

**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

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"
