

(Summary Published in the McPherson Sentinel _____, 2015, once)

ORDINANCE NO. 3171

**AN ORDINANCE OF THE CITY OF MCPHERSON, KANSAS
ADDING A NEW SECTION 34-4 TO THE CODE OF THE CITY OF
MCPHERSON, KANSAS REGULATING BONFIRES, RUBBISH
BURNING AND RECREATIONAL BURNING WITHIN THE CITY.**

WHEREAS, the popularity of recreational fire pits has increased; and

WHEREAS, the inherent dangers posed by fire within populated areas can present a danger to the public; and

WHEREAS, the McPherson Fire Department has seen an increase in the number of runs to deal with fire pits, chimineas and similar recreational fires; and

WHEREAS, it is declared to be in the best interests of the citizens of McPherson, Kansas that such activity be regulated.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF MCPHERSON, KANSAS:**

Section 1. From and after the effective date of this ordinance, the following Section 34-4 of the Code of the McPherson, Kansas shall be added as follows:

Sec. 34-4. Open Burning.

- (1) Open Burning Prohibited. It shall be unlawful for any person, firm, corporation, partnership, association, organization or governmental agency properly regulated by the City, to burn or cause to be burned any bonfire, outdoor recreational fire in any structure or device, or open pit fire except:
- a. Fires using Allowable Outdoor Recreational Devices, as defined herein;
 - b. fires for the non-commercial preparation of food;
 - c. fire places or heaters constructed, installed, operated and maintained pursuant to International Fire Code (2009) Section 307.4.3 as amended from time to time;
 - d. fires used for training if granted approval of the Chief of the McPherson Fire Department; and
 - e. recreational fires allowed by advance written permission of the Chief of the McPherson Fire Department or designee and complying with all such conditions and restrictions as stated in the written approval.

- (2) Incendiary. It shall be unlawful for any person, firm, corporation, partnership, association, organization or governmental agency properly regulated by the City to deliberately, maliciously or negligently kindle or cause to be kindled a fire for the purpose of fraud, spite, revenge, vandalism, or for any reason that may endanger public health safety or cause loss of life or property, or endanger the personnel assigned to respond.
- (3) Trash Burning Prohibited -. For purposes of the prohibition of burning trash contained in Section 66-44 of the Code of the City of McPherson, leaves and yard waste shall be considered trash.
- (4) Discontinuance. The McPherson Fire Chief or designee is authorized to require that any recreational fire shall be immediately discontinued if such fire is determined by the Chief to constitute a hazardous condition under existing conditions.
- (5) Fires used for non-commercial preparation of food. Fires used for non-commercial preparation of food, such as barbecuing, are permitted provided that the fire is in a freestanding cooking device using fossil fuel or natural gas, except it shall be unlawful to use, store or maintain a freestanding cooking device on the balcony, deck or patio of a multi-family dwelling containing more than four units unless: (1) such device uses only natural gas supplied by a fixed pipe; or, (2) such device is at a distance that is not less than fifteen feet (15') from the structure of the multi-family dwelling and uses only natural gas, charcoal, wood or liquid propane.
- (6) Attendant. Recreational fires shall be constantly attended by a person eighteen (18) years of age or older knowledgeable in the use of fire extinguishing equipment required by this section. An attendant shall supervise a recreational fire until such fire has been extinguished. Buckets, fire extinguishers, shovels or garden hoses shall be readily available for use at recreational fires.
- (7) Recreational fire device. It shall be unlawful to use, store or maintain a recreational fire device, such as a chiminea, patio fireplace, patio heater or similar device on the balcony, deck or patio of a multi-family dwelling containing more than four units unless: (1) such device uses only natural gas supplied by a fixed pipe; or, (2) such device is at a distance that is not less than fifteen feet (15') from the structure of the multi-family dwelling and uses only natural gas, charcoal, wood or liquid propane.

- (8) Allowable Outdoor Recreational Devices. It shall be unlawful to use a recreational fire device, such as a chiminea, patio fireplace, patio heater or similar device that is not UL certified or a UL certified device that has been modified so that spark arresters and other safety equipment are not operating as designed. Open fire pits are not permissible. As an alternative to a UL certified device, it is acceptable to use a non-UL certified or modified device if (a) the fire box is constructed of non-combustible materials and measures no larger than three (3) feet wide, three (3) feet long and two (2) feet deep; (b) has a spark arresting mesh of a quarter inch square or smaller over all openings and (c) the owner has received written approval from the McPherson Fire Chief or designee prior to use or subsequent modification.
- (9) Violation. The sentence for any violation of this section shall be the same penalty as provided herein for a Class C violation of the Uniform Public Offense Code as adopted from time to time.

Section 2. Repeal. All or parts of the Code conflicting with the provisions of this Ordinance are hereby repealed.

Section 3. Publication and Effective Date. This ordinance shall take effect and be in full force and effect from and after its passage, signature and publication of a summary of this ordinance in the official city newspaper and posting of the full text of the ordinance on the city's website in compliance with K.S.A. 12-3007(b).

PASSED by the city commission and signed by the Mayor this 20th day of April, 2015.

CITY OF MCPHERSON, KANSAS

Thomas A. Brown, Mayor

[SEAL]

Attest:

Tamra K. Seely, City Clerk

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Ordinance No. 3171, Summary

On April 20, 2015, the City of McPherson, Kansas adopted Ordinance No. 3171 to add a new section 34-4 to the code of the City of McPherson, Kansas regulating bonfires, rubbish burning and recreational burning within the city. A complete copy of this Ordinance is available at www.mcpcity.com or at the Municipal Center, 400 E. Kansas, McPherson, Kansas. Jeffrey A. Houston, City Attorney, certified this summary.