

BROWN COUNTY

ORDINANCE 1994-01

OPEN BURNING

SECTION 1 PURPOSE

The purpose of this section is to establish permitted categories of open burn events for residences and farms within the unincorporated /township areas of the county of Brown and provide for a permitting process for residential and agricultural open burning, except when such open burning is defined as a Camp or Recreation Fire as prescribed in this section.

SECTION 2 DEFINITIONS

For the purpose of this section, the terms in this section have the meaning given them.

1. (Open Fire) : “Open Fire” or “open Burning” means a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct, or chimney.
2. (Camp Fire) : “Camp Fire” means a fire set for cooling, warming, or ceremonial purposes, which is not more than three (3) feet in diameter by three (3) feet high, and has had the ground fire (5) feet from the base of the fire cleared of all combustible material.
3. (Starter Fuels) : “Starter Fuels” mean dry, untreated, unpainted wood or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clan gas burning devices causing minimal pollution must be used to start an open fire.
4. (Wood) : “Wood” means dry, clean fuel only such as twigs, branches, limbs, “presto logs”, charcoal, cordwood or untreated dimensional lumber. “Wood” does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used fro recreation fires when cut into three (3) foot lengths.
5. (Recreation Fire) : Same definition as a “Camp Fire”
 - a. Recreation Fire Site – Requirements An area of no more than a three (3) foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor production material, either of natural rock, cement, brick, tile or block of ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fire places. Recreation fire sites shall not be located closed than fifty (50) feet to any structure. Burners are not a recreation fire site as defined herein.
 - b. Recreation Fire Burn – Requirements When a camp fire is used for recreation purposes, it must be ignited with an approved starter fluid using, dry clean wood; production little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance health or safety hazards will not be created. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices, are not defined as camp or recreation fires.

6. (Running Fire) : “Running Fire” means an open burn that is not confined to piled materials but is meant to consume materials over an unconfined area. Running fires include, but are not limited to, open burning conducted to clear or maintain small areas of land surrounded by tilled agricultural land, open burning to maintain wildlife habitat in managed wildlife areas, and open burning conducted by a local governmental unit to maintain road rights to way.

SECTION 3 PROHIBITED MATERIALS

1. No person shall conduct, cause or permit the open burning of any material that was not generated at the site of the open burn other than on sites designated as a permanent burn site by the Department of Natural Resources.
2. No person shall conduct, cause or permit open burning of oils, petro fuels, rubber, plastics, chemically treated material, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood, composite shingle, tar paper insulation, composition board, sheetrock, wiring, paint or paint fillers.
3. No person shall conduct, cause or permit open burning of hazardous waste or salvage operation, or open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures. No person shall conduct cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food except as permitted under paragraphs 5 and 6 of this ordinance.
4. No person shall conduct, cause, or permit the open burning of any dead domestic animal without the approval of the county or the Department of Natural Resources.

SECTION 4 PERMIT REQUIRED FOR OPEN BURNING

1. No person shall start or allow any open burning on any property in the County of Brown without first having to obtain an Open Burning Permit from the county of Department of Natural Resources. Camp or recreation fires as defined in the section of this ordinance are exempt from this provision at any time.
2. Fire Training and permanent Burn Site Permits can only be issued by the Minnesota Department of Natural Resources (DNR) Forest Officers.
3. No fire may be allowed to smolder.
4. A permit for a running fire may be issued by the county for the purpose of maintaining wildlife habitat, for maintenance of road right-of-ways, and for maintenance of small areas of land surrounded by tilled agricultural land.
5. Permits for running fires set to maintain public road right-of ways may be issued only to local governmental units.
6. Open burning shall not be conducted within 50 feet of any structure.

