

CHARLES MIX COUNTY ORDINANCE NO. 2012-02

AN ORDINANCE REGULATING OPEN BURNING IN CHARLES MIX COUNTY

WHEREAS, the Commissioners of Charles Mix County are charge with protecting the health and safety of the citizens of Charles Mix County, including all property situate therein; and

WHEREAS, South Dakota Codified Law (SDCL) § 7-8-20(18) authorizes the Charles Mix 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 Charles Mix County has consulted with local fire officials and law enforcement officials concerning the threat of wildfire from open burning under certain climatic conditions; and

WHEREAS, the Commissioners of Charles Mix County have determined that in the interest of public health and safety, it is prudent to prohibit open burning (open fire) when climatic conditions indicate the threat of wildfire in Charles Mix County; and

WHEREAS, the Commissioners of Charles Mix County, pursuant to SDCL § 7-18A-8, hereby deem it necessary for the immediate preservation of the public health and safety to adopt the restrictions set forth in this Ordinance and it is the intent of the Charles Mix County Board of Commissioners that the provisions of this Ordinance shall take effect immediately upon passage by the Board.

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

SECTION I. DEFINITIONS:

- **Open Fire:** Means any outdoor fire, including a campfire, 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, or Burn Barrels as defined herein.
- **Charcoal Grill:** Means 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.
- **Liquid Fuel Grill:** Means a metal or stone device designed to cook food using liquefied or gaseous combustible fuel.
- **Burn Barrel:** Means 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.
- **Outdoor Fireplace:** Means 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.
- **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 in the open atmosphere.
- **Campground:** Means any permitted commercial campground operated by private individuals or corporations, State of South Dakota, or United States Forest Service.
- **Fire Operations:** Means any operations or training held by fire professionals or certified departments.

SECTION II. REGULATIONS:

- **Open Fire:**

- No person shall set any open fire in Charles Mix County, outside the boundaries of any municipality, when the National Weather Service has declared the Grassland Fire Danger Index to be in the **very high, extreme, or red flag** category in Charles Mix 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 Charles Mix County.
- **Burn Barrels:**
 - Special regulation: No person may ignite a fire in a burn barrel when the National Weather Service has declared the Grassland Fire Danger Index to be in the **extreme or red flag** category in Charles Mix County.
- **Campgrounds:**
 - The ban on open burning (open fire) does not apply to those designated areas falling within the boundaries of any permitted commercial, state, or federal campgrounds unless otherwise specifically banned by resolution of the Charles Mix County Board of Commissioners.
- **Fire Operations:**
 - Fire Operations by trained fire professional are excluded.

SECTION III. PENALTY:

- The penalty for each violation of this ordinance shall be a fine of \$500.00 or 30 days in jail or both.
- Any violator of this ordinance is subject to the suppression costs of extinguishing the fire.
- Nothing herein shall be construed to prohibit or supersede any civil remedy otherwise available to any person or entity.
- The permissibility of the ignition of any fire as specified herein shall not operate to relieve the igniter 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.

Adopted this 7th day of August, 2012 by the:
CHARLES MIX COUNTY COMMISSION