

CHAPTER 1
OPEN BURNING

SECTION:

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4-1-1: **BURNING, INCINERATION REGULATED:** No person shall burn or incinerate any rubbish or garbage, except as hereinafter provided:

A. Incinerators:

1. Any person may use an incinerator (as defined by the department of environmental quality in IDAPA 16.01.01) in the interior of a building or on the exterior of a building, provided such incinerator meets the requirements of the building and fire codes and planning and zoning requirements and meets the approval of Idaho department of environmental quality on emissions.

2. The hours of operation of such incinerator shall be between seven o'clock (7:00) A.M. and sunset.

B. Outdoor Fireplaces, Barbecue Pits: Nothing herein contained shall be construed to prohibit the use of outdoor fireplaces, barbecue pits or grills in preparing food or for recreational purposes, except as listed hereafter. (2010 Code)

4-1-2: **TYPES OF FIRES ALLOWED:** No person shall build, ignite, or maintain any outdoor fire of any kind or character, or for

any purpose whatsoever, except as provided herein. The following types of fires are allowable and shall not require a permit:

- A. Firefighting personnel for the purpose of combating fires.
- B. Barbecues or other fires used in the preparation of food.
- C. Campfires, or fires used for recreational or ceremonial purposes. Fire extinguishing equipment, such as a water hose connected to a water supply, shall be readily available.
- D. Fires listed in subsections B and C of this section that exceed three feet (3') in diameter and two feet (2') high will require a permit from the county fire marshal and may require an inspection prior to issuance of said permit. Such fires must be constantly attended by a competent adult until such fire is completely extinguished. Such fires must not create a hazard or nuisance. (2010 Code)

4-1-3: **PROHIBITED TYPES OF OPEN BURNING:** No person shall allow, suffer, cause, or permit burning of any of the following types of materials at any time:

- A. Burn barrels of any kind.
- B. Household solid waste or garbage.
- C. Junked motor vehicles or any material resulting from a salvage operation.
- D. Tires or other rubber materials or products.
- E. Insulated wire.
- F. Plastics.
- G. Existing structures.
- H. Asphalt, tarpaper, waste, or heavy petroleum products.
- I. Lumber or timbers treated with preservatives.
- J. Lawn clippings.
- K. Other construction materials such as sheetrock, flooring, insulation.

- L. Dead animals or parts thereof, except upon the order of a public health officer to dispose of diseased animals.
- M. Paint, solvent, or other chemicals including motor oils, diesel, gasoline, etc.
- N. Trade waste.
- O. Pathogenic wastes or infectious wastes, except under order of a public health officer.
- P. Hazardous waste, except when burned under order of a public or military fire chief to dispose of materials (including military ordnance) which present a danger to life, valuable property, or the public welfare, or for the purpose of the prevention of a fire hazard when no practical alternative method of disposal or removal is available.
- Q. Any types of materials that emit large volumes of smoke, particulates, or odors including wet materials.
- R. Any other material that would otherwise be allowed under this chapter, but is determined to be a nuisance, hazard, or source of air pollution.
- S. Notwithstanding the provisions of any section of this chapter, any material which violates and causes an air pollution alert.
- T. Notwithstanding the provisions of any section of this chapter, any material that is restricted as specified in IDAPA rules for the control of air pollution 16.01.01. (2010 Code)

4-1-4: **TYPES OF FIRES BY PERMIT ONLY:** The following types of fires shall only be allowed if a permit is obtained from the county fire marshal:

- A. **Weed Abatement:** Fires used for the purpose of weed abatement along noncombustible fence lines, canal banks, and ditch banks, or for control or alleviation of fire hazards when no reasonable alternative control method exists.
- B. **Solid Waste Disposal:** Fires used to dispose of or reduce solid waste materials, such as, but not limited to, rubbish (excluding garbage), tree leaves, yard trimmings, gardening waste, straw, hay, or other

vegetation, where mulching or other nonburning types of disposal are impractical.

