

Ordinance Number 119

An ordinance of the Bainville Town Council amending Title 9 Public Peace, Safety and Morals creating a new chapter 9.10 Outdoor Burning Regulations

Be it ordained by the Bainville Town Council of the Town of Bainville, Montana:

Chapter 9.10

OUTDOOR BURNING REGULATIONS

Sections:

[9.10.010 Definitions.](#)

[9.10.020 Fire Nuisance Prohibited.](#)

[9.10.030 Open burning restricted.](#)

[9.10.040 Recreational Fires](#)

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9.10.010 Definitions. For the purpose of this chapter, the following definitions apply:

A. "Bonfire" means a fire conducted by a state-accredited school, a nonprofit organization, a government entity, or a religious organization for the purpose of celebrating a particular organization-related event, where only cordwood or untreated dimensional wood will be used as fuel.

B. "Fire nuisance" means any thing or act, which is annoying, unpleasant, offensive or obnoxious because of fire.

C. "Manufactured firewood," means wood products that are made specifically for use as fuel for fires. "Manufactured firewood" includes items such as "presto logs" and does not include materials such as plywood or pressboard.

D. "Non-profit organization" means an organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1954.

E. "Outdoor Burning" means combustion of any material out-of-doors, with or without a receptacle. "Outdoor Burning" does not include, the use of a barbeque fueled by natural gas, propane or wood, or charcoal briquettes for cooking purposes on private property, or the use of heating devices using refined liquid or gaseous fuel.

9.10.020 Fire Nuisance Prohibited. Within the Bainville town limits, a person may not cause a fire nuisance, as determined by the fire or health department.

9.10.030 Open burning restricted.

A. Outdoor Burning is unlawful within Bainville town limits except as specifically authorized below.

B. Notwithstanding subsection A above, outdoor burning may be allowed within the town limits if:

1. A valid permit has been issued by the County dispatch or its authorized agent;
2. The fire has been approved by the town fire department;
3. The fire does not cause a fire nuisance as determined by the fire department;

4. The fire is conducted in accordance with the Uniform Fire Code; and
5. The fire is for one of the following purposes:
 - a. eliminating a fire hazard that cannot be abated by any other means; or
 - b. firefighter training; or
 - c. thawing frozen ground to allow excavation of utilities; or
 - d. eliminating hazards in an emergency; or
 - e. burning a bonfire as long as the time, location and fuel are approved by the County Dispatch prior to conducting the bonfire; or
 - f. eliminating natural vegetation or untreated dimensional lumber as long as the material is not trade waste, was generated on the property where it will be burned, and will be burned on parcels of at least one acre under single ownership. or
 - g. maintaining an irrigation ditch, as long as the fire will not come within 50 feet of structures.
 - h. for agricultural activities that meet the definition of MCA 76-2-902.

9.10.040 - Recreational fires.

Recreational fires are outdoor open fires used only for private recreational purposes which do not create a public nuisance. Recreational fires specifically do not include burning of leaves, yard waste, garbage, trade waste or other refuse. Only untreated, unpainted clean wood may be burned in recreational fires and all federal, state or local laws regulating open burning must be followed at all times. The following requirements must be adhered to for any recreational fire.

- A. All recreational fires must be contained within a nonflammable fire ring, fire pit or cooking device. The fire pit may be constructed on site or manufactured for the purpose of burning wood.
- B. No round fire ring, fire pit or cooking device used for a recreational fire may exceed four feet in diameter. The inside dimensions of any fire ring, fire pit or cooking device of any shape used for a recreational fire must fit within a square four feet on each side.
- C. All recreational fires must be controlled and managed at all times by an adult who shall tend the fire as long as it is burning
- D. All fires and hot embers must be extinguished before the fire ring, fire pit, or cooking device is left unattended.

9.10.050 Enforcement Authority.

The County Sheriff's department has the primary responsibility of enforcement of all provisions of this chapter. The County Sheriff's office will have authority to enforce the provisions of this chapter.

9.10.060 Violation--Penalty. It is a misdemeanor for any person to do any act forbidden by this chapter. Every person convicted of a violation of any provision of this chapter shall be punished by a fine not exceeding five hundred dollars (\$500) for each offense. Each day any violation of any provisions of this chapter continues shall constitute a separate offense. There shall be no penalty of imprisonment for any violation. No person shall be arrested for violating a provision of this ordinance.

Effective Date: This ordinance shall be effective 30 days after second reading and final adoption.

Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

First reading on the 18th day of July, 2016, by a vote of 3 Ayes, 0 Nays, 0 Abstain, and 0 Absent

Second reading and final adoption on the 8th day of August, 2016, by a vote of 2 Ayes, 0 Nays, 0 Abstain, and 1 Absent.

ATTEST

APPROVED

/s/Nikki Rogers
Nikki Rogers, CMC
Clerk-Treasurer

/s/Dennis Portra
Dennis Portra
Mayor