

AN ORDINANCE REGULATING OUTDOOR BURNING
WITHIN THE UNINCORPORATED AREAS OF WAHAKIYAKUM
COUNTY; REQUIRING BURNING PERMITS; PROVIDING
FOR ADMINISTRATION AND ENFORCEMENT; AND PRESCRIBING
PENALTIES FOR VIOLATIONS

WHEREAS, RCW 70.94.743 through 70.94.780 prohibit outdoor burning except in accordance with said statutory provisions and the Washington Administrative Code Rules promulgated pursuant thereto; and

WHEREAS, Southwest Air Pollution Control Authority has indicated that the unincorporated portions of Wahkiakum County constitute an area in which there shall be allowed limited outdoor burning; and

WHEREAS, to promote the public interest, said limited outdoor burning should be allowed only by persons who have acquired a permit from Wahkiakum County and are conducting the burning of outdoor fires in accordance with law;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WAHAKIYAKUM COUNTY, WASHINGTON, as follows:

Section 1. Definitions. Unless a different meaning is clearly required by context, the following words and phrases as used in this ordinance shall have the following meanings:

(1) "Agricultural burning" means burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.

(2) "Ceremonial fire" means a fire associated with a ceremony or ritual conducted by a federally recognized Indian Tribe or authorized member thereof.

(3) "Department" means the Washington State Department of Ecology.

(4) "Local Air Authority" means the Southwest Air Pollution Control Authority.

(5) "Nuisance" means an emission of smoke or other emissions from any open fire that unreasonably interferes with the use and enjoyment of the property deposited on.

(6) "Outdoor burning" means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

(7) "Recreational fire" means barbecues and campfires, using charcoal, natural gas, propane, or natural wood which occur in designated areas or on private property. Fires used for debris disposal purposes are not considered recreational fires.

(8) "Silvicultural burning" means burning on any land the Department of Natural Resources protects pursuant to RCW 70.94.030(13), RCW 70.94.660, RCW 70.94.690, and pursuant to chapter 76.04 RCW.

(9) "Small fire" means a fire consisting of one pile not larger than four feet by four feet by three feet.

(10) "Large fire" means any fire larger than a small fire as defined in subsection (9) of this section.

Section 2. Permit Required for Outdoor Burning. The unincorporated areas of Wahkiakum County, Washington, shall be and are hereby designated as a limited outdoor burning area. Outdoor burning shall not be allowed within the unincorporated areas of Wahkiakum County, Washington, unless the person conducting the outdoor burning shall first obtain a burning permit as provided in Section 3 of this Ordinance.

Section 3. Burning Permits.

(1) Permit Required. A written burning permit is required for all outdoor burning, except for recreational fires, ceremonial fires, agricultural burning (governed by Chapter 173-430 of the Washington Administrative Code), Silvicultural burning (governed by Chapter 173-430 of the Washington Administrative Code), and fires set for training to fight structural fires as authorized by Chapter 28, Washington Laws of 1994.

(2) Small Fire Permits. Small fire permits shall be issued without charge. Such permits shall be effective through December 31 of the year of issuance. Small fire permits may be issued on a self-service basis with the permittee completing the permit form and leaving a copy of said form with either the Wahkiakum Public Works Department or the jurisdictional fire protection district. The following conditions shall govern small fire permits:

(a) the fire must not include any prohibited materials listed in Section 5 of this Ordinance, except what paper is necessary to start the fire;

(b) a person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before the attendant leaves it;

(c) no fires are to be within fifty feet of structures;

(d) the pile must not be larger than four feet by four feet by three feet;

(e) only one pile at a time may be burned, and each pile must be extinguished before lighting another;

(f) no outdoor fire is permitted in or within five hundred feet of forest slash without a written large fire permit;

(g) either the designated permitting authority must be called to confirm burning conditions for each day or current information on burning conditions must be obtained from another designated source;

(h) if the fire creates a nuisance, it must be extinguished;

(i) permission from a landowner, or owner's designated representative must be obtained before starting the fire; and

(j) the fire must be started no earlier than 1/2 hour after sunrise and must be extinguished 1/2 hour after sunset.

