ORDINANCE NO. 2022-01

BE IT ORDAINED by the MCCOOK County Board of Commissioners that these restrictions regarding open burning are imposed.

1. McCook County does prohibit and restrict open burning under conditions set forth herein.

2. No person shall conduct open burning outside of a municipality in McCook County while the National Weather Service has declared the South Dakota Grassland Fire Danger Index to be in the "Very High" or "Extreme" category or has issued a "Red Flag Warning" for any portion of McCook County.

3. Any ban imposed under Section 2 above will be automatically suspended when the South Dakota Grasslands Fire Danger Index falls below the "Very High" category or the "Red Flag Warning" has been rescinded by the National Weather Service.

4. Exceptions: It is not considered "Open Burning" if:

    a. A fire is maintained in any interior fireplace, stove, or furnace.
    b. Burning materials are kept in a container sufficient to prohibit the escape of burning substance, or any sparks, flames or hot ashes therefrom:

JUSTIFICATION OF ORDINANCE:

a. McCook County has the authority to restrict open burning pursuant to SDCL 7-8-20(18);
b. It is in the interest of the public health and safety to have open burning within the county prohibited or limited during the time when certain fire conditions exist.

5. Notification of the McCook County Office of Emergency Management or Mitchell Regional 911 center (911 dispatch) is required before a controlled burn in conducted.

6. Violations of this Ordinance are deemed to be a public nuisance in addition to the potential criminal penalties listed.

7. All ordinances or parts thereof in conflict with this ordinance are hereby repealed as they apply to this ordinance.

PENALTY:

Penalty for each violation of this ordinance shall be that as specified under McCook County Ordinance or any amendment thereto. This constitutes what is commonly considered to be a Class 2 misdemeanor under South Dakota law, with a fine of up to $500 or 30 days in jail, or punishable by both such fine and

imprisonment, and that the costs for suppressing any fire, including response fees, mutual aid assistance from other agencies or fire departments, reimbursement to governments for suppression efforts and compensation to the firefighters for time from their employment, be borne by the individual or individuals responsible for setting the fire.

8. Definition of terms:
    a. Open burning is the intentional burning of any substance, natural or manmade, and the intentional casting of any burning substance whether natural or manmade.
    b. The use of fireworks is deemed to be open burning.
    c. The escape of any burning substance or of any sparks, flames or hot ashes from any fire container is deemed open burning and constitutes a presumption that the container was insufficient to meet the exception from the definition of open burning.
    d. A controlled burn is any fire deliberately set for the purpose of cleaning or clearing property which is kept under constant supervision and has had adequate protective measures taken for the situation.
9. This ordinance is necessary to protect and preserve public health and safety.

Adopted this _____ day of _____, 2022.

_____

Steve Gordon, Commission Chairman

ATTEST:

_____

Auditor

(SEAL)

First Reading:
Second Reading & Adoption:
Publication Date:
Effective Date: