

AN ORDINANCE

AN ORDINANCE REGULATING OPEN BURNING OF ANY MATERIALS IN SPARTANBURG COUNTY.

WHEREAS, Section 4-9-25, Code of Laws of South Carolina, 1976, as amended, grants Spartanburg County the authority to enact ordinances, not inconsistent with the Constitution and general law of South Carolina, necessary and proper for its security, general welfare and convenience or for preserving health, peace, order and good government in the County; and

WHEREAS, Section 4-9-30 (14) Code of Laws of South Carolina, 1976, as amended, further grants Spartanburg County the Authority to enact ordinances for the implementation of the powers of the County Council in reference to public health, public safety and police protection as referred to in Section 4-90-30 (5); and

AND WHEREAS, Open burning may be conducted in certain situations. The authority on open burning under this Ordinance does not exempt or excuse the person or persons responsible for the burning from consequences of, or the damages or injuries resulting from the burning and does not exempt or excuse anyone from complying with other applicable laws, regulations and orders of governmental entities having jurisdiction even though the burning may otherwise be conducted in compliance with this Ordinance. Spartanburg County Council also reserves the right to impose other or different restrictions and exemptions on open burning in addition to those enumerated below, whenever in the judgment of County Council such is necessary to realize the purpose of this Ordinance.

NOW THEREFORE, BE IT ORDAINED by the Spartanburg County Council:

SECTION 1. This ordinance shall be deemed an exercise of the police power of Spartanburg County for the preservation and protection of the public health, peace, safety and welfare of the citizens of Spartanburg County.

SECTION 2. No person shall kindle or maintain any open burning or authorize any fire to be kindled or maintained within the areas of Spartanburg County except as stated in this ordinance.

SECTION 3. The term open burning is defined as below:

The burning of any material in an open fire, that is not contained in a structure or device, specifically designed to control the fire, for cooking or warmth.

SECTION 4. Open burning of leaves, tree branches or yard trimmings in predominately residential areas is prohibited. For the purpose of this ordinance, residential is defined as (this definition is still under review).

SECTION 5. Open burning in non-residential areas must meet the following criteria to be considered approved open burning:

- a) Open burning of leaves, tree branches or yard trimmings originating on the premises of private residents or dwellings and burned on those premises.
- b) The open burning location must be at least ninety (90) feet from any structure (house, barn, etc) on the property, and one hundred fifty (150) feet from any structure on any adjoining properties.
- c) Open burning of leaves, tree branches and yard trimmings is only allowed between the hours of 7:00am and 7:00pm.
- d) Open burning in connection with the preparation of food for immediate consumption.
- e) Campfires and fires used solely for the recreational purposes or for legitimate ceremonial occasions.
- f) Open burning fires for ceremonial purposes that encompass an area larger than three (3) foot by three (3) foot must have prior approval and a valid Open Burning permit approved by the Spartanburg County Office of Fire Marshal.

SECTION 6. Any allowed open burning recognized in section 5 of this Ordinance must be continually attended by a competent person, until such fire is extinguished. Such person(s) shall have suitable fire extinguishing equipment which is in proportion to the size of the fire, available at all times to use for extinguishment.

SECTION 7. Open burning in non-residential areas for the purpose of land clearing or right-of-way maintenance, is only allowed after the following criteria has been met, and are subject to SC State DHEC regulations.

- a) The location of burning must be a sufficient distance but not less than one thousand (1000) feet from public roadways and all residential, commercial, and industrial sites not a part of the contiguous property on which the burning is conducted. Burning

location must be not less than two hundred fifty (250) feet away from any on premise structures.

- b) Winds during the time of the burning must be away from any area in which the ambient air may be significantly affected by smoke from the burning, if that area contains a public roadway or a residential, commercial, or industrial site.
- c) The amount of dirt on the material being burned has been minimized.
- d) No heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth are mixed with the plant growth being burned.
- e) All salvageable timber and pulpwood must be removed.
- f) No more than two (2) piles thirty (30) foot x thirty (30) foot or equivalent may be burned within a six-acre area at one time.
- g) The initial fire may be started only between the hours of 9:00 am and 3:00 pm. No combustible material may be added to the fire between 3:00 pm of one day and 9:00 am the following day.

