

Open Burning

ORDINANCE NO 2021-003

AN ORDINANCE PROHIBITING OUTDOOR BURNING AND DEPOSITS OF SOLID WASTE AT CHARLES FOSTER PARK (PECAN STREET) IN THE CITY; PROVIDING FOR PENALTIES; PROVIDING FOR EFFECTIVE DATE; AND PROVIDING SEVERABILITY CLAUSE

WHEREAS, dumping solid waste including but not limited to rubbish, trash, junk, garbage, used materials (wood debris, metal, plastics, furniture) creates a public health and safety hazard and is a nuisance;

WHEREAS, dumping solid waste as above described in or around Charles Foster Park is, in addition to a health and safety hazard, a public eye sore and prohibits citizen enjoyment of the park area;

WHEREAS, dumping of solid waste as described above, is a violation of Texas Commission on Environmental Quality Regulations contained at 30 TAC 330.15(c);

WHEREAS, outdoor burning in or around Charles Foster Park except in receptacles specifically designed and manufactured for the cooking of food using wood, charcoal, or propane as fuel, constitutes a health and safety violation and a nuisance. Specifically, the burning of rubbish, trash, junk, garbage, used materials, furniture, plastics, metals, oil is a public health and safety hazard and is a nuisance;

WHEREAS, outdoor burning as described above (with the exceptions noted) is a violation of the Texas Commission on Environmental Quality Regulations contained at 30 TAC 111.201; and

WHEREAS, outdoor burning as described above prevents reasonable enjoyment for the Public Park are by citizens and visitors alike.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEPORT, LAMAR COUNTY, TEXAS THE FOLLOWING:

Section 1: The factual recitations set forth above are adopted as the legislative intent and basis for this Ordinance.

Section 2: Dumping, depositing, placing solid waste including but not limited to rubbish, trash, junk, used materials, wood debris, metal, plastics, furniture, and other discarded items on the premises or within 1000 feet of the outside boundaries of Charles Foster Park is prohibited.

- a. Exceptions: It is an exception to this Section that the solid waste or other prohibited product was placed in a receptacle located at the Park by the City and specifically designed to contain solid waste materials.
- b. Oils, paints, or liquid waste may not be disposed of, deposited, or placed in any receptacle or at any other spot or location inside Charles Foster Park., or within 1000 feet of the outside boundaries of Charles Foster Park.

Section 3: Outdoor burning in Charles Foster Park or within 1000 feet of the outside boundary of the Park is permitted only in equipment that has been designed and manufactured for cooking of food and which utilizes wood, charcoal, propane or a derivative thereof for cooking. Outdoor burning for the purpose of food preparation may also be conducted at the Park at those venues and in such equipment that the City has installed for the specific purpose of fire containment.

Section 4: All other outdoor burning, specifically the burning of solid waste materials, oil products, or liquid products at Charles Foster Park or within 1000 feet if the outside boundary of the Park is prohibited.

Section 5:

1. Civil Remedies:

A civil penalty of up to \$1,000 per occurrence can be assessed against an individual or an entity violating this Ordinance.

2. Class C Misdemeanor:

It is a Class C Misdemeanor for any individual or entity to violate the provisions of this Ordinance.

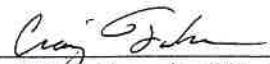
3. The City may take advantage of any and all other civil remedies including Injunctions, Declarations of Nuisance and Abatement. Civil fines maybe collected and assessed for violations of this Ordinance through any Court of competent jurisdiction.

Section 6: Should any part or portion of this Ordinance be declared to be void or otherwise illegal, that does not impact the remaining provisions of the Ordinance.

THE EFFECTIVE DATE OF THIS ORDINANCE IS THE LATEST DATE OF THE SIGNATURE OF THE ATTESTING OFFICIALS BELOW.


Passed by voice vote January 25th, 2021.

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 2/16/21
~~John Mark Francis, City Mayor~~
Craig Folse, Mayor Pro-tem

APPROVED AS TO FORM:


Sunny Whitney, City Secretary


David Hamilton, City Attorney