

AN ORDINANCE AUTHORIZING PROCEDURES TO ENACT
A COUNTY -WIDE BURN BAN PURSUANT TO THE AUTHORITY OF
STATE LAW AND SECTION 49.266 RSMO
ORDINANCE NO. 2022-01

BE IT ORDAINED BY THE COUNTY COMMISSION OF McDONALD COUNTY,
MISSOURI, AS FOLLOWS:

WHEREAS, the County Commission of McDonald County, Missouri, is authorized to enact ordinances to promote and enhance the public health, safety and general welfare of individuals within McDonald County, Missouri; and


WHEREAS, Section 49.266 RSMO authorizes the enactment of a County-wide ban of open fires pursuant to the provisions of that Statute;

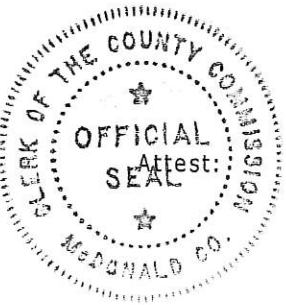
1. It shall be unlawful to knowingly start, initiate, cause, permit, or conduct a fire on property located in McDonald County, Missouri, excluding outdoor grills utilized for cooking purposes. Violation of this Ordinance shall be a class A misdemeanor as defined by State Law.
2. Each violation of an open burning *ban* imposed under this Ordinance shall be considered a separate offense for each day or part of the day in which the violation is committed.
3. The McDonald County Commission may enact a County-wide burn ban upon a determination by the State Fire Marshall that a burn ban order is appropriate for McDonald County pursuant to the provisions of Section 49.266.3 RSMO
4. State agencies responsible for fire management or fire suppression activities and persons conducting agriculture burning using best management practices as defined by the Missouri Department of Conservation, shall not be subject to the provisions of this Ordinance.
5. This Ordinance shall not affect the ability of an individual, organization, or corporation to sell fireworks during the period of a burn band but it does prohibit the usage of all missile and skyrocket devices.
6. Each Order imposed under this Ordinance shall state the conditions which warrant such county-wide burn ban and notice shall be provided to the general public of the enactment of the burn ban.
7. Prior to enacting a County-wide burn ban, the Commission must receive information of the condition precedent established in Section 49.266.3 RSMO.
8. Any burn ban imposed under this Ordinance shall remain in effect for a period not to exceed thirty (30) days. However, the McDonald County Commission may extend or rescind the ban if necessary.

9. This Ordinance and any burn ban when enacted shall be applicable to all unincorporated areas of McDonald County, Missouri, and all incorporated areas within McDonald County that do not have a municipal ordinance banning open burning.
10. Burn ban violators will be subject to a minimum fine of \$250.00 up to the maximum allowed by a class A misdemeanor. Additionally, restitution for services provided will be awarded to the responding fire department(s).

This Ordinance shall be in full force and in effect from and after its passage and adoption. Should any provision within the Ordinance be adjudged invalid, said determination shall not affect the validity of the balance of this Ordinance.

THIS ORDINANCE WAS PASSED AND ADOPTED ON THE 21st DAY OF JULY, 2022.


William (Bill) Lant, Presiding Commissioner



Kimberly Bell
McDonald County Clerk
07/21/2022

**MCDONALD COUNTY ORDINANCE FOR THE CREATION OF AN
"TEMPORARY OPEN BURNING BAN"**

Bill No: 2011-3

Ordinance No: 2011-3

BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF THE COUNTY OF MCDONALD, STATE OF MISSOURI, AS FOLLOWS:

Section 1: General Provisions

1.1: The purpose of this Ordinance is to promote and enhance the public health, safety, comfort, and the general welfare of McDonald County, Missouri; and to provide for a countywide ban of open fires when local fire officials in McDonald County, Missouri, determine conditions to be unsafe for open fires.

1.2: In the interpretation and application of this Ordinance, all provisions shall be liberally construed in favor of the governing body and deemed neither to limit, supersede, or contravene any other Missouri state statute or regulation regarding open burning.

Section 2: Definitions

2.1: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

2.2: "Designated Fire Official" means the duly elected chairman of the Board of Fire Officials.

2.3: An "open burning ban" means no person shall initiate, cause, conduct, or permit open fires.

