

ORIGINAL

GALLATIN COUNTY ORDINANCE NO. 1999-01 First Amendment

AN AMENDMENT TO THE FIRE CONTROL ORDINANCE FOR GALLATIN COUNTY

Gallatin County Ordinance No. 1999-01 is amended to read:

7.b.(3) Permit Fees. A \$5 administrative fee shall be assessed for each County Fire Control Permit through April 30 and \$10 thereafter. Fire Districts and Fire Service Areas must deposit 100% of the fees with the Gallatin County Treasurer at least quarterly. The Treasurer shall distribute the fees in the following manner:

40% will be credited to the County Fire Control Permit Fund. This Fund may only be used for costs associated with printing, issuing, handing, advertising County Fire Control Permits, and providing for firefighter training; and

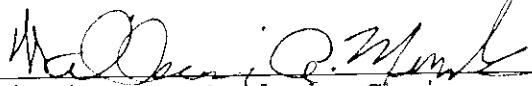
60% will be credited to the issuing Fire District or Fire Service Area for handling costs.

The City of Bozeman and the Forest Service must deposit 40% of the fees with the County Treasurer to be credited to the County Fire Control Permit Fund.

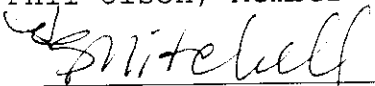
The Gallatin County Clerk and Recorder shall post a copy of this Amendment and shall make copies available to the public after the First Reading and Initial Approval.

First Reading and Approval, Date: MARCH 2, 1999

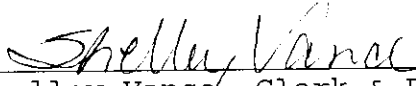
BOARD OF COUNTY COMMISSIONERS
GALLATIN COUNTY


William A. Murdock, Chair


Phil Olson, Member


Jennifer Smith Mitchell, Member

ATTEST:


Shelley Vance, Clerk & Recorder

ORIGINAL

GALLATIN COUNTY ORDINANCE NO. 1999-01 First Amendment

AN AMENDMENT TO THE FIRE CONTROL ORDINANCE FOR GALLATIN COUNTY

Second Reading and Approval, Date: March 16, 1999

This Ordinance is effective APRIL 15, 1999

BOARD OF COUNTY COMMISSIONERS
GALLATIN COUNTY

William A. Murdock
William A. Murdock, Chair

Phil Olson
Phil Olson, Member

Jennifer Smith Mitchell
Jennifer Smith Mitchell, Member

ATTEST

Shelley Vance
Shelley Vance, Clerk & Recorder

GALLATIN COUNTY ORDINANCE NO. 1999-01

A FIRE CONTROL ORDINANCE FOR GALLATIN COUNTY
AND THE REPEAL OF RESOLUTION No. 707

- Section 1 . . Purpose and Authority
- Section 2 . . Open Burning Definitions
- Section 3 . . **Materials Prohibited By the State for Open Burning**
- Section 4 . . Open Burning Allowed Only With a State Permit
- Section 5 . . Open Burning Allowed with a County Permit
 - a. Essential Agricultural Open Burning
 - b. Prescribed Wildland Open Burning
 - c. Other Minor Open Burning
- Section 6 . . Open Burning Allowed Without Any Permit
- Section 7 . . County Restrictions and County Permits
- Section 8 . . Enforcement
- Section 9 . . Penalties
- Section 10 . . Severability
- Section 11 . . Effective Date
- Section 12 . . Repeal of County Resolution No. 707

ORDINANCE NO. 1999-01

1. **PURPOSE AND AUTHORITY.**

a. **Purpose.** The Gallatin County Commission finds that:

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

Changing weather conditions, which can increase the danger of uncontrolled fires and the limitations or unavailability of fire suppression resources require that public officials have the power to restrict open burning when necessary.

The Gallatin County Sheriff's Office and Rural Fire District and Rural Fire Service Area personnel investigate numerous reports of fires, thus wasting valuable time and resources.

The different kinds of "open burning" and when "open burning" is permitted need to be clearly defined so that persons are aware of what is prohibited and what is lawful in Gallatin County.

A non-refundable permit fee of \$5.00 through April 30 and then \$10.00 thereafter is reasonable to help defray the costs of administering the permits under this Ordinance including 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 County Resolution.

b. Authority for Ordinance.

