

ORDINANCE NO. 1939

AN ORDINANCE OF THE CITY OF RUSSELL, KANSAS PROHIBITING OPEN BURNING AND PROVIDING EXCEPTIONS TO THE SAME

WHEREAS, the popularity of the use of fires to control weeds and overgrowth, and for recreational purposes has increased; and

WHEREAS, the inherent dangers posed by fire within populated areas from both recreational fires and controlled burns can present a danger to the public; and

WHEREAS, it is declared to be in the best interests of the citizens of Russell, Kansas that such activity be regulated.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RUSSELL, KANSAS:

Section 1. Section 7-401 of the Code of the City of Russell is hereby amended to read as follows:

Section 7-401. Definitions.

- a. Open Burning is defined as any burning of a bonfire, recreational fire, rubbish fire, lawn fire, garden fire or other fire in an outdoor location where fuel being burned is not contained in an allowable outdoor recreational device. Open burning does not include road flares, smudge pots, and similar devices typically used for safety or occupational purposes.
- b. Allowable Outdoor Recreational Devices. Chiminea, patio fireplace, patio heater or similar device that are UL certified and have not been modified so that spark arresters and other safety equipment are not operating as designed are defined as Allowable Outdoor Recreational Devices. Open fire pits are not permitted. As an alternative to a UL certified device, an Allowable Outdoor Recreational Device shall include a non-UL certified or modified device if (a) the fire box is constructed of non-combustible materials and measures no larger than three (3) feet wide, three (3) feet long and has a minimum depth of six inches into the ground; (b) has a spark arresting mesh of a quarter inch square or smaller over all openings and (c) the owner has received written approval from the Russell Fire Chief or designee prior to use and prior to any subsequent modification.

Section 2. Section 7-402 of the Code of the City of Russell is hereby amended to read as follows:

Section 7-402. Open Burning Prohibited. Open burning in the City is prohibited except for:

- a. Fires authorized by the governing body of the City of Russell, Kansas, or as authorized by special permit from the Chief of the Russell City Fire Department;
- b. Fires using Allowable Outdoor Recreational Devices, as defined in Section 7-401;
- c. Fires for the non-commercial preparation of food as provided in Section 4-705;
- d. Fire places or heaters constructed, installed, operated and maintained pursuant to the most recent International Fire Code adopted by the City from time to time;
- e. Fires used for training if granted approval of the Chief of the Russell Fire Department; and
- f. Recreational fires allowed by advance written permission of the Chief of the Russell Fire Department or his/her designee and complying with all such conditions and restrictions as stated in the written approval.

Section 3. Section 7-403 of the Code of the City of Russell is hereby amended to read as follows:

Section 7-403. Incendiary Fires Prohibited. It shall be unlawful for any person, firm, corporation, partnership, association, organization or governmental agency to deliberately, maliciously or negligently kindle or cause to be kindled a fire in the City for the purpose of fraud, spite, revenge, vandalism, or for any reason that may endanger public health safety or cause loss of life or property, or endanger the personnel assigned to respond.

Section 4. The Code of the City of Russell is hereby amended by adding the following Section:

Section 7-404. Discontinuance. The Russell Fire Chief or his/her designee is authorized to require that any fire be immediately extinguished if such fire is determined by the Chief to constitute a hazardous condition under existing conditions.

Section 5. The Code of the City of Russell is hereby amended by adding the following section:

Section 7-405. Fires Used for Non-Commercial Preparation of Food. Fires used for non-commercial preparation of food, such as barbecuing, are permitted provided that the fire is in a freestanding cooking device using fossil fuel or natural gas, except it shall be unlawful to use, store or maintain a freestanding cooking device on the balcony, deck or patio of a multi-family dwelling containing more than four units unless: (1) such device uses only natural gas supplied by a fixed pipe; or, (2) such device is at a distance that is not less than fifteen feet (15') from the structure of the multi-family dwelling and uses only natural gas, charcoal, wood or liquid propane.

Section 6. The Code of the City of Russell is hereby amended by adding the following section:

Section 7-406. Attendant. Recreational fires shall be constantly attended by a person eighteen (18) years of age or older knowledgeable in the use of fire extinguishing equipment. An attendant shall supervise a recreational fire until such fire has been extinguished. Buckets, fire extinguishers, shovels or garden hoses shall be readily available for use at recreational fires.

Section 7. The Code of the City of Russell is hereby amended by adding the following section:

Section 7-407. Recreational Fire Device at Dwelling. It shall be unlawful to use, store or maintain a recreational fire device, such as a chiminea, patio fireplace, patio heater or similar device on the balcony, deck or patio of a dwelling unless (1) such device uses only natural gas supplied by a fixed pipe; or, (2) such device is at a distance that is not less than ten feet (10') from the structure, such device is at least five feet (5') from any flammable materials, the wind speed is fifteen (15) miles per hour or less and uses only natural gas, charcoal, wood or liquid propane.

Section 8. The Code of the City of Russell is hereby amended by adding the following section:

Section 7-408. Violation. The sentence for any violation of any section of this Article 4 shall be the same penalty as provided herein for a Class C violation of the Uniform Public Offense Code as adopted from time to time.


Section 9. Repeal. All or parts of the Code conflicting with the provisions of this Ordinance are hereby repealed.

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Section 10. Publication and Effective Date. This ordinance shall take effect and be in full force and effect from and after its passage, signature and publication of a summary of this ordinance in the official city newspaper and posting of the full text of the ordinance on the city's website in compliance with K.S.A. 12-3007(b).

PASSED this 20th day of August, 2019, by the governing body of the City of Russell, Kansas.

APPROVED this 20th day of August, 2019, by the Mayor of the City of Russell, Kansas.


Raymond C. Mader, Mayor

ATTEST:



Katrina Woelk, City Clerk

(seal)