2.4: "Temporary" means for a period of time not longer than thirty (30) days.

Section 3: Authorization

3.1: General Rule. Subject to the prerequisites under Section 3.2 of this Ordinance, the McDonald County Commission shall have the authority and power to order a temporary countywide open burning ban for all unincorporated areas of McDonald County, Missouri, and for all incorporated areas of McDonald County, Missouri, that have no municipal ordinance for an open burning ban.

A. Each order imposed under this Ordinance shall state what conditions warrant such an open burning ban.

B. Each order imposed under this Ordinance shall require notice to the general public prior to the imposition of said order.

3.2: Prerequisites. Prior to imposing an open burning ban under this Ordinance, the McDonald County Commission must receive a written request from the designated fire official requesting that an open burning ban be imposed.

3.3: Duration. Any open burning ban imposed under this Ordinance shall remain in effect for not longer than thirty days (30) days. The McDonald County Commission may extend or rescind the open burning ban if necessary upon written request to extend or rescind the open burning ban by the designated fire official.

3.4: Procedure.

A. A Board of Fire Officials shall be created by this Ordinance.

B. The Board of Fire Officials shall consist of the fire chief, or his agent, of each fire department within McDonald County, Missouri, including any incorporated areas of McDonald County, Missouri.

C. A majority of the members of the Board of Fire Officials must determine that conditions are unsafe for open fires in McDonald County, Missouri, prior to the designated fire official submitting a written request to the McDonald County Commission requesting that an open burning ban be imposed.

D. Each member of the Board of Fire Officials must submit his vote of whether or not to request that an open burning ban be imposed to the designated fire official in writing or a member may call McDonald County E-911 to have his vote of whether or not to request that an open burning ban be imposed logged with a dispatcher with the McDonald County E-911.

E. It shall be the duty of the McDonald County E-911 to notify the designated fire official of any votes or requests of any member of the Board of Fire Officials.

Section 4: Notification of Open Fires

4.1: A person shall notify the McDonald County E-911 prior to initiating, causing, conducting, or permitting open fires in McDonald County, Missouri, during an open burning ban order by the McDonald County Commission.

Section 5: Enforcement

5.1: The primary enforcement of this Ordinance shall be the responsibility of the McDonald County Sheriff's Department.

Section 6: Penalties

6.1: If a person located within McDonald County, Missouri, knowingly starts a fire on property in McDonald County, Missouri, and said property is not legally owned or possessed by said person, then said person shall be guilty of a class A misdemeanor, if the McDonald County Commission has effectively initiated an open burning ban for the County of McDonald, State of Missouri, as a whole, by notifying the public by a public notice of said burn ban.

6.2: If a person located within McDonald County, Missouri, knowingly starts a fire on property in McDonald County, Missouri, and said property is legally owned or possessed by said person and said person fails to control said fire and said fire burns property not owned by said person, then said person shall be guilty of a class A misdemeanor, if the McDonald County Commission has effectively initiated an open burning ban for the County of McDonald, State of Missouri, as a whole, by notifying the public by a public notice of said burn ban.

6.3: Each violation of an open burning ban imposed under this Ordinance shall be considered a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.

6.4: A person shall not be guilty of Section 6.1 or Section 6.2 of this ordinance, if said person is acting under the authority of a federal, state, or local agency, including but not limited to: fire departments located within McDonald County, Missouri; the McDonald County Sheriff's Office; and McDonald County Emergency Management.

Section 7: Severability Clause

7.1: Should any section, provision, or part of this Ordinance be adjudged invalid or unconstitutional, such adjudication should not affect the validity of the Ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 8: Interpretation

8.1: In this Ordinance, a reference to the singular includes the plural and vice versa, and a reference to gender includes all genders.

READ TWO TIMES AND PASSED THIS 19 DAY OF December 2011.

Keith Lindquist
Keith Lindquist, Presiding Commissioner

Sam Gaskill
Sam Gaskill, Eastern Commissioner

Ronnie Walker
Ronnie Walker, Western Commissioner

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ATTEST:

Barbara Williams
Barbara Williams, County Clerk

BE IT REMEMBERED, that on the final passage of this Ordinance the roll call vote for approval was the following persons voting:

"Aye"

Keith Lindquist - Ronnie Walker - Sam Gaskill

"Nay"
