

# **Ordinance #2022-07**

## **An Ordinance Amending Ordinance #2014-02**

### **An Ordinance Authorizing the Clay County Board of Commissioners to Declare a Fire Danger Emergency and to Prohibit Open Burning Within the County**

BE IT ORDAINED BY CLAY COUNTY, that the Commissioners of Clay County are charged with protecting the health and safety of the citizens of Clay County, including all property situated herein; and

By South Dakota Codified Law 7-8-20(18) the Clay County Board of Commissioners authorizes the Clay County Office of Emergency Management to enact the Declaration of a Fire Danger Emergency and to Prohibit Open Burning Within the County or restrict open burning, after consultation with local fire officials and law enforcement officials, to protect the public health and safety; and

Subject to separate action by the Clay County Board of Commissioners, said declaration of fire danger emergency and prohibition or restriction of open burning within the county will be enforced immediately and autonomously when the National Weather Service places the area in a Fire Weather Watch or Red Flag Warning status, meaning that wildfire and dangerous fire hazards exist.

"Open burning" shall be defined as any outdoor fire, including but not limited to the prescribed burning of fence rows, fields, wildlands, trash, and debris, the intentional burning of any substance, whether natural or manmade, or the intentional casting off of any burning substance, whether natural or manmade, except the burning of such substance in a container sufficient so as to prohibit the escape of any of the burning substance, or any sparks, flames, or hot ashes from the container. The escape of any such burning substance, or the escape of any sparks, flames, or hot ashes from any such container shall be deemed prima facie evidence that the container was insufficient to meet the exception from the definition of an open burning set forth herein. This also excludes fires contained within liquid-fueled or gas-fueled stoves, fireplaces within all buildings, charcoal grill fires at private residences, and permanent fire pits or fire grates located on supervised developed picnic grounds and campgrounds.

#### **Section I. Definitions:**

- A. 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.
- B. Liquid Fuel Grill: A metal or stone device designed to cook food using liquefied or gaseous combustible fuel.
- C. Burn Barrel: A metal container used to hold combustible or flammable waste materials so that they can be ignited for the purpose of disposal. Burn barrels must have a metal grate; metal grate opening shall be no larger than 1/4" square covering at any time when in use. Burn barrels must be in a safety zone, away from any or all combustible materials, of a 15 feet radius of the burn barrel.
- D. Outdoor Fireplaces: A manufactured appliance constructed of non-combustible

materials, with a maximum fuel area of three (3) feet, including a screen, (screen opening shall be no larger than 1/4" square), 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.

- E. Campground: Any permitted commercial campground operated by private individuals or corporations, State of South Dakota, Clay County, or the United States National Park Service.

## Section II. Regulations:

- A. Open Fire: No person shall set any open fire in Clay County, outside the boundaries of any Municipality, when the National Weather Service has declared a Fire Weather Watch or Red Flag Warning in Clay County.
- B. Burn Barrels: No person may ignite a fire in a burn barrel when the National Weather Service has declared a Fire Weather Watch or Red Flag Warning in Clay County.
- C. Campgrounds: The ban on open burning (open fire) does apply to those designated areas falling within the boundaries of any permitted commercial, state, county or federal campgrounds unless otherwise specifically banned by resolution of the Clay County Board of Commissioners.
- D. During a time when Open Burning is permitted, no person shall start an Open Burn without first notifying the Clay County Communications Center at 605.677.7100 and provide the adult burner's name, address, phone number, type of material to be burned and location of the burn.
- E. Open Burning must be directly supervised while actively burning, by the adult burner who is responsible for the property being burned and whose contact information has been provided to the Clay County Communications Center prior to the start of the Open Burn.

Subject to separate action by the Clay County Board of Commissioners, said declaration of fire danger emergency and prohibition or restriction of open burning within the county will remain in place only until the area is no longer in Fire Weather Watch or Red Flag Warning status according to the National Weather Service.

The maximum penalty for violation of this ordinance shall be as follows: thirty days imprisonment in county jail or five hundred dollars fine, or both according to South Dakota Codified Law 22-6-2(2) or its progeny.

In accordance with South Dakota Codified Law 34-35-12, 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 lost from their employment, may be born directly by the individual or individuals responsible for setting the fire in violation of this ordinance.

Adopted by majority vote of the Clay County Board of Commissioners in regular session this 28<sup>th</sup> day of April, 2022.



  
County Commission Chairperson

Attest:

Cami R. Crum  
County Auditor



(seal)

First Reading: April 12, 2022

Second Reading: April 28, 2022

Adoption: April 28, 2022

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