEREFORE BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF BRYANT, ARKANSAS THAT:

Section 1. Permissible Burning

A. ~~Vegetation~~ Yard Waste Abatement

In accordance with Arkansas Code Annotated § 8-6-1703 (d), instances of open burning of yard waste by residents are expressly discouraged. For the purpose of open burning, “yard waste” shall be defined as grass clippings, leaves, tree limbs, and shrubbery trimmings collected by a resident or property owner from all property types recognized by the City of Bryant and located within the city limits of the City of Bryant.

1. The burning of yard waste is allowed during the following Calendar Periods:

~~a.~~ December 1st through March 31st. ~~Beginning at one (1) hour before sunrise March 1 and ending at two (2) hours after sunset April 30th of each year. No burning will be allowed on weekends (defined as from 6 pm on Friday till Midnight Sunday), except on the 2nd and 4th Saturday from one (1) hour before sunrise and ending at two (2) hours after sunset; and~~

~~b. During the period beginning at one (1) hour before sunrise October 1 and ending at two (2) hours after sunset November 30th of each year. No burning on weekends (defined as from 6 pm on Friday till Midnight Sunday), except on the 2nd and 4th Saturday from one (1) hour before sunrise on and ending at two (2) hours after sunset.~~

~~c. The Bryant Fire Chief or designee may declare certain periods of time within the Calendar Periods listed above as "Smoke-Free Periods" under the following circumstances;~~

~~d. Within a one-half mile radius of an outdoor public event including, but not limited to, authorized Parades, outdoor public sporting events, outdoor public gatherings such as Fall Fest, concerts, or other outdoor public assemblies including religious, civic, and community events. The intent of this provision is to protect outdoor public gatherings from the nuisance of lingering or low lying smoke coming from yard waste fires occurring within ½ mile of the outdoor public event.~~

~~e. When an identified outdoor public event is scheduled to occur during the Calendar Period, through either permitting with the City Parks Department, Police Department, or Code Enforcement, the Fire Chief or his designee may declare a Smoke Free Period for the duration of that scheduled event and within the ½ mile radius surrounding that event. When an event is scheduled, and a determination is made to make the surrounding area "Smoke-Free," the Fire Chief shall take reasonable steps to provide 48 hours advance notice on the City of Bryant website and through Notify Me.~~

~~f. In the event of a yard waste fire occurring during the Calendar Period within a ½ mile radius of an outdoor public event, and the smoke from that yard waste fire lingers or remains low lying within the immediate area of the outdoor public event, then the Fire Chief or his designee may require the extinguishment of any yard waste fire for the remainder of the outdoor event so affected by the low lying or lingering smoke.~~

2. Open burning of ~~residential~~ yard waste shall not be allowed unless the following conditions are met;

a. Yard waste materials to be burned located on parcels of less than one (1) acre shall be placed in a pile no larger than five feet in diameter and two feet in height. Pile(s) shall be no less than 10 feet from any structure or property line. No more than two piles may be burned at any given time by an individual resident or property owner. On parcels of more than 1 acre, the number of piles will not be restricted.

~~Yard waste materials to be burned located on parcels of more than one (1) acre shall be placed in a pile no larger than six feet in diameter and three feet in height. The number of piles to be burned will not be restricted but must adhere to conditions d, e, and f.~~

~~. Land Parcels of 2 acres or more are exempt from the prescribed Calendar Periods and pile size restrictions of Article 3.b. Although these parcels may burn year-round, they must comply with conditions of Section 1(A)(3), articles d, e, and f of this Ordinance.~~

~~a. Burning must be at least twenty feet from any structure, any material composed in whole or part of combustible or flammable material, any property line, or utility lines or facilities.~~

b. The fire must be attended at all times. The person attending the fire must have an adequate water supply ~~charged hose (i.e., the hose must be connected to a working faucet and the water must be on and pressurized within the hose) and/or sufficient water supply~~ or other suitable means available to completely extinguish the fire ~~in the event that fire spread happens to occur~~.

c. Burning shall ~~not commence until one (1) hour before sunrise and shall~~ be completely extinguished by ~~two (2) hours after~~ sunset.

d. For purposes of determining Land Parcel size, the Bryant Fire Chief or his designee shall use the Saline County Parcel Records accessible through www.efsedge.com/saline.

B. Burn Bans may be issued under the following circumstances.

a. Atmospheric conditions that prevent smoke from rising freely.
b. When excessively dry conditions exist.
c. Sustained winds greater than fifteen (15) mph ~~or 13.0 Knots as measured by Saline County Automated Weather Observation System (AWOS) available at phone number 501-847-3883~~.
d. Frequent peak wind gusts greater than twenty-five (25) mph ~~or 21.7 Knots as measured by Saline County Automated Weather Observation System (AWOS) available at phone number 501-847-3883~~.

1. Burn Bans may be issued by:
    a. Governor
    b. County Judge
    c. Bryant Fire Chief or designee

C. ~~Development, Construction or~~ Site Improvement Burning

Open burning of trees, limbs, or vegetation removed during the process of ~~site preparation for construction or~~ site improvement shall not be allowed unless the following conditions are met:

~~a. The burning is to occur at least 20 feet from all property lines encompassing the parcel.~~

b. All surface vegetation must be removed ~~from all surface areas~~ adjacent to the burning materials for a distance of no less than 20 feet in all directions.

c. Approved materials to be burned ~~may~~ shall be placed in a pile(s) no larger than ~~20~~ 25 feet in diameter and 10 feet in height. No more than one pile per acre on the site may be burned at any given time ~~by an individual resident, property owner, contractor, or developer~~ up to 10 acres. For sites over 10 acres, the number and arrangement of piles must be approved by ~~the~~ a Fire ~~Chief or his designee~~ Department representative.

~~d.~~ The fire must be checked periodically ~~by a responsible person. The person tending the fire must have~~ sufficient extinguishment equipment shall be on site ~~(tractor with a blade, water truck, dozer, etc.)~~ and available to completely ~~extinguish/~~contain the fire ~~in the event that fire spread occurs~~. ~~Periodically means that a responsible person is sufficiently present to prevent the spread of the controlled fire allowed by this subsection. If the fire spreads outside the area of identified and made available for burning under this subsection, then it is prima facie evidence that the fire was not being checked periodically, and the landowner, contractor, and/or resident are subject to Sections 2 and 3 of this Ordinance.~~

e. The parcel ~~of real estate~~ must be at least ~~no less than five (5)~~ two (2) acres in size.

f. The burning is to occur at least 100 feet from all property lines encompassing the parcel. ~~This distance will be 200 feet for parcels over 10 acres.~~

~~g. A device must be used to expedite and assist burning, such as a trench burner, air destructor, burn fan, etc., for all burning.~~

h. Notification must be given to the Bryant Fire Department at least twenty-four hours prior to the intended burning of said trees, limbs, or vegetation, by notifying the City of Bryant Public Safety Dispatch at 501-943-0865~~4~~.

i. A Commercial Burning Permit must be obtained prior to burning from the City of Bryant Code Enforcement office. The permit will be good for a ~~15~~ 30 calendar day period, and the fee will be $150.

