

Marshall County
Ordinance #26
Marshall County, IA Burn Ordinance

SECTION 1. Statement of Intent

Iowa law allows Marshall County residents to burn items on their real property. County fire protection officials would benefit by receiving advance notice of planned open burning by property owners.

This Ordinance encourages efficient use of fire protection resources. The Ordinance will define a controlled and uncontrolled burn; create uniform procedures for advance notice of planned open burning and establish penalties when such advance notice is not provided.

SECTION 2. Advance Notice Requirement

Every person, firm, corporation, or government entity shall provide advance notice to the Marshall County Communications Center before kindling or burning any building, structure, farm land, pasture (including Crop Reserve Program (CRP acres), or other rural ground or woodland.

SECTION 3. Definitions

- A. Advance Notice: Communications with the County Communications Center at the non-emergency number (641-754-5725) that a burn will be held on a specific date and place. Communication shall be made in advance of the burn.
- B. Controlled Burn: A supervised burn.
- C. Uncontrolled Burn: An intentional or unintentional burn which is not supervised by anyone.

SECTION 4. Exceptions

Nothing in this Ordinance shall be deemed to apply to the following situations:

- A. Use of an outdoor fire for cooking.
- B. Barbecue grills
- C. Outdoor fireplaces.
- D. Supervised burning of normal yard waste.
- E. Supervised burning of trash.

SECTION 5. Penalties

- A. Any responsible party in violation of this Ordinance shall be deemed to have committed a County infraction.
- B. A County infraction is a civil offense by the responsible party punishable by a civil penalty of \$100.00 for each violation or if the infraction is a repeat offense in a calendar year a civil penalty of \$200.00 for each repeat offense. In addition to the civil penalty, the responsible party must pay all court costs. Court costs include a filing fee (\$85.00) and the cost of delivering the County infraction papers to the responsible party by either personal service or by certified mail.

- C. A county by ordinance may provide that a violation of an ordinance is a County infraction. A county shall not provide that a violation of an ordinance is a county infraction if the violation is a felony, an aggravated misdemeanor, or a serious misdemeanor under state law or if the violation is a simple misdemeanor under chapters 687 through 747.
- D. All civil penalties shall be paid to the Marshall County Clerk of Court.
- E. Willful failure to pay the civil penalty or willful violation of the terms of a Court order is punishable by Contempt of Court as described in Iowa Code, Chapter 665.
- F. Notice of a County infraction shall conform to the Iowa Code, Section 331.307 and any amendments to such law.
- G. Court procedure for a County infraction shall conform to the Iowa Code, Section 331.307 and any amendments to such law.
- H. The issuance of a County infraction or the ensuing court proceedings does not provide an action for false arrest, false imprisonment, or malicious prosecution.
- I. This Ordinance authorizes a peace officer or fire official to issue a civic citation for a County infraction. This Ordinance does not preclude a peace officer or fire official from exercising his or her discretion and issuing a criminal citation for a violation of applicable State law in lieu of issuing a civil citation for a County infraction.

SECTION 6. Severability

If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application. The provisions of this Ordinance are severable.

SECTION 7. City Fire Regulations Supersede

This Ordinance is intended to apply to both the incorporated and unincorporated territory of Marshall County. However, if any city or incorporated territory in Marshall County has such fire regulations, then such local fire regulations supersede this Ordinance.

If the local fire chief issues a burn ban for Marshall County, IA, this would precede this Ordinance.

SECTION 8. Effective Date

This Ordinance shall be in and effect after its final passage, approval and publication as required by law.

History:

Ordinance #26 was formerly titled: "Fire Protection", Recorded Instrument No. 2005-00006942
Amendment 19-01, Recorded Instrument No. 2019-00003325

***Approved at the May 28, 2019 BOS meeting.

***Recorded Instrument No. 2019-00003325