

CHAPTER 91: BURNING

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§ 91.03 BURNING PERMITS

Without first obtaining a burning permit from Umatilla County, no person shall cause or permit to be initiated or maintained on the property of the person, or cause to be initiated or maintained on the property of another, any open burning of commercial waste, demolition material, domestic waste, industrial waste, land clearing debris or field burning, outside the boundaries of a rural fire protection district, a forest protection district or other area identified in ORS 476.310. A burning permit is required for common burn barrels.
(Ord. 94-5, passed 10-31-94; Ord. 99-09, passed 11-24-99)

§ 91.01 AUTHORITY

County Burning Permits are issued for implementation of ORS 476.380, as provided by the system established by Chapter 91 of the Umatilla County Code of Ordinances.
(Ord. 94-11, passed 8-24-94; Ord. 99-09, passed 11-24-99)

§ 91.04 ADMINISTRATION

A. The burning permits issued under this ordinance shall be administered by the Umatilla County Planning Department.

B. The Umatilla County Planning Department shall maintain written records of all permits issued, including any conditions or restrictions that are placed on the use of the permits.

C. All burning permits shall be issued in accordance with the requirements and restrictions of ORS 476.380(2) and the open burning schedules of OAR 340-023-0043.
(Ord. 94-5, passed 10-31-94; Ord. 99-09, passed 11-24-99)

§ 91.02 DEFINITIONS

Board of Commissioners. Umatilla County Board of Commissioners.

Burn Day. Any day which the County has formally designated a Burn Day.

Open Burning. Open burning is any burning conducted in such a manner that combustion air is not effectively controlled and that combustion products are not vented through a stack or chimney, including but not limited to burning conducted in open outdoor fires, common burn barrels and backyard incinerators (see ORS 476.005(d, f, g)).

Person. Any individual person, corporation, limited liability company, partnership, joint venture or any other organization or institution.
(Ord. 99-09, passed 11-24-99)

§ 91.05 APPLICATION

A. Application for a County Burning Permit shall be made with the Umatilla County Planning Department on a form approved by the Board of Commissioners.

B. The burning permit fee shall be set by the Board of Commissioners and included in Chapter 39, Fee Schedules, of the Umatilla County Code of Ordinances.

C. A County Burning Permit shall be valid only for the calendar year in which the permit is issued.

D. The County Burning Permit shall be available for inspection at the site of the permitted fire.

E. The permit shall cover any Open Burning by the permit holder that is regulated by this ordinance. A permit for open burning for land areas of two acres and larger or for commercial orchards will also cover common burn barrels of the permit holder.

F. If so decided by the Board of Commissioners, a Smoke Management Permit issued under Chapter 95 of the Umatilla County Code of Ordinances may also serve as a County Burning Permit for open burning of any land areas of two acres and larger or open burning in commercial orchards. (Ord. 94-11, passed 8-24-94; Ord. 99-09, passed 11-24-99)

§ 91.06 DESIGNATED BURN DAYS

A. A County Burning Permit holder shall conduct burning only on days designated as BURN days.

B. Permit holders shall contact the designated County Burning Permit information number prior to initiating a burn in order to determine the designated burn status for the day, which will be either BURN or NO BURN. If both a morning and afternoon status report are provided, persons burning prior to 12:00 noon shall call for the morning burn status report and persons burning in the afternoon shall call for the afternoon burn status report, prior to igniting any fires after 12:00 noon.

C. Umatilla County shall make a daily determination of designated burn status.

D. The following days shall automatically constitute NO BURN days:

- (1) Air stagnation days designated by the National Weather Service or which might unreasonably impact periods of noncompliance with National Ambient Air Quality Standards for a local community, considering the meteorological and other ambient air conditions;

- (2) Days on which the State Fire Marshall or designated agent has prohibited burning based on general fire safety conditions;

- (3) Additional days so designated by the Board of Commissioners due to adverse weather conditions or prolonged dry conditions.

E. The designation of a BURN day shall apply to all areas of the county, unless, as technology and procedures permit doing so in a reliable manner, two or more zones may be established in the county.

F. If the status report changes to NO BURN from an earlier status of BURN, no new fires may be ignited after the change of status.

G. When a permit holder uses smudge pots, propane heaters, and/or other open burning devices to provide heat for the purpose of protecting commercial orchards from frost damage, that person shall be exempt from the requirement to burn only on a designated BURN day.

H. A permit holder for the propane burning of mint stubble shall be exempt from the requirement to burn only on a designated BURN day, unless the NO BURN designation is made when necessary to prevent danger to life or property from fire.

I. The Umatilla County Public Works Department is exempt from the prohibition of burning on a no burn day for burns containing less than four cubic yards of materials required to clean weeds from field ditches, irrigation ditches and canals, right-of-ways, culverts, roadside barrow pits, and other similar small areas. Any burns within the boundaries of a rural fire protection district or forest protection district are still subject to the rules and regulations of the district.

J. The Hudson Bay District Improvement Company and the Walla Walla River Irrigation District are exempt from the prohibition of burning on a no burn day for burns containing less than four cubic yards of materials required to clean weeds from irrigation ditches and canals, right-of-ways, culverts, and other similar small areas. Any burns within the boundaries of a rural fire protection district or forest protection district are still subject to the rules and regulations of the district (Ord. 94-11, passed 8-24-94; Ord. 99-09, passed 11-

24-99; Ord. 2005-18, passed 1-2-2006)

§ 91.07 PROHIBITED BURNING

A. Permit Holders shall not ignite a fire if the wind speed exceeds 20 miles per hour and are discouraged from igniting fires when wind speeds exceed 15 miles per hour. Each burner shall be responsible for monitoring wind speed at the site of the fire with the understanding that designation as a BURN day is no guarantee of safe conditions for burning.

B. Permit Holders shall not ignite a fire if the temperature rises above 95° or the humidity falls below 20%.

C. Tree stumps may not be open burned unless they have first been removed from the ground and allow to dry, so they will burn without creating a dense smoke and without smoldering for an extended period of time.

D. No materials which are on the Department of Environmental Quality list of materials prohibited from burning may be burned in Umatilla County. (See Oregon Administrative Rules (OAR) 340-023-0042(2).) These prohibitions include burning wet garbage, plastic, wire insulation, automobile part, asphalt, petroleum product, rubber product, and animal remains.
(Ord. 99-09, passed 11-24-99)

§ 91.08 GENERAL REQUIREMENTS

A. No burn shall be ignited before 7:30 A.M. or after two hours before sunset.

B. All open flame shall be extinguished no later than one hour after sunset, including smoldering piles of materials, unless there is at least one person designated to provide ongoing fire safety watch at all times, including through the night if necessary to assure fire safety.

C. There must be water spray equipment on the site with enough personnel to operate the equipment. For field burns or other isolated locations the equipment must be on a truck or other motor vehicle

capable of travel over the area to be burned and the surrounding terrain.

D. On agricultural field burns and other large burns, the area to be burned must be surrounded by a fire break of at least 10 feet in width. The break may be a natural barrier, such as a road or summerfallow, or be plowed or disked to mineral soil by the permit holder.

E. For burn barrels, the barrels must be constructed of metal in good condition and have a heavy duty screen top. At least ten feet around the barrel must be clear of all material that could cause a fire to escape or to spread.
(Ord. 94-11, passed 8-24-94; Ord. 99-09, passed 11-24-99)

§ 91.09 POWER OF REVOCATION

A. The Director of the Umatilla County Planning Department, or the Director's designee, shall have the power to refuse, to revoke, or to postpone issuance or use of burning permits when in the discretion of the Director or designee such action is necessary to prevent danger to life or property, or to protect air resources. The decision shall be made in accordance with all applicable statutes, administrative rules, and ordinances.

B. Burning permits may be revised, suspended or cancelled by the Board of Commissioners or the State Fire Marshall due to severe fire hazard conditions, weather, or for smoke management.
(Ord. 94-11, passed 8-24-94; Ord. 99-09, passed 11-24-99)

§ 91.10 LIABILITY FOR DAMAGE OR INJURY

A. The issuance of a permit does not relieve any holder or person from responsibility for liability for any injury or damage that may result from any burning.

B. Each person may be responsible for damage to property, the cost of fighting a fire, and possibly civil or criminal penalties as a result of any burning.

C. Under ORS 476.380(3)(b), the failure to provide adequate protection for the escape of fire and injury or damage to the property of another, constitutes prima facie evidence that the burning was not safe.
(Ord. 94-11, passed 8-24-94; Ord. 99-09, passed 11-24-99)

§ 91.11 ENFORCEMENT and PENALTIES

A. This ordinance is enforceable by any Umatilla County Sheriff’s deputy or any other law enforcement officer, or by those fire district or fire department officials authorized by the Sheriff or by city police chiefs to write citations and having jurisdiction within the boundaries of Umatilla County.

B. Enforcement will occur by issuance of a citation in the form of an Oregon Uniform Citation and Complaint or Uniform Criminal Citation Complaint, and violators will be cited into Umatilla County Circuit Court.

C. The following penalties shall be assessed for failure to comply with the requirements of this County Burning Permit System Ordinance:

- (1) The base penalty shall be not more than \$500.00 for Open Burning without first obtaining a permit or for burning on a designated NO BURN day.
- (2) The base penalty shall be not more than \$50.00 for any other violation of this ordinance.

D. The following procedure shall apply to violations of this ordinance:

- (1) For a first violation, generally a written warning shall be given, along with information concerning open burning regulations/practices, and fire safety. At the discretion of the enforcing officer, however, a citation may be given in lieu of a warning if the gravity of the violation justifies the citation in the officer’s judgement. Regardless of whether a warning or citation is given, the offense shall be considered a “first offense” for purposes of the

progressive penalties provided by this ordinance.

- (2) For each subsequent violation of this ordinance within a 3 year time period, the penalty shall be increased as follows:

Second Offense. Penalty equal to 100 percent of the applicable maximum Base Penalty.

Third Offense. Penalty equal to 250 percent of the applicable maximum Base Penalty.

Fourth Offense. Depending upon the severity of the violations, including especially actions which jeopardize maintaining open burning, the penalty shall be no less than 500 percent of the applicable maximum base penalty nor more than 750 percent, and the offender shall be declared an Habitual Offender.

- (3) A Person violating this ordinance by burning without a permit or burning on a NO BURN day more than three times in three calendar years shall be declared an Habitual Offender. Following convictions for five or more other violations of this ordinance in three calendar years, the court judge may, depending on the severity of the violations, also declare the violator an Habitual Offender. An Habitual Offender shall immediately forfeit their current permit(s); and for a period of five years following the date of designation as an Habitual Offender, the party shall be denied any further County Burning or Smoke Management Permits.

E. Depending upon the nature of the offense, the violation may be reported to the Department of Environmental Quality and be subject to further penalties under the DEQ Enforcement Procedures and Civil Penalties provisions (see OAR Ch 340, Div 12).

F. For purposes of this ordinance, a “Violator” shall be considered to be the Person who ignited the fire, and/or the person that employs or contracts for the services of the person igniting the fire.

G. This regulation shall apply regardless of the organizational structure of the Person authorizing the burning. For purposes of this ordinance, an employer shall also include the Person that contracts for labor services.

H. The Person actually igniting the fire may be excused from a penalty under this ordinance if they can reasonably demonstrate that they were instructed to ignite the fire by their employer and that they were acting in accordance with their employer's instructions.

I. The Person who employs or contracts for the services of the Person igniting the fire may be excused from a penalty for violation of this ordinance only if they can reasonably demonstrate that they did not directly or by implication or by common practice authorize the fire to be ignited.

J. Any penalties assessed shall not be in lieu of any permit fees.
(Ord. 94-05, passed 10-31-94; Ord. 99-09, passed 11-24-99)

