

CHAPTER 3 OPEN BURNING

3-3-1: BURNING, INCINERATION REGULATED:

No person shall burn or incinerate any rubbish or garbage, except as hereinafter provided:

A. Incinerators:

1. Any person may use an incinerator (as defined by the department of environmental quality in IDAPA 16.01.01) in the interior of a building or on the exterior of a building, provided such incinerator meets the requirements of the building and fire codes, planning and zoning requirements and meets the approval of Idaho department of environmental quality on emissions.

2. The hours of operation of such incinerator shall be between seven o'clock (7:00) A.M. and sunset.

B. Outdoor Fireplaces, Barbecue Pits: Nothing herein contained shall be construed to prohibit the use of outdoor fireplaces, barbecue pits or grills in preparing food or for recreational purposes, except as listed hereafter. (Ord. 74, 11-4-2002)

3-3-2: TYPES OF FIRES ALLOWED:

No person shall build, ignite, or maintain any outdoor fire of any kind or character, or for any purpose whatsoever, except as provided herein. The following types of fires are allowable and shall not require a permit:

A. Firefighting personnel for the purpose of combating fires.

B. Barbecues or other fires used in the preparation of food.

C. Campfires, or fires used for recreational or ceremonial purposes. Fire extinguishing equipment, such as a water hose connected to a water supply, shall be readily available.

D. Fires listed in subsections B and C of this section that exceed three feet (3') in diameter and two feet (2') high will require a permit from the Star fire district and may require an inspection prior to issuance of said permit. Such fires must be constantly attended by a competent adult until such fire is completely extinguished. Such fires must not create a hazard or nuisance. (Ord. 74, 11-4-2002)

3-3-3: PROHIBITED TYPES OF OPEN BURNING:

No person shall allow, suffer, cause, or permit burning of any of the following types of materials at any time:

- A. Burn barrels of any kind.
- B. Household solid waste or garbage.
- C. Junked motor vehicles or any material resulting from a salvage operation.
- D. Tires or other rubber materials or products.
- E. Insulated wire.
- F. Plastics.
- G. Existing structures.
- H. Asphalt, tarpaper, waste, or heavy petroleum products.
- I. Lumber or timbers treated with preservatives, lawn clippings.
- J. Other construction materials such as Sheetrock, flooring, insulation.
- K. Dead animals or parts thereof, except upon the order of a public health officer to dispose of diseased animals.
- L. Paint, solvent, or other chemicals including motor oils, diesel, gasoline, etc.
- M. Trade waste.
- N. Pathogenic wastes or infectious wastes, except under order of a public health officer.
- O. Hazardous waste, except when burned under order of a public or military fire chief to dispose of materials (including military ordnance) which present a danger to life, valuable property, or the public welfare, or for the purpose of the prevention of a fire hazard when no practical alternative method of disposal or removal is available.
- P. Any types of materials that emit large volumes of smoke, particulates, or odors including wet materials.
- Q. Any other material that would otherwise be allowed under this chapter, but is determined to be a nuisance, hazard, or source of air pollution.
- R. Notwithstanding the provisions of any section of this chapter, any material which violates and causes an air pollution alert.
- S. Notwithstanding the provisions of any section of this chapter, any material that is restricted as specified in IDAPA rules for the control of air pollution 16.01.01. (Ord. 74, 11-4-2002)

3-3-4: TYPES OF FIRES BY PERMIT ONLY:

The following types of fires shall only be allowed if a permit is obtained from the Star fire district:

- A. Weed Abatement: Fires used for the purpose of weed abatement along noncombustible fence lines, canal banks, and ditch banks, or for control or alleviation of fire hazards when no reasonable alternative control method exists.
- B. Solid Waste Disposal: Fires used to dispose of or reduce solid waste materials, such as, but not limited to, rubbish (excluding garbage), tree leaves, yard trimmings, gardening waste, straw, hay, or other vegetation, etc., where mulching or other nonburning types of disposal are impractical.
- C. Special Circumstances: Special burning permits, for circumstances not otherwise addressed in this chapter, may be issued by the Star fire district if the fire chief determines that such open burning does not constitute a nuisance, hazard, or source of air pollution and is not restricted as specified in the rules for the control of air pollution in Idaho (IDAPA) 16.01.01. (Ord. 74, 11-4-2002)

3-3-5: CONDITIONS OF PERMIT:

The following conditions shall apply to all permits issued by the Star fire district:

