

ORDINANCE NO. 2017-01

AN ORDINANCE AMENDING EXISTING ORDINANCE 2012-01 AUTHORIZING THE MOODY COUNTY BOARD OF COMMISSIONERS TO DECLARE A FIRE DANGER EMERGENCY AND TO PROHIBIT OPEN BURNING WITHIN MOODY COUNTY.

BE IT ORDAINED BY MOODY COUNTY, SOUTH DAKOTA, THAT ORDINANCE 2012-01 BE AMENDED TO READ AS FOLLOWS:

Section 1. That when weather or other conditions exist which make open burning of any substance unduly hazardous and a danger to public safety, the Moody County Board of Commissioners may enact a resolution declaring a "Fire Danger Emergency".

Section 2. That if a "Fire Danger Emergency" is declared, all open burning of any substance shall be prohibited within any or all of the unincorporated areas of Moody County until such time as the resolution declaring the "Fire Danger Emergency" shall have been rescinded by appropriate action of the Moody County Board of Commissioners.

Article 2.1 Irrespective of the enactment of a resolution from the Moody County Board of Commissioners declaring a "Fire Danger Emergency", open burning of any substance is expressly prohibited when the National Weather Service has declared a Red Flag Warning in Moody County, or when the Grassland Fire Danger Rating in Moody County reaches Very High or Extreme.

Section 3. That any person who shall create, commit, maintain, or permit to be created, committed or maintained an open burning in violation of a resolution declaring a "Fire Danger Emergency", or when the National Weather Service has declared a Red Flag Warning in Moody County, or when the Grassland Fire Danger Rating in Moody County reaches Very High or Extreme, shall be deemed to have committed a public nuisance in violation of and subject to all criminal and civil penalties provided for therein. Any person who maintains, commits, or fails to abate a public nuisance as required under the provisions of this ordinance shall be subject to a maximum penalty of thirty (30) days in jail, a \$500 fine, or both. Each and every day that the violation continues may constitute a separate offense.

Article 3.1 In addition to the fines and penalties indicated in Section 3 above, any person who violates this ordinance may be subject to the suppression costs of extinguishing the fire. Additionally, nothing within this Ordinance shall be construed to prohibit or supersede any civil remedy otherwise available to any person or entity.

Section 4. "Open burning" is defined as 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 so as to meet the exception from the definition of an open burning set forth herein. The maintaining of a fire in any interior fireplace, stove or furnace is specifically excluded from the definition of an open burning as contemplated by this ordinance.

Section 5. Campgrounds. Unless specifically banned by resolution of the Moody County Board of Commissioners, open burning within those designated areas falling within the boundaries of any permitted private, state or federal campground shall be legally permissible.

Section 6. Reporting of controlled burns. Anyone who intends to conduct any "open burning" at any time, regardless of the enactment of a "Fire Danger Emergency" resolution by the Moody County Board of Commissioner, or a ban imposed as a result of a Red Flag Warning from the National Weather Service or when the Grassland Fire Danger Rating in Moody County reaches Very High or Extreme, shall, before such burn, notify the Moody County Dispatch Center and provide the following information: location of the burn, time of burn, substance to be burned, approximate completion time of the burn and a contact phone number for the responsible person. Any person who violates this Section shall be subject to a maximum penalty of thirty (30) days in jail, a \$500 fine, or both.

Section 7. This ordinance is declared to be necessary for the immediate preservation of the public safety in accordance with the provisions of SDCL 7-18A-8.

MOODY COUNTY COMMISSION

By: Jerry Doyle
Its: Comm. Chair

ATTEST:

Kristina Kona
Moody County Auditor



FIRST READING: 4/4/17
SECOND READING: 4/18/17
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