

### **Section 3.30.214 Burning regulations.**

No person shall burn any material except as allowed by this Section.

- (A) **OPEN BURNING BAN.** An Open Burning Ban for all types of fires regulated under this section may be issued by the Director when conditions set forth in Section 3.30.214(B) (10) exist. The Director may grant individual exemptions to the Open Burning Ban.
- (B) **GENERAL REQUIREMENTS:** All burning under this Section shall be subject to the following:
- (1) All burning must comply with other state and federal laws including, but not limited to, 40 CFR 61 Subpart M (National Emissions Standards for Asbestos) and this Municipal Code.
  - (2) Except as specifically provided in this section, only clean wood products shall be burned unless otherwise stated, however, no rootballs or stumps shall be burned.
  - (3) No waste that is generated as a result of a routine business operation shall be burned.
  - (4) No asbestos containing material shall be burned.
  - (5) No poison ivy, poison oak, poison sumac or similar allergenic material shall be burned.
  - (6) No material contaminated or treated with preservatives, paint, coatings or pesticides shall be burned.
  - (7) The fire shall be extinguished if the fire creates a pollution problem, a threat to public health, a nuisance or a fire hazard.
  - (8) All fires must be attended at all times during burning until completely extinguished.
  - (9) Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.
  - (10) No burning shall be conducted during unfavorable meteorological conditions, including, but not limited to, temperature inversions, high winds, air stagnation, an Ozone Alert, a Particulate Alert, a Burn Ban, and air pollution episodes as defined in 326 IAC 1-5, or extremely dry conditions.
    - (a) During a Burn Ban, only fires in indoor heating units, outdoor cooking grills, patio fireplaces, patio firepits or chimineas are permitted.
    - (b) During Ozone Alerts, Particulate Alerts or air pollution episodes, only fires using kerosene, white gas, propane, Sterno or natural gas as fuels are permitted.
  - (11) Except for fires in indoor heating units, outdoor cooking grills, patio fireplaces, patio firepits or chimineas or as specifically provided in this Section, the EEPA must receive advance notice of and provide approval for all open burning.
- (C) **ACTIVITIES ALLOWED WITHIN THE CITY LIMITS WITH PRIOR APPROVAL FROM THE AGENCY.**

Within the city limits, the following types of burning are allowed, without an Open Burn Variance or Open Burn Waiver with prior approval from the Agency:

- (1) FIRE TRAINING: Burning of structures, mobile or modular homes, or vehicles for the purpose of fire training by professional or volunteer fire departments, subject to the requirements in 326 IAC 14-10 and with written notice to Evansville EPA.
  - (a) All asbestos containing material shall be removed before the burning of a structure, mobile or modular home, or vehicle.
  - (b) Synthetic materials such as, but not limited to floor tile, carpeting, fiberglass tub and shower enclosures and electrical wire shall be removed from the structure, mobile or modular home.
  - (c) All fluids, gasses used in the air conditioning system, electrical switches or devices containing mercury must be removed from the vehicle.
  - (d) The structure, mobile or modular home shall not have been demolished prior to training activities.
- (2) FIRE EXTINGUISHER TRAINING: Burning of clean petroleum products for fire extinguisher training, subject to the conditions of this Section and the following conditions:
  - (a) The Evansville EPA must approve the training and the local fire department must be notified of the training at least twenty-four (24) hours in advance of the date, time, and location of the burning.
  - (b) All burning shall take place in a noncombustible container or enclosure, enclosed on all sides and a bottom.
  - (c) A total of no more than fourteen (14) gallons of fuel may be burned per day per training event.
  - (d) Only one (1) fire shall be allowed to burn at a time.
  - (e) All burning shall be conducted in such a manner so as to prevent any possibility of soil contamination.
- (3) RECREATIONAL OR CEREMONIAL FIRES, such as:
  - (a) Ceremonial fires for activities such as flag retirement.
  - (b) Fires on the ground used solely for recreational or cooking purposes.
  - (c) Burning conducted for recreational or ceremonial purposes shall be subject to the conditions of this Section and the following conditions:
    - (i) The fire shall be no larger than three feet (3') diameter and two feet (2') high in size.
    - (ii) The fire shall not be ignited prior to two (2) hours before the recreational activity is to take place and shall be extinguished upon conclusion of the activity.
    - (iii) The fire shall not be used for disposal purposes.
    - (iv) The fire shall not take place within five hundred (500) feet of any fuel storage area or pipeline.

