ORDINANCE 2026-26

AN ORDINANCE TO AMEND AND RESTATE ARTICLE III, OUTDOOR BURNING, OF CHAPTER 11, FIRE PROTECTION AND PREVENTION, OF THE CHEROKEE COUNTY CODE OF ORDINANCES

WHEREAS, pursuant to Section 4-9-25 of the South Carolina Code of Laws, counties of the State of South Carolina have authority to enact regulations, resolutions, and ordinances not inconsistent with the Constitution and general law of this State, including the exercise of powers necessary and proper for the security, general welfare, convenience, health, peace, order, and good government of the County; and

WHEREAS, pursuant to Section 4-9-30, et seq., of the South Carolina Code of Laws, Cherokee County Council is authorized to adopt ordinances and exercise such powers as are afforded to counties in South Carolina; and

WHEREAS, Cherokee County Council previously adopted Ordinance 2025-08, which supplemented Chapter 11, Fire Protection and Prevention, of the Cherokee County Code of Ordinances by adding Article III governing outdoor burning in the unincorporated areas of Cherokee County; and

WHEREAS, following implementation and review of Article III, Cherokee County Council finds that revisions are appropriate to clarify definitions, notification and safety requirements, permitted and exempt burning activities, enforcement authority, and other standards applicable to outdoor burning; and

WHEREAS, Cherokee County Council further finds that amending and restating Article III will promote consistent administration and enforcement, reduce the risk of uncontrolled fire and hazardous smoke conditions, and better protect the health, safety, property, and general welfare of the citizens and visitors of Cherokee County;

NOW, THEREFORE, BE IT ORDAINED AND ADOPTED BY THE CHEROKEE COUNTY COUNCIL AT GAFFNEY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

1. Article III, Outdoor Burning, of Chapter 11, Fire Protection and Prevention, of the Cherokee County Code of Ordinances is hereby amended and restated in its entirety as set forth in Exhibit "A," attached hereto and incorporated herein by reference as if stated verbatim.

2. All ordinances or portions of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

3. If any section, subsection, paragraph, sentence, clause, phrase, or provision of this Ordinance or Exhibit "A" is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such determination shall not affect the validity of the remaining portions of this Ordinance.

4. This Ordinance shall become effective immediately upon adoption following third reading by Cherokee County Council.

ADOPTED AND EFFECTIVE this 19th day of September, 2026.

CHEROKEE COUNTY COUNCIL

By: _____
Timothy F. Spencer - Chairman
District 4

Teresa Corry Bonner
District 1

Vacant
District 2

Donnie L. Hardin
District 3

Elliott Hughes
District 5

David Smith - Vice-Chairman
District 6

Peter Wilkins
District 7

Attest:

Doris F. Pearson
Master Clerk to Council

1st Reading: **09/21/2026**
2nd Reading: **10/05/2026**
Public Hearing: **10/19/2026**
3rd Reading: **10/19/2026**

Ordinance 2026-26

Chapter 11 Fire Protection and Prevention

- **Article III. - Outdoor Burning**

Sec. 11-1. Compliance with article provisions.

- No person shall kindle or maintain any open burning or authorize any such fire to be kindled or maintained within the unincorporated areas of the county, except as stated in this article.

Sec. 11- 2. Definitions

a) *Land clearing debris* means any waste generated by the removal of debris, logs, trees, or brush, from any site in preparation for land improvement or construction projects, which are not classified as forestry, wildlife, or agriculture as authorized by the South Carolina Forestry Commission.

b) *Outdoor fireplace* means an open recess for holding a fire at the base of a chimney. A structure, usually of stone or brick, for holding a fire. May be open site design built or manufactured and equipped with a small hearth opening and a short chimney opening in the top. Only solid fuels are allowed to be burned in an outdoor fireplace. Burning must be conducted in a safe manner and/or in accordance with manufacturer instructions where applicable.

c) *Recreational fire* means an outdoor fire burning solid fuels and/or natural vegetation by general definition, sufficiently small enough in size to be easily controlled by one person with minimal fire-fighting equipment (e.g., rake, hoe, shovel, and large bucket of water). Generally, a recreational fire should be no more than nine (9) square feet in area, nor more than twenty-four (24") inches high. Recreational fires shall not include the burning of yard debris or trash for disposal. Recreational fires shall be for religious, ceremonial, or recreational purposes only. Fires used for yard debris disposal purposes are not considered recreational fires and may be extinguished at the discretion of the fire district having jurisdiction. Recreational fires are not exempt from any type of outdoor burning ban as issued by the South Carolina Forestry Commission at any given time.

d) *Bonfire* means an outdoor fire utilized for ceremonial purposes. A bonfire must burn solid fuels and/or natural vegetation. A fire that is no more than eighteen (18) square feet in area and no more than sixty (60") inches high is considered a bonfire

e) *Solid fuels* include fuelwood such as natural firewood, charcoal, chips, wood pellets, sawdust, peat, coal, Hexamine fuel tablets, and pellets made from natural wood.

