

GALLATIN COUNTY ORDINANCE NO. 20~~14~~-004

AN ORDINANCE ADOPTING GALLATIN COUNTY FIRE PERMIT AND CONTROL REGULATIONS AND REPEALING GALLATIN COUNTY ORDINANCE NO. 1999-01

1. Legislative Findings and Purpose. The Board of Gallatin County Commissioners (“Board”) finds that:

It is in the interest of Gallatin County to preserve and protect property and persons from fire.

Changing weather conditions may increase the danger of uncontrolled fires. Given the limitations or potential unavailability of fire suppression resources public officials should have the power to restrict certain burning activities.

The Gallatin County Sheriff’s Office and rural fire district and fire service area personnel investigate numerous reports of fires placing a strain on valuable time and resources. Fires ignited during unfavorable burning conditions also create a burden on fire protection agencies as well as creating a civil and criminal liability for the individual igniting the fire.

A non-refundable permit fee of \$15.00 helps defray the costs of administering permits under this Ordinance. **Such administration includes reviewing and acting on applications, implementing and enforcing the terms of Open Burning Permits and providing firefighter training.** It is reasonable to change the fees by subsequent County resolution.

2. Authority. The Board has the authority to adopt ordinances pursuant to the procedures set forth in Title 7, Chapter 5, Part 1, MCA. The Board and each of the rural fire districts and fire service areas may establish controlled burning seasons and permit requirements for its respective jurisdiction or protection area pursuant to §7-33-2205, MCA. The Board also has authority and fire protection duties set forth in §7-33-2202, MCA. Rural fire districts and fire service areas in Gallatin County have the authority and obligation to protect against fire pursuant to §7-33-2105 and 7-33-2402, MCA. Finally, the County Commission can restrict activities in high fire hazard areas pursuant to §7-33-2212, MCA

3. Penalty & Enforcement. The penalty for certain violations of the regulations adopted under this ordinance and state law is a \$500 fine and 6 months imprisonment or both. The penalties for Open Burning Permit violations herein are authorized in §7-33-2206, MCA. In addition, other civil legal remedies are available pursuant to state law and this ordinance.

4. Severability. If any part of this Ordinance is unenforceable then the remainder shall be enforceable.

5. Effective Date. The Gallatin County Clerk and Recorder shall post a copy of this Ordinance and make copies available to the public upon first reading and approval. This Ordinance shall take effect thirty (30) days after its second reading and approval which shall be not less than 12 days apart from the first reading as required by § 7-5-103, MCA and has been filed with the Clerk & Recorder as required by §7-5-105, MCA.

6. Gallatin County Fire Control Regulations Adopted. This Ordinance hereby adopts the Gallatin County Fire Control Regulations attached hereto and which are incorporated into this Ordinance by reference.


7. Absolute Liability Finding. This Ordinance has the legislative purpose to impose absolute liability for any conduct described. Pursuant to §45-2-104, MCA any violation of this Ordinance or Regulations adopted thereunder is subject to absolute liability. A person may be guilty of an offense without having, as to each element of the offense, one of the mental states of knowingly, negligently or purposely.

8. Repeal and Ratification. Upon the effective date of this Ordinance Gallatin County Ordinance No. 1999-01 and any of its amendments is repealed and replaced with this Ordinance. All valid permits issued and action taken pursuant to Ordinance No. 1999-01 are ratified, confirmed, and adopted in lieu of any requirement for an additional permit.

FIRST READING & APPROVAL

DATED this 27th day of May, 2014

BOARD OF GALLATIN COUNTY COMMISSIONERS


Pierre Martineau
Chairman


ATTEST


Charlotte Mills, Clerk and Recorder


SECOND READING & APPROVAL

DATED this 10th day of JUNE, 2014

BOARD OF GALLATIN COUNTY COMMISSIONERS


Pierre Martineau
Chairman

ATTEST


Charlotte Mills, Clerk and Recorder

GALLATIN COUNTY FIRE CONTROL REGULATIONS

Section 1. Definitions. The following terms have the following meanings in these regulations:

“Board” means the Board of Gallatin County Commissioners.

