

# ORDINANCE NO. 436

## Open Burning

**AN ORDINANCE OF THE CITY OF MACKAY, CUSTER COUNTY, STATE OF IDAHO, REPEALING ORDINANCE NUMBER 327 AND ANY RELATED RESOLUTIONS TO THAT ORDINANCE OR DECISIONS MADE AND RECORDED IN THE MINUTES OF CITY COUNCIL MEETINGS; PROHIBITING AND REGULATING OPEN BURNING WITHIN THE INCORPORATED LIMITS OF THE CITY OF MACKAY; BURN BARRELS PROHIBITED; BURNING OF CERTAIN ITEMS ALLOWED UNDER CERTAIN CONDITIONS; RESPONSIBLE PERSON MUST ATTEND BURN; MAYOR AUTHORIZED TO REINSTATE OPEN BURNING; PROVIDING THAT VIOLATION OF THIS ORDINANCE IS AN INFRACTION ; PROVIDING THAT VIOLATION OF THIS ORDINANCE SHALL BE A NUISANCE AND FOR INJUNCTION; AND PROVIDING AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MACKAY, CUSTER COUNTY, IDAHO:

SECTION 1: Ordinance No. 327 of the City of Mackay is hereby repealed in its entirety; rather than edit the ordinances which proved to be cumbersome due the number of items needing to be changed. Also repealed are any associated resolutions or decisions recorded in the minutes of the City Council.

SECTION 2: It shall be unlawful for any person to burn or incinerate household garbage, refuse, trash, rubbish, debris, construction or remodeling waste, treated wood of any kind, or any other such matter, within the City limits of Mackay at any time.

SECTION 3: Burn barrels are strictly forbidden.

SECTION 4: Burning or incinerating of yard waste such as dry grass clippings, tree or shrub trimmings, brush, leaves, and other such waste is permitted under the following conditions:

- A. A burn permit has been obtained from the City Clerk;
- B. Open burning shall not take place within twenty-five (25) feet of any structure;
- C. Open burning shall not take place unless weather conditions are conducive for controlling the burn;
- D. Open burning shall take place between the hours of 8:00 a.m. and 8:00 p.m.;
- E. A competent person at least eighteen (18) years of age shall attend the fire until the fire has been extinguished (ashes are cold to the touch);
- F. Sufficient tools and equipment shall be immediately available for use of the person identified in "E" above to extinguish the fire. Such equipment may include but not be limited to: hose connected to functional water supply, rake, shovel, fire extinguisher, or other fire extinguishing equipment suitable to control or contain the open burn;
- G. Open burn shall be extinguished (ashes are cold to the touch) prior to 8:00 p.m.;

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H. Open burn shall not be allowed to smolder, but must have flame sufficient to consume material being burned.

SECTION 5: The person responsible for the open burn shall extinguish the open burn completely before leaving the area for any reason whatsoever; or upon the order of the Fire Chief/Assistant, or a Law Enforcement Officer. An order to extinguish an open burn may be for any of the following reasons:

- A. Conducting an open burn in violation of this ordinance;
- B. Insufficient or unsuitable personnel present to control the open burn;
- C. A change from favorable to unfavorable weather or burning conditions;
- D. Conducting an open burn that is determined to be dangerous or a nuisance.

SECTION 6: The Mayor, upon the advice of the Fire Chief, shall have the authority to rescind open burning, immediately, if it is determined that atmospheric, weather, hazardous conditions or local circumstances constitute a threat to public safety, health, or property.

SECTION 7: A person(s) violating this Ordinance shall be guilty of an infraction and subject to a fine of \$50.00.

SECTION 8: Any violation of the terms of this Ordinance shall be deemed a Public Nuisance and subject to injunction under the Laws of the State of Idaho and the Ordinances of the City of Mackay.

SECTION 9: This Ordinance shall be in full force and effect immediately upon its passage and publication according to law, the Council dispensing with the rule that ordinances must be read on three different days, all as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MACKAY, CUSTER COUNTY, IDAHO, THIS 7th DAY OF JUNE 2016.

CITY COUNCIL OF THE CITY OF MACKAY, CUSTER COUNTY, IDAHO A MUNICIPAL CORPORATION OF IDAHO

By: Wayne Olsen  
Wayne C. Olsen, Mayor

ATTEST: Suzanne Whitworth  
Suzanne Whitworth, City Clerk

