

## **POWESHIEK COUNTY**

### **ORDINANCE NO. 32**

#### **AN ORDINANCE TO PROVIDE REGULATION OF BURNING WITHIN POWESHIEK COUNTY BE IT ORDAINED BY THE BOARD OF SUPERVISORS POWESHIEK COUNTY, IOWA:**

##### **SECTION 1-PURPOSE**

The purpose of this ordinance is to establish requirements for certain types of controlled burns within Poweshiek County. Notification is required as a courtesy to avoid the local fire departments and emergency personnel from being called out mistakenly at the report of a controlled burn. Notification is also required to assist local fire departments and emergency personnel in responding to controlled burns in the case of emergency. In addition, issuing penalties/fines for the blatant disregard, or carelessness of open burning during unfavorable conditions or state issued burn bans which can unnecessarily endanger life and property.

##### **SECTION 2- DEFINITIONS**

“Brush pile burns” are any open burn set for the purpose of burning wood, tree limbs, leaves, grass clippings, yard trimmings, and branches.

“Burn barrel” is any steel barrel, drum, or other non-combustible container specifically designed to hold a fire for the purposes of burning trash, landscape waste, or yard trimmings. Burn barrels must be outfitted with a heavy screen type device with no openings greater than 1 inch to act as a spark arrester.

“Controlled or prescribed burn” is any open burn set intentionally for purposes of forest management, farming, field clearing, prairie maintenance or land clearing operations where reasonable measures have been taken to prevent the unintentional spread of the burn.

“Incident Commander” is the Fire Chief or other authorized Fire Department officer responsible for all aspects of the emergency response who has the authority of directing, ordering, and controlling resources by virtue of explicit statutory, regulatory, or delegated authority.

“Open Burning” means any burning of combustible materials where the material is not contained, and the products of combustion are emitted into the open air without passing through a chimney, stack, or spark arresting device.

“Recreational fires” are any fires for cooking, heating, recreation, and ceremonies.

“Required burn information” is the information required to be provided to Poweshiek County Dispatch through the nonemergency phone number prior to a purposeful burn.

“Structure burns” are any fires which are for the burning of agriculture structures intentionally set for the purpose of destruction and/or removal. Structure burns for the purpose of this ordinance are to be considered open burns.

“Structures” means barns, machine sheds, storage cribs, animal confinement buildings, and homes located on the premises and used in conjunction with crop production, livestock or poultry raising and feeding operations.

### **SECTION 3- NOTIFICATION PRIOR TO BURN AND UPON COMPLETION**

Prior to any structure burns, controlled or prescribed burns, or brush pile burns the individual(s) overseeing the burn shall provide notice to the Poweshiek County Dispatch Center by calling the non-emergency phone number for Poweshiek County Dispatch and providing all required burn information. In addition, upon completion of the burn, the individual(s) shall notify the Poweshiek County Dispatch Center.

### **SECTION 4- REQUIRED BURN INFORMATION**

Prior to any structure burn, controlled or prescribed burn within Poweshiek County the individual(s) overseeing the burn are required to provide the following information within one (1) hour prior to the start of the burn.

1. The address of the burn. If an exact address is not available, an approximate location will be required.
2. The type of burn.
3. Estimated acreage of the burn, or approximate size of the structure.
4. Any fire control equipment such as tractors, plows, water trucks being used.
5. Name and cell phone contact information for the individual(s) overseeing the burn.

Verbal confirmation from a Poweshiek County Dispatcher is required prior to any burn beginning.

### **SECTION 5- GENERAL CONDITIONS FOR OPEN BURNING**

All open and controlled or prescribed burns must also be conducted in accordance with the following conditions.

1. All open burning must be attended to by an adult person until such fire is extinguished; or in a manner approved by the fire department having jurisdiction.
2. All open burning is prohibited during National Weather Service Red Flag Warnings issued for Poweshiek County.
3. All open burning is prohibited in Poweshiek County during state issued burn bans except where allowed by a burn permit issued by the Fire Chief of the jurisdiction.
4. Any city or township fire department may prohibit any or all open burning within their fire district when the city or township fire department determines atmospheric conditions or local circumstances make such fire hazardous or a nuisance.

