

Chris Taggart

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From: AT <WindmillJouster@protonmail.com>
Sent: Sunday, June 5, 2022 2:39 PM
Cc: Greg Chilcott; Dan Huls; Jeff Burrows; Chris Taggart; Jesse
Subject: [EXTERNAL] Fire Permit Ordinance

JUN 06 2022

Ravalli County Commissioners



Ravalli County Commissioners,

Thank you again for allowing me time to speak on the draft burn permit Ordinance.

I reached out again to attorney Rich Gebhardt to answer some of the questions that arose during the first reading. His experience with the pertinent laws is astounding. He knows the history, the motivations, and the problems of 7-33-2205 and 76-13 Part 1. Rich has retired, but he is a warehouse of vital knowledge and understanding. I suggest you contact him. He knows Ravalli County and its players. He is glad to help.

He corrected some of my misunderstandings and confirmed some of the understandings of Bruce, Brad, and Clay. I learned a lot!

Rich says I'm wrong about the County not having the ability to initiate the burn permit system that would cover the fire districts. He says (as did Clay) that the county is simply following 2205. I was also wrong about a county ordinance not being able to establish fees or fines (Legal concept: "Specific v.s. General). I was correct that the ordinance will not affect Federal lands or incorporated cities. Those entities, unlike counties or districts, have "Self-governing Powers". They can make their own rules.

Counties and districts cannot.

(Side note: Rich talked about when Montana counties approached the Legislature and said that they did not know anything about irrigation, mosquitos, fire... and asked that they offload such responsibilities and authorities. The Legislature made it happen. These special districts were granted the power and authority to do their special things and the counties relinquished all of it. Everybody was happy. Rich mentioned that whoever controls the money has the authority. Both counties and districts are subdivisions of the state. They elect their leaders, levy taxes. They do stand as equals in their specific duties.)

Rich says that 2205 is certainly subject to 76-13 Part 1. No doubt about it. He knew that Section 76 limits the burn permit requirement to "Wildland" areas. (12) "Wildland" means an area in which development is essentially nonexistent, except for roads, railroads, powerlines, and similar facilities, and in which structures, if any, are widely scattered. So not much of Ravalli County would be under the Ordinance.

The requirement stands that the permit must be in writing (not electronic, but maybe we can find a way of doing this) and issued by the "Recognized" fire agency where the burn will occur. I remember back before Painted Rocks was a district; burn permits were issued by the Forest Service. The Forest Service was the trained and equipped resource that would respond to wildland fires. Now it is the Fire District. So is the local fire agency is the "MCA 76-13-102 (8) "Recognized agency" means an agency organized for the purpose of providing fire protection and recognized by the department as giving adequate fire protection to lands in accordance with rules adopted by the department."? Ravalli County does not fill this definition; neither does the Sheriff's Office.

It seems clear me, but you will have to decide.

I fully understand that there is a desire to reduce the unneeded responses by volunteer firefighters to managed fires. Additionally, let's stop the large number of calls from caring people who want to report a smoke column or fire that is under control. Maybe there are solutions that have not been considered. Maybe we can think outside the box. Maybe there are solutions that do not "restrict the...activities" of our residents.

Here's hoping that you will look further for the unobvious solutions.

Alan Tresemer

P.S. I don't have Clay's email. Please, can one of you forward? Same with Brad and Bruce. I'd like to think we are all interested in finding the best possible solution.

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