

ORDINANCE 21-1

MCPHERSON COUNTY OPEN BURNING REGULATION ORDINANCE

An ordinance regulating open burning in McPherson County.

WHEREAS, the Commissioners of McPherson County are charged with protecting the health and safety of the citizens of McPherson County, including all property situated therein; and

WHEREAS, South Dakota Codified law (SDCL) § 7-8-20(18), as amended, grants the to the Commissioners of McPherson County the power “To prohibit or restrict open burning, after consultation with local fire officials and law enforcement officials, in order to protect the public health and safety[;]” and

WHEREAS, in order to effectively administer this public policy and provide for effective public safety, the Board of Commissioners, after consulting with local fire officials and law enforcement officials, enacts this ordinance to determine the appropriate times to restrict or “ban” burning and when to allow open burning under certain climatic conditions;

THEREFORE, be it ordained by the McPherson County Board of Commissioners as follows:

Section I. Definitions:

- A. **Open Fire:** Any outdoor fire, including a campfire, that is not contained within a fully enclosed fire box or structure from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney. Open Fire shall not include Charcoal Grill, Liquid Fuel Grills, Outdoor Fireplaces, Branding Iron Burners, or Burn Barrels as defined herein.
- B. **Charcoal Grill:** A metal or stone device not resting on the ground with a metal grate designed to cook food using charcoal briquettes, char wood, hard wood, or similar fuel.
- C. **Liquid Fuel Grill:** A metal or stone device designed to cook food using liquefied or gaseous combustible fuel.
- D. **Burn Barrel:** Means a metal container used to hold combustible or flammable waste materials so that they can be ignited outdoors for the purpose of disposal. Burn Barrels must have a metal grate covering at any time when being used. Burn Barrels must be located in a safety zone devoid of all combustible materials 15 feet in radius from the center of the Burn Barrel.
- E. **Outdoor Fireplace:** Means a manufactured appliance constructed of non-combustible materials, with a maximum fuel area of three (3) feet, including a screen, chimney or other device placed above the fuel area, fueled by cut or split wood, located not closer than 15 feet to any combustible surface and continually attended.
- F. **Branding Iron Burner:** A stove, furnace or device used to heat irons for the purpose of branding livestock, heated by wood, liquid fuel or other means and constructed so that

the heat source is contained in such a manner that sparks or embers are not allowed to freely escape into the open atmosphere.

- G. **Campground:** Means any permitted commercial campground operated by private individuals or corporations, State of South Dakota or United States Forest Service.

Section II. Regulations:

A. Open Fire:

1. No person shall set any open fire in McPherson County, outside the boundaries of any municipality, when the National Weather Service has declared the Grassland Fire Danger Index to be in the very high or extreme category in McPherson County or a Red Flag Warning has been issued in McPherson County. The prohibition against Open Fire as provided herein shall automatically be suspended during any time period the Grassland Fire Danger Index falls below the very high category or when the Red Flag Warning has been rescinded and/or cancelled in McPherson County by the National Weather Service.
2. The McPherson County Board of Commissioners may ban the setting of any open fire in McPherson County if, after consulting with local fire officials and law enforcement, find that climactic conditions do not meet the Grassland Fire Danger Index requirements for a very high or extreme category danger and/or the National Weather Service has not issued a Red Flag Warning yet climactic conditions pose a fire threat to the public health and safety.

B. Burn Barrels:

1. Special regulation: No person may ignite a fire in a burn barrel when the National Weather Service has declared the Grassland Fire Danger Index to be in the extreme category in McPherson County. Use of burn barrels as defined herein is allowed only when the Grassland Fire Danger Index falls below the extreme category in McPherson County.
2. The McPherson County Board of Commissioners may ban the use of burn barrels in McPherson County if, after consulting with local fire officials and law enforcement, find that climactic conditions do not meet the Grassland Fire Danger Index requirements for an extreme category danger yet climactic conditions pose a fire threat to the public health and safety.

C. Campgrounds:

1. The ban on open burning (open fire) does not apply to those designated areas falling within the boundaries of any permitted commercial, state or federal campgrounds unless otherwise specifically banned by resolution of the McPherson County Board of Commissioners.

Section III. Penalty:

- A. The penalty for each violation of this ordinance shall be a fine of \$500.00 or 30 days in jail, or both.
- B. Any violator of this ordinance is subject to the suppression costs of extinguishing the fire.
- C. Nothing herein shall be construed to prohibit or supersede any civil remedy otherwise available to any person or entity.
- D. The permissibility of the ignition of any fire as specified herein shall not operate to relieve the ignitor of any duty of care otherwise imposed by law; nor shall this ordinance operate to absolve any person of any liability for damages to persons or property which may occur as a result of the fire.

First Reading: July 6th, 2021

Second Reading:

Published:

Effective Date:

Anthony Kunz
Chairman of the Board of County Commissioners

ATTEST:

Lindley Howard
McPherson County Auditor