

# **FIRE PROTECTION ORDINANCE**

**FEES & FINES  
OPEN BURNING  
VIOLATIONS & PENALTIES**

**CHAPTER 1  
MCDOWELL COUNTY FIRE PREVENTION AND PROTECTION  
ORDINANCE**

**Section 1.1 Fire Prevention and Protection**

These regulations shall be known as the "Fire Prevention and Protection Ordinance of McDowell County, North Carolina."

**Section 1.2 Intent of the Ordinance**

The intent of this ordinance is to prescribe regulations for safeguarding life and property within the unincorporated limits of McDowell County and in any municipality, which requests it to apply.

**Section 1.3 Authority and Mission of Fire Marshal**

The Fire Prevention Ordinance of McDowell County shall be enforced by the McDowell County Fire Marshal Office and McDowell County Sheriff Office. Any sworn position in the Fire Marshal Office shall be with the approval of the McDowell County Sheriff. The mission of the McDowell County Fire Marshal's Office is to minimize the risk of fire and other hazards to the life and property of the citizens of the County. To accomplish this, the Fire Marshal's Office shall provide effective fire prevention, fire investigation, arson mitigation, and assist the fire departments and rescue squads in the County.

**Section 1.4 Open Burning (Within 100 Feet of a Structure)**

Open burning under this ordinance covers all open burning that is within 100 feet of a structure. Any burning that emits products of combustion directly into the atmosphere without passing through a stack, chimney, or permitted air pollution control device. Bonfires are also covered under open burning.

**CHAPTER 2  
MCDOWELL COUNTY BURNING**

**2.1 Permits**

Permits are required for burning of leaves, tree branches or yard trimmings originating on the premises.

- A. In accordance to the Fire Prevention Code, any outdoor open burning conducted within the County requires a permit to be issued by the North Carolina Forest Service.

## **2.2 Burning Site Requirements**

- A. The location of the material to be burned shall be a minimum of 50 feet from any structure located on the property of which the burning is done. If a possible hazard exists, the Fire Official may require this distance to be increased.
- B. Piles of material to be burned should be done in a safe matter.
- C. An area 10 feet wide shall be cleared completely around the material to be burned.
- D. Only natural materials, such as limbs, brush, grass, leaves, may be burned. Heavy oils, asphalt materials, construction material, polar solvents, treated lumber, trash, paper or items containing natural or synthetic rubber, or any materials other than plant growth shall not be burned.
- E. A competent person shall constantly attend the fire until such fire is extinguished.
- F. A garden hose with suitable water supply or other fire extinguishing equipment, as deemed acceptable by the fire official, shall be readily available for immediate use during the course of the fire until such fire is extinguished.

## **2.3 Burning Ban**

- A. In the event that the McDowell County Fire Marshal's Office issues a ban on outdoor burning within 100 feet of a structure, then in accordance to state law all Open Burning Permits issued shall be deemed invalid with no issuance of any new permits until such ban is lifted by the McDowell County Fire Marshal's Office. During this ban, no open burning shall be conducted at all within 100 feet of a structure; this includes any outdoor burning at residences. A civil citation may be issued for violations.
- B. A burning ban on outdoor burning within 100 feet of a structure may be issued by the McDowell County Fire Marshal's Office in the event that atmospheric conditions or local circumstance make such fire conditions. Atmospheric conditions that warrant a burning ban include, but are not limited to:
  - 1. Extended periods of low humidity
  - 2. High winds
  - 3. Elevated temperatures
  - 4. Lack of substantial rainfall.
- C. Local conditions that may warrant a burning ban include, but are not limited to:
  - 1. Flammable and/or combustible liquid spills or leaks close to a burning site.

2. A hazardous materials incident where the proximity of the burn site could cause a possible ignition source or prove hazardous to operations controlling the incident.
  3. The proximity of adjacent structures or other such hazards.
- D. In the event a burning ban is issued all permit holders shall be notified through the news media that the permit is invalid and fires shall be extinguished immediately. In conjunction with North Carolina Forest Service burning ban the McDowell County Fire Marshal's Office shall issue a burning ban of all-open burning within 100 feet of a structure and all fires shall be extinguished immediately. The local press shall be notified by the Fire Marshal's Office that such ban is in effect and that no permits will be issued until such ban is lifted and no open burning will be allowed.
- E. Any burning ban issued by the Fire Marshal's Office shall be repealed in the same manner.