SECTION 5 FARM DISPOSAL OF SOLID WASTE – EXEMPTION FROM BURNING PERMIT

1. A permit is not required from a state or county agency, except under MSA 88.16, 88.17 and 88.22 for a person who owns or operates land used for farming that buries, or burns and buries, solid waste generated from the person's household or as part of the person's farming operation if the burying is done in a nuisance free, pollution free, and aesthetic manner on the land used for farming. All burning must be done in a burner constructed in accordance with the design approved by the Commissioner of Natural Resources. The current approved burner must be constructed of fire resistant material having a capacity of at least three bushels, having a cover which is closed when in use and openings in the top or sides of one inch in diameter. All combustible material must be cleared for five feet around the burner. Burners may be used only between 6:00P.M. and 8:00 A.M. without a burning permit. A burner used during hours other than as stated must have a burning permit. This exception from obtaining a burning permit does not apply if regularly scheduled pickup of solid waste is reasonably available at the person's farm, as determined by resolution of the county Board of the county where the person's farm is located.
2. This exemption does not apply to burning tires or plastics, except plastic baling twine, or to burning or burial of the following materials:
 - a. Household hazardous waste as define in Section 115A.93, Subd. 1;
 - b. Appliances, including but not limited to, major appliances as defined in Section 115A.03,Subd.17a;
 - c. Household batteries;
 - d. Used motor oil; and,
 - e. Lead acid batteries from motor vehicles.
 - f. Prohibited material as set forth in MSA 88.171.

SECTION 6 RESIDENTIAL DISPOSAL OF SOLID WASTE – EXEMPTION FROM BURNING PERMIT

A county resident, other than one engaged in farming and residing within the unincorporated/township areas of Brown County may conduct open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food which is generated from the resident's household if the County Board by resolution determines that regularly scheduled pickup of the material is not reasonably available to the residence. All burning must be in a burner constructed in accordance with the design approved by the Commissioner of Natural Resources as set forth in paragraph 5a of this ordinance. All combustible material must be cleared for five (5) feet around the burner. A burner may be used only between the hours of 6:00 P.M. and 8:00 A. M. without a permit. A burner used during hours other than as stated must have a burning permit.

SECTION 7 PERMIT APPLICATION FOR OPEN BURNING

Open Burning Permits shall be obtained by making application on a form prescribed by the Department of natural Resources (DNR) and adopted by the county.

SECTION 8 PERMIT PROCESS FOR OPEN BURNING

1. Upon receipt of a completed Open burning Permit Application, the county shall review and approve or deny the application. The county may attach conditions to the permit consistent with DNR, county, or local regulations and ordinances. The permit issuer may also attach reasonable special conditions to the permit due to site specific condition

which would or which may have the potential to create safety or pollution concerns or nuisance conditions.

2. A county representative may inspect the proposed burn site and may deny the issuance of the permit. The permit may be denied if the county finds that a practical alternative method of disposal exists, or safety, pollution or nuisance conditions may result.
3. The length of the burning permit shall be at the discretion of the county in consideration of the materials to be burned, weather conditions, or concern for safety, pollution, or nuisance conditions.

SECTION 9 PERMIT HOLDER RESPONSIBILITY

1. Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his/her competent representative. The open burn fire shall be completely extinguished before the permit holder or his/her representative leaves the site. It is the responsibility of the permit holder to have a valid signed permit, as required by this section, available for inspection on the site by Brown County, the local designated authority, DNR Forest/conservation Officer or other licensed peace officer.
2. The permit holder is responsible for compliance and implementation of all general conditions and special conditions as established in the permit issued. The permit holder shall be responsible for all costs incurred as a result of the burn, including but not limited to, fire suppression and permit fees, if any.

SECTION 10 REVOCATION OF OPEN BURNING PERMIT

The Open Burning Permit is subject to revocation at the discretion of a DNR/ Forest/Conservation Officer or Brown County. Reasons for revocation include, but are not limited to: discovery or inappropriate materials at an open burn site, a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

SECTION 11 DENIAL OF OPEN BURNING PERMIT

If established criteria for the issuance of an Open Burning Permit are not met during review of said application, it is determined that a practical alternative method of disposal of the material exists, or a pollution or nuisance condition would result, then the county may deny the Open Burning Permit Application.

SECTION 12 COUNTY AUTHORITY AND RESPONSIBILITY

The Brown County Zoning Department shall be the designated authority of issuance of Open Burning Permits as authorized by the Department of Natural Resources.

Brown County and its agents shall administer this ordinance, investigate complaints and violations related to it and enforce the provisions of this ordinance as provided in rules and statutes.

Brown County shall assist the DNR in providing training to certify designated local authorities.

SECTION 13 BURNING BAN OR AIR QUALITY ALERT

No camp or recreational fire or open burn will be permitted when the county of DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

SECTION 14 RULES ADOPTED BY REFERENCE

Minnesota Statutes 88.01 to 88.22, 88.75, 88.76 and Minnesota Uniform Fire Code (where adopted), are hereby adopted by reference and made a part of this ordinance as if fully set forth at this point.

SECTION 15 PENALTY

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine and/or imprisonment.

SECTION 16 EFFECTIVE DATE

This ordinance shall be in full force and effect following the adoption by the County Board of Commissioners.