

**STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
TOWN OF LYMAN**

ORDINANCE NUMBER 060716 - 2010

**AN ORDINANCE REGULATING OPEN BURNING
OF ANY MATERIALS IN THE TOWN OF LYMAN**

WHEREAS, the Mayor and Council's designee Fire Official for the Town of Lyman (Town) believes there is sufficient cause to review and establish new rules and regulations for open burning within the corporate limits of the Town of Lyman; and,

WHEREAS, the South Carolina Department of Health and Environmental Control has increased enforcement of existing state rules and regulations concerning open burning; and,

WHEREAS, it is the responsibility of the Town of Lyman to insure the health and welfare of its citizens; and,

WHEREAS, open burning may be conducted in certain situations, the authority for open burning pursuant to this ordinance does not exempt or excuse the person or persons responsible for the burning from consequences of, or the damages or injuries resulting from the burning and does not exempt or excuse anyone from complying with other applicable laws, regulations, and orders of governmental entities having jurisdiction even though burning is otherwise conducted in compliance with this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Lyman, South Carolina, as follows:

SECTION 1. Prohibition of open burning.

No person shall kindle or maintain any open burning or authorize any such fire to be kindled or maintained within the Town, except as stated in this article.

SECTION 2. Location of residential yard debris burning.

Open burning consists only of leaves, tree branches or yard trimming on the premises of private residences and burned on those premises, must be located not less than 75 feet from any structure and not less than 75 feet from the property line. Adequate provision must be made to prevent the fire from spreading within 75 feet of any structure. Open burning for the purpose of land clearing or right-of-way maintenance must be conducted in accordance with the SC Department of Health and Environmental Control (DHEC) Air Quality regulations 61-62.2 and 61-62.4 and S.C. Code 1976, 48-35-10 et seq. and the provisions of this ordinance.

SECTION 3. Attendant and fire extinguishing equipment required; notice to state forester; adherence to state law.

Open burning must be constantly attended by a competent, responsible person until such fire is extinguished. Such person shall have a garden hose connected to a water supply or other fire extinguishing equipment at the burning site readily available for use. Proper notification shall be given to the Mayor's duly authorized representative and state forester or his duly authorized representative or other persons designated by the state forester or his representative. The burning must be conducted in accordance with related state laws and regulations including, but not limited to, DHEC Air Quality Regulations 61-62.2 and 61-61.4 and S.C. Code 1976, 48-35-10 et seq.

SECTION 4. Fires shall be prohibited as follows:

- a. The Mayor and his(her) designee Fire Official for the Town may prohibit open burning when atmospheric conditions, local circumstances or other conditions exist that would make such fires hazardous or a nuisance.

- b. The following materials shall not be burned in an open fire: Asphalt and asphaltic materials, paint, plastics, metals, treated wood, paper, petroleum products, demolition debris, dead animals, construction debris, household chemicals, household garbage, tires, trade waste, and cardboard.
- c. Open burning for the purpose of land clearing and right-of-way maintenance shall be prohibited except as specified by DHEC Air Quality Regulations 61-62.2 and 61-62.4 and Section 5 of this ordinance.
- d. Open burning for the purpose of land clearing and right-of-way maintenance shall be prohibited during the ozone season (April 1 through October 30).

SECTION 5. Open burning for land clearing or right-of-way maintenance.

Any individual or organization desiring to open burn for land clearing or right-of-way maintenance must first apply to the Fire Official for the Town of Lyman for a permit and pay a fee according to the fee schedule maintained by the Town. The Mayor of the Town of Lyman shall, in its sole discretion, has the right to waive fees and be present for the permitted open burn.

SECTION 6. Criteria for determining hazards.

Reasonable criteria may be established by the Fire Department to assist in determining when outdoor fires may be hazardous. These criteria may include, among others, air quality standards as well as various fire danger indexes.

SECTION 7. Prohibited on roadways, drainage rights-of way, and adjacent areas.

Open burning shall be prohibited on all roads and drainage rights-of-way or within an area that may cause damage to such areas.

SECTION 8. Exemptions.

- a. This article does not apply to vegetative debris burning related to forestry, wildlife and agricultural burns, as authorized by the state forestry commission.

- b. This article is not meant to restrict open burning in connection with the preparation of food for immediate consumption or campfires and fires used solely for recreational purposes, ceremonial occasions or human warmth that are done in a safe manner.
- c. Fires set for the purpose of training public fire-fighting personnel when authorized by the appropriate governmental entity and fires set by a private industry as a part of an organized program of drills for the training of fire-fighting personnel. These will be exempt only if the drills are solely for the purposes of fire-fighting training and the duration of the burning is held to the minimum required for such purposes. Prior approval by DHBC is required only for sites which are not established training sites.

SECTION 9. Restrictions; exceptions.

Smoke production must be ended and no combustible material may be added to the fire between 3:00 P.M. the day of the open burn and sunrise the following day determined by the Fire Department. Fires in connection with the preparation of food for immediate consumption or campfires and fires used solely for recreation purposes, ceremonial occasions, or human warmth and fires where time parameters are already regulated by the Department of Environmental Control Regulation 61-62.2 are exempt from this restriction.

SECTION 10. Hazardous or toxic materials.

Hazardous or toxic materials shall not be burned.

SECTION 11. Civil and criminal liability.

The authorization by the Mayor and designee Fire department representative to conduct an open burn does not relieve the responsible individual or organization from civil or criminal liability for the burning.

SECTION 12. Enforcement.

The provisions of this Ordinance shall be enforced by the duly authorized law enforcement officers of the Police Department of the Town. The Town Police Department shall be authorized

and required to cause the inspection of any public or private property within the limits of the Town of Lyman whenever it shall be necessary to enforce the provisions of this ordinance.

SECTION 13. Penalties.

Any person, firm, corporation or agent who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punishable by a fine not less than one hundred (\$100.00) dollars, nor more than two hundred (\$200.00) dollars for each offense plus Court cost or be imprisoned for not more than thirty (30) days, or both.

This ordinance shall take effect immediately upon second reading approval.


Rodney D. Turner, Mayor

First Reading: 5/3/10 Second Reading: 6/7/10

ATTEST:


Dennis P. Drozdak, Town Clerk

Approved as to Form:

John B. Duggan, Town Attorney

