

(Published in The Morning Sun on Wed, December 20, 2023)

THE CITY OF CHEROKEE, KANSAS
ORDINANCE _558___

AN ORDINANCE AMENDING SECTION 7-204 OF THE CODE OF THE CITY OF CHEROKEE, KANSAS, AND PROVIDING FOR THE REGULATION OF OPEN BURNING WITHIN THE CITY LIMITS OF THE CITY OF CHEROKEE, AND REPEALING ALL OTHER ORDINANCES AND PARTS OF ORDINANCES THAT ARE IN CONFLICT WITH THIS ORDINANCE.

WHEREAS, the governing body of the City of Cherokee adopted Ordinance No. 498 regulating open burning within the City Limits of the City of Cherokee on May 12, 2010;

WHEREAS, the governing body of the City of Cherokee adopted Ordinance No. 548 regulating open burning within the City Limits of the City of Cherokee on March 16, 2021; and

WHEREAS, after consultation with the Fire Chief of Crawford County Fire District No. 3 (Sheridan) and the Police Chief of the City of Cherokee, the governing body has determined that it is necessary to make modifications to the existing ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEROKEE, KANSAS AS FOLLOWS:

Section 1: Section 7-204 Open Burning of the City Code of Cherokee shall be and it hereby is amended to read as follows:

§ 7-204 Open Burning. Open burning within the City Limits of the City of Cherokee is prohibited except as conducted in strict compliance with the following provisions:

(a) Open burning shall be allowed as follows:

- (1) In a container constructed of iron, steel, brick, concrete, or stone in a substantial manner which shall be a closed receptacle, with a tight door at the bottom if any opening there, and the opening at top shall be protected in a secure manner by a wire screen of not less than number nine gauge wire and not exceed one (1”) inch mesh. If such container is constructed of iron or steel it shall not be thinner than fourteen (14) B. W. gauge;
- (2) Branches, sticks, leaves, and other yard waste may be burned in a ditch, but shall not extend to or be burned in the City streets;
- (3) Cardboard, paper, and other paper products may be burned only in a container with a wire screen cover as proved in subsection (1) above.
- (4) Conducted only one (1) hour after sunrise to 11:30 p.m.;

- (5) An adequate permanent water source shall be readily available;
- (6) The fire shall be at all times attended by an adult and supervised until the fire has been extinguished; and
- (7) The ground around the fire area shall be cleared to form a firebreak to prevent fire spread.

(b) Recreational fires shall be allowed without the issuance of an Open Burn Permit if the following conditions are met:

- (1) The fire shall be located at least twenty-five (25') feet from any structure, combustible material or property line;
- (2) An adequate permanent water source shall be readily available;
- (3) The fire shall be at all times attended by an adult and supervised until the fire has been extinguished;
- (4) The fire shall not be larger than four (4') feet in diameter and three (3') feet in height;
- (5) The fire shall be contained within an enclosure constructed of brick, cement, stone, or metal; and
- (6) The ground around the fire area shall be cleared to form a firebreak to prevent fire spread.

(c) Any other fire shall be allowed only in strict compliance with the following:

- (1) The owner of the property shall file an Application for Burn Permit in the Office of the City Clerk;
- (2) The City Codes of Enforcement Officer of the City of Cherokee, the Fire Chief of Crawford County Fire District No. 3 (Sheridan) or the Police Chief of the City of Cherokee will inspect the property within 48 hours, and based upon the conditions observed will either approve or deny the Application for Burn Permit;
- (3) If approved, the City Clerk shall issue the Burn Permit;
- (4) The fire shall be located at least twenty-five (25') feet from any structure, combustible material, or property line;
- (5) An adequate permanent water source shall be readily available;
- (6) The fire shall be attended to by an adult and supervised until the fire has been extinguished; and
- (7) The ground around the fire area shall be cleared to form a firebreak to prevent fire spread.

(d) Open burning is expressly prohibited within the City Limits of the City of Cherokee in the following circumstances:

- (1) In a container that does not meet specifications above described;
- (2) Without prior notice to Crawford County Fire District No. 3 (Sheridan) or the issuance of a burn permit (when required);
- (3) In inclement weather;
- (4) With wind exceeding fifteen (15 mph) miles-per-hour and gusting from a direction which causes a nuisance to any occupied structure, neighbors, or public roadway;
- (5) In foggy conditions;
- (6) In extensive cloud coverage;
- (7) If a haze is created that restricts visibility on any City street; or
- (8) In violation of a burn ban in effect.

(e) Burning of the following items is expressly prohibited within the City Limits of the City of Cherokee:

- (1) Household garbage and trash;
- (2) Power poles;
- (3) Tires;
- (4) Fiberglass;
- (5) Mattresses; or
- (6) Other toxic substances or substances likely to cause harm to the environment as determined from time to time by the Kansas Department of Health & Environment

(f) The City encourages residents to haul limbs and branches to the designated City disposal drop-off site.

(g) The Board of County Commissioners, the Mayor, or the Fire Chief of Crawford County Fire District No. 3 (Sheridan) shall have the authority to enact a Burn Ban if it is determined that extremely dry conditions exist.

(h) Violations of this Section shall be punished as provided in § 1-116 General Penalty of the Code of the City of Cherokee, Kansas.

Section 2. Repeal of Prior Ordinance. All prior Ordinances or parts of Ordinances in conflict herewith hereby are repealed.

Section 3. Force and Effect. This Ordinance shall be in full force and effect from and after its passage, approval and publication one time in the official City newspaper.

UNANIMOUSLY ADOPTED, APPROVED AND GIVEN by the Mayor and City Council of the City of Cherokee, under our hands at City Hall in Cherokee, Crawford County, Kansas, on December 12, 2023.

(SEAL)

J. Dale Thompson, Mayor

ATTEST:

Pamela Tompkins, City Clerk

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