

## Ordinance #2019-842

### AN ORDINANCE REGULATING ASSORTED BURNING AND FIRE HAZARDS

**WHEREAS**, The City of Asotin is experiencing an increase in non-structural fire emergency responses and deteriorating air quality, and

**WHEREAS**, the revisions set forth are consistent if not more restrictive than the guidelines established by the Washington State Department of Ecology, and

**WHEREAS**, the City of Asotin Council has the duty to assure public health, safety, and protection of property.

**THEREFORE BE IT ORDAINED**, that the following standards, requirements and processes for the controlled burning, recreational fires, other assorted burns and fire hazards be adopted as written.

#### **8.20.005 Purpose.**

The purpose of this Ordinance shall be to assist with maintaining air quality and with the prevention of wild fires and other damaging fires that are caused by recreational fires, camp fires, barbecues, weed control fires, or other burning, and to restrict controlled burning, as determined by the City of Asotin Fire Chief and/or designee. Fireworks shall be regulated by a separate City Ordinance. The following standards, requirements and processes are necessary for the health, safety, and general welfare and convenience of the inhabitants of the City of Asotin.

#### **8.20.010. Fire limits designated.**

Controlled burning as defined by this Ordinance within the Controlled Burning Area Boundary as outlined in the following description of City of Asotin limits.

#### **8.20.020 Definitions.**

For the purpose of this Ordinance, the following words shall have the meanings ascribed to them:

“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. (WAC 173.430.020(1)).

Agricultural burning can only be conducted in “Agricultural”, “Ag-Transitional”, “Rural Residential”, “Recreation and Open Space” Zones within the City, and will be regulated by jurisdictions having authority.

“Air Stagnation” means there is a lack of air movement.

“Bonfire” is the open burning of cut trees, vegetation or lumber.

“Campfire” see “Recreational Fire”

“Combustible Waste Matter” includes magazines, books, trimmings from lawns, trees or flower gardens, pasteboard boxes, rags, paper, straw, sawdust, packing material, shavings, boxes, rubbish, and refuse that will ignite through contact with flames of ordinary temperatures.

“Control Officer” means the City of Asotin Fire Chief or designee.

“Controlled Burning” is the burning of a bonfire, rubbish fire, or other fire in an outdoor location where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit.

“Episode” is a period when a forecast, alert, warning, or emergency air pollution stage is declared by the City of Asotin Fire Chief or designee or applicable State or Federal Agencies.

“Fire Hazard” is anything or act which increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing, or extinguishing fire or anything or act which could obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire.

“Fireworks” are devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation.

“Fuel Break” is a strip or block of land on which the vegetation has been permanently modified so that fires burning into it will not propagate across it.

“Hogged Material” is a mixture of bark, chips, dust or other pieces of natural wood by-products.

“Owner” includes persons having vested or contingent interest in the property in question and their duly authorized agents or attorneys, purchasers, devisees and fiduciaries.

“Public Nuisance” is the existence of dry and drying weeds, rubbish and waste material on property, lands or premises which is dangerous or injurious to that or neighboring property, lands or premises and which is detrimental to the welfare of the occupants or residents of the vicinity.

“Recreational Fire” is the burning of materials for pleasure, other than rubbish where fuel being burned is either directly on the ground or contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and with a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking or similar purposes.

“Rubbish” is waste material including, but not limited to, garbage, waste paper and debris from construction or demolition.

### **8.20.030 Prohibited Burning.**

Certain materials, appliances and types of burning will be prohibited.

(a), Incinerators shall be prohibited unless they are constructed in accordance with State of Washington, Dept. of Ecology Air Quality Division standards.

(b), Interior solid fuel appliances such as wood stoves shall not be used to burn those prohibited items listed in this section.

(c), Burn Barrels shall be prohibited at all times according to State Law. (WAC 173-425)

(d), Impaired Air Quality / “Episode’s”. Burning shall be prohibited during periods of air stagnation as declared by the State of Washington, City of Asotin Fire Chief or designee.

(e), Fire Danger / “Episode’s”. Burning shall be prohibited during periods of dry, and/or windy periods as determined by the City of Asotin Fire Chief or designee.

