

ORDINANCE NO. 10-717

AN ORDINANCE TO REGULATE OUTDOOR BURNING IN SUMTER COUNTY WITHIN ALL RESIDENTIAL ZONING DISTRICTS EXCEPT THE AGRICULTURAL CONSERVATION ZONING DISTRICT AND WITHIN TWO HUNDRED FEET OF A RESIDENTIAL SUBDIVISION

WHEREAS, Sumter County Council recognizes that fire is a common hazard to all residential structures; and

WHEREAS, Sumter County Council further recognizes that smoke from fire is a hazard to public health and safety and an impediment to the peaceful, comfortable and quiet enjoyment of residential property;

WHEREAS, Sumter County Council finds that open burning near residential property in areas zoned particularly for residential uses should be more closely regulated than open burning in the rural areas;

NOW, THEREFORE, it is hereby resolved by Sumter County Council in meeting duly assembled, that:

Section 1. Definitions.

For the purpose of this Ordinance, the following definitions apply:

“Residential Property” means a tract or parcel of land which is used for residential purposes and which is located in one of the Sumter County Residential Zoning Districts, including specifically, the R-15 Single-Family Residential District, the R-9 Single Family Residential District, the R-6 Residential District, the General Residential District and the Residential Multi-Family District. For purposes of this Ordinance, “Residential Property” does not include property in the Agricultural Conservation Zoning District.

“Competent Person” means a person 18 years of age or older and of adequate mental capacity.

“Dwelling” means a house, apartment, condominium, townhouse, mobile home, trailer, pre-fabricated home or any other structure designed for and suitable for human habitation, whether actually inhabited or not, whether under construction or completed and regardless of its state of repair.

Section 2. Prohibition. It shall be unlawful for any person to kindle or maintain any open burning or authorize any such fire to be kindled or maintained on Residential Property or within two hundred feet of Residential Property in Sumter County, except as provided below:

- (A) The burning must be located not less than fifty (50) feet from any dwelling and adequate provision is made to prevent the fire from spreading within fifty (50) feet of any dwelling; and
- (B) The burning must be constantly attended by a competent person until such fire is extinguished. Such person shall have a garden hose connected to a water supply, or other fire extinguishing equipment readily available for use. Proper notification shall be given to the State Forester or his duly authorized representative or other persons

designated by the State Forester. The notice shall contain all information required by the State Forester or his representative. The burning must be conducted in accordance with all applicable laws and regulations including, but not limited to, DHEC Air Quality Regulations 61-62.2 and 61-62.4 and state statute §48-35-10, et seq.; and

- (C) All burnings must be extinguished by sunset and no burnings shall be permitted between sunset one day and sunrise of the following day with the exception of fires in connection with the preparation of food for immediate consumption, or campfires and fires used solely for recreational purposes, ceremonial occasions, or human warmth and those fires where the time parameters are already regulated by Department of Environmental Control Regulation 61-62.2.

Section 3. Authority to Prohibit Permitted Burnings. The Sumter County Fire Marshall is the Official charged with the administration and enforcement of this Ordinance and may prohibit open burning that is otherwise authorized by this ordinance when atmospheric conditions, local circumstances or other conditions exist that, in the sole determination of such Official, would make such fires hazardous.

Section 4. County Roads and Drainage Right-of-Ways. Open burning shall be prohibited within any area that may cause damage to any Sumter County road or drainage right-of-way.

Section 5. Inapplicability. The provisions of this Ordinance do not apply to the following:

- (A) Vegetative debris burning related to forestry, wildlife, and agricultural burns authorized by the South Carolina Forestry Commission.
- (B) Any burning in connection with the preparation of food for immediate consumption, or campfires and fires used solely for recreational purposes, ceremonial occasions, or human warmth, so long as such burnings are performed in a safe manner.
- (C) Fires set for the purposes of training public fire-fighting personnel when authorized by the appropriate governmental entity, and fires set by a private industry as a part of an organized program of drills for the training of fire-fighting personnel. These will be exempt only if the drills are solely for the purposes of fire-fighting training and the duration of the burning is held to the minimum required for such purposes. Prior approval is required only for sites which are not established training sites.

Section 6. Hazardous or Toxic Materials. The burning of hazardous or toxic materials shall not be permitted under any circumstances.

Section 7. Liability. Any burning authorized by the provisions of this ordinance shall not relieve the individual responsible for such burning from any civil or criminal liabilities which may occur as a result of such burning.

Section 8. Severability. Should any section, paragraph, clause, phrase, or provision of this ordinance be adjudged invalid or held unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

Section 9. Conflicts. In the event any conflict may arise between the provisions of this ordinance and any state law, the provisions of state law shall prevail and be controlling.

Section 10. Penalties. Any person, firm, corporation or agent, who shall violate the provisions of this ordinance shall be guilty of a misdemeanor and shall be punished as follows:
The maximum punishment for a first offense under this ordinance shall be a fine not to exceed One Hundred (\$100.00) Dollars; The maximum punishment for a second offense under this ordinance shall be a fine not to exceed Three Hundred (\$300.00) Dollars; The maximum punishment for a third or subsequent offense under this ordinance shall be the jurisdictional limits of the Magistrate's Court.
Each such person, firm, corporation or agent shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, or continued.

Section 11. Administration and Enforcement. The provisions of this ordinance shall be administered and enforced by the Sumter County Fire Chief, or his/her designated representative, in whose area the burning occurs.

Section 12. Separability. A determination that any portion of this ordinance is invalid or unenforceable shall not affect the remaining portions.

Section 13. Effective Date. This ordinance shall take effect on the date of its adoption.

This Ordinance is done, ratified and adopted this _____ DAY OF _____, 2011.

Eugene R. Baten, Chairman
Sumter County Council

ATTEST:

Mary W. Blanding
Clerk to Council

First Reading: _____, 2010.
Second Reading: _____, 2011.
Third Reading and Adoption: _____, 2011.