“Fire Chief” means a fire chief of a governmental fire agency organized under Title 7, Chapter 33, Montana Code Annotated with the powers and duties set forth in §7-33-2001, MCA. Fire Chief also means an agent or designee of a “Fire Chief.”

“Open Burning” means the ignition, setting or burning of any material directly in the open air including slash, land-clearing or debris burning fires. Open Burning does not include a Recreational Fire.

“Open Burning Season” is established from March 1 through November 30 of each year as the time when Open Burning can take place. No Permits will be issued for dates outside of Open Burning Season.

“Permit” is a document issued by the County or any rural fire district or fire service area through its Fire Chief which provides permission to ignite or set a fire pursuant to these regulations. A Permit does not allow the ignition, setting or burning of materials prohibited by state or federal law.

“Permit Holder” means the person, firm or corporate entity to whom a Permit is issued or the individual person acting as its agent or designee.

“Recreational Fire” means a fire ignited, set or burning in a nonflammable structure measuring less than 48 inches and for which a reasonably prudent and suitable source of extinguishing the fire is available.

Section 2. Permits.

A. A Permit is required for Open Burning during Open Burning Season.

B. Preparation of Permits. Each Fire Chief of its respective jurisdiction or protection area in coordination with the Gallatin County Rural Fire Chief shall prepare, issue, deny, modify, revoke, and suspend Permits for its respective jurisdiction or protection area in accordance with the Open Burning Seasons established herein. A Permit will be valid for only one Open Burning Season.

C. Issuing Permits. Permits are issued and sold through sources approved by the Gallatin County Rural Fire Chief. Agencies may facilitate the purchase of a permit by electronic means, such as Montana Interactive, or in person for customers. Agencies allowing in person purchases shall be disclosed to the public.

D. Permit Fees. A \$15 administrative fee shall be assessed for each Permit sold. Sellers of Permits must deposit 40% of the fees with the Gallatin County Treasurer. Gallatin County shall deposit the remitted fees at least quarterly into the Fire Control Permit Fund. The administrative fee is distributed in the following manner when sold in person:

1. 40% will be credited to the County Fire Control Permit Fund. This Fund may only be used for costs associated with printing, issuing, handling, advertising County Fire Permits, and providing for firefighter training;
2. 60% will be retained by the issuing agency for handling costs; and
3. 100% of the administrative fee from permits sold online by the permit holder will be deposited into the Fire Control Permit Fund.

E. Permit Acknowledgement of Duties. Applicants must acknowledge in writing that they have read, understand, and agree to the requirements of the Permit and these regulations. Such acknowledgment must include the applicant's obligation to follow state regulations and laws for burning not set forth in this regulation.

Section 3. Open Burning Conditions. The following conditions are imposed upon any Permit or Permit Holder:

A. State DEQ Open Burning Season Limitation. During the months of September, October, and November of any Open Burning Season, a Permit Holder should contact the State of Montana, Department of Environmental Quality to determine if any State air quality restrictions are in place.

B. Notice. At least 30 minutes before Open Burning a Permit Holder must activate its Permit each day burning is planned by contacting phone numbers and electronic notification resources designated by the Gallatin County Rural Fire Chief. The Permit Holder must identify location of the burning. Currently notification resources are located at <http://burnpermit.mt.gov> or 1-877-306-BURN (2876). If these notification resources change, the Gallatin County Rural Fire Chief shall provide reasonable notice of such change through the media and pursuant to §7-1-2121, MCA. Permit Holders are obligated to utilize all notification resources.

C. Preparation. Before setting an Open Fire, a Permit Holder shall ensure that reasonably prudent and suitable sources of fire suppression equipment and personnel are present for fire control based on the conditions for the duration of the burn.

D. Safety Conditions. No fire shall be set if wind or weather conditions make it hazardous to burn. If wind or other weather conditions create a hazardous fire condition, the fire must be extinguished as quickly as possible.

E. Suspension of Permits. Permits may be suspended by any jurisdiction or protection area through its Fire Chief at any time when hazardous fire conditions exist in the area of Open Burning. Permit Holders shall extinguish fires upon request of the Gallatin County Sheriff or any Fire Chief.

F. Only Daylight Burning. Open Burning shall take place between sunrise and sunset. A Permit Holder shall notify the Gallatin County Sheriff at 406-582-2100 if Open Burning is not completely extinguished by sunset.

