

### ARTICLE 8. OPEN BURNING

#### 3-8-700. General provisions

##### A. Applicability

##### 1. General Prohibition

Notwithstanding the provisions of any other rule in this Chapter, and subject to the exemptions set forth in this section, it is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow or maintain any open outdoor fire.

##### 2. Conditional Statutory Exemptions

Provided a public officer, as defined in the subsections below, gives permission in writing for a fire, and immediately transmits a copy of such written permission to the Director of the Department of Environmental Quality and to the Control Officer, and further provided that the setting of any such fire shall be conducted in a manner and at such time as approved by the Control Officer, unless doing so would defeat the purpose of the exemption, the following fires are exempt from this Article:

- a. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.
- b. Fires set by or permitted by the state entomologist or county agricultural agents of the county for the purpose of disease and pest prevention.
- c. Fires set by or permitted by the state or any of its agencies, departments or political subdivisions, for the purpose of watershed rehabilitation or control through vegetative manipulation.

##### 3. Other Statutory Exemptions

The following fires are exempt from regulation under this Article:

- a. Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes or the branding of animals. For purposes of this exemption, a "recreational purpose" fire is an outdoor fire, which burns material other than household waste or prohibited materials, and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height.
- b. Fires set by or permitted by the federal government or any of its departments, agencies or agents.

##### 4. Regulatory Exemptions

For the purposes of this rule and article, the following shall neither be regarded as nor deemed open burning:

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- a. The subterranean detonation of explosives.
- b. The display of fireworks for recreational purposes or pyrotechnics for musical or cinematic/theatrical functions, provided any person detonating such fireworks or pyrotechnics has a permit approved by the Pinal County Board of Supervisors
- c. Fires for the ceremonial destruction of flags.

### 5. Default Emission Rate Assumption

Unless specifically authorized under the preceding definitions of permit-authorized fires, fires set for the disposal of materials shall be presumed to have a

potential to emit greater than "de minimis amounts" of regulated air pollutants and shall require a stationary source permit as specified under §3-1-040.

### B. Definitions.

"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 a 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.

"Air curtain destructor" means an incineration device which operates by forcefully projecting a curtain of air across an open chamber or open pit in which combustion occurs.

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

"Class I Area" means any one of the Arizona mandatory Federal Class I Areas defined in A.R. S. §49-401. 01.

"Control Officer" has the same meaning as in A.R. S. §49-471.

"Date of Issuance" the actual date that the open burning application is signed by the Control Officer or his/her representative.

"Dangerous material" is 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 safe and controlled manner.

"Delegated authority" means any of the following:

1. A county, city, town, air pollution control district, or fire district that has been delegated authority to issue open burning permits by the Director under A.R. S. §49-501(E); or
2. A private fire protection service provider that has been assigned authority to issue open burning permits by

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one of the authorities listed in the preceding subsection of this definition.

"De Minimis amount" is the lesser of: the potential of a source to emit 1 ton per year of any air pollutant; or the potential of a source to emit 5.5 lbs/day of any air pollutant.

"Director" means the Director of the Department of Environmental Quality, or his/her designee.

"Effective date of Permit" is the actual date that open burning operations may commence, which will be no later than 10 days after the "Date of Issuance."

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

"Household waste" means any solid waste including garbage, rubbish and sanitary waste from septic tanks that is generated from households including single and multiple family residences, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreational areas, not including construction debris, landscaping rubble or demolition debris.

"Open outdoor fire", as used in this rule, means any combustion of combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. "Flue", as used in this rule, means any duct or passage for air, gases or the like, such as a stack or chimney. Open outdoor fires can include agricultural, residential, commercial, and prescribed burning. Purposes for fires can include prevention of a fire hazard, instruction in the methods of fighting fires, watershed rehabilitation, disease and pest prevention.

"Prescribed burning" means the burning of vegetative material in predominantly undeveloped land to improve forested, open range or watershed condition.

"Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; 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.

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

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### C. Permit-authorized fires.