- C. Special Circumstances: Special burning permits for circumstances not otherwise addressed in this chapter may be issued by the county fire marshal if the fire marshal determines that such open burning does not constitute a nuisance, hazard, or source of air pollution and is not restricted as specified in the rules for the control of air pollution in Idaho (IDAPA) 16.01.01. (2010 Code)

4-1-5: **CONDITIONS OF PERMIT:** The following conditions shall apply to all permits issued by the county fire marshal:

A. Air Quality; Weather Conditions:

1. All open burning is prohibited and permits are invalid on days when the air quality index, as reported by the department of environmental quality, reaches sixty (60) or higher for any air pollutant within the area. Permittees are responsible for determining the air quality index prior to igniting any fires by contacting the department of environmental quality.

2. Open burning is also prohibited in the event of adverse weather conditions or the prediction of adverse weather conditions as determined by the county fire marshal. Adverse weather conditions include winds in excess of ten (10) mph and/or the approach of thunderstorms in the area, or when open burning is declared to be banned by the fire marshal due to extremes in weather and environmental conditions.

3. If the permit holder is unsure if it is safe, said permit holder shall call the county fire marshal and the fire marshal will inform him if such conditions exist or not.

- B. One Fire At Single Location: Only one fire in a single location may be burned at any one time on a single permit.
- C. Fire Near Structure Or Combustible Material: No open burning is permitted within fifty feet (50') of any structure or combustible material, and adequate provision shall be made to prevent fire from spreading to within forty feet (40') of any structure.

- D. Hours: When in accordance with all other provisions of this chapter, open burning shall only be allowed during the hours of seven o'clock (7:00) A.M. and sunset.
- E. Size Of Piles: The size of any piles for burning shall be limited to ten (10) cubic yards.
- F. Attendance By Adult; Fire Extinguishing Equipment Required: All open fires shall be constantly attended by a competent adult until such fire is completely extinguished. Fire extinguishing equipment shall be readily available for use. A hose with water is the preferred fire extinguishing equipment; if not available, appropriate fire extinguishers, shovels, rakes, hoes or other appropriate tools may be used.
- G. Permit Provisions:
 - 1. Permits shall be obtained through the county fire department.
 - 2. All permits shall contain the name, address, and telephone number of the applicant, the location of the proposed burning and the materials that are to be burned.
 - 3. Permits shall be valid for one year, provided there is compliance with all other conditions of this chapter.
- H. Permit Denial; Appeal: Any person denied a burning permit by the county fire department may appeal the decision in writing to the city council. Such appeal shall be submitted to the city clerk within ten (10) days of the date of denial. The appeal shall be placed on the first available meeting agenda of the council, who shall rule on the appeal.
- I. Burning Overnight: No fires shall be allowed to burn or smolder overnight.
- J. Property Of Another, Permission Of Owner Required: No person shall kindle a fire upon the land of another without permission of the owner thereof or his agent. (2010 Code)

4-1-6: **PENALTIES; ENFORCEMENT:**

- A. Penalties Imposed: Failure to comply with any provision of this chapter shall be in violation of this chapter, and will permit the city to initiate one or more of the following actions:

1. Any person violating any provision of this chapter shall be guilty of an infraction. An infraction shall be punishable as by civil penalty as provided in subsection 1-4A-1B of this code.
 2. Suspension of issuance of all future and/or granted permits for open burning by the county fire marshal and the city.
 3. Legal proceedings to obtain an injunction against the permittee or the owner of the property upon which open burning was conducted.
- B. Enforcement By State: Nothing in this chapter shall preclude the department of environmental quality (DEQ) from enforcing the provisions of the "Rules For The Control Of Air Pollution In Idaho" (IDAPA) 16.01.01, the environmental protection and health act, or the hazardous waste management act¹. (2010 Code)

1. IC §§ 39-101 et seq., and 39-4401 et seq., respectively.