

PENNINGTON COUNTY ORDINANCE NO. 726

AN ORDINANCE REGULATING OPEN BURNING IN PENNINGTON COUNTY

WHEREAS, within the limits of their jurisdiction, the Commissioners of Pennington County are charged with protecting the health and safety of the citizens of Pennington County, including all property situated therein; and

WHEREAS, South Dakota Codified Law (SDCL) § 7-8-20(18) authorizes the Pennington County Commission 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, the Fire Administrator of Pennington County has consulted with local fire officials and law enforcement officials concerning the need to regulate open burning under certain climatic conditions that pose a threat of fire; and

WHEREAS, the Commissioners of Pennington County deem it necessary to adopt the restrictions set forth in this Ordinance in order to reduce the threat posed by fire to the citizens and property of Pennington County.

NOW, THEREFORE, BE IT ORDAINED BY THE PENNINGTON COUNTY BOARD OF COMMISSIONERS AS FOLLOWS:

SECTION I. APPLICATION:

This Ordinance applies to all areas in Pennington County except: (1) the Black Hills Forest Fire Protection District; (2) any municipality and, (3) any land in Pennington County that is under the ownership or jurisdiction of the Federal Government or State of South Dakota.

SECTION II. DEFINITIONS:

- A. **Open Fire:** Any outdoor fire 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 Grills, Liquid Fuel Grills, Outdoor Fireplaces, Branding Iron Burners, Campfires or Burn Barrels (see special regulation) 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:** 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:** 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. **Campfire:** A designated and contained location in any permitted commercial campground operated by private individuals or corporations established specifically for the safe use of campfires by campers.

SECTION III. REGULATIONS:

A. **Open Fire:**

- 1. No person shall set any open fire when the National Weather Service has declared the South Dakota Grassland Fire Danger Index to be in the very high or extreme category in Pennington 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 in Pennington County.

B. **Burn Barrels:**

- 1. Special regulation: No person may ignite a fire in a burn barrel when the National Weather Service has declared the South Dakota Grassland Fire Danger Index to be in the very high or extreme category in Pennington County. Use of burn barrels as defined herein is allowed only when the Grassland Fire Danger Index falls below the very high category in Pennington County.

SECTION IV. 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 may also be subject to other criminal penalties and civil damages for injury, suppression and extinguishment costs associated with a fire as provided in SDCL Chap. 34-35.
- 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.

- E. Nothing herein shall be construed to supersede any federal or state authority to issue burn permits on land owned or under the jurisdiction of the Federal Government or State of South Dakota.

BE IT FURTHER ORDANINED, that Pennington County Ordinance No. 632 along with any other ordinances and resolutions regulating open burning in Pennington County are hereby repealed; and

BE IT FURTHER ORDAINED, that pursuant to SDCL § 7-18A-8, this Ordinance is necessary for the immediate preservation of public health and safety and shall take effect immediately upon passage and publication.

Adopted this 18th day of May, 2021.

PENNINGTON COUNTY COMMISSION:

By: 
Gary Drewes, Chairman

ATTEST:


Cindy Mohler, Auditor



First Reading: May 4, 2021
Second Reading: May 18, 2021
Adopted: May 18, 2021
Published: June 3, 2021
Effective Date: June 3, 2021