

REDMOND FIRE & RESCUE

ORDINANCE NO. 5

AN ORDINANCE REGULATING OPEN BURNING, RECREATIONAL FIRES & PORTABLE OUTDOOR FIREPLACES

WHEREAS, ORS 478.930 provides that no person shall violate an adopted fire prevention code as provided in ORS 478.910 or fail to remove hazards found on inspection within the time set by the inspecting officer or burn in an unguarded manner without a permit; and

WHEREAS, ORS 478.960 provides the authority to the fire chief to regulate burning within a given fire district, and to prescribe conditions upon which permission is granted and which are necessary to be observed in setting the fire and preventing it from spreading and endangering life or property or endangering the air resources of this state.

**NOW, THEREFORE IN CONSIDERATION OF THE FOREGOING; IT IS ORDAINED
AS FOLLOWS:**

TITLE AND FILING:

This ordinance, including the codes referenced herein and hereby adopted, shall be filed with Oregon State Fire Marshal's Office and shall be posted at each fire station of the District as prescribed by ORS 478.940. From the date on which this ordinance shall take effect, provisions thereof shall be controlling within the territorial limits of the District and within each city and county within the District which similarly approves these provisions pursuant to ORS 478.924.

SCOPE:

This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of Redmond Fire & Rescue by regulating the fire hazards of outdoor burning.

APPLICABILITY:

This ordinance applies to all outdoor burning within the boundaries of Redmond Fire & Rescue's Fire District. This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances. This ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

SECTION I - ADOPTION OF THE DISTRICT'S OPEN BURNING REGULATIONS:

For the purpose of prescribing regulations governing open burning by requiring permits for certain types of burning and prohibiting certain types of burning.

SECTION II - ENFORCEMENT OF OPEN BURNING REGULATIONS:

Notwithstanding provisions in the Oregon Fire Code authorizing or requiring permits for open burning provisions providing for enforcement of the Code, such inspections, permits, and enforcement of the Code shall be discretionary by the Chief and other individuals charged by the Chief with such activities. It is the intention of the District to make clear that the District's duty to perform the issuance of permits, or to take enforcement actions as set forth in the Code, is limited to providing a reasonable level of fire and life safety.

SECTION III -DEFINITIONS:

Agricultural Burning: Agricultural burning is limited to genuine agricultural waste.

Agricultural waste is material generated by an agricultural operation that uses, or intends to use, land primarily for the purpose of obtaining a profit by raising, harvesting and selling crops or raising and selling animals (including poultry), or the products of animal husbandry. Prohibited materials can't be burned, even in an agricultural setting. Agricultural burning must be an integral and necessary part of the agricultural activity. The agricultural activity might include clearing of land but does not include the construction and use of dwellings. Burning associated with a dwelling is considered to be residential burning and requires a residential burn permit.

Approved Container: A heavy metal container (portable fire pits, with no rust holes in sides or bottom and with screening material over the top and any ventilation holes; or other devices that contain sparks or embers from leaving container.

Bonfire: An outdoor fire utilized for ceremonial purposes that is larger than a maximum of 3 feet in diameter by 2 feet in height.

Burning Season: Means the timeframe from October 1 through June 1. Certain restrictions and limitations may apply.

Clean wood: means natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.

Construction and demolition waste: means building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.

Daylight hours: Means the time between 8:00am and two hours before sunset.

District: Redmond Fire & Rescue

Fire Chief: The chief officer of the fire department serving the jurisdiction, or a duly authorized representative.

Haines Index: It is used to indicate the potential for wildfire growth by measuring the stability and dryness of the air over a fire. It is calculated by combining the stability and moisture content of the lower atmosphere into a number that correlates well with large fire growth. The stability term is determined by the temperature difference between two atmospheric layers; the moisture term is determined by the temperature and dew point difference. This index has been shown to be correlated with large fire growth on initiating and existing fires where surface winds do not dominate fire behavior.

Open burning: The burning of materials wherein products of combustion 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 and similar devices associated with safety or occupational uses typically considered open flames, recreational fires or use of portable outdoor fireplaces. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

Portable outdoor fireplace: A portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

Recreational fire: An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

SECTION IV-GENERAL

A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this ordinance and the specific conditions listed on the permit. No person shall burn prohibited materials as described by the Fire District burn permit and Oregon Department of Environmental Quality (DEQ).

Prohibited open burning. Open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous.