f) *Yard debris burn* means open burning for the purpose of disposal of leaves, grass, weeds, grass clippings, pine straw, pinecones, pruning's, and tree branches from a standing tree or yard trimmings grown on the premises of private residences or commercial properties and burned on those premises.

g) *Combustible Material* is defined as a material that can be classified as solids or liquids that can easily ignite and burn. Combustible solid materials can be classified as, but are not limited to, wood, paper, rubber, plastic, coal, charcoal, cloth, and straw. Combustible liquid materials can be classified as, but are not limited to, oil, greases, lubricants, oil¬ based paint, cooking gas, kerosene oil, cleaning solvents, and diesel fuel.

h) *Non-Combustible Material* is defined as a material known not to ignite, burn, or release combustible vapor during a fire. Examples of non-combustible materials can be classified as, but are not limited to, brick, concrete, most metals, and cementitious products.

Sec. 11-3. Attendant and fire extinguishing equipment required, notice to state forester and county.

1. Prior to any open burning, proper notifications shall be made to the required departments including the South Carolina Forestry Commission.

2. All types of fire allowed under exemptions within this ordinance shall be constantly attended until the fire is extinguished. Must have adequate means to extinguish fire based on type of fire such as dirt, sand, water barrel, continuous water source, or water truck, shall be available for immediate utilization.

3. Extinguishment authority: Where open burning creates or adds to a hazardous situation, does not follow conditions set forth per this ordinance, or a required notification for open burning has not been obtained, the designated Fire Department within the fire district affected, and/or law enforcement official is authorized to order the extinguishment of the open burning operation.

Sec. 11-5. Restrictions; Exceptions

A. Open burning of leaves, tree branches, or yard trimmings defined as yard debris burn originating on the premises of private residences and burned on those premises is considered exempt. Provided that the following conditions are met.

1. The location for the outside perimeter of the yard debris burn shall be not less than 50 feet from any structure or defined combustible material and not less than 50 feet from the property line and adequate provision must be made to prevent the fire from spreading to within 50 feet of any property line, dwelling, building, outbuilding barn, or shed structure.
2. If yard debris burn encompasses more than 50 square feet, the proper notification must be sent to the SC Forestry Committee via (800) 986-3594 or scfc.gov/notify Cherokee County's Non-Emergency Line (864) 487-2747.

B. A bonfire meeting the defined criteria per this ordinance is exempt. Provided that the following conditions are met.

1. A bonfire shall not be conducted within 50 feet of a structure, a street/alley, or defined combustible material.
2. A bonfire shall not be conducted and is subject to outlined penalties per this ordinance if guidance from the State of South Carolina and/or the South Carolina Forestry Commission suggests/requires burn bans during the time period of the bonfire.

3. A bonfire requires the presence of a connected and immediately available continuous water source (e.g., hose connected to municipal water line or a well) at the site of the fire and/or a barrier fully surrounding the fire consisting of defined noncombustible material sufficient to prohibit the spread of the fire.

C. A recreational fire meeting the defined criteria per this ordinance, fires in connection of the preparation of food for consumption, and fires used solely for warmth are exempt. Provided that the following conditions are met.

1. Fire shall not be conducted within 25 feet of a structure, a street/alley, or combustible material as defined by this ordinance. Conditions that could cause a fire to spread within 25 feet of a structure, street/alley, or combustible material shall be eliminated prior to ignition.
2. Fire shall not be conducted and is subject to outlined penalties per this ordinance if guidance from the State of South Carolina and/or the South Carolina Forestry Commission imposes Burn Bans during the time period of the fire.
3. A fire in connection with the preparation of food for consumption, and fires used solely for warmth shall only burn solid fuels and/or natural vegetation and follow the size and setback requirements of a defined recreational fire.
4. Fire must only use solid fuel as defined by Section 11-2(e) and/or natural vegetation.
5. An open burn contained within an outdoor fireplace/outdoor cooking apparatus per the definition set forth in this ordinance is considered a recreational fire/fire for the sole purpose of warmth/fire in connection with the preparation of food for consumption and shall follow all requirements per this ordinance with the exception of the setback requirements outlined in this ordinance. No minimum setback requirements will be enforced if outdoor fireplace/outdoor cooking apparatus has been installed and is being operated according to the product manufacturer specifications.

D. Fires intentionally set in accordance with Smoke Management Guidelines for Vegetative Debris.

Burning Operations in South Carolina, administered by the South Carolina Forestry Commission and acceptable to the South Carolina Department of Environmental Services (SCDES) are exempt to include the following:

1. Prescribed burning of forest lands for specific management practices with the proper permitting at a state and/or federal level.
2. Fires intentionally set with the proper permitting at a state and/or federal level for agricultural control of diseases, weeds, pests, and for other specific agricultural purposes; and
3. Open burning of trees, brush, grass, and other vegetable matter for game management purposes with proper permitting at a state and/or federal level.