- (vi) Only one (1) fire shall be allowed to burn at a time, unless additional fires are specifically approved by the Director.
- (4) **OUTDOOR HEATING** for purposes such as providing heat for persons manning picket lines, using clean wood products in a noncombustible container that is sufficiently vented to induce adequate primary combustion, and has enclosed sides and a bottom. Burning shall be subject to the conditions of this Section and to these additional conditions:
  - (a) Burning shall only occur between October 1 and April 30 unless otherwise approved by the Director.
  - (b) Burning shall not be conducted for the purpose of disposal.
- (5) **MAINTENANCE PURPOSES:** The following activities shall be subject to the requirements of this Section:
  - (a) Burning of vegetation from a farm, orchard, nursery or tree farm.
  - (b) Land management burns conducted by representatives or contractors of the U.S. Department of Agriculture, the U.S. Forest Service, the Indiana Department of Natural Resources, Vanderburgh County or the City of Evansville to facilitate prescribed burning on properties for wildlife habitat maintenance, forestry purposes, natural area management, or ecosystem management. Only vegetation and clean petroleum products may be burned.
  - (c) Burning of clean petroleum products for the purpose of maintaining or repairing railroad tracks, including the railroad right-of-way, but not including railroad ties.
- (6) Other purposes as approved pursuant to an Open Burn Waiver (3.30.214 (E)).

**(D) ACTIVITIES ALLOWED OUTSIDE THE CITY LIMITS WITH PRIOR APPROVAL FROM THE AGENCY:** Outside the City limits, but within the jurisdiction of the Evansville EPA, open burning is allowed for the following items, with prior approval from the Agency:

- (1) **FIRE TRAINING:** Burning of structures, mobile or modular homes, or vehicles for the purpose of fire training by professional or volunteer fire departments, subject to the requirements in 326 IAC 14-10 and with written notice to Evansville EPA.
  - (a) All asbestos containing material shall be removed before the burning of a structure, mobile or modular home, or vehicle.
  - (b) Synthetic materials such as, but not limited to floor tile, carpeting, fiberglass tub and shower enclosures and electrical wire shall be removed from the structure, mobile or modular home.
  - (c) All fluids, gasses used in the air conditioning system, electrical switches or devices containing mercury must be removed from the vehicle.
  - (d) The structure, mobile or modular home shall not have been demolished prior to training activities.

- (2) FIRE EXTINGUISHER TRAINING: Burning of clean petroleum products for fire extinguisher training, subject to the conditions of this Section and the following conditions:
  - (a) The Evansville EPA must approve the training and the local fire department must be notified of the training at least twenty-four (24) hours in advance of the date, time, and location of the burning.
  - (b) All burning shall take place in a noncombustible container or enclosure, enclosed on all sides and a bottom.
  - (c) A total of no more than fourteen (14) gallons of fuel may be burned per day per training event.
  - (d) Only one (1) fire shall be allowed to burn at a time.
  - (e) All burning shall be conducted in such a manner so as to prevent any possibility of soil contamination.
- (3) RECREATIONAL OR CEREMONIAL FIRES, such as:
  - (a) Ceremonial fires for activities such as flag retirement.
  - (b) Fires on the ground used solely for recreational or cooking purposes.
  - (c) Burning conducted for recreational or ceremonial purposes shall be subject to the conditions in this Section and the following conditions:
    - (i) The fire shall be no larger than three feet (3') diameter and two feet (2') high in size.
    - (ii) The fire shall not be ignited prior to two (2) hours before the recreational activity is to take place and shall be extinguished upon conclusion of the activity.
    - (iii) The fire shall not be used for disposal purposes.
    - (iv) The fire shall not take place within five hundred (500) feet of any fuel storage area or pipeline.
    - (vi) Only one (1) fire may be allowed to burn at a time, unless additional fires are specifically approved by the Director.
- (4) OUTDOOR HEATING for purposes such as providing heat for persons manning picket lines, using clean wood products in a noncombustible container that is sufficiently vented to induce adequate primary combustion, and has enclosed sides and a bottom. Burning shall be subject to the conditions of this Section and to these additional conditions:
  - (a) Burning shall only occur between October 1 and April 30 unless otherwise approved by the Director.
  - (b) Burning shall not be conducted for the purpose of disposal.
- (5) MAINTENANCE PURPOSES: The following activities shall be subject to the requirements of this Section:
  - (a) Burning of vegetation from a farm, orchard, nursery or tree farm.
  - (b) Land management burns conducted by representatives or contractors of the U.S. Department of Agriculture, the U.S. Forest Service, the Indiana Department of Natural Resources,

