

ORDINANCE NO. 338-2015

AN ORDINANCE OF THE CITY OF NEW MEADOWS, IDAHO, ENACTING THE 'NEW MEADOWS OPEN BURNING ORDINANCE'; PROVIDING FOR THE PURPOSE; CREATING DEFINITIONS; PROHIBITING CERTAIN BURNING OF MATEIRALS; PROVIDING FOR CERTAIN EXCEPTIONS TO OPEN BURNING; REQUIRING FILING A BURNING PERMIT UNDER CERTAIN CONDITIONS; PROVIDING FOR APPEALS; PROVIDING FOR SPECIAL ENFORCEMENT; REQUIRING A PERMIT AND ADMINISTRATION; IDENTIFYING FINES AND PENALTIES; PROVIDING FOR SEVERABILITY AND PROVIDING A DATE FOR ADOPTION.

BE IT ORDAINED BY THE MAYOR AND THE COUNCIL OF THE CITY OF NEW MEADOWS IDAHO AS FOLLOWS:

Section 1.01 SHORT TITLE:

This section shall be known and may be cited as the "New Meadows Open Burning Ordinance."

Section 1.02 PURPOSE:

The purpose and intent of this Ordinance is to eliminate all forms of open burning except those for which there is no means of producing a similar public benefit, or such as may be permitted herein, limit unnecessary emergency response by fire personnel, and to assist in tracking and pinpoint burning in the community.

Section 1.03 DEFINITIONS:

Agricultural Burning – Means open burning of plant life grown on the premises in the course of any agricultural, forestry or land clearing operation when it can be shown that such burning is necessary and that no fire hazard will occur. Convenience of disposal is not of itself a valid necessity for burning.

Approved Incinerators – Any source consisting of a furnace and all appurtenances thereto designated for destruction of refuse by burning. "Open incinerators" shall mean those burning containers which have been approved and certified by the Idaho Department of Health and Welfare. "Burning barrels" and similar devices are forms of open burning and are not considered to be approved incinerators.

Authorized Enforcer – Means the Mayor, Building Inspector, fire wardens, the Fire Chief or any member of the Fire Department, a member of the Adams County Sheriff's Office and persons specifically deputized by either the Adams County Sheriff or the Mayor of the City of New Meadows called together "authorized enforcer(s).

Council – The city council of the City of New Meadows.

Issuing Agent – The New Meadows City Clerk or designee.

Odor – The sensation resulting from stimulation of the human sense of smell.

Open Burning – Means the outdoor burning of materials where the products of combustion are not completely directed through a duct, passage, smokestack or chimney.

Permit – The City of New Meadows burning permit issued pursuant to this Ordinance.

Person – Any person, corporation, firm, partnership or any federal, state or local governmental entity.

Smoke – Small gas borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material.

Toxic Air Contaminants – Pollutants that are known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects, or to cause adverse environmental effects. Also known as Toxic Air Pollutants as defined by Idaho Department of Environmental Quality.

Section 1.04 PROHIBITIONS:

It is unlawful to deliberately or negligently start a fire under any of the following circumstances:

- A. In any structure; except, it is lawful to start a fire in a fireplace, incinerator, or stove, provided that the person(s) starting the fire has no reason to believe that use of the same is hazardous or violates applicable air quality regulations; or
- B. Whether or not in a structure, using as or among the fuel: garbage, rubbish, decaying matter, processed lumber, dead animals or refuse of any kind; excepting, however, leaves and needles dropped by trees, limbs, splinters, and bark from wood cutting and splitting, and weeds and other vegetation, when in a safe place in a fireplace or fire ring; or
- C. Notwithstanding the provisions of any section of this ordinance, no person shall allow, suffer, cause or permit the burning of materials which emit toxic contaminants, particulates or odors; or
- D. Without a permit at any time when a permit is required, or in violation of the terms of this Ordinance, of such a permit, or of State fire season and open burning regulations.

It is prima facie evidence of such negligence in the starting of a fire that the fire escaped from the initial location of the burning, so as to start a grass, brush, forest, or building fire.

Section 1.05 EXCEPTIONS TO OPEN BURNING PROHIBITION:

Notwithstanding the provisions of previous sections of this ordinance, the following types of fires shall be allowed:

- A. Fires Requiring Permit: The following types of fires may be allowed by permit only:
 1. Agricultural burning;
 2. Fires used for control or alleviation of fire hazard or for weed control when no alternative control exists;
 3. Fires used in the training of organized firefighting personnel;
 4. Special fires allowed at the discretion of the “Authorized Enforcer” wherein the fire is to be located. Special fires are fires not falling into (A)1, 2 and 3 of this Section.
- B. Fires Allowed Without a Permit: Fires used for the preparation of food and campfires, recreational / hobby fires such as those used in the construction of pottery or steel works and ceremonial fires under control of a responsible person that is not intoxicated and over the age of 18, shall not require a permit.

