

ORDINANCE NO.2020 828

**AN ORDINANCE TO AMEND ORDINANCE No. 1981-572 REGARDING THE
DEFINING AND LIMITING CONDITIONS FOR OPEN BURNING WITHIN THE CITY
LIMITS OF THE CITY OF MONTICELLO**

WHEREAS, The City Council of the City of Monticello enacted Ordinance No. 1981-572 that Defined and Limited the conditions for open burning within the City of Monticello; and

WHEREAS, it has been discovered that certain terms in that Ordinance need additional clarification and expansion for development of rural land and the efficient removal of natural debris, trees, limbs or vegetation; and

WHEREAS, the City Council of the City of Monticello wishes to amend Ordinance No. 1981-572 to clarify that Ordinance.

NOW, THEREFORE BE IT ordained by the City Council of the City of Monticello, Arkansas, as follows:
Ordinance No. 1981-572 is hereby modified as follows:

Section 1. Permit Required

A. Permit required for all permissible burning as listed in Section 2. subsection A-D.

1. Permit shall be issued free of charge form the Monticello Fire Department central station during normal business hours.

2. Permits shall list guidelines that shall be met while conducting controlled burns.

Section 2. Permissible Burning

A. Residential Vegetation Abatement

In accordance with Arkansas Code Annotated § 8-6-1703(d), instances of open burning of yard waste by residents are expressly discouraged. For the purpose of open burning, "yard waste" shall be defined as grass clippings, leaves, tree limbs, and shrubbery trimmings collected by a resident or property owner from residential property located within the city limits of the City of Monticello.

1. The burning of yard waste is allowed throughout the year, except when a Burn Ban is in effect, beginning at one (1)

hour before sunrise and ending at two (2) hours after sunset.

2. The Monticello Fire Chief or designee may declare certain periods as "Smoke Free Periods" under the following circumstances

a. Within a one-half-mile radius of an outdoor public event including, but not limited to, authorized parades, outdoor public sporting events, outdoor public gatherings such as concerts, or other outdoor public assemblies including religious, civic, and community events. The intent of this provision is to protect outdoor public gatherings from the nuisance of lingering or low lying smoke coming from yard waste fires occurring within one-half-mile of the outdoor public event.

b. When an identified outdoor public event is scheduled to occur, through either permitting with the City Parks Department, Police Department, or Code enforcement, the Fire Chief or his designee may declare a Smoke Free Period for the duration of that scheduled event and within the one-half mile radius surrounding that event. When an event is scheduled and a determination is made to make the surrounding area "Smoke Free" the Fire Chief shall take reasonable steps to provide 48 hours' advance notice on the City of Monticello website and through other media.

c. In the event of a yard waste fire occurring within a one-half mile radius of an outdoor public event, and the smoke from that yard waste fire lingers or remains low lying within the immediate area of the outdoor public event, then the Fire Chief or his designee may require the extinguishment of any yard waste fire for the remainder of the outdoor event so affected by the low lying or lingering smoke.

3. Open burning of residential yard waste shall not be allowed unless the following conditions are met;

a. Location. 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.

Exceptions:

1. Fires in approved containers that are not less that 15 feet (4572 mm) from a structure.

2. 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 (610 mm) or less in height.

b. The fire must be attended at all times. The person attending the fire must have a charged hose (i.e. the hose must be connected to a working faucet and the water must be on and pressurized within the hose) and/or sufficient water supply or other suitable means available to completely extinguish the fire in the event that fire spread happens to occur.

c. Burning shall not commence until one (1) hour before sunrise, and shall be completely extinguished by two (2) hours after sunset.

B. Burn Bans

1. Burn bans may be issued under the following circumstances:

- a. Atmospheric conditions prevent smoke from rising freely.
- b. Excessively dry conditions exist.
- c. There are sustained winds greater than fifteen (15) mph or 13.0 knots.
- d. Frequent peak wind gusts are greater than twenty-five (25) mph or 21.7 knots.

2. Burn bans may be issued by:

- a. Governor.
- b. Mayor
- c. County Judge.
- d. Monticello Fire Chief or designee.

C. Development, construction, or site improvement burning.

Open burning of trees, limbs or vegetation removed during the process of site preparation for construction or site improvement shall not be allowed unless the following conditions are met:

1. The burning is to occur at least twenty (20) feet from all property lines encompassing the parcel.

2. All surface vegetation must be removed from all surface areas adjacent to the burning materials for a distance of no less than twenty (20) feet in all directions.

3. Approved materials to be burned may be placed in a pile no larger than fifteen (15) feet in diameter and ten (10) feet in height. No more than one pile per acre on the site may be burned at any given time by an individual resident, property owner,

contractor, or developer up to twelve (12) acres. For sites over twelve (12) acres, the number and arrangement of piles must be approved by the Fire Chief or his designee.

4. The fire must be checked periodically by a responsible person. The person tending the fire must have sufficient extinguishment equipment on site (tractor with blade, water truck, dozer, etc.) and available to completely extinguish/contain the fire in the event that fire spread occurs. Periodically means that a responsible person is sufficiently present to prevent the spread of the controlled fire allowed by this subsection. If fire spreads outside the area identified and made available for burning 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 subject to Section 3 herein below.

5. Notification must be given to the Monticello Fire Department at least twenty-four (24) hours prior to the intended burning of said trees, limbs or vegetation, by notifying the City of Monticello Fire Chief.

D. Agricultural Burning.

Open burning in the course of agricultural operations (farming) shall not be allowed unless the following conditions are met:

1. The perimeter of the parcel to be burned is tilled, disced or plowed in order to remove vegetation from the ground surface. Vegetation removal must be no less than ten (10) feet in width.

E. Other allowed burning.

The following types of burning activities are permitted according to the circumstances listed herein:

1. 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.

2. Burning associated with road construction or right-of-way clearing operations. Any road construction or right-of-way clearing type of burning, the contractor or property owner must

give notice to the Monticello Fire Department. Notification must be given to the fire department at least twenty-four (24) hours prior to the intended burning of said trees, limbs or vegetation.

3. Fires allowed by the fire department for the purpose of weed abatement, prevention and/or elimination of fire hazards, and burning of storm debris, with burning of such debris at the sole discretion of the Fire Chief or his designee depending on weather, safety and environmental concerns.

4. Instruction of fire department employees in methods of firefighting or for civil defense instruction, and under the direct supervision of the fire department or authorized fire training instructor.

5. Fires associated with ceremonial (bonfire) or recreational (fireplaces, fire rings, or fire pits) purposes.

a. The location of ceremonial fires shall be a minimum of fifty (50) feet from a structure or combustible material. Approved materials to be burned shall be placed in a pile no larger than fifteen (15) feet in diameter and ten (10) feet in height. No more than one pile may be burned at any given time by an individual resident or property owner. The fire department shall inspect and approve the burn site.

b. The location of recreational fires shall be a minimum of twenty-five (25) feet from a structure or combustible material. Approved materials to be burned shall be placed in a pile no larger than three feet in diameter and two feet in height.

Section 3: Prohibited acts of burning.

• The following open burning practices shall be prohibited within the city limits of the City of Monticello, Arkansas:

A. Open burning of trash, garbage, and/or rubbish by any resident or business for the purpose of incineration.

B. Open burning of construction waste of any kind on the premises of a construction site.

C. Open burning of materials resulting from remodeling, dismantling and/or demolition of structures or buildings.

D. Open burning of vegetation clippings generated by, or

resulting from, commercial activities or establishments that provide lawn maintenance and/or grounds care services through the course of normal business activities.

E. Open burning in any right-of-way (ditches, alleys, street, etc.).

F. Any burning activity when a burn ban is instituted by an appropriate governmental agency or executive as listed above.

G. Any burning in violation of the requirements listed within this chapter.

Section 4: Violations and enforcement.

A. An offender shall be issued a warning citation for a first violation of any provision of this chapter, unless circumstances warrant more serious enforcement action as determined by the City of Monticello Fire Chief, or City of Monticello Police Chief.

B. Any person convicted of a second violation of a provision of this chapter, shall be fined the sum of one hundred dollars (\$100.00) plus court cost.

C. Any person convicted of a third violation of a provision of this chapter within a five-year period, shall be fined the sum of two hundred fifty dollars (\$250.00) plus court cost, and be ineligible to conduct any open burning of any type within the city boundaries of Monticello. Citations may be issued by the Monticello Police Department or authorized fire department personnel, who have law enforcement authority.

D. One-hundred percent of fines collected will be allocated to the Fire Department to be used for fire prevention, education, or equipment.

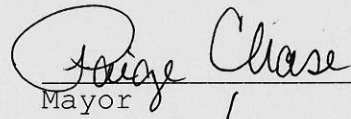
Section 5: Severability

The provisions of this Ordinance are separable and if any section, phrase or provision shall be declared invalid, such declaration shall not affect the validity of the remainder of the Ordinance.

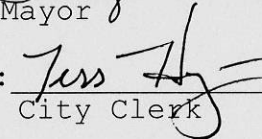
Section 6: Repealer

All ordinances and resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND APPROVED THIS 23 day of June, 2020



Mayor

Attested by: 

City Clerk