Provided a permit is first obtained from the Control Officer, no prohibited wastes or household wastes are burned unless otherwise specified, and a site map of the burn site is provided, the following fires are allowed under this Section:

#### 1. Permitted residential fires:

a. Generally Allowable Combustible Materials: Residential fires set for the disposal of leaves, lawn clippings, tree trimmings and other horticultural waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned. Residential burning must be conducted on a single contiguous property designed for and used exclusively as a private residence.

b. Conditional Approval to Burn Domestic Household Waste Fires set in an approved waste burner for the disposal of those portions of domestic household waste generated at a private residence. Such fires are allowed:

i. On farms and ranches of 40 acres or more where no refuse collection and disposal service is available; or

ii. For 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. Unless a permit is specifically endorsed by the Control Officer to verify that waste pickup service is not available, and to expressly allow burning of domestic household waste, burning of such waste is **PROHIBITED**.

c. Small Scale Residential Permit: Under a "small scale" residential open burning permit, the quantity of material that may be burned during the one-month permit shall not exceed 10 cubic yards of non-compacted material. A "small scale" residential permit may be renewed on a month-to-month basis, without limitation.

d. Large Scale Residential permit: Under a "large scale" residential open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 20 cubic yards of non-compacted material. A "large scale" residential permit may only be issued for a single location, defined by an assessor's parcel number, twice in a calendar year.

#### 2. Permitted commercial fires:

a. Generally Allowable Combustible Materials: Commercial Fires may be set for the disposal of leaves, lawn clippings, tree trimmings and other horticultural waste, provided that no materials that generate toxic fumes, such as oleander leaves or branches, may be burned. Commercial burning must be conducted on a single contiguous property designed for and used exclusively as a single business.

b. Small Scale Commercial Permit: Under a "small scale" commercial open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 10 cubic yards of non-compacted material. A "small scale" commercial permit may be renewed on a month-to-month basis, without limitation.

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c. Large Scale Commercial Permit: Under "large scale" commercial open burning permit, the quantity of material that may be burned during the one-month permit term shall not exceed 20 cubic yards of non-compacted material. A "large scale" commercial permit may only be issued for a single location, defined by assessor's parcel number, twice in a calendar year.

d. Commercial Land Clearing Permit:

1. Open burning activities which include one-time land-clearing operations that involve non-compacted vegetative materials greater than those allowed above in section 2. a. through 2. c.

2. Land clearing burns may be authorized by written permission from the Control Officer if the burning will not adversely affect public health or safety, and will not cause or contribute to a nuisance, traffic hazard, or to a violation of any air quality standard.

(a) The applicant shall submit a non-refundable application fee, as specified in Appendix C.

(b) The applicant shall also pay an additional non-refundable per-acre fee, as also specified in Appendix C.

3. Authorization for the land clearing burn may be revoked by the Control Officer if the burning causes nuisance conditions, is not conducted in accordance with the specified conditions, violates any provision of an applicable permit, or causes a violation of any air quality standard.

4. If the permittee wishes to use an air curtain destructor for land clearing, such device should be operated pursuant to the manufacturer's specifications and the following limitations:

(a) Air curtain destructors shall not be operated closer than 500 feet from the nearest dwelling.

(b) Air curtain destructors must also comply with the applicable requirements of 40 C.F.R. Section 60. 2245 to 60. 2260.

3. Permitted agricultural fires:

Fires set for weed control or abatement, clearing fields or ditches of vegetation, or the disposal of other naturally grown products of horticulture, provided that

no materials that generate toxic fumes, such as oleander leaves or branches, may be burned.

4. Permitted training exercise fires (non-governmental agencies/companies):

Fires set for the instruction of fire fighting methods.

5. Permitted building-demolition, or building-material demolition fires:

Fires set for the disposal of abandoned buildings or building materials, provided that no such permit shall be issued until after an on-site inspection by the District. Building demolition burns may be authorized by written permission from the Control Officer if there is no practical alternative, and if the burning will not adversely affect public health or safety, and will not cause or contribute to a nuisance, traffic hazard, or to a violation of any air quality standard.

(a) The applicant shall submit a non-refundable pre-permit inspection fee, as specified in Appendix C.

(b) The applicant shall pay an additional permit issuance fee, as also specified in Appendix C.

