

Pima County Code 17.12.480

Open Burning Permits

A. In addition to the definitions contained in A.R.S. § 49-501, in this Section:

1. "Agricultural Burning" means burning of vegetative materials related to the production and harvesting of crops and raising of animals for the purpose of marketing for profit, or providing a livelihood, but not including the burning of household waste or prohibited materials. Burning may be conducted in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, disease and pest prevention, or site preparation.

2. "Air Curtain Destructor" means an incineration device designed and used to secure, by means of a fan generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.

3. "Approved waste burner" means an incinerator constructed of fire resistant material with a cover or screen that is closed when in use, and has openings in the sides or top no greater than one inch in diameter.

4. "Class I Area" means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.

5. "Construction burning" means burning wood or vegetative material that are generated only from that property due to land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.

6. "Dangerous material" means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.

7. "Emission reduction techniques" means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.

8. "Flue," as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.

9. "Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, demolition debris or prohibited materials.

10. "Independent authority to permit fires" means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.

11. "Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain destructors.

12. "Prescribed burning" means the controlled application of fire to wild land fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the land manager in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a public officer to provide instruction in fire fighting methods, or construction or residential burning.

13. "Prohibited materials" means non-paper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals;

plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.

14. "Residential burning" means open burning of vegetative materials that are generated only from that property or residence and conducted by or for the occupants of residential dwellings, but does not include burning household waste or prohibited material.

B. Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.

C. Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the control officer or a delegated authority:

1. Fires used only for:

- a. Cooking of food,
- b. Providing warmth for human beings,
- c. Recreational purposes,
- d. Branding of animals,
- e. Orchard heaters for the purpose of frost protection in farming or nursery operations, and
- f. The proper disposal of flags under 4 U.S.C. 1, § 8.

2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:

- a. Control of an active wildfire; or
- b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).

3. Fire set by or permitted by the control officer of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.

4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions.

D. Open outdoor fires requiring a permit.

1. The following open outdoor fires are allowed with an open burning permit from the control officer or a delegated authority:

- a. Construction burning;
- b. Agricultural burning;
- c. Residential burning;
- d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under;
- e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3);
- f. Open outdoor fires of dangerous material under subsection (E);
- g. Open outdoor fires of household waste under subsection (F); and

2. A person conducting an open outdoor fire in a county with independent authority to permit fires shall obtain a permit from the control officer or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing a PDEQ-approved application form.

3. Open outdoor fire permits issued under this Section shall include:

- a. A list of the materials that the permittee may burn under the permit;
- b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the control officer or the delegated authority;
- c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the control officer on a specific day basis:
 - i. Year-round: ignite fire no earlier than one hour after sunrise; and
 - ii. Year-round: extinguish fire no later than two hours before sunset;
- d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:
 - i. Prevent dispersion of smoke into populated areas;
 - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
 - iii. Do not create a public nuisance or adversely affect public safety;
 - iv. Do not cause an adverse impact to visibility in a Class I area; and
 - v. Do not cause uncontrollable spreading of the fire;
- e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions;
- f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the control officer for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the control officer or delegated authority due on February 1 for the previous calendar year:
 - i. The date of each burn;
 - ii. The type and quantity of fuel burned for each date open burning occurred;
 - iii. The fire type, such as pile or pit, for each date open burning occurred; and
 - iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;
- g. A requirement that the person conducting the open burn notify the local fire fighting agency or private fire protection service provider, if the service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester;
- h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;
 - i. A requirement that the permittee attend the fire at all times until it is completely extinguished;
 - j. A requirement that the permittee provide fire-extinguishing equipment on-site for the duration of the burn;
- k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;
 - l. A requirement that the permittee have a copy of the burn permit on-site during open burning;
 - m. A requirement that the permittee not conduct open burning when an air stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;
 - n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared by ADEQ or PDEQ;
 - o. A statement that the control officer, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and
 - p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.

4. The control officer or a delegated authority shall not issue an open burning permit under this Section:

- a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;

b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or

c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the control officer has not issued a variance under A.R.S. §49 763.01.

E. Open outdoor fires of dangerous material. A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the control officer has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The control officer shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.

F. Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section, when permitted in writing by the control officer or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:

1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or

2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.

G. The control officer shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.

H. Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.

I. The term of any open burning permit shall be as specified by the control officer, subject to the following limitations:

1. The term of a residential open burning permit shall not exceed three consecutive or non-consecutive days within a thirty-day period, and

2. The term of a construction/agricultural open burning permit shall expire as specified on the original application, and shall in no case exceed ninety days. (Ord. 2004-97 § 3, Ord. 1987-175 § 4, 14, 1987: Ord. 1981-12 (part), 1981: Ord. 1979-93 (part), 1979)