(f), It is illegal, at any time, to burn garbage, rubbish, trade wastes, grass, salvageable material, agricultural wastes and other wastes, including, but not limited to:

- a) Garbage
- b) Oil, grease, or asphalt
- c) Lawn clippings
- d) Junked motor vehicles
- e) Commercial or industrial waste
- f) Rubber
- g) Dead animals
- h) Demolition debris
- i) Asphalt shingles
- j) Railroad ties
- k) Telephone poles
- l) Leaves
- m) Fence poles (treated)
- n) Building materials
- o) Green vegetation
- p) Any substances, which emits dense smoke or obnoxious odors
- q) Pallets

(g), Burning shall be conducted on the property where the materials originated. It shall be unlawful to burn materials that have been relocated to another property or transported into City of Asotin for the purpose of burning.

(h), No person shall accept material for disposal or the purpose of burning that was not generated on the property where the burn is to be conducted.

#### **8.20.050 Combustible Materials.**

Storage, accumulation, use and handling of combustible materials shall be in accordance with the following sections.

(a), Rubbish accumulation within and adjacent to buildings or structures shall be in containers of noncombustible construction. Containers larger than 40 gallons (5 1/3 cf.) shall be provided with noncombustible lids.

(b), Combustible vegetation, cut or uncut weeds, grass, over twelve inches (6") in height, vines, and other vegetation shall be removed when determined by the City of Asotin Fire Chief, or designee to be a fire hazard. When it is determined that total removal of growth is impractical due to size or environmental factors, approved fuel breaks shall be established. Designated areas shall be cleared of combustible vegetation to establish the fuel breaks.

(c), Hogged material shall not be used for embankment construction for depths greater than 2 feet due to the possibility of spontaneous combustion. This does not restrict its use for thinner landscaping applications.

#### **8.20.065 Controlled Burning.**

Controlled burning will not be allowed except where the following applies.

(a), Unless restricted by the City of Asotin Fire Chief or designee, controlled burning will be allowed from April 1 through May 31, and October 15 through December 15.

(b), When allowed, controlled burning shall only be conducted from 9:00 AM to 4:00 PM daily. All fires must be completely extinguished including all embers by 4:00 PM.

(c), The City of Asotin Fire Chief may allow controlled burning during the open burning periods upon compliance of all of the following conditions...

1) The weather conditions are satisfactory for good smoke dissipation, and no episode has been declared by the Washington State Department of Ecology and that no period of air stagnation or impaired air quality has been determined by the City of Asotin Fire Chief. (Call 509-243-2002 for information)

2) The person conducting the controlled burn is in legal control of the lot or parcel of land on which the burning is to be done.

3) The person conducting the controlled burn has taken all precautions that any smoke caused by the fire will rise up and away from neighbors, highways, or populated areas.

4) The fire will at all times be at a distance of at least 50 feet from any building, structure or combustible material.

5) A garden hose and water supply or other adequate fire extinguishing equipment shall be on hand until all fire is extinguished.

6) A competent person shall be in attendance until all the fire is extinguished.

7) The size of the fire may not be larger than four feet by four feet, by three feet high. (4'x4'x3')

## **8.20 080 Exemptions.**

Certain types of burning are not regulated during or outside of the annual controlled burning period.

(a), The following activities are exempt under the terms of section 8.20.065 Controlled Burning:

- 1) Barbeques
- 2) Ceremonies
- 3) Fireplaces
- 4) Campfires
- 5) Manufactured portable patio heaters
- 6) Fire Training (for official firefighting personnel with permission of the City of Asotin Fire Chief or designee)
- 7) Weed/fire hazard control by government agencies including City of Asotin Public Works and Street Departments
- 8) Agricultural burning shall be controlled by the Jurisdiction having Authority

(b), The City of Asotin Fire Chief or designee shall have the authority to disallow any burn, if in his or her judgement the burn would not be in the best interest of the safety or wellbeing of the neighborhood or community.

(c), During the controlled burning period the City of Asotin Fire Chief or designee shall, on a daily basis provide a telephone recording (509-243-2002) or equivalent which citizens can access, information of weather

conditions for controlled burning. The telephone number shall be promoted and made available through the local media.