SECTION 8. Open burning of construction debris in connection with new one and two family residential construction on the property where it occurs is allowed only during the months of October through April, provided the following conditions are met:

- a) The location of the burning is at least ninety (90) feet from any structure located on the property on which the burning is conducted, and five hundred (500) feet from any structure not located on the property on which the burning is conducted.
- b) Burned material is limited to untreated wood scraps. Heavy oils, asphaltic materials, items containing natural or synthetic rubber, plastics, or any other trade wastes are not allowed to be burned.
- c) Burning is conducted only between the hours of 9:00 am and 3:00 pm.
- d) Approved material is burned in a non-combustible container in good condition not to exceed 55 gallon in size.
- e) Open burning is monitored and conducted only while competent persons are on sight.

SECTION 9. Fires set for the purpose of training public and private firefighting personnel as a part of an organized program of drills for training of firefighting personnel are allowed, but are subject to State DHEC Regulations. These fires are exempted solely for the purpose of

firefighting training and the duration of the burning must be held to the minimum required of such purposes.

SECTION 10. Fires purposely set for agricultural control or to forest lands for specific management practices in accordance with DHEC guidelines and administered by the South Carolina Forestry Commission are exempt to this Ordinance.

SECTION 11. Open burning practices described below are considered illegal burning:

- a) Any burning not meeting the criteria set forth in Sections 5 - 10
- b) Open burning of household trash.
- c) Open burning of any heavy oils, asphaltic materials, items containing natural or synthetic rubber or any material other than plant growth.
- d) Open burning of any structure, portion of a structure, or structural demolition debris whether accidental or intentional.
- e) Open burning of wire for the purpose of removing protective insulation.

SECTION 12. The Fire Marshal of Spartanburg County or his authorized representative may prohibit any open burning covered by this Ordinance when atmospheric conditions, local circumstances, or other conditions exist that could make such fires hazardous.

SECTION 13. No open burning of any kind (with the exception of cooking for immediate consumption) is allowed when:

- a) A "Burning Ban" has been issued by the Forestry Commission for Spartanburg County.
- b) A "Category 1" smoke dispersal day is issued by the Forestry Commission.
- c) The County Fire Marshal has prohibited open burning.

SECTION 14. Any open burning not meeting the criteria described in this Ordinance, shall immediately be extinguished by the property owner, the person responsible for the fire, or the local fire department.

SECTION 15. The provisions of this Ordinance shall be enforced by the duly authorized law enforcement officers of the County, including but not limited to the County Environmental Enforcement Officers, County Fire Marshal's Officers and the Deputies of the Spartanburg

County Sheriff's Office. County Law Enforcement/Code Enforcement Officers shall be authorized and required to cause the inspection of any public or private property, within the limits of the County whenever it shall be necessary to enforce the provisions of this Ordinance.

SECTION 16. Any person, firm, corporation or agent who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punishable by a fine not less than one hundred (\$100.00) dollars, nor more than one thousand (\$1,000.00) dollars for each offense, plus Court cost or be imprisoned for not more than thirty (30) days.

SECTION 17. This Ordinance shall take effect upon third reading approval.

SPARTANBURG COUNTY COUNCIL

By: _____
JEFFREY A. HORTON, Chairman

ATTESTED:

KATHERINE L. HUBBARD
County Administrator

First Reading:
Second Reading:
Public Hearing:
Third Reading:

Open Burning Ordinance Summary

(REVISED 2/1/13)

- 1) Defines open burning
(section 3)
- 2) Prohibits any open burning in predominately residential areas
(section 4)
- 3) Allows open burning of yard waste in areas not considered predominately residential as long as burning area is conducted as described
(section 5, a & b)
- 4) Allows open burning for preparation of food for immediate consumption
(section 5 d)
- 5) Allows ceremonial fires (bonfires) if approved by the Fire Marshal's Office
(section 5 f)
- 6) Defines open burning for land clearing projects (per DHEC Regulations)
(section 7)
- 7) Describes illegal burning
(section 11)
- 8) Defines when open burning may be prohibited for special circumstances
(sections 12 & 13)
- 9) Defines who has enforcement responsibility
(section 15)
- 10) Sets fines
(section 16)