Vanderburgh County or the City of Evansville to facilitate prescribed burning on properties for wildlife habitat maintenance, forestry purposes, natural area management, or ecosystem management. Only vegetation and clean petroleum products may be burned

- (c) Land management burns by persons cultivating prairie habitats on private property consisting of at least five (5) acres.
  - (d) Burning of clean petroleum products for the purpose of maintaining or repairing railroad tracks, including the railroad right-of-way, but not including railroad ties.
  - (e) Burning of clean wood by the owner or occupant of a single family dwelling, subject to the conditions of this section and the following conditions:
    - (i) Burning shall be conducted in a noncombustible container.
    - (ii) The noncombustible container shall have enclosed sides and a bottom.
    - (iii) The noncombustible container shall be sufficiently vented to introduce adequate primary combustion.
    - (iv) Burning is prohibited in mobile home parks, apartment complexes, condominium complexes, or similar multi-family dwellings.
- (6) **SPECIFIC PURPOSES:** Specific purpose fires listed as follows:
- (a) Waste oil burning, where waste oil originates from spillage during testing of an oil well and has been collected in a properly constructed and located burn off pit. Burning shall be subject to the conditions in this Section and these additional conditions:
    - (i) Each oil pit may be burned once every two (2) months.
    - (ii) The fire must be extinguished within thirty (30) minutes of ignition.
  - (b) Burning of marijuana by federal, state, and local law enforcement agencies. Burning shall be subject to the conditions in this Section and only clean petroleum products shall be used for ignition purposes.
  - (c) Burning of vegetation by fire departments and firefighters to create fire breaks for purposes of extinguishing an existing fire. Such burning is not subject to the conditions of this Section. The Agency need not be notified in advance regarding this activity.
- (7) Other fires as approved pursuant to Open Burn Waiver (3.30.214 (E)), Open Burn Variance (3.30.214 (F)), Emergency Variance (3.30.214(H)) or Air Curtain Destructors (3.30.214 (K)).

**(E) OPEN BURN WAIVER.** Within the jurisdiction of the Evansville EPA, an Open Burn Waiver for the purposes listed in this Subsection, shall be reviewed on an individual basis by the Director provided that:

- (1) A written application is filed with the Evansville EPA.
- (2) Open Burn Waivers shall be issued for the day of the event only.

- (3) An Open Burn Waiver shall be granted only under the following conditions unless otherwise stipulated in the Open Burn Waiver and shall in all instances be subject to the conditions of this Section:
- (a) There shall be not more than five (5) residences or structures within five hundred (500) feet of the proposed burning site.
  - (b) No burning shall take place within one hundred (100) feet of any structure or power line or three hundred (300) feet of a frequently traveled road, fuel storage area, or pipeline.
  - (c) There have been no open burning violations at the site of the proposed burning or by the applicant within the preceding thirty-six (36) months.
  - (d) The Agency may also request the responding Fire Department to inspect the proposed site and will consider the Fire Department's recommendations when reviewing the Open Burn Waiver application.
  - (e) After review and inspection, the application shall be approved in writing by the Director, so long as it meets the requirements of this Section, the remainder of the Municipal Code and the conditions imposed by the Director which shall be deemed reasonably necessary to protect public safety and prevent the creation of a nuisance.
  - (f) The Open Burn Waiver shall be made available at the burning site to state or local officials upon request.
- (4) **BON FIRES.** An Open Burn Waiver may be issued for Bon Fires (larger than three (3) feet in diameter and two (2) feet high) for the purposes of celebrating school pep rallies, or sponsored by other non-profit organizations, within the jurisdiction of the Evansville EPA. The Bon Fires shall be subject to the conditions of this Section and the following conditions:
- (a) Only clean wood products, or charcoal may be burned. Clean petroleum products may be used to assist in starting the fire.
  - (b) The fire shall not be ignited prior to two (2) hours before the recreational activity is to take place and shall be extinguished upon conclusion of the activity.
  - (c) The fire shall not be used for disposal purposes.
  - (d) Only one (1) fire may be allowed to burn at a time.
  - (e) The burn pile may not exceed (10'x10'x10') or (1000 ft.<sup>3</sup>).
- (5) **EXPLOSIVE OR DANGEROUS MATERIALS:** Burning of highly explosive or other dangerous materials for which no alternative disposal method exists or where transportation of such materials is hazardous.
- (F) OPEN BURN VARIANCE:**
- (1) Outside the City limits, but within the jurisdiction of the Evansville EPA, an Open Burn Variance may be issued for the following activities:
    - (a) Burning of clean wood products and/or natural growth for the purpose of land management.