G. Fire Control. A Permit Holder shall not leave the immediate area of Open Burning until the fire has been completely extinguished, with no remaining embers or smoke.

Section 4. High Fire Hazard Areas and Fire Restrictions.

A. Designation of Areas. Pursuant to §7-33-2212, MCA the Board designates the following Gallatin County High Fire Hazard Areas in Gallatin County, Montana. These areas shall not include areas under the jurisdiction of any municipality or state or federal agency.

1. Gallatin Valley High Fire Hazard Area – This area is defined as land in Gallatin County North of 45.407 Degrees (US 191 milepost 61.5).
2. Big Sky High Fire Hazard Area – This area is defined as land in Gallatin County South of 45.407 Degrees (US 191 Milepost 61.5) and North of 45.054 Degrees (US 191 Milepost 32).
3. West Yellowstone High Fire Hazard Area – This area is defined as land in Gallatin County South of 45.054 Degrees (US 191 Milepost 32).

B. Limitation of Activities. The Board, through resolution, may require any person, firm or corporate entity to limit specific operations or activities or adjust working hours to a less critical period of the day for operations or activities conducted in Gallatin County High Fire Hazard Areas. Such requirements shall be based on conditions that are deemed not safe for such operations or activities due to weather, fire activity, resource availability or other relevant factors.

C. Burning, Operations and Activities Ban. The Board may additionally require any person, firm or corporate entity to cease any or all operations or activities including all burning activity in any Gallatin County High Fire Hazard Areas including:

- a. Open Burning;
- b. Any fire hazard reduction agreement burns, pursuant to Title 76, Chapter 13, Part 4, Montana Code Annotated;
- c. Any Recreational Fires; or
- d. Any operations or activities.

The Board shall lift any requirement of this section when weather, fire activity, resource availability or other relevant factors change.

Section 5. Unlawful Activity.

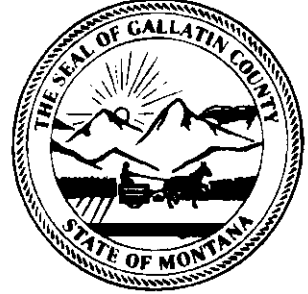
A. Criminal Enforcement. A person who ignites or sets a fire without a Permit is guilty of a misdemeanor. A Permit Holder who does not satisfy the Open Burning Conditions pursuant to Section 3 is guilty of a misdemeanor.

B. Additional Legal Remedies. The Board may take any civil legal action needed in order to enforce these regulations pursuant to §7-33-2212, MCA including actions for injunctive relief or obtain relief pursuant to §50-63-103, MCA.

State of Montana

County of Gallatin

Bozeman



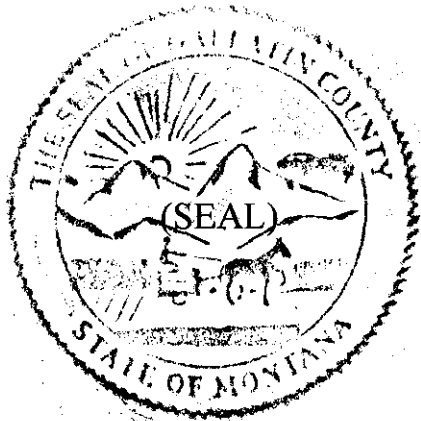
STATEMENT OF POSTING
ORDINANCE

1. On May 27, 2014 the Board of Gallatin County Commissioners initially approved Ordinance # 2014-004 on first reading entitled; Adopting Gallatin County Fire Permit and Control Regulations and Repealing Gallatin County Ordinance No. 1999-01 in Gallatin County, State of Montana

2. After first reading a true and correct copy, Ordinance # 2014-004 was posted at the following location:

Main lobby of the Gallatin County Courthouse

3. A true and correct copy of Ordinance # 2014-004 was made available for public review and copying at the Office of the Gallatin County Clerk and Recorder, 311 W. Main St., Ste 203, Bozeman, Montana.



A handwritten signature in black ink, appearing to read "Mary Miller".

Mary Miller, Deputy
In and for Charlotte Mills
Gallatin County Clerk and Recorder