

Bill NO: 19-12

Ordinance No. _____

**16-0100-01AN ORDINANCE OF THE CITY OF PLEASANT HILL, MISSOURI,
AMENDING CHAPTER 38: SOLID WASTE, TO ADD ARTICLE VI: REGULATION
OF OPEN BURNING**

WHEREAS, the Missouri Department of Natural Resources has previously regulated open burning in the State of Missouri through the issuance of permits under regulations regarding open burning, but has discontinued issuing residential burn permits and conducting enforcement action as of March 30, 2019; and

WHEREAS, the City of Pleasant Hill, Missouri ("City"), can further limit or restrict open burning beyond State regulations by adopting a local open burning ordinance; and

WHEREAS, it is in the best interest of the public health, safety and welfare for the City to regulate open burning pursuant to its police power to better protect and enhance the health, safety, and general welfare of the citizens of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLEASANT HILL, MISSOURI AS FOLLOWS:

Section 1. Section 38-1 of the City's Code of Ordinances is hereby amended to add the following definitions:

Air-curtain incinerator: A device that operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs.

Fire Pit or Patio Fireplace: An outdoor, above-ground structure or portable fireplace that may be constructed of steel, concrete, clay, stone, or other noncombustible material.

Household Waste: Garbage, trash, and other discarded materials that are generated from residential activities in a household.

Open Burning: The burning of materials where the products of combustion are emitted into the open air without passing through a chimney or stack from an enclosed chamber, not including fire pits, or patio fireplaces.

Salvage Operation: Any business, trade, industry, or other activity conducted in whole or in part for the purpose of salvaging or reclaiming any product or material.

Trade Waste: Waste from materials from any business, institution or industry.

Untreated Wood: Wood that has not been chemically preserved, painted, stained, or composited. Untreated wood does not include plywood, particleboard, chipboard, and wood with other than minimal quantities of paint, coating, or finish.

Vegetative Waste: Tree trunks, tree limbs, tree trimmings, and yard waste.

Section 2. Ordinance Number 1810 is hereby amended to add the following condition:

The fuel area for a fire pit or patio fireplace shall not be larger than three (3) feet in diameter and a height more than two (2) feet.

Section 3. Section 38-5(4) is hereby amended to read as follows:

Burn solid waste unless an approved incinerator is provided, or in accordance with open burning regulations in Article VI; provided, however, this prohibitions shall not apply to areas that are zoned agricultural for materials associated with agricultural or forestry operations that are related to the growing or harvesting of crops in accordance with federal, state, or local law.

Section 4. A section titled "Regulation on Open Burning" is hereby established in the City of Pleasant Hill Code of Ordinances as follows:

1. General Provisions:
 - a. Open burning that causes or constitutes a public health hazard, a hazard to vehicular or air traffic, is composed of material listed in Section 4.2 of this ordinance, or violates any other rule or statute of the State of Missouri, is not allowed unless specified otherwise.
 - b. The existence of a public health hazard is to be determined by the Chief of Police, or their designee.
 - c. All open burning shall be done in compliance with the Missouri Code of State Regulations.

d. If required, permits shall be issued by the City, upon submission of a completed and valid permit, as well as the accompanying fee as outlined in the City's Fee Schedule.

2. Prohibition Of Materials To Be Burned

The following materials must not be disposed of by open burning:

1. Petroleum-based materials, including but not limited to tires, asphalt, roofing material, carpet and used oils;
2. Asbestos containing materials;
3. Trade waste, except untreated wood;
4. Construction or demolition waste, except untreated wood;
5. Salvage operation waste;
6. Household waste; or
7. Durable goods.

3. Prohibited Conduct

a. Open burning will not be allowed:

1. On the right-of-way of any public street, road, alley or highway;
2. In or on any ditch, culvert, or other conveyance designed to direct or carry away an accumulation of rain or surface water which is located on any right-of-way or easement dedicated to the City;
3. During unfavorable meteorological conditions including, but not limited to, temperature inversions, periods of drought or extreme dry weather, high winds especially those in excess of 10 miles per hour, or air stagnation;
4. If the smoke from any open burning, fire pits, or patio fireplaces creates a nuisance or public health hazard for neighboring property owners. The fire shall be extinguished immediately upon the complaint of a smoke nuisance or declaration of a public health hazard;

b. Burning of vegetative waste, solid waste, or bulky rubbish for disposal or warming during construction or demolition of buildings or structures is prohibited.

c. No person shall cause, suffer, or permit any outdoor burning whatsoever if said burning operation is in violation of this Chapter or otherwise in violation of any City, State, or Federal law or regulation.

d. No person shall in any manner hinder, delay, obstruct, resist, prevent, or in any way interfere with any City personnel in the performance of their duties under this Chapter.

4. Open Burning of Vegetative Waste Allowed

Open burning of vegetative waste and untreated wood outside of a defined fire pit or patio fireplace is allowed under the following conditions:

1. Only vegetative waste and untreated wood may be burned, provided it originates and is burned on the same premises; and
2. Burning is to take place only between sunrise and one hour before sunset; and
3. Burning is to occur at least two hundred (200) yards from the nearest inhabited dwelling structure not owned by the party conducting the burning and provisions shall be made to prevent the fire from spreading to within two hundred (200) yards of any inhabited dwelling, unless:
 - a. Approval is granted by the City of Pleasant Hill and the Pleasant Hill Fire Protection District; and
 - b. Waivers are obtained from the owner or occupant of the structures; or an
 - c. Air-curtain incinerator is used; but
 - d. Never closer than 50 feet of a structure; and
4. Burning is to be supervised at all times; and
5. A permit shall be obtained from the City prior to initiation of any open burning; and
6. The Pleasant Hill Fire Protection District shall be notified of the burning activities no more than 24 hours before the initiation of burning activities; and
7. A minimum of one portable fire extinguisher or other approved on-site fire extinguishing device as specified in the International Fire Code is required.

5. Land Clearing

Open burning of vegetative waste from land clearing operations is allowed under the following conditions:

1. All requirements pertaining to Open Burning of Vegetative Waste as listed in Section 4.4; and
2. If the land clearing is less than 200 yards from the nearest neighboring structure, an air-curtain incinerator must be utilized and waivers must be obtained from everyone within 200 yards from the location of the burn; and
3. Burning will not be allowed to occur within fifty (50) yards of any neighboring structure; and
4. Burning is not allowed on ozone alert days; and

5. Burning of more than eighty (80) cubic yards of vegetative waste or untreated wood must use an air-curtain incinerator.

Section 5:

The open burning permit fee shall be set at \$0.

Section 6: Penalties. Any person found to be violating any of the provisions of this Chapter shall be subject to a citation with in accordance with the following penalties: the maximum allowable fine is \$200 for the first offense, \$275 for the second offense, \$350 for the third offense, and \$450 for the fourth and subsequent offenses, for any violations committed within a twelve month period.

Section 7: This ordinance shall be in full force and effect from and after its passage and approval.

Read and approved this _____ day of _____.

Mark Guffey, Mayor

ATTEST:

Jessica Elliott, City Clerk