- (b) Burning of natural growth derived from a clearing operation, i.e., removal of natural growth for change in use of the land where every reasonable means possible shall be utilized to reclaim the cleared, marketable trees or portions thereof for lumber, pulpwood, firewood, etc. before a variance will be considered.
- (2) Approval of an Open Burn Variance shall be contingent upon:
- (a) A written application is filed with the Evansville EPA.
  - (b) A fee, as provided for in Section 3.30.224 has been paid to the Evansville EPA.
  - (c) A representative of the Evansville EPA must inspect and approve the proposed site.
  - (d) The Agency may also request the responding Fire Department to inspect the proposed site and will consider the Fire Department's recommendations when reviewing the Open Burn Variance application.
  - (e) There have been no open burning violations at the site of the proposed burning or by the applicant within the preceding thirty-six (36) months.
- (3) An Open Burn Variance shall be subject to the conditions of this Section and the following conditions:
- (a) The fire shall not be within:
    - 100 ft. of a structure owned by another party;
    - 100 ft. of a property line;
    - 100 ft. of a power line;
    - 300 ft. of a frequently traveled roadway;
    - 300 ft. of fuel storage facility
    - 300 ft. of a storage facility holding highly flammable materials. Highly flammable materials shall be defined as materials having a National Fire Protection Association (NFPA) rating of "3" or higher; or
    - 300 ft. of a hazardous material storage facility. Hazardous materials shall be defined as materials having a National Fire Protection Association rating of "3" or higher.
  - (b) Fires shall be conducted on the same site of burning as indicated on the application.
  - (c) The burn pile shall not exceed (10'x10'x10') or (1000 ft.<sup>3</sup>)
  - (d) Burning shall be conducted only during daylight hours.
  - (e) Only one (1) pile shall be burned at a time.
  - (f) The approved permit shall be available at the burning site to state and local officials upon request.
  - (g) The Director may include additional conditions or requirements as necessary to protect public safety and prevent the creation of a nuisance.
- (4) An Open Burn Variance shall be valid for thirty (30) calendar days from the date of issuance.

- (a) Upon request by the applicant, the Open Burn Variance may be extended for an additional fourteen (14) calendar days.
  - (b) The Director may consider if there have been any complaints regarding the Open Burn Variance or violations of this Section during the thirty (30) day period when granting an extension.
- (5) Failure to comply with the requirements of this Section or the additional requirements as listed in (a) through (g) above, may result in the termination of the burning; revocation of the Open Burn Variance, issuance of Letters of Violation and/or monetary penalties.
- (G) EMERGENCY VARIANCE.** Burning within the City limits or within the four mile jurisdiction of the Evansville EPA may be conducted with prior approval of the Director of the Evansville EPA, Fire Chief, Police Chief or Emergency Management Agency Director in an emergency situation only for the following:
  - (1) Spilled or escaping liquid or gaseous petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire or health hazard or air or water pollution problem.
  - (2) Clean wood waste, vegetation, or deceased animals resulting from a natural disaster where failure to burn would result in an imminent health or safety hazard.
- (H) AIR CURTAIN DESTRUCTORS** (also known as Air Curtain Incinerators).
  - (1) **APPLICATION:** An owner or operator of an air curtain destructor shall submit a written application to the Agency to obtain a permit prior to its installation or operation at a new site. The owner or operator shall not operate the air curtain destructor unless the owner or operator holds a valid permit from the Agency and shall maintain the permit at the air curtain destructor site at all times for verification.
  - (2) **TERM:** An air curtain destructor permit shall be valid for sixty (60) calendar days.
  - (3) **APPROVAL CONDITIONS:** The Director may consider the applicant's preceding thirty six (36) months compliance with Sections 195 through 251 of the Municipal Code when reviewing an air curtain destructor application.
  - (4) In order to obtain an air curtain destructor permit, the owner or operator shall ensure that installation and operation of such air curtain destructor will comply with subdivisions (a) through (v) of this Subsection.
  - (5) Burning shall be terminated immediately at any air curtain destructor site, which does not comply with this Section. The Director may add conditions to the permit as necessary to prevent a public nuisance or protect the public health and safety.
    - (a) Only untreated wood products shall be burned, except for minimal amounts of uncontaminated petroleum products which may be used for ignition. Merchantable wood products shall not be burned.



