

ORDINANCE NO. 243

AN ORDINANCE OF THE CITY OF CLARK FORK, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, REGULATING AND GOVERNING OPEN BURNING WITHIN THE CITY LIMITS OF CLARK FORK, IDAHO, LISTING PROHIBITED AND ALLOWABLE OPEN BURNING USES; PROVIDING FOR PERMITS AND FEES; PROVIDING FOR SEVERABILITY, PENALTIES AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CLARK FORK, IDAHO:

Section 1. Short Title. This ordinance shall be known as the Open Burning Ordinance.

Section 2. Purpose. The purpose and intent of this Ordinance is to prohibit certain types of open burning and reduce and control allowed open burning through a permitting process within the City of Clark Fork subject to the restrictions set forth herein. The reduction and control of open burning is sought so that air quality and fire safety goals can be achieved.

Section 3. Definitions. For purposes of this ordinance, the following mean:

Air pollution: The presence in the outdoor atmosphere of any contaminant or combination thereof in such quality of such nature and duration and under such condition as would be injurious to human health or welfare, to animal or plant life, to property, or to interfere ~~unreasonably~~ unreasonably with the enjoyment of life or property.

~~Approved incinerators: shall mean those burning containers, which have been approved by the Idaho division of environmental quality as incinerators. "Burn barrels" and similar devices are not considered to be approved incinerators.~~

Barbecue pit: A pit constructed of concrete or approved noncombustible material for the cooking of food over an open fire.

Garbage: Any putrescible animal or vegetable waste resulting from handling, preparation, cooking and consumption of food.

Open burning: The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney.

Recreational fire: A fire for burning of materials other than garbage or refuse where the fuel being burned is contained in an approved incinerator, outdoor fireplace or barbecue pit and with a total fuel area of three feet (3') or less in diameter and two feet (2') or less in height for pleasure, religious, ceremonial, cooking or similar purposes.

Refuse: Combustible trash, including, but not limited to, paper, cartons, boxes, plastic exclusions, furniture, bedding and noncombustible trash including, but not limited to, metals, tin cans and glass.

Yard waste: Waste such as grass clippings or wet vegetable or other wet garden debris; green shrubbery, brush, ~~tree clippings~~, stumps or similar materials produced from landscaping, grooming, pruning and gardening activities

Section 4. General Provisions. No person shall burn any trash, garbage, or other refuse upon any grounds in any manner that may menace the public health or cause a nuisance of smoke, ash, offensive odors, or fire hazard. All open burning shall comply with this ordinance, rules of the Idaho Department of Environmental Quality and the ~~Uniform~~ current edition of the International Fire Code.

Section 5. Prohibited Open Burning. It shall be unlawful to openly burn any of the following in the City of Clark Fork.

- A. Refuse.
- B. Garbage.
- C. Yard Waste.
- D. Paper, paper products or other materials that may be blown about by the wind.
- E. Paints or painted materials.
- F. Plastics.
- G. Petroleum products.
- H. Insulated wiring.
- I. Tires or other rubber materials or products.
- J. Oil, grease, gasoline or asphalt.
- K. Junk motor vehicles.
- L. Tar or tarpaper.
- M. Commercial, industrial, trade or construction waste.
- N. Pathogenic wastes.
- O. Hazardous wastes.
- P. Asphalt or composition roofing or any other material or product of asphalt content.
- Q. Lumber or timbers treated with preservatives.
- R. Existing structures.

S. Dead animals or parts thereof, unless ordered to do so by a public health agency.

T. Any type of materials that emit large volumes of smoke, particulates, or odors.

U. Any other material that would otherwise be allowed under this ordinance, but is determined to be a nuisance, hazard, or source of pollution.

Section 6. Open Burning Allowed By Permit Requirement. A burning permit issued by the Clark Fork Fire Department is required for all open burning, with the exception of open burning permitted under Section 7 of this Ordinance, from May 10 to October 20, inclusive, of each year. No permit is required from October 21 to May 9, inclusive, of each year. These dates may vary from year to year depending on local weather and fire danger.

The fire chief or designee may prohibit any or all open burning when local conditions make such fires hazardous

Notwithstanding the provisions of section 5 of this Ordinance, the following types of open burning shall be allowed under the permit requirement restrictions of this Section. ~~after an application and permit has been issued by the Clark Fork Fire Department:~~

A. Field burning where there is no alternative cropping practice that provides equivalent benefits.

B. Irrigation ditches.

C. Fires used for control or alleviation of a fire hazard or for weed control when no alternative control method exists.

D. Fires used in the training of organized firefighting personnel.

E. Open-air burning of DRY; clean tree leaves and trimmings; and DRY gardening wastes where other methods of disposal are impracticable and in a manner which does not create a nuisance.

F. Unique fires allowed at the discretion of the Clark Fork City Fire Department, after application and permit, not falling into the subsections above.

G. Burning within real property after application and permit for demolition or fire prevention practice, at the discretion of the Clark Fork City Fire Department.

Section 7. Open Burning Uses Allowed at Any Time Without A Permit. Fires are allowed, without a permit, for the preparation of food provided that such fires are confined to a barbecue grill, barbecue pit, smoker or other approved enclosure when the fuel area is three feet (3') or less in diameter and two feet (2') in height or less for pleasure, religious, ceremonial, cooking or similar purposes and that the emission of smoke and fumes do not irritate, annoy or constitute a nuisance to others living in the neighborhood.

