

THE CITY OF CLEARWATER, KANSAS

ORDINANCE NO. 1096

AN ORDINANCE OF THE CITY OF CLEARWATER, KANSAS, AMENDING CHAPTER 14, ARTICLE IV OF THE CODE OF ORDINANCES, CITY OF CLEARWATER, KANSAS, REGARDING OPEN BURNING WITHIN THE CITY LIMITS.

WHEREAS, THE CITY OF CLEARWATER, KANSAS, has seen an increase in the number of citizens participating in open burns within city limits.

WHEREAS, the inherent dangers posed by fire within populated areas can present a danger to the public;

WHEREAS, there have been an increasing number in the incidences of the misuse of open burning.

WHEREAS, the Code of Ordinances, City of Clearwater, may be amended in the manner prescribed by Section 1-7 of the Code.

WHEREAS, it is declared in the best interest of the citizens of Clearwater, Kansas, that open burning be further regulated and that penalties be imposed on those who fail to comply with the provisions of Chapter 14, Article IV of the Code of Ordinances, City of Clearwater, Kansas, and that the Code be amended accordingly.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CLEARWATER, KANSAS:

SECTION 1: Section 14-80 of the Code of Ordinances, City of Clearwater, Kansas, is hereby amended to read as follows:

- **Sec. 14-80. - Exemptions and permits, open burning.**

(a) *Exemptions.* The requirements of section 14-78 shall not apply where:

(1) The causing or permitting of an open fire was for cooking or ceremonial purposes, on public or private lands regularly used for residential or recreational purposes.

(2) Open burning operations are conducted pursuant to a written permit issued by the fire chief after the chief finds that such open burning is necessary and in the public interest. The permit shall be given for a specific period not exceeding in time the daylight hours of one hour after sunrise to one hour before sunset, the day for which issued. The permit may contain special conditions which the fire chief deems necessary or permissible (i.e., bonfires, recreational fires, or prescribed burning for the purpose of reducing the impact of wildland fire, when authorized by the fire code official).

(b) *Application.* An application for the permit referred to in subsection (a) of this section shall be in writing and contain the following information:

(1) The name, address, and telephone number of the person responsible for the open burning operation.

(2) The exact location and type of burning operation involved.

(3) A description of the open burning operation including the estimated amount and nature of material to be burned, the proposed duration of such burning, the size of the area to which the burning will be confined, the equipment and personnel who will be available and responsible to contain the burning to the proposed area and the method of igniting the material.

(c) *Meteorological conditions.* The following statement shall be included as a condition of any such permit issued: No additional material shall be introduced or allowed to commence burning for at least two hours prior to sunset. Burning shall not be carried out during inclement or foggy conditions or when the sky is overcast (more than 0.7 cloud cover shall be considered overcast) with a ceiling of at least 2,000 feet above ground level. In addition, burning shall be restricted to periods when surface wind speed is more than five miles per hour and less than 15 miles per hour.

(d) *Limitations.* Open burning which otherwise may be permitted in accordance with the article will be subject to the following limitations:

(1) Burning will be attended continuously by a competent person of legal age (18 or older) from the time of ignition to the time of extinguishment.

(2) Burning will not be permitted if wind speeds exceed 15 MPH.

(3) Burning shall not create a smoke nuisance or hazard to neighboring properties or persons.

(4) Burning of heavy smoke-producing material is strictly prohibited. This includes, but not limited to: rubber tires, plastics, roofing, tar paper, old furniture, garbage, cloth or any petroleum base product.

(5) A garden hose or other fire extinguishing equipment must be available at the burn location.

SECTION 2: The Code of Ordinances, City of Clearwater, Kansas, is hereby amended by adding the following section to Article 14, Chapter IV which reads as follows:

- **Sec. 14-81. - Location**

(a) Fires burned in approved containers with a pile size of 3 feet (0.9144 M) or less in diameter and 2 feet (0.609 M) or less in height (i.e., portable outdoor fireplaces) shall not be closer than 15 feet (4.572 M) from a structure.

