

ORDINANCE 299

AN ORDINANCE FOR OPEN BURNING IN THE CITY LIMITS OF MCCRORY

WHEREAS, in order to promote, protect, and improve the health, safety, and welfare of the citizens of McCrory, Arkansas

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCCRORY, ARKANSAS:

**Unlawful to burn:**

It shall be unlawful for any person to burn or cause to be burned, trash, refuse, food waste, animal substance or parts thereof, tires, shingles, manufactured materials, combustibles, any chemical substance which is a hazardous chemical or hazardous substance that would create a hazardous or offensive condition in any residential area within the city limits of the City of McCrory, Arkansas, or in any public right-of-way.

During periods of time in which Woodruff County institutes a Burn Ban for the entire county, the City of McCrory prohibits any burning for the duration of the Burn Ban. It shall be unlawful for any person within the City limits, in any way, to intentionally, knowingly or carelessly burn or cause to be burned any combustibles which causes noxious smoke, or toxic smoke. Such release of smoke is hereby declared a nuisance and is hereby prohibited. The burning of leaves, yard trimmings, and other natural yard refuse is allowed, unless there is a Burn Ban in effect. **The burning of yard waste in city storm water runoff ditches is prohibited.**

**Exceptions:**

The burning of leaves, yard trimmings, and other natural yard refuse is allowed, unless there is a Burn Ban in effect.

Commercial brush burning may be allowed after consulting with the Mayor's office. To ensure the safety of property, burning should take place no closer than 20 feet from the nearest building. Burning may be conducted for the purposes of an outdoor fire pit or cooking in a device designated and constructed for such purpose in compliance with the burning requirements of this ordinance

**Monitoring:**

All persons causing lawful fires to be started as heretofore provided shall be responsible for monitoring the same and at all times shall have materials sufficiently capable of extinguishing the same to prevent the fire's escape.

**Penalties:**

A person who violates a provision of this Ordinance is guilty of a misdemeanor, which is punishable by a fine not less than One Hundred Dollars (\$100.00) no more than One Thousand Dollars (\$1000.00). Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

**Definitions:**

- **Noxious smoke:** means any smoke that is harmful to health.
- **Person:** means any individual, firm, association, partnership, joint venture, or corporation.
- **Public right-of-way:** means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public, including but not limited to a government entity.
- **Residential area:** means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the City of McCrory zoning ordinance.
- **Toxic smoke:** means any harmful, destructive, or deadly fumes.
- **Yard Waste:** means leaves, yard trimmings, and other natural yard refuse.

**Enforcement:**

(a) The following individuals shall enforce this Ordinance: The City of McCrory Police Chief or his designee will have primary responsibility for the enforcement of the regulations contained herein. Nothing in this Ordinance shall prevent the City of McCrory Chief of Police from obtaining voluntary compliance by way of warning, notice or education.

(b) If a person's conduct would otherwise violate this Ordinance, the person must be ordered to, and have the opportunity to, cease, eliminate, or otherwise remedy the violation prior to arrest or a citation being issued.

**Severability Clause:**

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part, of this Ordinance shall not affect the validity of the remaining parts to of this Ordinance.

**Saving Clause:**

A prosecution which is pending on the effective date of this Ordinance and which arose from a violation of an ordinance repealed by this Ordinance, or a prosecution which is started within one (1) year after the effective date of this Ordinance arising from a violation of an ordinance repealed by this Ordinance, shall be tried and determined exactly as if the Ordinance has not been repealed.

**Effective Date:**

This Ordinance is effective on 11-10-14.

Approved and passed this 11-10-14

MAYOR: *Doyle W. Linder*  
CLERK: *Sue Peck*