(d), In the event smoke and odor, etc. drifts to a neighbor or populated area and such occurrence causes a verbal complaint made to the City of Asotin Fire Chief or designee, the fire will be evaluated and possibly ordered terminated.

### **8.20.090 Recreational Fires.**

Certain burning will be allowable based on weather conditions, location, type and method of burn.

1. The City of Asotin Fire Chief or designee is vested with the authority to prohibit the use of fire pits or other wood burning devices during periods of extreme fire hazard.
2. Notice of the prohibition will be given in the same manner as the notice of meetings.
3. Persons in violation of this chapter may be issued a notice of infraction as set out in Chapter 8.20.110.

(a), Recreational fires shall be conducted no closer than 25 feet of a structure or combustible material and shall be contained in a steel fire ring, fire pan, approved containment device (except burn barrels), or manufactured fireplace or campfire appliance. Rock fire rings may be used on private property only. Combustible materials within 25 ft. of the fire shall be eliminated prior to ignition.

(a)1, It is illegal, at any time, to burn those items listed in Section 8.20.030 (f) in a recreational fire. A recreational fire is not intended for the disposal of waste materials.

(a)2, The deposit of non-combustible materials, bottles, cans, nails, metals, or trash of any kind in a recreational fire can be a violation of this and other applicable statutes.

(a)3, Each recreational fire shall be constantly attended by a person capable of extinguishing the fire with a garden hose hooked to a water supply, a fire extinguisher, or buckets and shovels.

(b) Barbecue pits shall be constructed of concrete or approved noncombustible materials and shall not be located within 10 feet of combustible walls, roofs, or other combustible materials.

### **8.20.100 Enforcement**

City of Asotin reserves the right to restrict, cancel or mitigate burning, fire hazards and other aspects of this Ordinance as written.

### **8.20.110 Penalties**

(a), Any person who violates any of the provisions of this Ordinance as adopted and amended herein or fails to comply therewith, or who violates or fails to comply with any order made thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the appropriate appeal process, or by a court of competent jurisdiction, within the required time, shall severally for each and every such violation and noncompliance, respectively, shall incur a civil penalty. The penalty for the first violation shall be \$200.00. The first \$100.00 of this penalty shall not be suspended or deferred. The penalty for a second violation of this Ordinance shall be \$500.00, and the first \$300.00 of this penalty shall not be suspended or deferred. The penalty for a third violation of the same section of this Ordinance shall be \$1,000.00, and the first

\$500.00 shall not be suspended or deferred. The penalty for a fourth violation of the same section shall be up to \$10,000.00 in accordance with RCW 70.94.431(1), and the first \$1,000.00 shall not be suspended or deferred. For each violation of a continuing nature, each day shall constitute a separate offense. A notice of infraction may be issued by the City of Asotin Fire Chief, Police Chief, or designee, or such persons designated by the City of Asotin Legislative Authority.

(b), The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(c), In addition to the fines above, in the event of a violation, the City of Asotin Fire Chief, Police Chief, or designee, or such persons designated by the City of Asotin Legislative Authority may charge any suppression costs, investigative costs or costs of testing materials to the property owner and/or any responsible parties involved.

### **8.20.120 Severability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance shall, for any reason, be held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect, invalidate or nullify the remaining portions of this Ordinance.

## **SECTION II:**

This ordinance shall be in full force and become effective five (5) days from and after its passage, approval and legal publications.

Dated this 8<sup>th</sup> day of April, 2019

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Vikki Bonfield, Mayor

Attest:

Approved as to form:

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Tiffany Rogers, City Clerk/Treasurer

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Jane Richards, WSBA #33542, City Attorney

**Summary of Ordinance #2019-842 of the City of Asotin, Washington**

On the 8<sup>th</sup> day of April, 2019, the City Council of the City of Asotin passed Ordinance #2019-842. A summary of the content of said ordinance, consisting of the title, provided as follows:

**AN ORDINANCE REGULATING ASSORTED BURNING AND FIRE HAZARDS**

The full text of this Ordinance will be mailed upon request.

Dated this 8<sup>th</sup> day of April, 2019.

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Vikki Bonfield, Mayor