- A. Air Quality; Weather Conditions:
 - 1. All open burning is prohibited and permits are invalid on days when the air quality index, as reported by the department of environmental quality, reaches sixty (60) or higher for any air pollutant within the Treasure Valley. Permittees are responsible for determining the air quality index prior to igniting any fires by contacting the department of environmental quality.
 - 2. Open burning is also prohibited in the event of adverse weather conditions or the prediction of adverse weather conditions as determined by the fire chief. Adverse weather conditions include winds in excess of ten (10) mph and/or the approach of thunderstorms in the area, or when open burning is declared to be banned by the fire chief due to extremes in weather and environmental conditions.
 - 3. If the permit holder is unsure if it is safe, said permit holder shall call the Star fire district and the fire district will inform them if such conditions exist or not.
- B. One Fire At Single Location: Only one fire in a single location may be burned at any one time on a single permit.
- C. Fire Near Structure Or Combustible Material: No open burning is permitted within fifty feet (50') of any structure or combustible material, and adequate

provision shall be made to prevent fire from spreading to within forty feet (40') of any structure.

- D. Hours: When in accordance with all other provisions of this chapter, open burning shall only be allowed during the hours of seven o'clock (7:00) A.M. and sunset.
- E. Size Of Piles: The size of any piles for burning shall be limited to ten (10) cubic yards.
- F. Attendance By Adult; Fire Extinguishing Equipment Required: All open fires shall be constantly attended by a competent adult until such fire is completely extinguished. Fire extinguishing equipment shall be readily available for use. A hose with water is the preferred fire extinguishing equipment; if not available, appropriate fire extinguishers, shovels, rakes, hoes or other appropriate tools may be used.
- G. Permit Provisions:
 - 1. Permits shall be obtained through the Star fire district.
 - 2. All permits shall contain the name, address, and telephone number of the applicant, the location of the proposed burning and the materials that are to be burned.
 - 3. Permits shall be valid for one year, provided all other conditions of this chapter are complied with.
- H. Permit Denial; Appeal: Any person denied a burning permit by the Star fire district may appeal the decision in writing to the city council. Such appeal shall be submitted to the city clerk within ten (10) days of the date of denial. The appeal shall be placed on the first available meeting agenda of the council, who shall rule on the appeal.
- I. Burning Overnight: No fires shall be allowed to burn or smolder overnight.
- J. Property Of Another, Permission Of Owner Required: No person shall kindle a fire upon the land of another without permission of the owner thereof or his agent. (Ord. 74, 11-4-2002)

3-3-6: PENALTIES; ENFORCEMENT:

- A. Penalties Imposed: Failure to comply with any provision of this chapter shall be in violation of this chapter, and will permit the city to initiate one or more of the following actions:
 - 1. Any person violating any provision of this chapter shall be guilty of an infraction. An infraction shall be punishable as by civil penalty as provided in subsection [1-4-1B](#) of this code.

2. Suspension of issuance of all future and/or granted permits for open burning by the Star joint fire district and the city.
 3. Legal proceedings to obtain an injunction against the permittee or the owner of the property upon which open burning was conducted.
- B. Enforcement By State: Nothing in this chapter shall preclude the department of environmental quality (DEQ) from enforcing the provisions of the "Rules For The Control Of Air Pollution In Idaho" (IDAPA) 16.01.01, the environmental protection and health act, or the hazardous waste management act ⁷. (Ord. 74, 11-4-2002; amd. 2006 Code)

CHAPTER 4 CLEAN AIR REGULATIONS

3-4-1: STATUTORY AUTHORIZATION; PURPOSE:

- A. Statutory Authorization: The purpose of this chapter is to protect air quality resources vital to the public health, safety, and welfare of Star residents and the economic future of Star by controlling emissions from solid fuel and refuse burning. This chapter is promulgated under the authority of the Idaho constitution article 12, section 2, and Idaho Code sections 31-714 and 31-801.
- B. Applicability: This chapter shall apply to all areas of the city which are in the federally designated nonattainment area. (Ord. 85, 4-1-2003)

3-4-2: DEFINITIONS:

For the purpose of this chapter, the following terms, phrases, words, and derivations all have the meanings given herein; the word "shall" is always mandatory and not merely directory:

AIR POLLUTION: The presence in the outdoor atmosphere of any contaminant or combinations thereof in such quality or of such nature and duration and under such conditions as would be injurious to human health or welfare, to plant or animal life, or to property, or to interfere unreasonably with the enjoyment of life or property.