Section 7-5-108, MCA, authorizes counties to adopt ordinances incorporating by reference portions of any code properly identified as to date and source. Notice of the adoption by reference shall be published after first reading and prior to final adoption of the ordinance and a copy of the part to be adopted by reference shall be filed with the Clerk and Recorder and kept for public examination for 30 days prior to final adoption of the ordinance.

As part of this Ordinance the Gallatin County Commission intends to adopt the Open Burning Provision Section 105.8.o.1 of the Uniform Fire Code (1994), which reads:

A permit shall be obtained prior to engaging in the following activities, operations, practices or functions:

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Open Burning. To conduct open burning. Where burning is conducted on public property or the property of someone other than the permit applicant, the permit applicant shall

demonstrate that permission has been obtained by the appropriate government agency, the owner, or the owner's authorized agent. When limits for atmospheric conditions or hours restrict burning, such limits shall be designated in the permit restrictions.

In addition, the County Commission may establish fire seasons annually, when no person may set any open fire within the county protection area on any forest, range, or croplands, without having obtained an official written permit. Section 7-33-2205, MCA. A violation is a misdemeanor. Section 7-33-2206, MCA.

Counties may fix penalties for the violation of an ordinance that do not exceed a fine of \$500 or 6 months' imprisonment or both fine and imprisonment. Section 7-5-109, MCA.

This Ordinance governs all of Gallatin County outside of the incorporated municipalities.

2. OPEN BURNING DEFINITIONS.

The following definitions apply for this Ordinance:

a. **"Open Burning"** means the burning or combustion of any material directly in the open air or in a receptacle **other than** a furnace, multiple chambered incinerator, or a wood waste burner commonly used by the wood products industry.

b. **"Major Open Burning"** means open burning that, on a statewide basis, will emit more than 500 tons of carbon monoxide or 50 tons of any other pollutant regulated under Title 17, Chapter 8, ARM, in a calendar year, except hydrocarbons. Major Open Burning also requires a permit from the State of Montana.

c. **"Minor Open Burning"** means open burning that emits less pollutant than "Major Open Burning" and must:

(1) comply with the applicable Administrative Rules of Montana; and

(2) comply with this Ordinance. These requirements are in addition to any other applicable state, federal or local open burning requirements.

3. MATERIALS PROHIBITED BY THE STATE FOR OPEN BURNING

Open burning is totally prohibited by Rule 17.8.604 ARM, for:

food wastes;

styrofoam and other plastics;

wastes generating noxious odors;

poultry litter;

animal droppings;

dead animals or dead animal parts;

rubber materials;

treated lumber and timbers;

pathogenic wastes;

asbestos or asbestos-containing materials;

materials resulting from "salvage operations" to reclaim or salvage any product or material, except materials from the forest practice commonly referred to as a "salvage cut" in timber harvesting; and

hazardous wastes, which are a waste or combination of wastes that, because of the quantity, concentration, or physical, chemical or infectious characteristic, if any, cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed. Further information may be found in 40 Code of Federal Regulations, Part 261.

4. OPEN BURNING ALLOWED ONLY WITH A STATE PERMIT.

The State of Montana also has authority over sources that:

a. impose an immediate threat to public health and safety, or plant or animal life, where no alternative method of disposal is reasonably available (call 406-444-3454);

b. burn waste moved from where it was generated, and includes waste moved to a solid waste disposal site;

c. burn any of the following:

tires;

asphalt shingles;

tar paper;

automobile or aircraft bodies and interiors;

insulated wire;

oil and petroleum products for firefighter training;

chemicals; or

standing or demolished structures;

d. burn more than 100 acres of forest slash a calendar year;

e. emit more than 500 tons of carbon monoxide in a calendar year or 50 tons of any other pollutant regulated by the Administrative Rules of Montana Title 17 on a countywide basis in a calendar year;

f. burn "trade wastes" of solid, liquid, or gaseous material resulting from construction or operation of any business, trade, industry or demolition project. Wood product industry wastes such as sawdust, bark, peelings, chips, shavings, and cull wood are considered trade wastes;

- g. burn wood and wood byproducts that have been coated, painted, stained, or contaminated by a foreign material, such as papers, cardboard, or painted or stained wood;
- h. require an Environmental Impact Statement, Montana Environmental Policy Act, Title 75, Chapter 1, MCA;
- i. are subject to the Montana Major Facility Siting Act, Title 75, Chapter 20, MCA;
- j. potentially will emit 250 tons a year or more of any pollutant subject to the Clean Air Act of Montana, Title 75, Chapter 2, Parts 1 through 4, MCA;
- k. burn of "Christmas tree waste", meaning wood waste from commercially grown Christmas trees left in the field where the trees were grown; and
- l. conduct Essential Agricultural Open Burning or Prescribed Wildland Open Burning during December, January, or February.