Section 1.06 BURNING PERMIT AND CONDITIONS:

Burning permits are required for any open burning at a time when State fire season regulations require permits. No permit may be issued if the State has declared a closure on open burning, nor shall any person conduct open burning during any such period of closure.

- A. Contents: All permits must contain the following conditions on the face or obverse of such permit:
 1. Name, address, phone number of applicant and permittee;
 2. Location of proposed burning;
 3. Conditions under which burning is to be allowed.
 4. Signature of issuing officer;
 5. Signature of permittee;
 6. Materials that are to be burned;
 7. Beginning date of burn to extinguished date.
- B. Permittee Agreement: All permittee applicants shall agree to the following:
 1. The permittee shall keep the fire under permittee's control and supervision at all times until the same has been completely extinguished;
 2. The permittee shall have at the place of the fire a garden hose connected to a pressurized water supply, or shall have at such place other Fire Department approved fire extinguishing equipment, in either case readily available for use, until the fire has been completely extinguished; and
 3. The permittee, by seeking and accepting such permit, and by conducting such open burning, becomes responsible and agrees to be responsible to pay all costs of suppression of a fire escaping from permittee's control. "Costs of suppression" means costs incurred by the City of New Meadows, the Meadows Valley Rural Fire Protection District, Southern Idaho Timber Protective Association, or by any other agency which responds to such fire.

Section 1.07 APPEALS:

Any person denied a burning permit by the Issuing Agent may within thirty (30) days appeal that decision in writing to the City Council. The Council shall rule on said appeal within twenty (20) days of receipt thereof.

Section 1.08 SPECIAL ENFORCEMENT:

In addition to enforcement by the Department, this ordinance may be enforced by the Building Inspector, fire wardens, the Fire Chief or any member of the Fire Department, the Adams County Sheriff's Department and persons specifically deputized by either the Adams County Sheriff or the Mayor, called together "authorized enforcer(s)" in the balance of this subsection. Without limiting their authority under this clause, authorized enforcers may require that open burning be immediately extinguished upon determining that smoke emissions are unreasonably offensive or potentially harmful to the occupants of the same or surrounding properties, or upon determining that the open burning is hazardous.

Section 1.09 PERMIT REQUIRED & ADMINISTRATION:

The City Clerk shall require a signed permit by each applicant during the allowable burning period as authorized by the State Fire Marshal. Permits shall be completed and turned into City Hall with an applicable fee as set from time to time by resolution of the New Meadows City Council.

Once a permit and permit fee have been turned over to the City Clerk or his/her designee, the permit shall be promptly routed to the Meadows Valley Rural Fire Protection District Fire Chief, Adams County Sheriff’s Office Dispatch and the Payette National Forest, New Meadows Ranger District.

Initial permits shall only be valid for one (1) week from the date of issuance. A new permit will be required for each subsequent week. Subsequent permits may be purchased at a discount if purchased within a six (6) month period, however still only valid for the week (7 days) issued.

Section 1.10 PENALTIES AND FINES:

Violation of this ordinance carries a civil penalty of \$250 per violation to be assessed by the City’s “Authorized Enforcer(s)”. The penalty shall be paid to the City Clerk within 10 days of issuance or in the time and manner allotted by the “Authorized Enforcer’s Agency” and then forwarded to the City Clerk.

If the civil penalty goes unpaid for more than 30 days, the New Meadows Prosecuting Attorney will issue a misdemeanor summons to be served on the violator by the Adams County Sheriff’s Office to appear before the Adams County Magistrate.

All penalties collected under this ordinance shall be deposited into the Fines & Forfeitures Account within the city’s accounting system.

Section 1.11 SEVERABILITY:

Should any section, subsection, paragraph, sentence or clause thereof, or any particular application thereof, be declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance.

Section 1.12 Effective Date:

This ordinance shall be in full force and effect, after passage by the New Meadows City Council, signed by the Mayor, and publication of the ordinance according to law.

PASSED AND APPROVED by the Mayor and the Council of the City of New Meadows on this 28th day of July, 2015.

Anthony J Koberstein, Mayor

ATTEST: _____
Jacob M Qualls, City Clerk