~~D. Agricultural Burning~~

~~Open burning in the course of agricultural operations (farming) shall not be allowed unless the following conditions are met:~~

~~a. The perimeter of the parcel to be burned is tilled, disked, or plowed in order to remove vegetation from the ground surface. Vegetation removal must be no less than 10 feet in width.~~
~~b. The fire must be attended at all times.~~
~~c. Burning shall not commence before sunrise and shall not extend beyond sunset.~~

E. Other Allowed Burning

The following types of burning ~~activities~~ are permitted according to the circumstances listed herein:

~~a. Fires of a controlled and manageable nature that are used in the course of food preparation that incorporates the use of barbecue equipment, outdoor fireplaces, cooking grills, or cooking pits specifically designed and created for the preparation of food.~~

~~b. Burning associated with road construction or right-of-way clearing operations. Any road construction or right-of-way clearing type of burning, the contractor or property owner must give notice to the Bryant Fire Department. Notification must be given to the Bryant Fire Department at least twenty-four hours prior to the intended burning of said trees, limbs, or vegetation, by notifying the City of Bryant Public Safety Dispatch at 501-943-0865.~~

c. Fires allowed by the Bryant Fire Department for the purpose of weed abatement, prevention and/or elimination of fire hazards, and burning of storm debris following a disaster (City, County, State, Federal), as declared by an appropriate governmental authority, with burning of such debris at the sole discretion of the Fire Chief or his designee depending on weather, safety, and environmental concerns.

d. Instruction of fire department employees in methods of firefighting or for ~~civil defense instruction,~~ and under the direct supervision of the Bryant Fire Department or authorized fire training instructor.

e. Fires that are associated with ceremonial (bonfire) or recreational purposes (Grills, Smokers, fireplaces, fire rings, or fire pits) ~~purposes~~.

1. The location of ceremonial fires shall be a minimum of 50 feet from a structure ~~or combustible material~~. Approved materials to be burned shall be placed in a pile no larger than 15 feet in diameter and 10 feet in height. ~~No more than one pile may be burned at any given time by an individual resident or property owner~~. Only the burning of dry and seasoned wood is permitted. The Bryant Fire Department shall inspect and approve the burn site. No permit is required.
2. The location of recreational fires shall be a minimum of ~~15~~ 10 feet from a structure ~~or combustible material~~. Approved materials to be burned shall be placed in a pile no larger than three feet in diameter and two feet in height. Only the burning of dry and seasoned wood is permitted. No permit is required.

Section 2. Prohibited Acts of Burning

The following open burning practices shall be prohibited within the corporate boundaries of the City of Bryant, Arkansas;

a. Open burning of trash, garbage, and/or rubbish by any resident or business for the purpose of incineration.

b. Open burning of construction waste of any kind on the premises of a construction site. Small warming fires are allowed in an approved container utilizing dry and seasoned wood only.

c. Open burning of materials resulting from remodeling, dismantling, and/or demolition of structures or buildings.

d. Open burning of trees, limbs, and vegetation clippings generated by, or resulting from, commercial activities or establishments that provide lawn maintenance and/or grounds care services through the course of normal business activities.

e. Open burning in any right-of-way (ditches, alleys, street, etc.)

f. Any burning activity when an appropriate governmental agency or executive institutes a burn ban as listed above.

g. Any burning that is in violation of the requirements listed within this Ordinance.

Section 3. Violations and Enforcement

a. An offender shall be issued a warning citation for the first violation of any provision of this ordnance unless circumstances warrant more severe enforcement action as determined by the City of Bryant Fire Chief or City of Bryant Police Chief.

b. Any person convicted of a second violation of a provision of the Ordinance shall be fined the sum of one hundred dollars ($100.00) plus court cost.

c. Any person convicted of a third violation of a provision of this Ordinance within a five (5) year period shall be fined the sum of two hundred fifty dollars ($250.00) plus court cost, and be ineligible to conduct any open burning of any type within the city boundaries of Bryant. Citations may be issued by the Bryant Police Department or authorized Fire Department personnel, who have law enforcement authority.

Section 4. Repealer Clause

All ordinances or resolutions or any parts thereof in conflict with the hereinabove are repealed to the extent of the conflict.

Section 5. Severability Clause

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

PASSED AND APPROVED this the _____ day of _____, 20_____.

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Allen Scott, Mayor

ATTEST:

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Sue Ashcraft, City Clerk