

**CITY OF WARD
ORDINANCE NUMBER O-2020-11**

AN ORDINANCE DEFINING AND LIMITING CONDITIONS FOR OPEN BURNING WITHIN THE CITY LIMITS OF WARD, ARKANSAS; PROVIDING FOR ENFORCEMENT, PROVIDING FOR A PENALTY, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES.

WHEREAS, THE CITY OF WARD, ARKANSAS finds it necessary to enact an Ordinance to define and limit conditions for open burning with the city limits of Ward, Arkansas; and,

WHEREAS, ARKANSAS STATE CODE ANNOTATED (A.C.A.) § 8-4-306 states any political subdivision of this state may enact and enforce laws, ordinances, resolutions, rules, or regulations for the purpose of prohibiting burning in the open; and,

WHEREAS, A.C.A § 8-6-1703(d) gives authority to local fire control officials to abate fire hazards by whatever regulatory mechanisms deemed necessary and appropriate; and,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WARD, ARKANSAS:

SECTION 1: DEFINATIONS

- a) **Yard Waste:** Yard waste is grass clippings, tree leaves, gardening waste, and shrubbery trimmings collected from residential property. This does not include household waste or trade waste.¹
- b) **Residential backyard or Outdoor Burning:** Burning of material where products of combustion are emitted directly into the ambient air without passing through a stack, duct, or chimney from an enclosed chamber. Residential outdoor burning includes fires in burn barrels, fire pits, etc.¹

SECTION 2: BURNING RULES

- a) **Residential Vegetation Abatement:** A.C.A. 8-6-1703(a) expressly discourages the open burning of yard waste; however, because the City of Ward does not offer a service to routinely collect Yard Waste, open burning of Yard Waste is permitted as outlined in the Ordinance.
 - a. **Open Burning of Yard Waste is Permitted Under the Following Terms and Conditions**
 - i. Permission is obtained. (see Section 5).
 - ii. Burning must be done at least 25' (feet) from any structure.

¹ <http://www.adeg.state.ar.us/air/compliance/yardwaste.aspx>

- iii. Only natural vegetation may be burned. The fire shall NOT contain any lumber, rubber products, asphalt products (to include shingles), plastics, household garbage, or any waste that emits black smoke or creates offensive odors.
- iv. The fire MUST be attended at all times by a responsible adult (18 years old or older)
- v. Equipment or materials capable of extinguishing the fire must be present at all times. (i.e. Fire Extinguisher, charged water hose, sand, etc).
- vi. Burning shall not commence one (1) hours before sunrise and must be completely extinguished no later than two (2) hours after sunset. The fire must be totally extinguished before leaving the area.
- vii. Care must be taken to ensure the heat, smoke and particulate matters does not damage neighboring property or become a nuisance.
- viii. **DO NOT burn under power lines.**
- ix. **DO NOT start an open burn when**
 - 1. Winds speed is greater than 10 MPH; and/or,
 - 2. Humidity is less than 30%
 - 3. A Burn Ban is in effect (Section 3)
- x. **The applicant assumes any and all liability for any damages cause by a fire set with or without permission.**
- xi. The Ward Fire Department reserves the right to require a fire be extinguished by the occupant/home owner if
 - 1. Permission was not obtained, or
 - 2. Atmospheric conditions deem it unsafe to burn, or
 - 3. Illegal or improper material is being burned.

SECTION 3: BURN BAN

- a. Burn bans may be issued under the following conditions
 - i. Atmospheric conditions that prevent smoke from rising freely
 - ii. When excessively dry conditions exist
 - iii. Sustained winds more than 10 MPH
 - iv. Frequent peak wind gusts greater than twenty-five (25) MPH.
- b. Burn bans may be issued by
 - i. Governor
 - ii. County Judge
 - iii. Ward Fire Chief (or designee)