(3) Large Fire Permits. Large fire permits shall be issued by the Public Works Department. No permit fee shall be charged for issuance of a large fire permit. Large fire permit applications shall be evaluated on a case-by-case basis by the Public Works Department using fire protection, air pollution, and availability of alternatives to burning as criteria. Large fire permits may be issued for a time period not to exceed 30 days. The Public Works Director is authorized to develop a large fire permit application form that includes the following information: have alternatives been explored, size, nature, and location of proposed burn, number of piles to be burned at one time, total number of piles to be burned, and duration of the proposed burn. The burning rules contained in Section 6 of this Ordinance shall constitute the minimum conditions for any large fire permit.

Section 4. Fires Allowed. The following outdoor fires described in this Section may be burned subject to the provisions of Chapter 70.94 of the Revised Code of Washington, the provisions of this Ordinance, and the laws and rules enforced by the Department of Natural Resources and by the Department of Ecology of the State of Washington:

(1) Fires consisting of leaves, clippings, prunings and other natural vegetation originating on lands where burning occurs.

(2) Fires consisting of residue of a natural character such as trees, stumps, shrubbery or other natural vegetation arising from land clearing projects or agricultural pursuits for pest or disease control, PROVIDED, HOWEVER, burning must be restricted to natural vegetation grown on the property where burning occurs.

Section 5. Prohibited Materials.

(1) The following materials shall not be burned in any outdoor fire: Garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, metal, or any substance (other than natural vegetation) which when burned releases toxic emissions, dense smoke, or odors.

(2) Prohibited materials may be burned in certain circumstances:

(a) Diseased animals and infested material. When ordered by the Wahkiakum County health officer and authorized by the department or local air authority, diseased animals and other infested material may be burned, as required, to keep the infestation from spreading.

(b) Dangerous material. When ordered by a jurisdictional fire protection district and when authorized by the department or local air authority, fires to dispose of materials presenting a danger to life, property, or public welfare may be burned, if no approved practical alternate method of disposal is available.

Section 6. Burning Rules. All outdoor fires requiring a burning permit pursuant to this Ordinance are subject to the following rules:

(1) No outdoor burning shall be done when a burn ban is in effect.

(2) No outdoor burning shall be done during the declared period of impaired air quality. Burning conditions shall be obtained each day before starting to burn.

(3) Burning must be done with the following clearances from structures, property lines, and other combustible materials:

(a) Not less than fifteen feet when using an approved burning appliance.

(b) Not less than twenty-five feet for pile sizes four feet by four feet or less.

(c) Not less than fifty feet for pile sizes greater than four feet by four feet but less than ten feet by ten feet.

(d) Not less than fifty feet from any structure, regardless of pile size.

(4) A person capable of extinguishing the fire shall attend it at all times and the fire must be totally extinguished before leaving it. A sufficient water supply and shovel must be at the burning site and ready to use.

(5) Burning shall be conducted only during daylight hours and only one pile may be burned at a time and it must be extinguished before starting another.

(6) No fires are permitted in or within five hundred feet of a forest slash and without a slash burning permit.

(7) If a fire creates a nuisance, it must be extinguished upon direction from the jurisdictional fire protection district, the local air pollution control authority, or the Wahkiakum County Public Works Director.

Section 7. Burn Bans.

(1) Burning may be banned for either air quality or fire safety reasons.

(2) The Public Works Director is authorized to ban all outdoor burning in unincorporated Wahkiakum County for fire safety reasons. A fire safety burning ban shall be effective upon posting of the Public Works Director's written order on the main bulletin board of the Wahkiakum County Courthouse. When a fire safety burn ban is issued, the Public Works Director shall also notify the Wahkiakum County E-911 Center, all county fire protection districts, and the Southwest Air Pollution Control Authority open burning hotline.

(3) The Southwest Air Pollution Control Authority is authorized to ban all outdoor burning in unincorporated Wahkiakum County for air quality reasons.

Section 8. Field Responses.

(1) The Public Works Department shall be responsible for responding to complaints regarding open burning. This response may be by phone, in writing, or in person.

(2) The jurisdictional fire protection district shall be responsible for abating fire safety hazards created by outdoor burning. The jurisdictional fire protection district shall be notified of all outdoor burning which occurs when a fire safety burn ban is in effect.

Section 9. Violations. It is unlawful for any person to:

(1) Violate any condition or conditions of a permit issued under this ordinance;

(2) Ignite any outdoor fire when either a fire safety or air quality burn ban is in effect pursuant to Section 7 of this Ordinance;

(3) Burn prohibited materials in an outdoor fire;

(4) Ignite any open fire without having first obtained a burning permit as required by Section 3 of this Ordinance;

(5) Fail to extinguish any outdoor fire that is burning when either a fire safety or air quality burn ban is declared;

(6) Ignite or maintain any fire which causes emissions to detrimental to health;

(7) Ignite or maintain any fire which causes emissions that unreasonably interfere with property use and enjoyment.

Section 10. Enforcement.

(1) It shall be the duty of the County Public Works Director enforce this Ordinance.

(2) For purposes of issuing a notice of corrective action or notice of civil infraction pursuant to Chapter 7.80 RCW for violations of this Ordinance, the following persons are designated "enforcement officers" and are authorized to enforce the civil provisions of this Ordinance: The Wahkiakum County Public Works Director, the Wahkiakum County Building Inspector/Permit Coordinator, the officers and firefighters of any local fire protection district, the Wahkiakum County Sheriff, and any deputy sheriff.

Section 11. Penalties.

(1) Any violation of any provision of this Ordinance is a Class 1 civil infraction that will be heard and determined by Wahkiakum County District Court in accord with the provisions of Chapter 7.80 of the Revised Code of Washington as now or hereafter amended. The maximum penalty and the default amount for a Class 1 civil infraction shall be Two Hundred Fifty dollars (\$250.00) per day for each violation, not including statutory assessments and costs of response and control which may be assessed by the Court. Each such violation shall be a separate and distinct offense, and in case of a continuing violation each day's continuance shall be a separate and distinct violation.

(2) Each act of commission or omission which procures, aids, or abets in the violation of any provision of this Ordinance shall be considered a violation of this Ordinance and shall be subject to the penalties set forth in this Section.

(3) In addition to any other penalty prescribed by this Ordinance, a fire protection district called to respond to, control, or extinguish an illegal or out-of-control fire may charge and recover from the person responsible for the fire the costs of its response and control action plus costs of collection and a reasonable attorney's fee, if any.

Section 12. Failure to Pay Monetary Penalties-Punishment. Whenever a monetary penalty is imposed by the Court pursuant to this Ordinance and Chapter 7.80 RCW, it is immediately payable. Wilful failure to pay the penalty constitutes a Misdemeanor. If a penalty is not paid on or before the time established for payment, the Prosecuting Attorney may proceed to collect the penalty in the same manner as other civil judgments.

Section 13. Violations - Injunctions and Legal Proceedings Authorized - Public Nuisance Abatement. The Public Works Director for Wahkiakum County may bring an action to enjoin a violation of any of the provisions of this Ordinance, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the Superior Court for Wahkiakum County. Continuing violations of the provisions of this Ordinance are declared to be public nuisances. The Public Works Director may commence a civil action for abatement of such public nuisances in the Superior Court for Wahkiakum County.

Section 14. Severability. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

Section 15. Effective Date. This Ordinance is necessary for the immediate preservation of the public health and safety and shall take effect on November 1, 1994.

Section 16. Codification. This Ordinance shall be codified in the Revised Code of Wahkiakum County as Chapter 70.94.

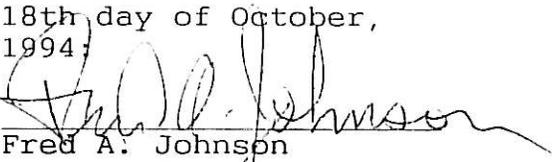
DULY PASSED AND ADOPTED in Regular Session following a public hearing thereon, this 18th day of October, 1994.

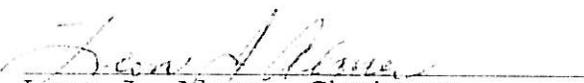
BOARD OF COUNTY COMMISSIONERS
OF WAHAKIAKUM COUNTY, WASHINGTON

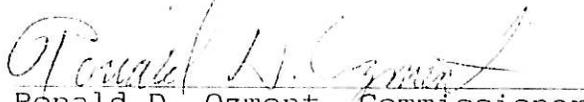
ATTEST:


Mary J. Baldwin
Clerk of the Board

APPROVED AS TO FORM this
18th day of October,
1994:


Fred A. Johnson
Prosecuting Attorney


Leon J. Almer, Chairman


Ronald D. Ozment, Commissioner


Mark L. Doumit, Commissioner