

ARTICLE 4. - OPEN BURNING

Sec. 18.04.010. - Definitions.

- A. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
1. "Best available control technology" means those techniques and methods of controlling emissions of air contaminants from an open burning source and that limits 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.
 2. "Major open burning" means open burning that, on a statewide basis, will emit more than 500 tons of carbon monoxide or 50 tons of any other pollutant regulated under title 17, chapter 8, Administrative Rules of Montana (ARM), in a calendar year, except hydrocarbons. Major open burning requires a permit from the state.
 3. "Minor open burning" means open burning that emits less pollutant than "major open burning" and must comply with this article, any other applicable state, federal, or county law including the ARMs and uses the best available control technology (BACT).
 4. "Open burning" means 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.

(Code 1982, § 8.44.010; Ord. No. 1499, § 1, 1999)

Sec. 18.04.020. - Permit; when required; fees.

- A. For burning between the periods of March 1 through November 30, a 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. 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. 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. The fees for the permits will be set in accordance with a schedule adopted by the Gallatin county commission.

(Code 1982, § 8.44.020; Ord. No. 1499, § 1, 1999)

State Law reference— Permit for burning required, MCA 76-13-121 et seq.

Sec. 18.04.030. - Other burning allowed with a permit.

- A. 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, 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 forest practices.

(Code 1982, § 8.44.030; Ord. No. 1499, § 1, 1999)

Sec. 18.04.040. - Open burning allowed without any permit.

From March 1 through November 30, a permit is not required for small recreational fires in controlled areas. The fire must not exceed three feet in diameter and two feet in height. However, from September 1 through November 30, the burner must call to see if there are restrictions. 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.

(Code 1982, § 8.44.040; Ord. No. 1499, § 1, 1999)

Sec. 18.04.050. - Materials prohibited for open burning.

- A. Open burning within the city limits is totally prohibited for:
 - 1. Food wastes;
 - 2. Styrofoam, plastic wastes and other materials generating noxious odors;
 - 3. Poultry litter, animal droppings, dead animals or dead animal parts;

4. Rubber materials including, but not limited to, tires;
 5. Treated lumber and timbers;
 6. Pathogenic wastes;
 7. Asbestos or asbestos-containing materials;
 8. 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;
 9. Hazardous wastes, which are a waste or combination of wastes that, because of the quantity, concentration, or 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
 10. Any other materials specifically prohibited by Montana Code Annotated and the ARMs.
- (Code 1982, § 8.44.050; Ord. No. 1499, § 1, 1999)

Sec. 18.04.060. - Burn barrels prohibited.

The use of burn barrels is totally prohibited within the city limits.

(Code 1982, § 8.44.060; Ord. No. 1499, § 1, 1999)

Sec. 18.04.070. - Permit holder responsibilities.

- A. A permit holder must call the county open burning number each day burning is planned at least 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
 6. The number of acres to be burned.
- B. 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. The permit holder may delegate any of these duties to a designated responsible person; however, the permit holder is ultimately responsible for any violations.

(Code 1982, § 8.44.070; Ord. No. 1499, § 1, 1999)

Sec. 18.04.080. - Safety conditions.

- A. 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. 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. The city fire chief 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 article.

(Code 1982, § 8.44.080; Ord. No. 1499, § 1, 1999)

Sec. 18.04.090. - Enforcement; penalties.

The city police department has the authority to investigate complaints and issue written notices of violation, orders to take corrective action, and citations to enforce this article.

(Code 1982, § 8.44.090; Ord. No. 1499, § 1, 1999)