Permits for these sources are administered by the:

Air and Waste Management Bureau
Permitting and Compliance Division
Department of Environmental Quality
1520 East 6th Ave.
P.O. Box 200901
Helena, Montana 59620-0901
Phone: (406) 444-3490.

5. OPEN BURNING ALLOWED WITH A GALLATIN COUNTY PERMIT.

a. ESSENTIAL AGRICULTURAL OPEN BURNING WITH A COUNTY PERMIT

March 1 through November 30 - Essential Agricultural Open Burning on a farm or ranch is allowed with a County Open Burning Permit, when no reasonable alternative method of disposal is available, for:

eliminating excess vegetative matter from irrigation ditches or cultivated fields; or

improving range conditions or wildlife habitat.

During September, October, and November, the County Open Burning Office will call the State Air Quality Control Number to check on restrictions.

During December, January, and February a person may make a written application to the State Department of Environmental Quality for permission for Essential Agricultural Open Burning.

b. PRESCRIBED WILDLAND OPEN BURING ALLOWED WITH A PERMIT

March 1 through November 30 - Prescribed Wildland Open Burning, if conducted on forest land or relatively undeveloped rangeland, is allowed with a County Permit for:

improving wildlife habitat or range conditions;

reducing fire hazards from forestry practices;

controlling forest pests and diseases;

promoting forest regeneration; or

promoting other accepted forest practices.

During September, October, and November, the County Open Burning Office will call the State Air Quality Control Number to check on restrictions.

During December, January, and February a person may make a written application to the State Department of Environmental Quality for permission for Prescribed Wildland Open Burning.

c. OTHER MINOR OPEN BURNING ALLOWED WITH A PERMIT

March 1 through November 30 - Other Minor Open Burning is allowed with a County Open Burning Permit for Open Burning if the conditions are acceptable.

6. OPEN BURNING ALLOWED WITHOUT ANY PERMIT.

a. Recreational and Heating Fires.

March 1 through November 30 - The following open burning does not require either a State Permit or a County Permit outside of municipalities and forest lands. However, on September 1 through November 30, the burner must call 1-800-225-6779 to see if there are restrictions in Airshed 8A for the elevation of the burn.

small recreational fires in controlled areas; and

construction site heating devices used to warm workers.

b. "Burn Barrels"

March 1 through November 30 - "Burn Barrels" do not require either a State Permit or a County Permit outside of municipalities and forest lands. However, on September 1 through November 30, the burner must call 1-800-225-6779 to see if there are restrictions in Airshed 8A for the elevation of the burn.

Burn barrels are metal barrels of 60 gallon capacity or less, with a screen covering the top, which is at least 10 feet from any flammable material.

Burn barrels cannot burn any material prohibited by the State of Montana. See Section 3, above.

Persons starting fires under this provision are still responsible for any violations of the Montana Code Annotated.

7. COUNTY OPEN BURNING RESTRICTIONS AND PERMITS

a. Open Burning Restrictions. The Permit Holder may delegate the following duties to a designated responsible person; however, the Permit Holder is ultimately responsible for any violations:

(1) Notice. A Permit Holder or designee must call the Gallatin County Open Burning Number each day burning is planned at least 30 minutes before the planned burn and give the following:

name, Permit Number, and phone number;
material to be burned;
starting time of burning, during daylight hours;
location of burn and fire district or fire service area;
if on Forest Service property, the legal description:
Section:_____ Township:_____ Range:_____
and the number of acres to be burned _____.

(2) Preparation. Before setting a fire, Permit Holders shall ensure that adequate fire suppression equipment and personnel are present for fire control for the duration of the burn.

(3) Safety Conditions. No fire shall be set if wind or weather conditions make it hazardous to burn. If wind or other weather conditions change making the fire hazardous, the fire must be extinguished as quickly as possible.

When there is high fire danger, because winds or other conditions make burning hazardous, or when fire suppression resources are not available, Permits may be temporarily suspended until good ventilation exists and to allow assignment of burn priorities, if others request permission to burn on the same day.

A fire service area or fire district may be closed to open burning by its Fire Chief when necessary.

Permit Holders shall extinguish fires upon request of the Sheriff, a Rural Fire Chief, or their designees.

