**DAVIS COUNTY BOARD OF HEALTH**

**~~A REGULATION CONCERNING~~ OPEN BURNING REGULATION**



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1. **PURPOSE**

The purpose of this regulation is to preserve, promote, and protect the public health, safety, and general welfare of residents and visitors in Davis County by establishing minimum standards ~~practices and provisions~~ for ~~the regulation of~~ open burning.

1. **SCOPE**

This regulation is applicable within all incorporated and unincorporated areas of Davis County.

1. **AUTHORITY AND APPLICABLE LAWS**

This regulation is adopted under the authority of the Davis County Board of Health in accordance with Utah Code Annotated (UCA) Section ~~Title~~ 26-A-1 ~~Chapter 1~~ Section 121. ~~of the Utah Code~~

The provisions of the Utah Administrative Code (UAC):

Chapter R307-202 are hereby adopted and incorporated by reference subject to the additions, clarifications, exceptions, and modifications ~~and exceptions~~ set forth in this regulation.

**4.0 DEFINITIONS**

4.1 AGRICULTURAL or HORTICULTURAL BURNING: Open burning on premises including an orchard constituting twenty-five (25) or more fruit or nut trees on a single parcel of property; or agricultural activities on two (2) or more cultivated acres on single or contiguous parcels of property, except in areas zoned as residential.~~in rural areas, essential to agricultural operation, including the growing of crops, the raising of fowl, animals or bees, when conducted on the premises where produced. A minimum of two~~ *~~(2)~~* ~~acres must be in agricultural use, except that the burning of trimmings from 25 or more fruit or nut trees is "agricultural burning".~~

~~4.2 AIR CONTAMINANT: Any particulate matter or any gas, vapor, suspended solid or any combination thereof, excluding steam and water vapors.~~

~~4.3 AIR CONTAMINANT SOURCE: Any and all sources of emission of air contaminants.~~

~~4.4 AIR POLLUTION: The presence in the ambient air of one or more contaminants in quantities, or characteristics and under conditions and circumstances, and of a duration sufficient to cause or contribute to injury to human, plant, or animal life or health or to property or which unreasonably interfere with the enjoyment of life or use of property, as determined by the standards, rules and regulations.~~

~~4.5 ATMOSPHERE: The air that envelops or surrounds the earth and includes all spaces outside of buildings, stacks or exterior ducts.~~

~~4.6 APPROPRIATE AUTHORITY: The Director of the Davis County Health Department or an authorized representative.~~

~~4.7 AUTHORIZED LOCAL AUTHORITY: A city, county or combination health department; a city, county, or combination fire department; or other local agency duly designated by appropriate authority, with approval of the Utah Department of Health, as the agency to issue permits for open burning under regulations of the State Department of Environmental Quality and other lawfully adopted ordinances, codes or regulations.~~

4.2~~8~~ CLEARING INDEX: The mixing depth (depth of the mixed layer in 100s of feet above ground level) multiplied by the transport wind (average wind in the mixed layer in knots) as defined by the National Oceanic and Atmospheric Administration (NOAA). A clearing index of below 500 is considered poor ventilation while 1000+ is considered excellent ventilation.~~A number indicating the predicted rate of clearance of ground level pollutants from a given area. This number is calculated by the U.S. Weather Bureau, from daily measurements of temperature lapse rates and wind speeds and directions from ground level to 10,000 feet.~~

4.3~~9~~ DEPARTMENT: The Davis County Health Department.

~~4.10 EMISSION: The act of discharging, into the atmosphere, an air contaminant or an effluent which contains or may contain an air contaminant; or the effluent so discharged into the atmosphere.~~

~~4.11 GARBAGE: All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.~~

~~4.12 HEAVY FUEL OIL: A petroleum product or similar material heavier than diesel fuel.~~

~~4.13 HOUSEHOLD WASTE: Any solid or liquid material normally generated by a family in a residence in the course of ordinary day to day living; including but not limited to garbage, paper products, rags, leaves and garden trash.~~

4.4~~14~~ OPEN BURNING: As defined in the 2015 International Fire Code, the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber.~~Any burning of combustible materials where the products of combustion are emitted into open air without passing through a chimney or stack.~~

4.5~~15~~ PERSON: Any individual,~~; public or private~~ firm, corporation and its offices, ~~partnership,~~ association, partnership, ~~firm,~~ trustee, executor or an estate,~~; the~~ ~~state or any department, institution, bureau, or agency thereof, any municipal corporation, county, city and county, or other political subdivision of the state, or any other legal entity whatsoever which is~~ governmental agency or any other legal entity recognized by ~~the~~ law, in the singular or plural ~~as being subject to rights and duties~~.

4.6~~16~~ RECREATIONAL FIRES: An outdoor fire that is used for pleasure, religious, ceremonial, cooking, warmth, or similar purposes.~~Campfires or other fires used solely for recreational purposes which can be safely confined to a fire ring no larger than 8 feet in diameter and are continuously under the supervision of a responsible person. Anyone planning a fire larger than this will be required to obtain a special permit. Bonfires, fires built to burn Christmas Trees, rally fires, and similar fires are prohibited.~~

~~4.17 REFUSE: Any solid waste, including garbage and trash.~~

~~4.18 SALVAGE OPERATION: Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material including, but not limited to metals, chemicals, shipping containers or drums.~~

~~4.19 TRASH: Solids not considered to be highly flammable or explosive; including, but not limited to clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings and other similar materials.~~

~~4.20 WASTE: All solid, liquid or gaseous material, including, but not limited to, garbage, trash, household waste, construction or demolition debris, or other refuse including that resulting from the prosecution of any business or industry.~~

# 5.0 REGULATION

## ~~5.1 COMMUNITY WASTE DISPOSAL - No open burning shall be done at sites used for disposal of community trash, garbage and other wastes except when authorized for a specific period of time by the Davis County Fire Marshal on the basis of justifiable circumstances reviewed and weighted in terms of pollution effects and other relevant considerations at appropriate hearing following written application.~~

## ~~5.2 GENERAL PROHIBITIONS - No person shall burn any trash, garbage or other wastes, nor shall conduct any salvage operation, in any open fire except in conformity with the provisions of Sections 5.3 and 5.4 below.~~

## ~~5.3 PERMISSIBLE BURNING - WITHOUT PERMIT - When not prohibited by other laws or by other officials having jurisdiction and provided that a nuisance is not created, the following types of open burning are permissible without a permit.~~

~~5.3.1 In devices for the primary purpose of preparing food such as outdoor grills and fireplaces;~~

~~5.3.2 Recreational fires;~~

~~5.3.3 Indoor fireplaces and stoves;~~

~~5.3.4 Properly operated industrial flares for combustion of flammable gases.~~

## ~~5.4 PERMISSIBLE BURNING - WITH PERMIT – EXEMPTIONS - When not prohibited by other laws or other officials having jurisdiction and when a nuisance or threat to life or property is not created, the types of open burning listed below are permissible: (1) under the terms of individual permits issued by authorized local authority under a "Clearing Index" system approved and coordinated by the Utah State Department of Environmental Quality, or (2) when specifically exempted by the Davis County Fire Marshal and the Davis County Board of Health, following written application and appropriate hearing. Application under (2) may be made by political subdivisions of the state, as well as by any individual citizen.~~

~~5.4.1 Agricultural burning including on-premise orchard prunings, field stubble and weeds, and open burning to clear irrigation ditches. Tires, heavy fuel oil, or other materials which can cause severe air pollution shall not be used to start fires or keep fires burning.~~

~~5.4.2 Open burning of solid or liquid fuels or structures for removal of hazards or eyesores or for firemen training purposes when conducted under the direct control and supervision of organized fire departments.~~

~~5.4.3 Open burning, in remote areas, of highly explosive or other dangerous materials, for which there is no other known practical method of disposal.~~

~~5.4.4 Open burning for special purposes, or under unusual circumstances when approved by the Department following formal request.~~

## 5.1~~5~~ ~~BURNING PERMITS~~ Open Burning Permits

## Except for Agricultural or Horticultural Burning and Open Burning as specified in R307-202-6, a Person may not conduct open burning without a current and valid operating permit or approval issued by the Municipal Fire Authority. Open burning permits or approval for unincorporated Davis County will be issued by the Davis County Fire Marshal.

5.1.1 Minimum Requirements to Obtain a Permit.

 To obtain a permit, an applicant shall:

5.1.1.1 Submit Application and Required Information.

 Submit an application for a permit and any other required information to the Municipal Fire Authority prior to burning;

5.1.1.2 Pay fees.

 Pay any applicable fees at the time the application is submitted;

5.1.2 Permitted Burnings

 If the above requirements are met, the following burnings are permitted;

 5.1.2.1Prunings from trees, bushes, plants, dead or diseased trees, weed growth along ditch banks, for clearing these ditches for irrigation purposes.

 **5.2 Agricultural or Horticultural Burning**

5.2.1 Notification

A Person must notify the Municipal Fire Authority prior to conducting Agricultural or Horticultural Burning.

 **5.3 Recreational Fires**

5.3.1 Maximum Size.

Camp fires or fires used solely for recreational purposes where such fires are under the control of a responsible person and the combustible material is clean, dry wood or charcoal must have a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height.

 5.3.2 Fuel Type

Camp fires or fires used solely for recreational purposes where such fires are under the control of a responsible person must only use combustible material that is clean, dry wood or charcoal.

 5.3.3 Notification

If the above requirements are met, a person is exempt from notifying or obtaining approval from the local fire authority or Davis County Fire Marshall.

## ~~- The Health Department shall establish a procedure for issuance of burning permits under the terms of the Open Burning Regulation. Department, law enforcement, and fire department personnel shall devise a method of visual determination of any violations of the Code of Open Burning Regulations and shall institute appropriate enforcement procedures as necessary.~~

**6.0 PENALTY**

**6.1 Criminal Penalties Pursuant to UCA Section 26A-1-123**

6.1.1 Any Person who is found guilty by a court having proper jurisdiction of: violating any of the provisions of this regulation; or, violating, disobeying, or disregarding any Notice or Order issued under this regulation is guilty of a class B misdemeanor;

6.1.2 Any Person who is found guilty of a subsequent similar violation within two years of the initial violation is guilty of a class A misdemeanor;

6.1.3 Each day such violation is committed or permitted to continue shall constitute a separate violation;

6.1.4 Conviction under this section does not relieve the Person convicted from civil liability.

**6.2. Civil and Administrative Penalties**

The exercise of civil and administrative penalties shall be subject to the Board of Health’s Adjudicative Hearing Procedures Regulation.

6.2.1 Any Person who violates any of the provisions of this regulation or violates, disobeys, or disregards any Notice or Order issued under this regulation shall be subject to:

6.2.1.1 The Payment of costs incurred in the enforcement of any violation or notice issued, including costs attributable to any involved local agencies;

6.2.1.2 A penalty pursuant to the provisions of UCA Subsection 26-23-6(2).

~~Any person, association, corporation, or the officers of the association or corporation who violates any provision of this section is:~~

 ~~(i) on the first violation guilty of a class B misdemeanor; and
     (ii) on a subsequent similar violation within two years, guilty of a class A misdemeanor~~

**7.0 SEVERABILITY**

If any provision, clause, sentence, or paragraph of ~~these regulations~~ this regulation or the application or circumstances shall be held to be invalid, such invalidity shall not affect the other provisions or applications of ~~these regulations~~this regulation. The valid part of any clause, sentence, or paragraph of ~~these regulations~~ this regulation shall be given independence from the invalid provisions or application, and to this end the provisions of ~~these regulations~~ this regulation are ~~herby~~ declared to be severable.

# 8.0 FEES

8.1 Applicable fees

Any applicable fees as determined by the Municipal Fire Authority must be paid prior to burning.

IN WITNESS WHEREOF, the Davis County Board of Health has passed, approved and adopted this regulation this 12th day of October, 1971.

**Effective date: 12th day of October, 1971.**

**Revised and Amended: June 8, 1982.**

**Revised and Amended: August 9, 2011**

**Revised and Amended: July xx, 2016**

Davis County Board of Health

Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Scott Zigich

Board Chairman

Attest:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Brian Hatch,M.P.H.

Director of Health