

CHAPTER 3

OPEN BURNING

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6-3-1: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

**BEST AVAILABLE
CONTROL
TECHNOLOGY:**

Those techniques and methods of controlling emissions of air contaminants from an open burning source and that limit those emissions to the maximum degree taking into consideration impacts on energy use, the environment, the economy, and any other costs, including the cost to the source, including, but not limited to:

A. Scheduling burning during periods and seasons of good ventilation;

B. Considering atmospheric dispersion forecasts;

C. Utilizing predictive modeling results from the Montana department of environmental quality to minimize smoke;

D. Limiting the amount of burning to be performed during any one period of time;

E. Using ignition and burning techniques that minimize smoke production;

F. Selecting fuel preparation methods to minimize dirt and moisture content;

G. Promoting fuel arrangements that create an adequate air to fuel ratio;

H. Prioritizing burns as to air quality impact and assigning control techniques accordingly; and

I. Promoting alternative treatments and uses of materials so that they do not have to be burned.

**MAJOR OPEN
BURNING:**

Open burning that, on a statewide basis, will emit more than five hundred (500) tons of carbon monoxide or fifty (50) tons of any other pollutant regulated under the administrative rules of Montana (ARM) title 17, chapter 8, in a calendar year, except hydrocarbons. Major open burning requires a permit from the state of Montana.

**MINOR OPEN
BURNING:**

Open burning that emits less pollutants than major open burning and must comply with this chapter, any other applicable state, federal, or county law including the ARMs and uses the "best available control technology" (BACT).

OPEN BURNING:

The burning or combustion of any material directly in the open air or in a receptacle other than a furnace, multiple chambered incinerator, or a wood waste burner commonly used by the wood products industry. (Ord. 2000-1, 2-22-2000)

6-3-2: WHEN PERMIT REQUIRED; FEES:

- A. March Through November: For burning between the periods of March 1 through November 30, a Gallatin County open burn permit

must be obtained prior to engaging in any open burning within the city limits. When limits for atmospheric conditions or hours restrict burning, these limits will be designated in the permit restrictions.

- B. December Through February: For any major open burning during any time of the year or for open burning during the months of December, January, and February, a person may make a written application to the state department of environmental quality for permission to burn.
- C. Permit And Permission Required: Where burning is conducted on public property or the property of someone other than the permit applicant within the city limits, the permit applicant will obtain a burn permit as well as written permission from the owner, or the owner's authorized agent.
- D. Fees: The fees for the permits will be set in accordance with a schedule adopted by the Gallatin County commission. (Ord. 2000-1, 2-22-2000)

6-3-3: OTHER BURNING ALLOWED WITH A PERMIT:

- A. Agricultural Open Burning: Essential agricultural open burning on a farm or ranch is allowed during the months of March through November with a burning permit and only for the purposes of eliminating excess vegetative matter from irrigation ditches or cultivated fields or improving range conditions or wildlife habitat when no reasonable alternative method of disposal is available.
- B. Prescribed Wild Land Open Burning: Prescribed wild land open burning, if conducted on forest land or relatively undeveloped rangeland, is allowed with a burning permit only for the purpose of improving wildlife habitat or range conditions; reducing fire hazards from forestry practices; controlling forest pests and diseases; promoting forest regeneration; or promoting other accepted forestry practices. (Ord. 2000-1, 2-22-2000)

6-3-4: BURNING ALLOWED WITHOUT A PERMIT:

- A. Definition: For the purposes of this section, a "recreation fire" is defined as any fire not contained in an incinerator, outdoor fireplace, barbecue grill or pit and which is burned for pleasure, religious, ceremonial, cooking or similar purposes.

- B. March Through November: From March 1 through November 30, a permit is not required for small recreational fires in controlled areas. However, from September 1 through November 30, the burner must call to see if there are restrictions.
- C. Fire Size: The fire must not exceed three feet (3') in diameter and two feet (2') in height. (Ord. 2000-1, 2-22-2000)

6-3-5: **MATERIALS PROHIBITED FOR OPEN BURNING:** Open burning within the city limits is totally prohibited for:

- A. Food wastes;
- B. Styrofoam, plastic wastes and other materials generating noxious odors;
- C. Poultry litter, animal droppings, dead animals or dead animal parts;
- D. Rubber materials including, but not limited to, tires;
- E. Treated lumber and timbers;
- F. Pathogenic wastes;
- G. Asbestos or asbestos containing materials;
- H. Materials resulting from "salvage operations" to reclaim or salvage any product or material, except materials from the forest practice commonly referred to as a "salvage cut" in timber harvesting;
- I. Hazardous wastes, which are a waste or combination of wastes that, because of the quantity, concentration of physical, chemical or infectious characteristic, if any, cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed as defined in the code of federal regulations; and
- J. Any other materials specifically prohibited by Montana Code Annotated and the ARMs. (Ord. 2000-1, 2-22-2000)

6-3-6: **BURN BARRELS PROHIBITED:** The use of burn barrels is totally prohibited within the city limits. (Ord. 2000-1, 2-22-2000)

6-3-7: **PERMIT HOLDER RESPONSIBILITIES:**

- A. Call Gallatin County: A permit holder must call the Gallatin County open burning number each day burning is planned at least thirty (30) minutes before the planned burn and give the following information:
1. Name, permit number, and phone number;
 2. Material to be burned;
 3. Starting time of burning, during daylight hours;
 4. Location of burn;
 5. If on forest service property, the legal description including section, township, and range; and the number of acres to be burned.
- B. Fire Suppression Equipment And Personnel: Before setting a fire, permit holders must ensure that adequate fire suppression equipment and personnel are present for fire control for the duration of the burn. The permit holder will not leave the immediate fire area until the fire has completely burned out, with no remaining embers or smoke.
- C. Delegation Of Responsibility: The permit holder may delegate any of these duties to a designated responsible person; however, the permit holder is ultimately responsible for any violations. (Ord. 2000-1, 2-22-2000)

6-3-8: **SAFETY CONDITIONS:**

- A. Wind Or Weather Conditions: No fire shall be set if wind or weather conditions make it hazardous to burn. If wind or other weather conditions change making the fire hazardous, the fire must be extinguished as quickly as possible.
- B. Temporary Suspension Of Permit: When there is high fire danger, because winds or other conditions make burning hazardous, or when

fire suppression resources are not available, permits may be temporarily suspended until good ventilation exists and to allow assignment of burn priorities, if others request permission to burn on the same day.

- C. Closure Or Restriction Of Open Burning: The city fire chief or designee may close or restrict open burning when necessary. All permit holders must extinguish fires upon request of any city or county law enforcement officer or firefighter. Failure to do so will be a violation of this chapter. (Ord. 2000-1, 2-22-2000)

6-3-9: **ENFORCEMENT; PENALTY:**

- A. Enforcement: The city police department has the authority to investigate complaints, issue written notices of violation, orders to take corrective action, and citations to enforce this chapter. (Ord. 2000-1, 2-22-2000)
- B. Violation; Penalty: A violation of this chapter is a misdemeanor subject to penalty as provided in section 1-4-1 of this code. (Ord. 2000-1, 2-22-2000; amd. 2009 Code)