

1 STUTSMAN COUNTY ORDINANCE 2017-01
2 PROHIBITIONS ON OPEN BURNING DURING A RED FLAG WARNING OR
3 WHILE THE STUTSMAN COUNTY FIRE DANGER RATING IS VERY HIGH OR
4 EXTREME – PENALTY

5 1. **Definitions**

- 6 A. "Fire danger rating" is the risk categorization for open burning that
7 Stutsman County publishes on the county's web site. The categories are
8 low, moderate, high, very high, and extreme.
- 9 B. "Open burn" means combustion of material without containment in a device
10 that controls the reaction or without a duct, vent, or valve system that
11 controls the air and fuel mixture which uncontrolled combustion emits a
12 product directly into the ambient air. Open burn does not include any open
13 fire as the term open fire is used in this ordinance.
- 14 C. "Open fire" means any of the following.
- 15 (1) A fire purposely set by a firefighter for the instruction and training of
16 public or industrial firefighting personnel when authorized by two or
17 more members of the fire department having control over the area.
- 18 (2) A fire purposely set by a firefighter for the elimination of a fire
19 hazard that cannot be abated by any other means when authorized by
20 two or more members of the fire department having control over the
21 area.
- 22 (3) Use of a blow torch, cutting torch, or welder when the person
23 conducting the operation has a suitable fire extinguisher at the ready.
- 24 (4) Use of a covered charcoal grille or gas grille;
- 25 (5) Use of a cook stove fueled by propane, kerosene, or alcohol outside
26 a residence or at an established recreational camping area when the
27 person maintaining the stove has a suitable fire extinguisher at the
28 ready.
- 29 (6) Use of a road flare on a gravel, cement, or asphalt road.
- 30 D. "Red flag warning" means an alert issued by the National Weather Service
31 to fire officials, firefighters, and the public of potentially dangerous fire
32 weather conditions within the next 12 to 24 hours.

33 2. **Starting or maintaining an open burn during a red flag warning or while the**
34 **Stutsman County fire danger rating is very high or extreme prohibited –**
35 **penalty.** A person who starts, conducts, allows, or maintains an open burn that
36 ignites any material in Stutsman County while the Stutsman County fire danger
37 rating is very high or extreme or while a red flag warning is in effect in Stutsman
38 County is guilty of a class B misdemeanor. This is a strict liability offense.

39 3. **Facilitating an open burn during a red flag warning or while the Stutsman**
40 **County fire danger rating is very high or extreme prohibited – penalty.** A
41 person who while the Stutsman County fire danger rating is very high or extreme or
42 while a red flag warning is in effect in Stutsman County, provides substantial

43 assistance to another person to start, conduct, or maintain an open burn in Stutsman
44 County, is guilty of a class B misdemeanor, if the person who receives the
45 assistance starts, conducts, allows, or maintains an open burn in Stutsman County
46 while the Stutsman County fire danger rating is very high or extreme or while a red
47 flag warning is in effect in Stutsman County. This is a strict liability offense.

48 4. **Soliciting an open burn during a red flag warning or while the Stutsman**
49 **County fire danger rating is very high or extreme prohibited – penalty.** A
50 person who while the Stutsman County fire danger rating is very high or extreme or
51 while a red flag warning is in effect in Stutsman County, commands, induces,
52 entreats, or persuades another person to start, conduct, allow, or maintain an open
53 burn in Stutsman County is guilty of a class B misdemeanor if the person solicited
54 starts, conducts, allows, or maintains an open burn in Stutsman County while the
55 Stutsman County fire danger rating is very high or extreme or while a red flag
56 warning is in effect in Stutsman County. This is a strict liability offense.

57 5. **Open burning conditions and restrictions.**
58 A. Starting, conducting, allowing, or maintaining an open burn is prohibited in
59 Stutsman County when the Stutsman County fire danger rating is very high
60 or extreme or when a red flag warning is in place for Stutsman County.
61 Within the hour before starting an open burn one must check the Stutsman
62 County daily fire danger rating to ensure it is not very high or extreme and
63 that there is no red flag warning issued. Ignorance of a red flag warning or
64 fire danger rating of very high or extreme does not excuse violating this
65 ordinance.
66 B. The Stutsman County fire danger rating and red flag warnings are posted on
67 Stutsman County's web site at
68 <http://www.co.stutsman.nd.us/fire-danger.html> or its successor web address.
69 The Stutsman County fire danger rating and whether there is a red flag
70 warning in effect is information that can also be obtained by calling the
71 Stutsman County Communications Center at (701) 252-1000 or its
72 successor number.
73 C. This ordinance is effective in all of Stutsman County including its
74 incorporated cities that do not have their own open burning ordinances, but
75 not in any city in Stutsman County that has its own open burning ordinance.

76 6. **Penalty**
77 Violation of this ordinance is a class B misdemeanor, for which a maximum penalty
78 of thirty days' imprisonment, a fine of one thousand five hundred dollars, or both,
79 may be imposed. N. D. C. C. §§ 11-09.1-13 and 12.1-32-02(6).
80

81 7. **Severability clause.** Should any section, provision or part of this ordinance be
82 adjudged invalid or unconstitutional, such adjudication should not affect the
83 validity of the ordinance as a whole or any section, provision or part thereof not
84 adjudged invalid or unconstitutional.

85 8. References
86 North Dakota Century Code Chapter 23-29, Solid Waste Management and Land
87 Protection; Chapter 37-17.1, North Dakota Disaster Act of 1985; and North Dakota
88 Administrative Code Chapter 33-15-04, Open Burning Restrictions.

89 9. This ordinance is effective upon final approval of the Stutsman County Board of
90 Commissioners.

91 Attest: Approved:

92 _____
93 Casey Bradley date
94 Auditor, Stutsman County

95 _____
96 Mark Klose date
97 Chairman
98 Stutsman County Board of Commissioners

99 First reading: April 4, 2017

100 Publication:

101 Second reading: May 2, 2017

102 Final approval: