

**City of Rochester**  
**Open Burn Policy**  
**October 1, 2020**

**Open Burning**

“Open burning” is the burning of unwanted materials such as trees, brush, leaves, grass, and other debris where smoke and other emissions are released directly into the air. Because of the problems created by this activity, state and local laws prohibit open burning of many materials. Many people are either unaware of the regulations or unsure about which regulations apply to them.

Open burning pollutes the air and poses a wildfire hazard. The air pollution created by open burning can irritate eyes and lungs, obscure visibility, soil nearby surfaces, create annoying odors or pose other nuisance or health threats.

**Authority**

Open Burning is prohibited within the Rochester City Limits unless approval has been granted by special Fire Department Permit. Open burning is regulated by Rochester City Ordinance Chapter 8-2 Fire Code and Rochester Open Burn Policy, along with several Minnesota Statutes. The Rochester Fire Marshal’s Division is responsible for administering and enforcing these open burning regulations.

**Definitions**

- A. **“Recreational Fire”** is defined as an outdoor fire fueled by burning materials other than rubbish, lumber, or yard waste. Fire pits must have a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes. Recreational fires may also be conducted in an outdoor fireplace, or a metal fireplace, designed for outdoor burning. Note: The requirements for recreational fires are handled in a separate policy.
- B. **“Prescribed burn”** means a fire that is intentionally ignited, managed, and controlled for the purpose of managing forests, prairies, or wildlife habitats by an entity meeting certification requirements. A prescribed burn that has exceeded its prescribed boundaries and requires immediate suppression action by fire personnel is considered a wildfire.
- C. **“Contractor”** shall mean the primary contractor/builder or subcontractor for a particular construction site for which a building permit has been issued.
- D. **“Developer”** shall mean the individual or his/her designee that is developing a parcel of land for commercial or residential use. This individual must have a signed Development Contract with the City of Rochester.
- E. **“Certified Professional”** shall mean person or company/business who is certified in the state of Minnesota as a MN Certified Prescribed Burner, or is able to be recognized as having prior learning and experience on the MN Prescribed Burner Score Card.
- F. **“Air Curtain Destructor”** is defined as a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical

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walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain.

**Policy Requirement**

All open burning within the City of Rochester requires approval by Fire Department Permit.

**Open Burn Permits issued within the City**

- A. Vegetation Management: there are a number of controlled burns for management of vegetation. "Prairie restoration" burning is a "Prescribed burn" conducted by certified professionals to restore natural grasses and plant life. "Woodland restoration" burning is burning conducted by professionals in a woodland area to control invasive plant growth such as buckthorn. All efforts to remove resulting brush and debris from the site to a landfill shall be conducted before burning is allowed at the site.
  
- B. Land Development: is the conversion of raw land into construction ready housing, commercial, or industrial building sites. The land development process involves improvements that have indefinite life, such as draining, excavating, grading, paving, driveways, parking spaces, pavements etc... To dispose of all-natural land debris, contractors have the following two options:
  - For properties less than 5 acres in size, burn all dried wood in piles not exceeding 1000 cubic feet (example: 10' x 10' x 10' high) with 100' of separation between piles and 100' away from any structures and wooded land. For properties greater than 5 acres in size, burn all dried wood in piles not exceeding 4000 cubic feet (example: 20' x 20' x 10' high) with 100' of separation between piles and 100' away from any structures or wooded land. These piles may not contain root balls, green wood or wet fuels. Limiting pile size allows the ability to extinguish the fire if weather conditions change unexpectedly. Burning of these piles does require additional management and consideration of wind and weather.
  
  - Use Air Curtain Destructor (ACD). ACD's produce lower smoke emissions over the city as compared to pile burning, burn a greater variety of material, reduce fire risk and outbreak of insect problems, easily contain the fire, and allow fire to be quickly extinguished if necessary. They can be used anytime and are not restricted by wind velocity, temperature or atmospheric stability; nor do they rely on favorable weather conditions.
  
- C. Natural disaster declaration or emergency declared by the Mayor.

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**Open Burning Permit Requirements**

All open burning shall be authorized by the Fire Marshal or Fire Code Official with a written permit.

- A. Permits are only valid for a period of one month unless specified otherwise and the effective date(s) for open burning shall appear on the permit form.
- B. The permit is not transferable to another person or property. A single permit may not be used across multiple properties.
- C. Permits for open burning must be available on the site.
- D. The holder of the permit must call 507-328-2830 before starting any burn to verify that the permit is valid for that day.
- E. All material to be burned must be dry and in all other respects be in a state to sustain good combustion. This excludes the burning of root balls, green wood, or wet fuels. Exception is use of Air Curtain Destructors for root balls, green wood, or wet fuels.
- F. The granting of an open burning permit shall in no way relieve the person responsible for such burning from the responsibility of obtaining required permits from other agencies, or the consequences or damages, injuries, or claims resulting from such burning.
- G. The party conducting the burning must constantly attend the burning material (MSFC 307.5).
- H. The responsible party must have an acceptable level of fire extinguishing equipment present and be knowledgeable in the use of such. "Fire Extinguishing Equipment" shall mean a minimum of one portable fire extinguisher with a minimum 4-A rating or other approved onsite fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, available for immediate utilization (MSFC 307.5).

**All open burning shall meet the following location and size requirements**

- A. The site of such burning may not be located nearer than one-half mile to an airport, hospital, nursing home, school, and wildlife area.
- B. The site of such burning is not nearer than five hundred (500) feet to any registered sanitary landfill, or other land disposal sites for combustible solid waste, or other similar facilities.
- C. Open burning cannot be located closer than one hundred (100) feet to any structure.
- D. Burning may not be located closer than one hundred (100) feet to any wooded land.