BUILDING: Any structure, dwelling, office, industrial plant, garage or barn, whether publicly or privately owned, or any other structure as defined by the building code as adopted by the city.

BURN DOWN: That period of time following an air pollution alert required for the cessation of combustion within solid fuel heating appliances or any outdoor fires or burning or incineration included within this chapter.

CLEAN BURNING APPLIANCE: A solid fuel heating appliance that has been certified as clean burning by either the Oregon department of environmental quality or the United States environmental protection agency and has been placed on a list of approved clean burning appliances.

ECONOMIC HARDSHIP: Fifty percent (50%) or less of the city of Star's median income as established by the U.S. department of housing and urban development.

Qualifying incomes, family of:

1	\$19,100.00
2	21,800.00
3	24,550.00
4	27,250.00
5	29,450.00
6	31,600.00
7	33,800.00
8	35,950.00

FIREPLACE: A residential solid fuel burning device with an air to fuel ratio of greater than thirty to one (30:1), which is a permanent structural feature of a building. A fireplace is made up of a concealed masonry or metal flue and a masonry or metal firebox enclosed in decorative masonry or other building materials.

HEAT OUTPUT: The British thermal unit (BTU)/hour output of a solid fuel heating appliance.

OPEN BURNING: The combustion of any material not contained in a heating appliance or incinerator.

PARTICULATE MATTER (PM_x): Any gas borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible matter.

PERSON: Any individual, firm, partnership, association, corporation, company, organization or governmental entity.

REFUSE: All solid waste, garbage, and rubbish, including, but not limited to, cardboard, plastic, rubber, Styrofoam, petroleum products, foodstuff, Christmas trees, yard debris, or chemically treated wood.

REFUSE INCINERATOR: Any device designed or operated to reduce the volume of refuse. Natural gas fired pathological incinerators are excluded.

SOLE SOURCE: One or more solid fuel heating devices that constitute the only source of heat in a building for the purpose of space heating. No solid fuel heating device(s) shall be the sole source of heat if the building is equipped with a permanently installed furnace or heating system designed to heat the building that is connected or disconnected from its energy source, utilizing oil, natural gas, electricity or propane.

SOLID FUEL: Any form of untreated wood or coal.

SOLID FUEL HEATING APPLIANCE: A. An enclosed device designed for solid fuel combustion that meets all of the following criteria:

1. An air to fuel ratio averaging less than thirty five to one (35:1);
2. Firebox volume less than twenty (20) cubic feet;
3. Minimum burn rate less than eleven (11) pounds per hour; and
4. Maximum weight of less than one thousand seven hundred sixty four (1,764) pounds.

B. Explicitly excluded are furnaces, boilers, and cook stoves. (Ord. 85, 4-1-2003)

3-4-3: AIR QUALITY DESIGNATIONS AND ALERT CRITERIA:

A. Determination Of Quality: The quality of the city's air shall be determined by monitoring pollutant levels with equipment and methods approved by the Idaho state department of environmental quality.

B. Air Quality Index: The quality of the city's air shall be designated according to the following table:

AIR QUALITY INDEX

Designation	AQI
Good	0 - 50
Moderate	51 - 100
Unhealthy for sensitive groups	101 - 150

Unhealthy	151 - 200
Very unhealthy	201 - 300
Hazardous	301 - 500

C. Conditions For Issuing Alert: In order to prevent the existence of air quality that is unhealthful, an air pollution alert will be declared whenever the Idaho department of environmental quality reports a PM10 and/or PM2.5 air quality index of seventy four (74) or greater and forecasts air stagnation conditions to continue for at least twenty four (24) hours. (Ord. 85, 4-1-2003)

3-4-4: PUBLIC NOTIFICATION:

Whenever air pollution alert conditions are met, local print, radio, and television news media will be notified. Announcements of the existence of an air pollution alert will be made by the news media during regularly scheduled broadcasts and in all editions of the official newspaper of the city. (Ord. 85, 4-1-2003)

3-4-5: ADDITIONAL RESTRICTIONS DURING ALERT:

At the onset and during the duration of a declared air quality alert, the following additional restrictions apply:

- A. No person shall cause or allow, after a three (3) hour burn down, the operation of a solid fuel heating appliance or open fireplace, unless an exemption has been granted by the city clerk and an exemption decal is displayed and visible from a place of public access.
- B. No person shall cause or allow the operation of a solid waste incinerator.
- C. No person shall cause or allow open burning of refuse or solid fuel. (Ord. 85, 4-1-2003)

3-4-6: EXEMPTIONS FROM PROVISIONS:

- A. The city clerk shall grant exemptions from this chapter if it is determined by the city clerk that a solid fuel heating appliance is the sole source of heat for the structure in which it is situated.
- B. Any person denied an exemption under this chapter shall be provided, at the option of the applicant for the exemption, a hearing before the city council.
- C. Any building constructed after the effective date hereof shall not be eligible for an exemption under subsection A of this section. (Ord. 85, 4-1-2003)

3-4-7: BURNING SOLID FUEL OR REFUSE:

- A. No person shall cause or allow refuse or coal to be burned in a solid fuel heating appliance designed for wood fuel.
- B. No person shall cause or allow a refuse incinerator to be operated contrary to the design, specifications, and manufacturer's instructions. (Ord. 85, 4-1-2003)

3-4-8: SOLID FUEL HEATING APPLIANCE PERMIT REQUIREMENTS:

A. Permit Required; Condition Of Appliance:

- 1. It shall be unlawful for any person in the city to install a solid fuel heating appliance in any new or existing building without first obtaining from the city a permit for a solid fuel heating appliance.
- 2. It shall be unlawful on or after February 1, 2003, for any person in the city to: a) advertise for sale; b) offer to sell; or c) sell for installation in any new or existing building, a solid fuel heating appliance which is not a clean burning appliance.

B. Issuance Restriction: No solid fuel heating appliance permit shall be issued by the city clerk or his/her designee for the installation of a solid fuel heating appliance which is not a clean burning appliance.

C. Denial Of Permit:

- 1. Upon a showing of sufficient cause to believe that grounds exist for the denial of the permit, the city clerk or his/her designee may deny an application for a permit by sending through the regular mail to the address on the application a written notice containing the grounds for said denial and of the applicant's opportunity to appeal said denial to the city council.
- 2. Failure of a person to actually receive a notice sent shall not invalidate the denial.
- 3. The applicant, upon receiving notice of the denial, may appeal said denial by making application with the city clerk for a hearing before the city council within ten (10) working days of receipt of the above notice.

D. Denial Hearing And Determination By Council: At any hearing before the city council pursuant to this chapter, applicant may present evidence, call witnesses, and be represented by counsel. Within ten (10) working days after the date of the hearing, the city council shall, after making appropriate written findings, either:

- 1. Uphold the denial by the city clerk or his/her designee; or

2. Allow the issuance of the permit or exemption with modifications or conditions as the council may impose, such modifications or conditions to be reasonably related to the use of the permit or exemption.

E. Appeal Of Decision Of Council: A decision of the city council on a denial shall be final and conclusive. Appeal from a decision of the city council must be made to the district court. (Ord. 85, 4-1-2003)

3-4-9: MINIMUM STANDARDS FOR CLEAN BURNING APPLIANCES:

A. Standards: In no event shall the standards for clean burning solid fuel heating appliances be allowed a weighted average particulate emission greater than:

1. For a new clean burning solid fuel heating appliance with a minimum heat output of less than forty thousand (40,000) BTU per hour and tested pursuant to procedures approved by the city council:

a. Seven and five-tenths (7.5) grams per hour for a noncatalytic solid fuel heating appliance.

b. Four and one-tenth (4.1) grams per hour for a catalytic solid fuel heating appliance.

2. Clean burning solid fuel heating appliances with a minimum heat output of greater than forty thousand (40,000) BTU per hour shall not exceed an average particulate emission standard equal to the sum of eight and zero-tenths grams (8.00 g) per hour plus two-tenths grams (0.2 g) per hour of each one thousand (1,000) BTU per hour heat output.

B. EPA Approval: Solid fuel heating appliances approved by the environmental protection agency are approved by the city. (Ord. 85, 4-1-2003)

3-4-10: APPLICABILITY OF REGULATIONS:

Nothing in this chapter is intended to conflict with, supersede, repeal, or affect any other regulations or requirements for the installation or inspection of solid fuel heating appliances, including, but not limited to, those regulations adopted. Further, nothing in this chapter is entitled to conflict with, supersede, repeal, or affect any other regulations or requirements for the burning, outdoor fires, and incineration permits including, but not limited to, those regulations adopted. (Ord. 85, 4-1-2003)

3-4-11: PENALTY:

A violation of any of the provisions of this chapter or the failure or omission to perform any duty imposed by the provisions of this chapter is hereby declared unlawful and punishable as a misdemeanor ⁸. (Ord. 85, 4-1-2003)