- a) Open field burning shall not be allowed on lots larger than 5 acres that do not meet the State of Oregon's definition of agricultural burning. See definition above. A special permit may/may not be issued by the Fire Chief after an on-site inspection of the proposed open field burn site.

- b) Open burning within the City limits of Redmond shall be prohibited with the exception of recreational fires located at one and two-family dwellings that are in compliance with section 3 of this ordinance.
- c) Open burning of agricultural fields conducted within one-eighth (1/8) of a mile adjacent to Highway 97 may not commence until a Deschutes County Sheriff's deputy, other law enforcement officer or certified flaggers have arrived to assist with traffic control should any smoke intrusion obstruct highway visibility. Open burning of agricultural fields is prohibited within one-eighth (1/8) mile adjacent to Highways 126 and 97. Flaggers are required for all open field burning adjacent to county roads.
- d) Burning shall not be allowed when any one of the following conditions exist:
 - 1. Temperature above 95 degrees Fahrenheit
 - 2. Wind speed above 10 miles per hour
 - 3. Humidity below 20%
 - 4. Haines Index of 5 or greater
 - 5. Industrial Fire Precaution Level (IFPL) of III
 - 6. Red Flag Days
- e) Burning shall not be allowed at night.
 Exceptions: recreational fires and portable outdoor fireplaces that are in compliance with Section VII of this ordinance
- f) No person shall burn on any given day without first calling the recorded burn line message and utilizing the Burn Permit App located on the Redmond Fire & Rescue website.
 Exceptions: bonfires, recreational fires and portable outdoor fireplaces that are in compliance with Section VII of this ordinance.

SECTION V-PERMIT

Permit required. An application for a permit shall only be presented by and permits shall only be issued to the owner of the land upon which the fire is to be kindled, or person with proof of legal authority over such land. A permit shall be obtained from the Fire Chief or a duly authorized representative prior to kindling a fire for any of the following:

- a) Open burning outside the City limits of Redmond.
- b) Bonfires
- c) Agricultural burning
- d) Ceremonial Fires

Exceptions: Open burning for agricultural purposes: No person shall burn on any given day without first calling the recorded burn line message and utilizing the Burn Permit App located on the Redmond Fire & Rescue website. As a courtesy, please contact the

non-emergency dispatch at 541-693-6911 before burning to lessen any unnecessary responses to agricultural controlled burns.

Agricultural burning is usually allowed anywhere in the state, unless fire safety concerns restrict or prohibit burning on a given day.

Agricultural burning is limited to genuine agricultural waste. Agricultural waste is material generated by an agricultural operation that uses, or intends to use, land primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or raising and selling animals (including poultry), or the products of animal husbandry. Prohibited materials can't be burned, even in an agricultural setting.

Agricultural burning must be an integral and necessary part of the agricultural activity. The agricultural activity might include clearing of land but does not include the construction and use of dwellings. Burning associated with a dwelling is considered to be domestic burning, backyard burning, or burning of yard debris and is not part of the farming operation

SECTION VI-AUTHORIZATION

Authorization. Where required by state or local law or regulations, open burning shall only be permitted by and with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.

Authorization to burn by others, may be revoked by the fire district. The fire district reserves the right to prohibit all burning within the fire district when deemed necessary by the Fire Chief or a duly authorized representative when conditions or circumstances make such fires hazardous.

SECTION VII-LOCATION AND SIZE

Location and size. The location for open burning shall not be less than 50 feet (15,240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure where the pile size is a maximum of 6 feet in diameter by 4 feet in height.

Exceptions:

- a. Fires in approved containers that are not less than 15 feet (4572 mm) from combustibles. See fire district Safe Debris Burning Tips pamphlet for approved containers or burn barrels.
- b. The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610mm) or less in height.

Bonfires. A bonfire shall not be conducted within 50 feet (15,240 mm) of a structure or combustible material unless the fire is contained in a pit. Conditions which could cause a fire to spread within 50 feet (15,240mm) of a structure shall be eliminated prior to ignition. All bonfires shall be authorized individually and only after an on-site inspection.

Recreational fires. Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition. These types of fire are not permitted at a commercial business.

Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material. These types of fire are not permitted at a commercial business.

Exception: Portable outdoor fireplaces used at one and two-family dwellings.