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### 6. Permitted fires for the destruction of dangerous materials:

Fires set for the destruction of dangerous or hazardous materials are allowed when the materials are too dangerous to store and transport, provided that no such permit shall be issued until after an on-site inspection by the District. Fires set for the destruction of dangerous materials shall only be allowed where there is

no safe alternative method of disposal, and when the burning of such 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.

(a) The applicant shall submit a non-refundable pre-permit inspection fee, as specified in Appendix C.

(b) The applicant shall pay an additional permit issuance fee, as also specified in Appendix C.

### 7. Bonfire Permits:

Provided no prohibited materials or household wastes, as defined in §3-8-700. B., are burned: a city, town, county statutory districts, or other political subdivision established by statute may obtain a no-cost bonfire permit for a community or civic event.

a. A written request from the public entity is required.

b. The quantity of material that may be burned during the permit term shall not exceed 20 cubic yards of non-compacted material.

#### D. Permit conditions.

All permits shall include the following:

#### 1. Contact Information

A means of contacting the permittee.

#### 2. Permit term

The term of the temporary open burning permit, which shall:

a. For a residential or commercial permit, not exceed one month from the effective date;

b. For an agricultural permit, not exceed one year from the effective date;

c. For a demolition permit or a destruction of hazardous materials permit, not exceed sixty (60) days from the effective date;

d. Not, regardless of term, authorize any violation of any burning ban that a local fire department/district may impose for purposes of public safety or other purposes.

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- e. For a training exercise permit, not exceed a permit specified 7-day period from the effective date.
- f. For a commercial land clearing burn permit, not exceed sixty (60) days from the effective date, provided that the permittee may, upon application but without cost, be allowed one sixty (60) day extension of such a land clearing permit.
- g. For a bonfire, not exceed a 3-day period, which dates shall be specified in the permit.
- h. No person affected by a "no burn" restriction or permit suspension shall be entitled to an extension of the burn permit term.

### 3. Permits subject to suspension orders.

All permits shall note that all burning be extinguished at the discretion of the Control Officer or his authorized representative during periods of inadequate atmospheric smoke dispersion, including:

- a. When an air stagnation advisory is issued by the Director of ADEQ or the National Weather Service;
- b. When an air pollution emergency episode alert, warning, or emergency as required by §§2-7-230 to 2-7-720 is declared;
- c. During periods of excessive visibility impairment which could adversely affect public safety or impair visibility in Class I areas; or
- d. During periods of extreme fire danger, or during periods when smoke is blown into populated areas so as to create or threaten to create a public nuisance.

### 4. Emission Reduction Techniques

The permit applicant shall note on the permit application/permit form the types of emission reduction techniques that the permittee will use to minimize fire emissions.

### 5. Burn Management Provisions

All permits shall also contain the following conditions:

- a. Materials that may be burned.
- b. Allowable burn times are:

8:00 a.m. to 4:00 p.m. April 1 through September 30

9:00 a.m. to 4:30 p.m. October 1 through March 31

- c. Wind speed while burning shall not be less than 5 miles per hour (mph) or greater than 15 mph. If the wind increases during burning, all fires/smoke must be extinguished completely until the wind speed is again in the

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range of 5 mph to 15 mph.

d. The fire must be constantly attended, with reasonable control tools (water or dirt) on hand at all times, and the person conducting the burn must have a copy of the burn permit on-site during open burning.

e. When the burn is completed, the fire must be completely extinguished. All burning must cease by the times noted above.

f. A requirement that each open burn be started using items that do not cause the production of black smoke.

g. A requirement that the burning pit, burning pile, or approved waste burner be at least 50 feet from the nearest other dwelling unit.

h. The person conducting the open burning must notify the local fire-fighting agency, fire district or municipal fire department, or if none in existence, the state forester, prior to commencement of open burning.

i. Open burning shall be conducted only during atmospheric conditions which:

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 any adverse impact to visibility in a Class I area; and

v. Do not cause uncontrollable spreading of the fire.

j. The permittee shall not conduct open burning when:

i. The National Weather Service has issued an air stagnation advisory for the affected area;

ii. During periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas; or

iii. When any stage air pollution episode is declared under Code §§2-7-230 to 2-7-720.

k. The permit shall include a copy of the activities prohibited and the criminal penalties for reckless burning included in A.R. S. §13-1706.