- (b) Burning shall not be conducted during unfavorable meteorological conditions, including, but not limited to, high winds or air stagnation, extremely dry conditions or when an air pollution alert, an Ozone Alert, a Particulate Alert, or a Burn Ban has been declared.
- (c) The air curtain destructor shall not be operated prior to one (1) hour after sunrise, the fire shall not be fed after two (2) hours before official sunset, the fire must be completely extinguished by official sunset, and at least one (1) foot of dirt must be placed over the ashes in the pit by official sunset.
- (d) An air curtain destructor site shall be located no less than five hundred (500) feet from any private residence, public roadway power line, structure, business, pipeline or fuel storage area.
- (e) If it is not possible for the air curtain destructor to be located in accordance with Section 3.30.214 (H) (5) (d), the owner or operator may request the Director grant an exception to allow the air curtain destructor to be located not less than two hundred fifty (250) feet from any private residence, public roadway, power line, structure, business, pipeline or fuel storage area.
- (f) An air curtain destructor site shall not be located within one thousand (1000) feet of a landfill or transfer station as defined in 329 IAC 10-2.
- (g) An air curtain destructor shall not be permanently located at any site.
- (h) An air curtain destructor shall be attended at all times while burning and until combustion is complete. Adequate firefighting equipment shall be maintained at an air curtain destructor site at all times during operation.
- (i) Burning shall not create or contribute to an air pollution problem, a public nuisance, or a fire hazard.
- (j) An air curtain destructor and pit shall be maintained and operated according to the manufacturer's specifications and recommendations.
- (k) The owner or operator shall provide notification in advance to the Agency of the dates and times that the air curtain destructor will be in operation.
- (l) The fan blades of the air curtain destructor shall be regularly cleaned to reduce buildup of dirt and debris.
- (m) All canisters must be properly aligned, connected, and maintained so as to prevent leaks between adjacent canisters.
- (n) The nozzles must be maintained in good working condition. The minimum average velocity at the nozzle must be nine thousand fifty (9,050) feet per minute, and the airflow at the nozzle must be a minimum of seven hundred fifty (750) cubic feet per minute per foot of length.

- (o) The engine running the air curtain destructor fan must be maintained in proper working condition.
  - (p) The width of the pit shall not extend beyond the length of the nozzle action.
  - (q) The distance from the air curtain destructor to the opposite wall of the pit shall not exceed ten (10) feet.
  - (r) The depth of the pit shall be of such distance to allow all burning material to be below the curtain of air created by the air curtain destructor.
  - (s) All nozzles shall be aligned and directed toward the opposite wall so that the air strikes the opposite wall at least three (3) feet below the grade upon which the air curtain destructor is located so that the air tumbles in the pit.
  - (t) The air curtain destructor shall not be at a higher elevation than the elevation of the opposite wall.
  - (u) The pit shall be enclosed on four (4) sides, and the walls shall be perpendicular to level ground.
  - (v) Material being loaded into the pit shall be picked up and dropped into the pit, and at no time shall the material protrude through the curtain of air while burning.
- (6) **APPROVAL REVOCATION:** The Director may, upon good cause, revoke an air curtain destructor permit if the owner or operator:
- (a) Violates any requirements of this Section.
  - (b) Violates any condition added to the permit.
  - (c) Violates any other state or local rule or ordinance pertaining to the installation or operation of air curtain destructors.
  - (d) Falsifies information on an application for a permit.
  - (e) Operates an air curtain destructor in a manner which is hazardous to the public health or safety.
- (7) The fees hereunder shall be as provided in Section 3.30.224.
- (I) SALVAGE.** No person shall conduct any salvage operation or open dump by open burning. No person shall burn, cause, or allow the burning of any waste in a manner which violates Section 3.30.214.
- (J) VIOLATION OF THIS SECTION.** Violation of this section may result in revocation of waiver, permit, or variance, and the issuance of a citation or request for legal action for the collection of the fines provided by Section 3.30.251 or other enforcement provided in Section 1.10.17.
- (K) RESPONSIBILITY FOR FIRE.** Any property owner or person who allows the accumulation or existence of combustible material, which constitutes or contributes to a fire found to be in violation of this Section may not refute responsibility for violation of this section on the basis that said fire was set by vandals, was accidental, or an act of God.