SECTION VIII-ATTENDANCE

Attendance. Open burning, bonfires, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

SECTION IX- EXTINGUISHMENT AUTHORITY

Extinguishment authority. When any fire creates or adds to a hazardous situation, or a required permit for burning has not been obtained or followed, the Fire Chief or their designee is authorized to order the extinguishment of the fire or have the fire extinguished by fire district personnel.

SECTION X-LIABILITY

Liability. Nothing in this ordinance relieves a person starting a fire from responsibility for providing adequate protection to prevent injury or damage to the person or property of another. If such burning results in the escape of fire and injury or damage to the person or property of another, such escape and damage or injury constitutes prima facie evidence that the burning was not safe.

SECTION XI-VIOLATIONS AND PENALTIES

- a) Violation of ORS 476.380 (Fire permits) is a Class A misdemeanor. ORS 478.990 Penalties
- b) Violation of any provision of ORS 478.930 (Violation of code) is a Class D violation. Each day's refusal to remove fire hazards after notice by the inspecting officer to the owner of the premises where the hazard exists is a separate offense.

c) Burning without a permit required under ORS 478.960 (Burning of certain materials permitted only with permission of fire chief) or in violation of a condition thereof is a misdemeanor.

d) Violation of ORS 478.960 (Burning of certain materials permitted only with permission of fire chief) (4) is a misdemeanor.

e) Subject to ORS 153.022 (Authority of agency to specify rule violation as particular level of violation) and 153.025 (Authority of political subdivision to specify ordinance violation as particular level of violation), violation of any rule or regulation made by a rural fire protection district or other public body, as defined in ORS 174.109 (Public body defined), pursuant to ORS 478.300 (Contracting with others to provide facilities and services for fire protection or road lighting) (2) is a misdemeanor.

f) OAR 468A.992 Civil penalties for open field burning violations

In addition to any liability or penalty provided by law, the State Department of Agriculture may impose a civil penalty on any person who fails to comply with a provision of ORS 468A.555 (Policy to reduce open field burning) to 468A.620 (Experimental field sanitization) or any rule adopted thereunder, or a permit issued under ORS 468A.555 (Policy to reduce open field burning) to 468A.620. (Experimental field sanitization), relating to open field burning.

The State Department of Agriculture shall impose any civil penalty under this section in the same manner as the Department of Environmental Quality imposes and collects a civil penalty under ORS 468.140 (Civil penalties for specified violations).

SECTION XII-RECOVERY

Recovery by district of costs of suppressing unlawful fire ORS 478.965; attorney fees

a) If the fire-fighting apparatus or personnel, or either of a district, are required to respond and be used actively or on a standby basis in connection with the extinguishment or control of a fire that has been started or allowed to spread in willful violation of ORS 478.960 (Burning of certain materials permitted only with permission of fire chief) (1) to (5), the person responsible therefor shall be liable to the district furnishing such apparatus or personnel, or both, for the actual costs incurred by the district in controlling, extinguishing or patrolling the fire. Such costs may be recovered in an action prosecuted in the name of the district. The court may award reasonable attorney fees to the district if the district prevails in an action under this section. The court may award reasonable attorney fees to a defendant who prevails in an action under this section if the court determines that the district had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

b) An itemized statement of the actual costs incurred by the district, certified under oath by the Chief Financial Officer of the district, shall be accepted as prima facie evidence of such costs in the action authorized by this section.

SECTION XIII-VALIDITY

The District hereby declares that should any section, paragraph, sentence, or word of this ordinance or of the Codes or Standards hereby adopted be declared for any reason to be invalid, it is the intent of the District that it would have passed all other portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

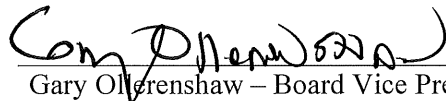
SECTION XIV-DATE OF EFFECT

The Board of Directors of the District finds and determines that it is necessary and expedient that the provisions of this ordinance become effective 30 days following adoption, as authorized by ORS 198.570.

First reading by Title only this 18th day of May, 2022.

Second reading by Title only this 15th day of June, 2022.

Adopted by vote of the Redmond Fire & Rescue Board of Directors this 15th day of June, 2022.

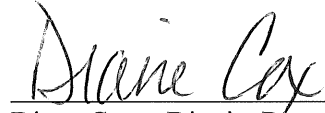


Gary Ollershaw – Board Vice President

Ayes: 4

Nays: 0

ATTEST:



Diane Cox – District Recorder