(1) Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions. In addition, the following requirements shall be met:

- a. Portable fireplaces shall be placed on a non-combustible surface and shall not be used on balconies or wood decks.
- b. Portable outdoor fireplaces shall be discontinued when there is a ban or moratorium on burning issued by federal, state, or local agencies.
- c. Portable fireplaces shall not be used when wind speeds exceed 15 mph.
- d. Portable fireplaces shall not be used within 500 feet (152.4 M) of any shake shingle roof, unless provided with spark arrestor with a maximum ½ inch metal screen secured by metal wire, located on the vent/chimney.
- e. Only firewood, limbs, and wood chips may be burned within the portable outdoor fireplace.
- f. Products such as paper, plastic, leaves, finished lumber, and rubbish are not allowed.

(2) For fires burned outside of an approved container, when the pile size is 3 feet (0.9144 M) or less in diameter and 2 feet (0.609 M) or less in height (i.e., recreational fires) the minimum required distance from a structure shall be 25 feet (7.62 M).

- a. Except for as provided in section 14-81(a)(2)-b recreational fires shall be conducted within an approved fire pit by a manufacturer.
- b. Recreational fires in homemade fire pits shall not exceed the pile size limits provided for in section 14-81(a)(2) of this ordinance.

(3) All other fires exceeding the pile size limits provided for in section 14-81(a)(2) and any bonfire shall not be conducted within 100 feet (30.48 M) of any structure or other combustible material unless the bonfire is contained in a barbecue pit.

SECTION 3: The Code of Ordinances, City of Clearwater, Kansas, is hereby amended by adding the following section to Article 14, Chapter IV which reads as follows:

• **Section 14-82. – Prohibited Open Burning**

- (a) Open burning that is offensive or objectional because of smoke or odor emission, or when atmospheric conditions or local circumstances make such fires hazardous, shall be prohibited. The fire code official is authorized to order the extinguishment by the occupant/permit holder or by the fire department of open burning that creates or adds to a hazardous or objectionable situation

SECTION 4: The Code of Ordinances, City of Clearwater, Kansas, is hereby amended by adding the following section to Article 14, Chapter IV which reads as follows:

• **Section 14-83. - Illegal Materials**

(b) Burning of heavy smoke-producing material is strictly prohibited. Pursuant to Kansas Administrative Regulation 28-19-647(e)(2) and this section. Burning of pallets, tires, railroad or bridge lumber, any treated lumber, plastics, or rubber is considered to be the burning of heavy smoke-producing material. When burning wood products, only wood which has not been painted, cleaned, stained, and is not or has not been furnished, may be burned.

SECTION 5: The Code of Ordinances, City of Clearwater, Kansas, is hereby amended by adding the following section to Article 14, Chapter IV which reads as follows:

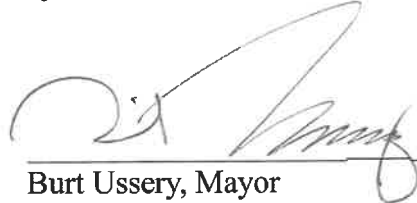
• **Section 14-84. -Penalties**

(a) Persons who shall violate a provision of this article or shall fail to comply with any of the requirements, directive of fire code official, or of a permit or certificate used under provisions of this article, shall be deemed guilty of a misdemeanor, punishable by a fine not less than \$250.00, not more than \$2,500 or by imprisonment not exceeding one year, or both such fine and imprisonment.


SECTION 6: This ordinance shall take effect and be in force on the 9th day of May, 2023, and after such publication in the official City newspaper.

ADOPTED by the Governing body of the City of Clearwater, Kansas on this 9th day of May, 2023.




Burt Ussery, Mayor

ATTEST:


Jaye Poe, City Clerk