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### E. Permit Reporting Requirements

The following information shall be provided to the Control Officer for each date open burning occurred, either on a daily basis on the day of the fire, or after the burn permit period ends, or in an annual report prior to April 1. The report shall be submitted in a format provided by the Director or Control Officer and include:

1. The report shall be submitted in a format provided by the Director or Control Officer and include:

1. The date of the burn;
2. The type and quantity of fuel burned for each date open burning occurred;
3. The fire type, such as pile or windrow, for each date open burning occurred;
4. For each date open burning occurred, the legal location, to the nearest township, range and section; or latitude and longitude, to the nearest degree minute; or street address; or parcel number.

### F. Permissible delegation of authority

1. The Control Officer may delegate the authority for the issuance of allowable open burning permits to responsible delegated authorities as defined in §3-8-700.B. Anyone delegated the authority for issuance of open burning permits shall maintain a copy of all currently effective permits issued including a means of contacting the person authorized by the permit to set an open fire in the event that an order for extinguishing of open burning is issued. This includes a no burn restriction when monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded in Area A, as defined in A.R. S. 49-541, and Chapter 4, Article 3, 4-3-060.C of the Pinal County Air Quality Control District (PCAQCD) Code of Regulations.

### G. Open Burn Permit Suspensions

1. A "no burn" restriction shall be imposed with respect to open burning regulated by Pinal County, whenever monitoring or forecasting indicates the carbon monoxide standard is likely to be exceeded. Such a "no burn" restriction applies to all burning regulated under this Code, even including burning by persons who may hold an otherwise valid open burning permit issued by Pinal County.
2. That "no burn" restriction shall arise by operation of law whenever the Maricopa County Environmental Services or ADEQ declares such a "no burn" restriction in neighboring Maricopa County.

### H. Violations

Failure to obtain a permit, or failure to comply with the conditions of a permit, shall be subject to civil and/or criminal penalties in any of the following statutes: A.R. S. §§13-1706, 49-502, 49-511, 49-512, 49-513, or 49-514.

### I. Limited scope of rule.

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Nothing in this rule shall authorize or permit any practice, which is a violation of any statute, ordinance, rule or regulation.

[Adopted effective June 29, 1993. Former Section 3-6-560 renumbered without change as Section 3-8-720 effective November 3, 1993. Revised effective February 22, 1995. Amended February 11, 2004. Amended October 27, 2004. ]

### **3-8-710. Permit provisions and administration**

#### **A. Burn permit fees**

##### **1. Required fees**

A fee shall be charged for a Temporary Open Burning permit according to the fee schedules found in Appendix C.

##### **2. No Refunds**

No person affected by a permit suspension or "no burn" restriction as allowed under these rules shall be entitled to a refund of any monies paid for an open burning permit.

#### **B. Signature and acknowledgement**

Every open burning permit shall be signed by the person obtaining the permit, and that signature shall constitute an acknowledgement that:

1. The person obtaining the permit bears responsibility for any failure to properly and adequately control any fire set pursuant to the permit;
2. The issuance by the Control Officer of a Temporary Open Burning Permit does not release the permittee from any of the requirements of a fire department/district having jurisdiction, and a permit so issued must be validated by said fire department/district to be effective. The permittee is solely responsible for complying with such fire department/district requirements or restrictions.
3. Even though burning may be separately restricted by a fire department/district, all fees paid are non-refundable, and burn permits will not be extended due to an open burning restriction.
4. Open burning at a time or in a manner contrary to the terms of the permit or an order from the Control Officer shall constitute one or more violations as set forth in §3-8-700.

#### **C. Storage of materials prone to spontaneous combustion**

Outdoor disposal or deposition of any non-agricultural materials (100 cubic yards or greater) capable of igniting spontaneously, with the exception of fossil fuels (coal), shall not be allowed, without providing adequate fire-fighting materials, such as sand, dirt, or water.

[Adopted effective June 29, 1993. Former Section 3-6-570 renumbered as Section 3-8-730 and amended effective November 3, 1993. Amended February 22, 1995. Amended December 13, 2000. Amended February 11, 2004. Amended October 27, 2004. ]