

ORDINANCE 2020-03

CITY OF CHEROKEE VILLAGE, ARKANSAS

**AN ORDINANCE DEFINING AND LIMITING CONDITIONS FOR OPEN BURNING
WITHIN THE CITY LIMITS OF THE CITY OF CHEROKEE VILLAGE, ARKANSAS;
PROVIDING FOR ENFORCEMENT; DECLARING AN EMERGENCY TO EXIST; AND
FOR OTHER PURPOSES**

WHEREAS, the City of Cherokee Village, Arkansas finds it necessary to enact an ordinance to define and limit conditions for open burning within the City of Cherokee Village, Arkansas; and

WHEREAS, the City of Cherokee Village, Arkansas is authorized to enact and enforce laws, ordinances, resolutions, rules, or regulations for the purpose of prohibiting burning in the open pursuant to Arkansas Code Annotated §8-4-306(b); and

WHEREAS, the City of Cherokee Village, Arkansas has the responsibility and authority to abate fire hazards through regulatory mechanisms deemed necessary and appropriate under Arkansas Code Annotated §8-6-1703(d).

THEREFORE BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF CHEROKEE VILLAGE, ARKANSAS THAT:

Section 1. - Residential Vegetation Abatement

(a) In accordance with A.C.A. §8-6-1703(d), instances of open burning of yard waste by residents are expressly discouraged within the corporate boundaries of the city. For the purpose of open burning, the term "yard waste" shall be defined in accordance with A.C.A. §8-6-1701(2) as grass clippings, leaves, and shrubbery trimmings collected by a resident or property owner from residential property.

(b) Open burning of yard waste shall not be allowed unless the following conditions are met:

(1) Yard waste materials to be burned located on parcels of less than one (1) acre shall be placed in a pile no larger than five (5) feet in diameter and two (2) feet in height. No more than one pile may be burned at any given time by an individual resident or property owner.

(2) Yard waste materials to be burned located on parcels of more than one (1) acre shall be placed in a pile no larger than six (6) feet in diameter and three (3) feet in height. The number of piles to be burned will not be restricted but must adhere to the conditions set out in Section 1(b) (3) & (4).

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

(4) Burning shall not commence before sunrise.

(5) Notification must be given to the city fire department prior to the intended burning of yard waste.

Section 2. — Construction or site improvement burning.

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

- (1) The burning is to occur at least 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 20 feet in all directions.
- (3) Approved materials to be burned shall be placed in a pile no larger than 15 feet in diameter and 10 feet in height. No more than one pile may be burned at any given time by an individual resident, property owner, or contractor.
- (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. The term "periodically" for purposes of this ordinance is defined as a responsible person who is sufficiently present to prevent the spread of the controlled fire allowed by this subsection. If fire spreads outside the area of containment 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 Sections 4 & 7 of this ordinance.
- (5) Notification must be given to the city fire department prior to the intended burning of said trees, limbs or vegetation, and authorization must be obtained from the fire chief or his designee before burning may begin.

Section 3. — Agricultural burning.

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

- (1) The perimeter of the parcel to be burned is raked to bare ground in order to remove vegetation. Vegetation removal must be adequate to contain fire spread.
- (2) The fire must be attended at all times.
- (3) Burning shall not commence before sunrise.

Section 4. — Prohibited acts.

The following open burning practices shall be prohibited within the corporate boundaries of the city.

- (1) Open burning of trash, garbage, and/or rubbish by any resident or business for the purpose of incineration. Burn barrels or other makeshift containers shall not be considered sufficient for controlling fuel-air ratio mixtures and will not be allowed.
- (2) Open burning of construction waste of any kind on the premises of a construction site except as provided by A.C.A §8-4-305(8).

- (3) Open burning of materials resulting from remodeling, dismantling and/or demolition of structures or buildings.
- (4) 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.
- (5) Any burning activity when a burn ban is instituted by an appropriate governmental agency or executive as listed in Section 8.
- (6) Any burning in violation of the requirements listed within this Ordinance.

Section 5. — Exceptions.

Provisions of this article do not pertain to the following types of open burning:

- (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 designated and created for the preparation of food. However, such fires must be attended at all times.
- (2) Burning associated with road construction operation and the use of mobile and portable equipment and machinery incident thereto.
- (3) Fires allowed by the city fire department for the purpose of weed abatement or for the prevention and/or elimination of a fire hazard.
- (4) Instruction of fire department personnel in methods of firefighting or for civil defense instruction.
- (5) Fires associated with ceremonial or recreational purposes so long as such fires comply with Section 6. Furthermore, in such instances notification must be given to the city fire department prior to the intended burning and authorization must be obtained from the fire chief or his designee before burning may begin.

Section 6. — Nuisance or safety hazard.

Smoke emissions from permissible open burning shall not be allowed to become a nuisance or safety hazard. In the event that such emissions are identified by the city fire department to be of an offensive nature to surrounding landowners and/or is determined to be detrimental to the general safety and well-being of the public, the city fire department may require discontinuance of such open burning without recourse.

Section 7. — Violations and enforcement.

Any person or entity found to have violated the provisions of this ordinance shall be fined not more than one thousand dollars (\$1,000.00) for a first offense; not more than two thousand dollars (\$2,000.00) for a second offense; and not more than four thousand dollars (\$4,000.00) for each subsequent violation.

Citations may be issued by the Cherokee Village Police Department or authorized Fire Department personnel who have law enforcement authority.

Section 8. — Burn Bans

A. Burn Bans may be issued under the following circumstances:

- (1) Atmospheric conditions that prevent smoke from rising freely.
- (2) When excessively dry conditions exist.
- (3) Sustained winds greater than fifteen (15) mph
- (4) Frequent peak wind gusts greater than twenty-five (25) mph

B. Burn Bans may be issued by:

- (1) Governor
- (2) County Judge
- (3) Mayor or designee

Section 9. — Repealer Clause

All ordinances or resolutions or any parts thereof in conflict with the hereinabove are repealed to the extent of the conflict.

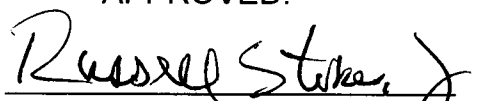
Section 10. — Severability Clause

If any provision of this ordinance or the application thereof or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

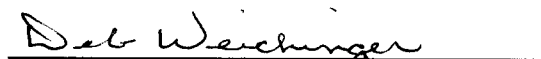
EMERGENCY CLAUSE. It being necessary for the continued protection of the citizens of the City of Cherokee Village from fire hazards within the City and for certainty for its citizens, the City Council of the City of Cherokee Village, Arkansas, recognizes and declares an emergency to exist, and this Ordinance, being necessary for the preservation of the public peace, health, comfort, convenience, morals, safety and welfare of the City of Cherokee Village, Arkansas, shall be in full force and effect from the date of its adoption.

Passed and approved this the 17th day of September, 2020.

APPROVED:


Russell Stokes, Jr., Mayor

ATTEST:


Deb Weichinger, City Clerk