#### **2.4 Extinguishing Illegal Fires**

Extinguishing illegal fires and fires when burning bans are in effect or all other fires that fall under this ordinance, the N.C.B.C. and the State regulations.

- A. The responding fire department has the authority to extinguish any fires that does not meet this ordinance, the N.C.B.C., State regulations which includes but are not limited to illegal fires, nuisance burning, fires when burning bans are in effect.
- B. The Fire Marshal's Office or its authorized representative has the authority to extinguish any fire(s) that does not meet this ordinance, the N.C.B.C., State regulations which includes but are not limited to illegal fires, nuisance burning, fires when burning, bans are in effect. If any citations are to be issued that fall under this ordinance they shall be done by McDowell County.
- C. McDowell County or its authorized representative does not have to be present to extinguish the fire(s). If the owner or person(s) burning refuse to let the fire department extinguish the fire(s) the fire department can contact Communications for law enforcement to respond and assist.
- D. The Fire Marshal's Office or law enforcement having jurisdiction will respond to any nuisance burning when the person will not allow the fire department to extinguish the fire.
- E. If any citations are to be issued that fall under this ordinance they will be issued by McDowell County Emergency Management or McDowell County Sheriffs Office

## **CHAPTER 3**

### **MCDOWELL COUNTY CITATIONS AND FEES**

#### **3.1 Issuance of notice of violations, civil citations, and penalties**

McDowell County Fire Marshal's Office are empowered to issue notices of violation and civil citations when such fire official has reasonable cause to believe that any person or business has violated any provision of the North Carolina State Building Code, Fire Prevention Code, as amended, or this ordinance. The notice of violation or civil citation may be delivered in person to the violator or, if the violator cannot be readily found, the notice of violation or civil citation may be mailed by certified mail. The notice of violation or civil citation shall specify the penalty to be imposed on the violator and shall direct the violator to appear to the Fire Marshal's office within 30 days to pay the penalty or, alternatively, to pay the penalty by mail.

Violation (s) of the Open Burning section of this Ordinance, the County Permit Section, and the State Fire Code (may issue)

First Offense 50.00  
Second Offense 100.00  
Third Offense 200.00 (Per each day that violation continues)

\*\* Any violation incurred more than a year after issuance of the initial citation shall be treated as a first offense for purposes of establishing and imposing penalties.

Violations of this ordinance shall be a Class 3 Misdemeanor as outlined by NC General Statute 14-4.

#### **3.2 Summary Abatement**

The Fire Marshal shall have the authority to summarily abate any condition that is in violation of any provision of the Fire Code and that presents an immediate fire hazard to life or property.

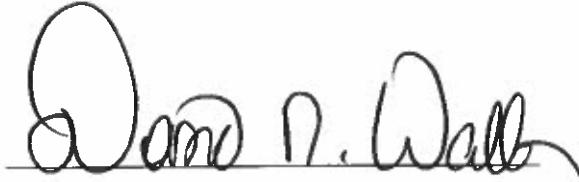
#### **3.3 Open Burning Violations**

A Civil Citation may be issued if any of the parts of the Open Burning section of this ordinance or the N.C. Building Code Fire Prevention along with N.C. Amendments are violated. The citation will be based on the violation.

#### **3.4 Carelessness with Fire**

No person shall willfully/deliberately, or through carelessness or negligence, set fire to or cause the burning of any material, in such manner as to endanger the safety of any person or property.

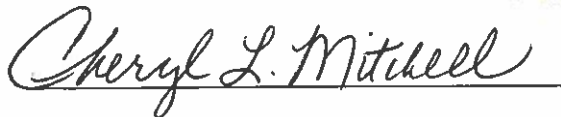
Adopted and effective the 14<sup>th</sup> of August, 2017.



David N. Walker, Chairman



ATTEST:



Cheryl L. Mitchell, Clerk to the Board