

ORDINANCE NO. ~~2009-07~~⁴

AN ORDINANCE ESTABLISHING GUIDELINE IN REFERENCE TO BURNING OUTSIDE YARD WASTE WITHIN THE CITY LIMITS OF COTTER, ARKANSAS; PROVIDING PENALTIES FOR VIOLATIONS; DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, Act 1151 of 1997 allows the open burning of yard waste; and

WHEREAS, in order to protect the health and welfare and the safety of the residents of the City of Cotter, Arkansas, it is necessary to establish minimum requirements for open burning in the city limits of Cotter, Arkansas; and

WHEREAS, Arkansas Act 1151 of 1997 discourages open burning, the City of Cotter also encourages the use of alternative methods whenever it is possible.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cotter, Arkansas:

Section 1. DEFINITIONS

The following definitions shall apply in this ordinance:

- A. **Open Burning** – shall mean the incineration or combustion of yard waste materials as a method of disposal without any means to control the fuel/air ratio.
- B. **Yard Waste** – shall mean grass clippings, leaves, and shrubbery clippings collected from the residential property.
- C. **Household Waste** – shall mean all waste, products and materials, other than grass clippings, leaves and shrubbery clippings.

Section 2. BURNING IN STREETS, DITCHES, ALLEYS OR EASEMENTS IS PROHIBITED.

No person, firm or corporation shall kindle or maintain any open burning in any public street, ditch, alley or easement in the City of Cotter.

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Section 3. PERSISTANT OFFENSE, FIRE OR SAFETY HAZARDS PROHIBITED.

1. No person, firm or corporation shall kindle or maintain any open burning that is a persistent offense to neighbors, a fire hazard to surrounding property, or creates a health or safety hazard.
2. It shall be unlawful for any resident to make a false report against another resident regarding the burning of outside yard waste.
3. It shall be unlawful for any resident to import onto their property and burn, yard waste from any other location.

Section 4. RESIDENTIAL SAFETY STANDARDS

No person, firm or corporation shall burn yard waste, unless the following safety standards are followed:

1. Burning shall be done only on a day with five (5) mile per hour wind, or less
2. All burning shall be constantly supervised by a competent person of not less than sixteen (16) years of age.
3. All burning shall not be less than twenty-five (25) feet from any structure.
4. Burning shall be controlled and maintained in a safe manner at all times, and a means to extinguish the fire shall be at the burn site, readily available, and fully operational.
5. No open burning will be allowed when Fire Officials, or the Mayor, post a ban on outside burning, due to weather conditions which make outside burning hazardous to the community.
6. No person, firm or corporation, shall burn household waste outside at any time.

Section 5. SAFETY STANDARDS FOR LAND CLEARING BURNING

1. An inspection of the burn site by a Fire Official shall precede the open burning.
2. Open burning shall be during daylight hours only, unless approved by a Fire Official.
3. A method of fire extinguishments, approved by the Fire Official, shall be on site at all times and readily available during burning.

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4. Open burning shall not be less than one hundred (100) feet from any structure.
5. Open burning shall be supervised by a competent person of at least sixteen (16) years of age.
6. No open burning will be allowed during a burning ban by Fire Officials, or the Mayor, due to weather conditions, which would make burning hazardous.

Section 6. PENALTY FOR VIOLATION

1. Any person, firm or corporation who shall violate the provisions of this Ordinance shall be deemed guilty of misdemeanor and upon conviction shall be fined the sum of not less than Two Hundred and Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1000.00) for each offense.
2. Any person, firm or corporation who has been deemed in violation of the open burning ordinance by Police or Fire Officials, must be issued a written warning notice on the first offense, and the notice must contain a copy of the "Open Burning Ordinance". Subsequent violations of the Ordinance by the same party, shall allow the Police or Fire Officials to issue a citation for appearance in Baxter County District Court, Cotter Division.

Section 7. REPEALING CLAUSE

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 8. SERVERABILITY

The provision of the Ordinance is hereby declared to be severable. If any provisions should be held to be invalid, unconstitutional, or inapplicable to any person or circumstance, such holding shall not affect the validity or applicability of the remainder of the provision hereof.

Section 9. EMERGENCY CLAUSE

WHEREAS, the minimum requirements for open burning of yard waste are necessary for the immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage.

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PASSED AND APPROVED THIS 25TH DAY OF JUNE 2009.


DAVID J. MCNAIR
MAYOR


PEGGY J. HAMMACK
RECORDER/TREASURER

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