

**GALLATIN COUNTY ORDINANCE NO. 2021-\_\_\_\_\_**

**EMERGENCY ORDINANCE PROHIBITING OPEN BURNING, RECREATIONAL FIRES, AND FIREWORKS IN THE BIG SKY HIGH FIRE HAZARD AREA AND THE WEST YELLOWSTONE HIGH FIRE HAZARD AREA**

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**Section 1 – Purpose and Legislative Findings**

The Board of Gallatin County Commissioners (“County Commission”) finds that:

- A. The County Commission can restrict activities in high fire hazard areas pursuant to § 7-33-2212, MCA and the Gallatin County Fire Control Regulations;
- B. The Fire Control Regulations authorize the County Commission to “require any person, firm or corporate entity to cease any or all operations or activities including all burning activity in any Gallatin County High Fire Hazard Areas,” including any Open Burning and any Recreational Fires;
- C. Section 1 of the Fire Control Regulations defines “Open Burning” as “the ignition, setting or burning of any material directly in the open air including slash, land-clearing or debris burning open fires. Open burning does not include a Recreational Fire”;
- D. Section 1 of the Fire Control Regulations defines “Recreational Fire” as a “fire ignited, set or burning in a nonflammable structure measuring less than 48 inches and for which a reasonably prudent and suitable source of extinguishing the fire is available”;
- E. Section 4 of the Fire Control Regulations designate certain areas within Gallatin County as the “Gallatin County High Fire Hazard Areas” per § 7-33-2212, MCA. Such areas do not include areas under the jurisdiction of any municipality, state, or federal agency;
- F. The “Big Sky High Fire Hazard Area” is the “land in Gallatin County South of 45.407 Degrees (US 191 Milepost 61.5) and North of 45.054 Degrees (US 191 Milepost 32)”;
- G. The “West Yellowstone High Fire Hazard Area” is the “land in Gallatin County South of 45.054 Degrees (US 191 Milepost 32)”;

H. Due to current weather conditions in Gallatin County, including extreme high heat, high winds, local fire activity, low humidity, and general high fire danger, emergency precautions are required to prohibit all open burning, recreational fires, and the use of fireworks in the Big Sky High Fire Hazard Area and in the West Yellowstone High Fire Hazard Area to protect health, life and property.

## **Section 2 – Authority**

The County Commission has authority to adopt ordinances pursuant to the procedures set forth in Title 7, Chapter 5, Part 1, MCA. Section 7-5-104, MCA, allows a local government to adopt an ordinance in response to an emergency upon the approval of a two-thirds vote of the governing body and to remain in effect for no more than 90 days. The Commission also has authority to adopt this ordinance pursuant to § 7-33-2212, MCA, and the Gallatin County Fire Control Regulations, as set forth above.

## **Section 3 – Regulation**

Effective immediately, all open burning, recreational fires, and the use of fireworks are prohibited in the Big Sky High Fire Hazard Area and the West Yellowstone High Fire Hazard Area.

## **Section 4 – Penalty & Enforcement**

Pursuant to § 7-5-109, MCA, violation of this Emergency Ordinance is a misdemeanor and is punishable by a fine not to exceed Five Hundred Dollars (\$500.00), imprisonment of no more than six (6) months in the county jail, or both. This Emergency Ordinance may be enforced by any law enforcement officer with jurisdiction.

In addition, this Emergency Ordinance may be enforced by all civil remedies available in law and equity, including injunctive relief to enjoin violations hereof.

## **Section 5 – Severability**

Should any provision of this Emergency Ordinance be determined to be unenforceable or invalid, all remaining terms and clauses shall remain in force and shall be fully severable.

## **Section 6 – Absolute Liability Finding**

This Emergency Ordinance has the legislative purpose to impose absolute liability for any conduct described. Pursuant to § 45-2-104, MCA, any violation of this ordinance is subject to absolute liability. A person may be guilty of the offense without having, as to each element of the offense, one of the mental states of knowingly, negligently, or purposely.

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**Section 7 – Effective Date**

Pursuant to § 7-5-104, MCA, this Emergency Ordinance is effective immediately upon passage and approval by two-thirds vote of the County Commission.

**Section 8 – Expiration**

This Emergency Ordinance shall expire automatically 90 days after its adoption per § 7-5-104, MCA, or upon the rescission of the County Commission, whichever occurs first.

PASSED AND APPROVED this 30<sup>th</sup> day of June, 2021.

GALLATIN COUNTY BOARD OF COUNTY COMMISSIONERS

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Scott MacFarlane, Chair

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Joe Skinner, Commissioner

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Zach Brown, Commissioner

ATTEST:

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Eric Semerad, Clerk and Recorder