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- E. For properties less than 5 acres in size, burn all dried wood in piles not exceeding 1000 cubic feet (example: 10' x 10' x 10' high). For properties greater than 5 acres in size, burn all dried wood in piles not exceeding 4000 cubic feet (example: 20' x 20' x 10' high).
- F. A minimum of 100' of separation between piles on all site development projects.

**Exception to Burn Permit Requirements**

Burning may be conducted under the following conditions without a Burn Permit, provided that no complete open burning ban has been issued by the DNR or Fire Marshal.

- A. Fires set for training and instruction of public or private fire-fighting personnel.
- B. Fires set at the direction of responsible fire control agencies for the prevention, elimination, or reduction of a fire hazard.
- C. Smokeless flares or safety flares for the combustion of waste gasses.
- D. Fires set at the direction of law enforcement agencies, or courts, for the purpose of destruction of controlled substances and illegal drugs seized as contraband.
- E. Open burning does not include recreational fires, road flares, or devices associated with safety or occupational uses typically considered open flames, such as smudge pots.

**Nuisance, Hazardous or Objectionable Fires**

The fire code official is authorized to order the extinguishment of open burning that creates or adds to a hazardous or objectionable situation (MSFC 307.3).

**Prohibitions**

Open burning prohibitions specified in this section are in effect at all times of the year.

- A. No person shall conduct, cause, or permit open burning during a burning ban put into effect by a local authority, county, or a state agency. Daily information can be found on the DNR web site at: [https://www.dnr.state.mn.us/forestry/fire/firerating\\_restrictions.html](https://www.dnr.state.mn.us/forestry/fire/firerating_restrictions.html)

No fire shall be ignited unless the MN Pollution Control Agency rates the current air quality as "Good". Permit holders are required to seek current air quality status for Rochester before igniting the fire. <https://www.pca.state.mn.us/air/current-air-quality>

- B. No fire shall be ignited unless the predicted wind direction is favorable to that designated in the permit. Please consult weather forecast for 20 foot wind predictions prior to igniting the fire. <https://forecast.weather.gov/product.php?site=ARX&issuedby=ARX&product=FWF&format=txt&version=1&glossary=1>

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- C. No person shall conduct, cause, or permit open burning of:
- Tires and other rubber products, vinyl shingles and siding, other plastics, chemically treated materials, asphalt shingles and other asphalt roofing materials, asbestos containing materials, plywood, fiberboard, particleboard, paneling, wiring, paint, paint filters, wood treated to prevent insect or rot damage and/or fallen leaves (MN Statute 88.171).
  - Hazardous waste as defined in MN Statute section 116.06.
  - Industrial solid waste generated from an industrial or manufacturing process or from a service.
  - Building material generated from demolition of commercial or institutional structures. A farm building is not a commercial structure.
  - Discarded material resulting from the handling, processing, storage, preparation, serving, or consumption of food.
  - Motor vehicles for processing by open burning.
- D. Fires must not be allowed to smolder with no flame present, except when conducted for the purpose of managing forests, prairies, or wildlife habitats.

**Fees**

Permits may be obtained online at: <https://aca.rochestermn.gov/CitizenAccess> Choose Fire Permits

Open Burning: (Only as approved by the Fire Marshal's Office)

\$300.00 permit fee plus non-refundable \$75 application fee Total \$375

**Violations**

- A. Any person who starts and fails to control or extinguish the fire, whether on owned property or on the property of another, before the fire endangers or causes damage to the property of another person or the state is guilty of a misdemeanor (MN Statute 88.195).
- B. Any person who has a burning permit and fails to keep the permitted fire contained within the area described on the burning permit or who fails to keep the fire restricted to the materials specifically listed on the burning permit is guilty of a misdemeanor (MN Statute 88.195).
- C. Any person who carelessly or negligently starts a fire that endangers or causes damage to the property of another person or the state is guilty of a misdemeanor (MN Statute 88.195).

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- D. Any person who participates in an act involving careless or negligent use of motor vehicles, other internal combustion engines, firearms with tracers or combustible wads, fireworks, smoking materials, electric fences, torches, flares, or other burning or smoldering substances whereby a fire is started and is not immediately extinguished before the fire endangers or causes damage to the property of another person or the state is guilty of a misdemeanor (MN Statute 88.195).

**Penalty for Violation of Permit**

Any violation to the above stated requirements shall result in a misdemeanor fine of up to \$1,000.00. The violator shall also be banned from obtaining a permit for a period of no less than 1 year for the first offense.

**References**

Definitions, natural resources law, MN Statutes 2019 88.01

Diseased shade tree disposal, MN Statutes 2019 116.07

Firefighter training, MN Statutes 2019 88.17

Firewood removed from property, MN Statutes 2019 116F.30

Forest areas, MN Statutes 2019 88.16

General burning permits, MN Statutes 2019 88.17

Generally, MN Statutes 2019 88.171

Leaves, ordinances to permit, MN Statutes 2019 116.082

Open fires, defined, MN Statutes 2019 88.01

Permanent tree and brush burning sites, MN Statutes 2019 88.17

Use of prohibited materials, MN Statutes 2019 88.195

Waste education, MN Statutes 2019 115A.072

Open Burning, MN State Fire Code 106.6.32

Rochester City Ordinance Section 8-2-6 (b)

Rochester City Ordinance Section 12-10-1, 12-10-8