Section 8. Restrictions To Permitted Or Allowed Open Burning. Permitted or allowed open burning shall be subject to the following restrictions:

A. Open burning shall not be conducted within fifty feet (50') of any structure or other combustible material. Conditions, which could cause the spread of fire to within fifty feet (50') of a structure, shall be eliminated prior to ignition. Clearance from structures and other combustible material are allowed to be reduced to twenty-five feet (25') when the pile size is three feet (3') or less in diameter and two feet (2') or less in height, or fifteen feet (15') when burning is conducted in an approved burning appliance.

B. Only one fire in a single location may be burned at any one time.

C. Barbecue pits outside of buildings shall not be located within ten feet (10') of combustible walls, roofs or other combustible material.

D. A competent person of mature age, i.e., age of majority, and discretion shall constantly attend open burning until the fire is extinguished.

E. Fire extinguisher(s) or other on-site fire extinguishing equipment, such as dirt, sand, garden hose or water truck, shall be available for immediate utilization.

F. No burning shall take place at any time or place when weather conditions will create a nuisance or danger to anyone or the property of anyone in the area.

G. No burning shall be conducted prior to sunrise and must not be continued after sunset on any day.

H. No materials of any kind shall be burned or attempted to be burned in any street, alley, highway, or between any curbs adjacent thereto within the City of Clark Fork.

~~I. No permitted or allowed burning shall take place in a burn barrel or similar device.~~

I. Fires shall not be allowed to smolder overnight.

Section 9. Compliance With Federal And State Law. Notwithstanding anything set forth in this chapter, all open burning permitted under the terms and provisions of this chapter shall also be conducted and performed in compliance with the ~~uniform fire code~~ International Fire Code, the Department of Environmental Quality (DEQ) Rules for the Control of Air Pollution in Idaho (IDAPA) 16.01.01, and all federal and state laws, statutes, rules and regulations applicable thereto.

Section 10. Permits.

A. Burning permits for fires allowed by permit are to be obtained upon application to the Clark Fork City Fire Department on an application form provided by the Clark Fork City Clerk during normal business hours, 8:00 am. to 12:00 pm, Monday thru Friday. Issued permits shall contain the following information:

1. Name, address and home phone number of permit holder.

2. Name, address and phone number of the person(s), conducting the burn if different from the permit holder.
3. Location of proposed burning.
4. Conditions under which burning is to be allowed.
5. Signature of issuing fire official.
6. Signature of permittee.

B. Permit fees ~~shall~~ may be set by resolution of the Clark Fork City Council and when required shall be paid prior to issuance of the permit.

C. Permits may be issued for any period of time up to one week.

D. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the City's Fire Chief or his designated representative.

E. Any permit may be suspended by the issuing authority for: violations of this ordinance, adverse air pollution, weather conditions and air pollution dispersal conditions.

Section 11. Appeals. Any person denied a burning permit by the Clark Fork City Fire Department may appeal that decision in writing to the Clark Fork City Council. Such appeal must be filed with the Clark Fork City Clerk within ten (10) days of denial. The appeal shall be placed on the first available meeting agenda of the City Council, who shall rule on the appeal.

Section 12. Enforcement and Penalty.

A. Enforcement: The Mayor, the Clark Fork City Fire Chief and any Bonner County Sheriff Department law enforcement officer shall have the authority to enforce the provisions of this ordinance.

B. Penalty: A violation of, or failure to comply with any provision of this ordinance shall be an infraction as defined in Idaho Code 18-111; punishable by a penalty of \$100.00. Each day a violation continues shall constitute a separate offense.

Section 13. Severability. This ordinance is hereby declared to be severable. Should a court of competent jurisdiction declare any portion of this ordinance invalid, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

Section 14. Effective Date. This ordinance shall be effective upon its passage and publication as provided by law.

Enacted by the City Council as an ordinance of the city of Clark Fork on the 8th day of August, 2005.

Approved by the Clark Fork City Council on the 8th day of August, 2005.

CITY OF CLARK FORK

Thomas A. Shields
Thomas A. Shields, Mayor

ATTEST


Jonell Davisson
Jonell Davisson, City Clerk

Roll Call Vote of Council Members:

	Yes	No	Absent	Abstain
Marlene Syth	X	—	—	—
Lynn Siple	X	—	—	—
Linda V. Reed	X	—	—	—
Brian Lee Cantrell	X	—	—	—

SUMMARY OF ORDINANCE NO. 243

The city of Clark Fork, Bonner County, Idaho, hereby gives notice of the adoption of Clark Fork Ordinance No. 243 an ordinance of the City of Clark Fork, Bonner County, Idaho, a political subdivision of the state of Idaho, regulating and governing open burning within the city limits of Clark Fork, Idaho, listing prohibited and allowable open burning uses; providing for permits and fees; providing for appeal; providing for enforcement and that a violation is an infraction punishable by a fine of one hundred dollars; providing for severability; and providing that the Ordinance be effective upon the publication of this Summary. The full text of the summarized Ordinance No. 243 is available at Clark Fork City Hall, 110 E. 3rd Ave., Clark Fork, Idaho 83811 in the office of the City Clerk.


Jonell Davisson, City Clerk