(4) Only Daylight Burning. No open burning fire shall be set between sunset and sunrise. If it appears that a fire will continue to burn after sunset, the Permit Holder must call the Gallatin County Open Burning Number.

(5) Fire Control. The Permit Holder or Designee shall not leave the immediate fire area until the fire has completely burned out, with no remaining embers or smoke.

b. Permits.

(1) **Preparation of Permits.** The Rural Fire Chiefs of Gallatin County with the direction of the County Rural Fire Chief shall prepare, issue, deny, modify, revoke, and suspend Gallatin County Open Burning Permits valid only for one burning season.

The Original Permit will be given to the Applicant and one copy will be kept by the issuing agency.

Gallatin County Open Burning Permits are issued in cooperation with the State of Montana Air Quality Bureau, the Gallatin County Board of Commissioners, and the Gallatin County Rural Fire Departments.

(2) **Issuing Permits.** Open Burning Permits may be issued by representatives of County Fire Agencies and the Forest Service. The issuing agency shall sign and date the Permit.

(3) **Permit Fees.** A \$5 administrative fee shall be assessed for each Permit through April 30 and \$10 thereafter. Fees shall be accounted for by the issuing agency, as follows:

\$2.00 (\$4.00 after April 30) will be deposited into a line item under the County Burn Permit Account, which account may only be used for costs associated with printing, issuing, handling, advertising Open Burning Permits, and providing firefighter training; and

\$3.00 (\$6.00 after April 30) will be retained by the Issuing Agency for handling costs.

(4) **Acknowledgement of Duties.** Applicants shall sign the Open Burning Permit acknowledging that they have read, understand, and agree to the requirements of the Permit and this Ordinance.

8. COUNTY ENFORCEMENT.

The Gallatin County Sheriff's Office has the authority to investigate complaints, issue written Notices of Violation, Orders to Take Corrective Action, and Citations to enforce the Ordinance.

9. PENALTIES.

A violation of this Ordinance is a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or imprisonment of up to six (6) months in the county jail, or both fine and imprisonment. In addition, restitution may be requested.

Collected fines shall be deposited in a special county fund for administering this Ordinance.

10. SEVERABILITY.

If part of this Ordinance is determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid part remain in effect. If a part of this Ordinance is invalid in one or more applications, the part remains in effect in all valid applications.

11. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after its Second Reading and Final Approval.

12. REPEAL OF COUNTY RESOLUTION No. 707.

When this Ordinance takes effect, Gallatin County Resolution 707 and all other County Open Burning Regulations shall be automatically repealed.

GALLATIN COUNTY ORDINANCE NO. 1999-001

A FIRE CONTROL ORDINANCE FOR GALLATIN COUNTY
AND THE REPEAL OF RESOLUTION No. 707

The Clerk and Recorder shall post a copy of this Ordinance and make copies available to the public after the First Reading.

First Reading and Approval, Date: JANUARY 12, 1999

BOARD OF COUNTY COMMISSIONERS
GALLATIN COUNTY

William A. Murdock
William A. Murdock, Chair

Phil Olson
Phil Olson, Member

Jennifer Smith Mitchell
Jennifer Smith Mitchell, Member

ATTEST:

Shelley Vance
Shelley Vance, Clerk & Recorder

Second Reading and Approval Date: FEBRUARY 16, 1999

This Ordinance is Effective: MARCH 18, 1999

BOARD OF COUNTY COMMISSIONERS
GALLATIN COUNTY

absent
William A. Murdock, Chair

Phil Olson
Phil Olson, Member

Jennifer Smith Mitchell
Jennifer Smith Mitchell, Member

ATTEST:

Shelley Vance
Shelley Vance, Clerk & Recorder

Copies:

Gallatin County Sheriff

Montana Airshed Group 8A

Gallatin County Rural Fire Chief

Amsterdam Rural Fire District

Belgrade Rural Fire District

Bridger Canyon Rural Fire District

Clarkston Fire Service Area

Fort Ellis Fire Service Area

Gallatin Canyon Consolidated RFD

Gallatin Gateway Rural Fire District

Manhattan Rural Fire District

Northside Rural Fire District

Rae Fire Service Area

Reese Creek Fire Service Area

Sedan Rural Fire District

Sourdough Rural Fire District

Springhill Fire Service Area

Three Forks Rural Fire District

Willow Creek Fire District

Bozeman Fire Department

Belgrade Fire Department

Manhattan Fire Department

Three Forks Fire Department

West Yellowstone Fire Department