### **SECTION 6- COMPLIANCE WITH OTHER REQUIREMENTS OR LAWS**

Compliance with any other local, state, or federal laws are required for all burns or fires. Furthermore, this Ordinance shall not authorize any type of burn or fire that is not authorized by another local, state, or federal law.

Completion of notification shall not act as an exemption to any active state or county burning ban.

This Ordinance shall apply to all unincorporated lands and areas without open burning ordinances that lie within the boundaries of Poweshiek County Iowa.

This Ordinance shall not supersede any city or municipal burning ordinances.

## **SECTION 7- EXEMPTIONS**

1. Grills or Smokers. This ordinance shall not apply to outdoor grills or smokers. Grills and smokers can be wood or charcoal burning, propane or natural gas burning, or electric.
2. Outdoor fireplaces. This Ordinance shall not apply to outdoor fireplaces. Outdoor fireplaces can be wood burning, propane or natural gas burning, or alcohol burning.
3. Recreational fires. This Ordinance shall not apply to open fires burning charcoal or untreated seasoned wood for cooking, recreational, or ceremonial purposes. Cooking, recreational or ceremonial fires must be within a manufactured or constructed fire ring to be exempt from open burn bans.
4. Burn barrels. This Ordinance shall not apply to any burn barrels properly outfitted with spark arresting screen/device used for the purpose of burning household trash, landscape waste or yard trimmings. Burn barrels must be at least fifteen (15) feet away from structures or any other combustible material.
5. Other allowable exemptions as identified in Iowa Administrative Code Chapter 23.2 and 100.4.

## **SECTION 8- PENALTY FOR NONCOMPLIANCE**

A violation of this Ordinance shall be enforceable as a County Infraction. A Poweshiek County Sheriff Deputy or the Incident Commander of the Fire Department having jurisdiction within Poweshiek County shall have the authority to cite an individual(s) for a violation of this ordinance. The penalties for a violation of this Ordinance shall include:

### During State or Fire Department Issued Burn Ban or National Weather Service Red Flag Warning:

1. For a 1<sup>st</sup> Offense: A civil penalty of up to \$250, court costs, plus reasonable FEMA Costs for responding fire department(s)
2. For a 2<sup>nd</sup> Offense: A civil penalty of up to \$500, court costs, plus reasonable FEMA Costs for responding fire department(s)
3. For a 3<sup>rd</sup> and subsequent Offense(s): A civil penalty of up to \$1,000, court costs, plus reasonable FEMA Costs for responding fire department(s)

A verbal or written warning may be issued in lieu of a 1<sup>st</sup> Offense violation by the Incident Commander of the Fire Department having jurisdiction or a Poweshiek County Sheriff Deputy at their sole discretion.

In addition to the above penalties for violation of this Ordinance, additional penalties may be imposed upon an individual(s) for violating state issued open burn bans in accordance with Iowa Code Section 100.40.

During All Other Times:

1. For a 1<sup>st</sup> Offense: A verbal or written warning issued by either a Poweshiek County Sheriff Deputy or the Incident Commander of the Fire Department having jurisdiction.
2. For a 2<sup>nd</sup> Offense: A civil penalty of up to \$250, court costs, plus reasonable FEMA Costs for responding fire department(s)
3. For a 3<sup>rd</sup> Offense: A civil penalty of up to \$500, court costs, plus reasonable FEMA Costs for responding fire department(s)
4. For a 4<sup>th</sup> and subsequent Offense(s): A civil penalty of up to \$1,000, court costs, plus reasonable FEMA Costs for responding fire department(s)

A verbal or written warning may be issued in lieu of a 2<sup>nd</sup> or subsequent violation(s) by the Incident Commander of the Fire Department having jurisdiction or a Poweshiek County Sheriff Deputy at their sole discretion.

**SECTION 9- SEVERABILITY CLAUSE**

If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 10- EFFECTIVE DATE**

This ordinance shall be in effect immediately after its final passage and publication as provided by law.

Passed and approved this the 17 day, in the month of June 2024.

Poweshiek County Board of Supervisors

  
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Diana Dawley-Chair

  
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Jeff Tindle-Vice Chair

  
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Jason Roudabush-Supervisor

ATTEST:

  
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Melissa Eilander-Auditor

Introduced: 04/29/2024

First Reading: 05/20/2024

Second Reading: 05/30/2024

Third Reading: 06/17/2024

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