SECTION 4: CONSTRUCTION OR SITE IMPROVEMENT BURNING

- a. Open burning of trees, limbs, or vegetation removed during the process of site preparation for construction or site improvement shall not be allowed under the following conditions are met.
 - i. Permission is obtained (see Section 5). Notification to the Fire Department must be given at least 24 hours before the planned burn.
 - ii. All surface vegetation must be removed from all surface areas adjacent to the burning material for a distance not less than 20 feet.
 - iii. The fire must be checked periodically by a responsible adult (18 years or older).
 - 1. The person tending the fire must have sufficient extinguishment equipment on site (i.e. tractor with blade, dozer, water truck, etc)
 - 2. Periodically means that a responsible person is sufficiently present to prevent the spread of the controlled fire allowed by this subsection. If the fire spreads outside the area the area identified under this subsection, then it is prima facie evidence that the fire was not being checked periodically and the land owner, contractor, and/or resident are fines listed in Section 5b).
 - iv. **DO NOT burn under power lines.**
 - v. **DO NOT start an open burn when**
 - 1. Winds speed is greater than 10 MPH; and/or,
 - 2. Humidity is less than 30%
 - 3. A Burn Ban is in affect (Section 3)
 - vi. **The applicant assumes any and all liability for any damages cause by a fire set with or without permission.**
 - vii. The Ward Fire Department reserves the right to require a fire be extinguished by the occupant/home owner if
 - 1. Permission was not obtained, or
 - 2. Atmospheric conditions deem it unsafe to burn, or
 - 3. Illegal or improper material is being burned.

SECTION 4: OTHER ALLOWED BURNING The following types of burning activities are permitted according to the circumstances listed herein:

- a) Fires of a controlled and manageable nature used in the course of food preparation that incorporate the use of barbecue equipment, outdoor fireplaces, cooking grills, or cooking pits specifically designed and created for the preparation of food. No permit is required.
- b) Burning associated with road construction or right-of-way clearing operations. See Section 4

- c) Fires allowed by the Ward Fire Department for the purposes of weed abatement, prevention and/or elimination of fire hazards, and burning of storm debris following a disaster (declared or otherwise). Such burning is at the sole discretion of the Fire Chief or his designee depending on weather, safety and environmental concerns.
- d) Fires associated with Fire Department training as approved by the Fire Chief or his designee.
- e) Ceremonial (bon fire)
 - i. The location shall be a minimum of 50 feet from a structure or combustible material.
 - ii. No more than one pile may be burned at any given time by an individual resident or property owner.
 - iii. Approved material must not be piled any taller than 10 foot and no more than 15 feet in diameter.
 - iv. Ceremonial fires require permission to burn
- f) Recreational (Fireplace, fire rings, fire pits, etc)
 - i. The location shall be a minimum of 15 feet from a structure or combustible material.
 - ii. Approved material must be piled no taller than 2 feet and not more than 3 feet in diameter.
 - iii. No permit is required.

SECTION 5: PERMITTING AND ENFORCEMENT

- a) **Permitting:** Any person wishing to burn yard waste within the city limits of Ward must first obtain permission (permit) from the Fire Chief (or designated representative). Prior to burning, call the Central Fire Station at 501-286-6106 or email the department at wardfire@cityofward.com and provide the following information.
 - i. Name
 - ii. Address
 - iii. What is being burned
 - iv. Confirmation that adequate fire suppression is available
- b) **Enforcement:** Any person who burns in the city limits of Ward without a permission by the Ward Fire Department may be issued a citation by the Fire Chief (or designee), the Ward Code Enforcement Officer or any Ward Law Enforcement Officer.
 - i. Persons found guilty of burning without a permit will be guilty of a misdemeanor and be subject of a fine of not less than \$25.00 nor more than \$100.00 plus court costs.
 - ii. Person found guilty of a second violation will be subject of a fine of not less than \$100.00 plus court costs.

- iii. Person found guilty of a third and subsequent violation within a five-year period of the first conviction, shall be fined not less than \$250.00 plus court cost and they will be ineligible to burn anything within the city limits of Ward.

SECTION 8: REPEAL

- a) With passage of this Ordinance, Ordinances C-2-86 and O-1295, are hereby repealed.
- b) Any portion or portions of the amendment adopted herein which are contrary to existing Ordinances of the City of Ward, Arkansas shall prevail and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of conflict.

SECTION 7: EMERGENCY CLAUSE

An emergency is hereby declared to exist and this Ordinance, being necessary for the immediate protection of the peace, health, and safety of the citizens of Ward, Arkansas, shall go into effect immediately upon passage by a majority vote of the Governing Body of the City of Ward, Arkansas.

SECTION 8: SEVERABILITY

If, for any reason, any portion or portions of this ordinance shall be held invalid, such invalidity shall in no way affect the remaining portions.

PASSED AND ADOPTED THIS 19 DAY OF October, 2020

YEAS: 5 NAYS: 0

APPROVED:



Charles Gastineau, Mayor

ATTEST:



Courtney Ruble, City Clerk