E. Open burning in areas other than predominantly residential for the purpose of land clearing or right-of-way maintenance are exempt. Provided that the following minimum conditions are met:

1. The location of the burning must be a sufficient distance but not less than one thousand (1,000) feet from public roadways and all residential, commercial, and industrial sites not a part of the contiguous property on which the burning is conducted.
2. Winds during the time of the burning must be away from any area in which the ambient air may be significantly affected by smoke from the burning if that area contains a public roadway or a residential, commercial, or industrial site.

The material to be burned must have been generated onsite and not moved to the site from another location.

3. The amount of dirt on the material being burned must be minimized.
4. No heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth may be burned.
5. The initial burning must be started only between the hours of 9:00 a.m. and 3:00 p.m.; no combustible material may be added to the fire between 3:00 p.m. of one day and 9:00 a.m. the following day.
6. No more than two (2) piles thirty (30) feet by thirty (30) feet or equivalent may be burned within a six (6)-acre area at one time; and
7. In the case of land clearing, all salvageable timber and pulpwood must be removed.

F. Fires set for the purposes of training fire-fighting personnel are exempt. Provided that the following conditions are met.

1. Prior SCDES approval is required to obtain the exemption as permanently established training site.
2. Fires set for the purpose of fire-fighter training at non-permanent locations must receive SCDES approval prior to the initiation of any burning activity.
3. Materials used for fire-fighter training cannot contain asbestos, heavy oils, asphaltic material, plastic or rubber without express written consent from SCDES.
4. All live-fire training activities shall be conducted in accordance with applicable National Fire Protection Association (NFPA) standards, including NFPA 1403 and NFPA 1500, or their successor standards, as applicable.

G. Open burning on the property where residential construction waste from building and construction operations. Provided that the following conditions are met:

1. The material being burned is residential construction waste associated with the building and construction of one- and two-family dwellings only.
2. The location of the burning is at least five hundred (500) feet from any occupied structure other than a dwelling or structure located on the property on which the burning is conducted.
3. Heavy oils, treated wood products, asphaltic materials, items containing natural or synthetic rubber, or any other trade wastes are not burned.
4. The burning is conducted in compliance with all applicable requirements and restrictions of S.C. Regulation 61.62.2 (Prohibition of Open Burning,) as amended.

Sec. 11- 6. Authorization of Burning Ban.

A. Conditions for authorizing Burning Bans shall be as follows:

1. County officials shall by majority vote to enact a Burn Ban to prohibit open burning when atmospheric conditions, local circumstances, or other conditions exist that would make such fires hazardous.
2. County officials to enact a Burn Ban shall be made up of: President of the Fire Chiefs Association , County Administrator, and Emergency Management Director.
3. Any burn ban issued by the South Carolina Forestry Commission shall be enforced for the time period issued by the Commission.
4. Violation of a Cherokee County issued Burn Ban shall be held to the same standard and applicable statutes as a State issued Burn Ban.

Sec. 11- 7. Civil and Criminal liability.

1. Open burning may be conducted in certain situations.The authority to conduct open burning under exemptions within this ordinance does not exempt or excuse the person/parties/organization responsible for the burning from the consequences of or the damages or injuries resulting from the burning and does not exempt or excuse anyone from complying with other applicable laws and with ordinances, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this Regulation.

Sec. 11- 8. Conflicts of article with state or municipality law.

If any conflict arises between the provisions in this article and any state law, the provisions of the state shall prevail and be controlled. This ordinance does not supersede or override any ordinances already in place for local municipalities located within Cherokee County.

Sec. 11- 9. Penalty for violation of article.

Any person, firm, association, partnership, corporation, or entity who violates any of the provisions of this section or fails to comply with a duly authorized Order issued pursuant to this section may be deemed guilty of a misdemeanor and, upon conviction, may be fined not more than two hundred dollars or imprisoned for not more than thirty days for a first offense. For any second or subsequent offense, a fine of not less than five hundred dollars or imprisonment for not more than sixty days, or both may be imposed on the discretion of the court. "Subsequent offense", as used in this section, shall mean an offense committed within ten years of a previous offense.

Sec. 11- 10. Enforcement.

1. A written report by a code enforcement official and/or law enforcement officer that was witness to the violation at the site shall be considered adequate notice of the Regulation and subsequent witnessed violations by a code enforcement official and/or law enforcement officer at the same or different site will result in appropriate legal action.

2. Enforcement Authority: Any commissioned law enforcement officer with law enforcement authority in Cherokee County as well as any Code Enforcement Officer within Cherokee County has the authority to enforce this ordinance.