

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3303

AN ORDINANCE ESTABLISHING FIRE RESTRICTIONS IN THE CITY OF HELENA

WHEREAS, the City of Helena desires to establish requirements for responsible burning and reduce irresponsible burning, which may endanger the safety and property of persons in the City, through prohibition of hazardous open burning;

WHEREAS, the City of Helena, United States Department of Agriculture, Forest Service, and the Montana Department of Natural Resources and Conservation are the only entities permitted to conduct open burning for the purpose of fuel mitigation within city limits;

WHEREAS, prescribed burning requires planning and safeguards for proper fire control, and the ability for agencies to utilize seasonal prescribed burning operations reduces the personnel and resources needed to control a wildland fire and reduces the severity of losses from wildland fire; and

WHEREAS, the City of Helena wishes to align its fire restrictions with Lewis and Clark County, the Montana Department of Natural Resources and Conservation, and other entities which authorize Stage 1 and Stage 2 fire restrictions.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA:

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That Title 13, Fire Regulations, is established, and Title 13, Chapter 1, of the Helena City Code is hereby enacted as follows:

TITLE 13

FIRE REGULATIONS

CHAPTER 1

FIRE RESTRICTIONS AND PROHIBITIONS:

13-1-1: DEFINITIONS: As used in this title, unless the context requires otherwise, the following definitions apply:

FIRE CODE OFFICIAL: The Fire Chief or the Fire Chief's designee charged with the administration and enforcement of the International Fire Code.

OPEN BURNING: The burning of materials in an unenclosed space (i.e. open fields, wildland urban interface) wherein products of combustion such as trees, brush, grass, and weeds are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudge pots, or similar devices associated with safety or occupational uses typically considered open flames, recreational fires, or use of portable outdoor fireplaces. A chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues, or chimneys

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necessary to provide combustion air and permit the escape of exhaust gas are open.

RECREATIONAL FIRE:

An outdoor fire burning materials not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit, which has a total fuel area of three feet or less in diameter and two feet or less in height. This kind of fire includes ordinary campfires and other small fires, and is not meant to be used for burning trees, brush, or grass. Burning of trash or rubbish is prohibited.

13-1-2: OPEN BURNING PROHIBITED WITHOUT PERMIT:

- A. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning or within the City of Helena unless conducted in accordance with the conditions of a permit issued by the Fire Code Official and in accordance with the provisions of this ordinance.
- B. A permit shall only be issued to the owner of the land upon which the fire is to be kindled, or alternatively, to the landowner's agent.

13-1-3: RESTRICTIONS ON ALL FIRES:

- A. All fires must be constantly attended until extinguished. A minimum of one portable fire extinguisher (5 pounds or larger) with a minimum 4-A rating or other on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose, or water truck, must be available for immediate utilization.
- B. If any fire grows outside the confined or intended area, the person responsible for the fire, homeowner, and/or permit holder may each be held liable for suppression costs and damages and other civil and criminal penalties as allowed by law.

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13-1-4: ADDITIONAL RESTRICTIONS ON OPEN BURNING:

- A. If the Montana Department of Environmental Quality has issued an unhealthy, very unhealthy, or hazardous air quality warning for all or a portion of Lewis and Clark County, an otherwise valid permit issued under this section may not be used. It is the permittee's responsibility to check conditions before burning.
- B. When open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the Fire Department is authorized to order the extinguishment of the open burning operation.
- C. The location for open burning shall not be less than 50 feet from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure. If the recreational fire size is three feet or less in diameter and two feet or less in height, then permitted open burning may be conducted not less than 25 feet from a structure. It is the permittee's responsibility to eliminate conditions within 25 feet of a structure which could cause a fire to spread prior to ignition.

13-1-5: ADDITIONAL RESTRICTIONS ON RECREATIONAL FIRES:

- A. Portable outdoor fireplaces must be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure or combustible material.

13-1-6: ADOPTION OF FIRE RESTRICTIONS:

- A. When Lewis and Clark County established fire restrictions pursuant to Montana Code Annotated 7-3-2212, or the State of Montana, Lewis and Clark County, or any other entity with authority to do so have declared Stage 1 or Stage 2 Fire Restriction, the same restrictions apply as if issued by the Commission.

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B. The City Manager and Fire Chief each have the authority to create restrictions and prohibitions on burning in order to remain consistent with other jurisdictions when, in their determination, the following conditions apply:

1. Open burning or recreational fires would be inconsistent with a local air pollution control program established pursuant to Montana Code Annotated 75-2-301;
2. There exists an active wildland or structural fire within Lewis and Clark County that poses a potential threat to properties located within the City of Helena; or
3. There exists other conditions which create a danger to persons or property if open burning or recreational fires are allowed.

C. A written finding declaring it necessary to restrict burning shall be maintained by the City Clerk and published in all media outlets and social platforms by the Public Information Officer for the City of Helena.

FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA, THIS 7th DAY OF November, 2022.

ATTEST

MAYOR

CLERK OF THE COMMISSION

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA, THIS 9th DAY OF January, 2023.

ATTEST

MAYOR

CLERK OF THE COMMISSION