

# ORDINANCE NO. 07-13

## ROLL CALL

VOTING	YES	NO
G. WAYNE ANDERSEN <i>Mayor (votes only in case of tie)</i>		
ROD DART <i>Council member</i>	X	
RICHARD M. DAVIS <i>Council member</i>	X	
BRANDON B. GORDON <i>Council member</i>	X	
STEVE LEIFSON <i>Council member</i>	X	
KEIR A. SCUBES <i>Council member</i>	ABSENT	

I MOVE this ordinance be adopted: Councilmember Leifson  
I SECOND the foregoing motion: Councilmember Dart

## ORDINANCE No. 07-13

### AN ORDINANCE AMENDING THE SPANISH FORK MUNICIPAL CODE TO CONFORM TO NEW STATE RULES CONCERNING BURNING

WHEREAS, the State of Utah, Division of Environmental Quality has adopted new rules for open burning, which are in conflict with the existing Spanish Fork requirements, necessitating the need to amend the City Code concerning burning requirements;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

#### I.

Spanish Fork Municipal Code §8.28.040 is hereby amended as follows:

#### 8.28.040 Outdoor Burning

A. Spanish Fork City hereby expressly prohibits outdoor burning with the

exceptions identified hereafter and in Utah Code Annotated §11-7-1(2)(a).

- B. Open burning shall be permitted in the following instances:
1. In devices for the primary purpose of preparing food, such as outdoor grills and fireplaces;
  2. Campfires and fires used solely for recreational purposes where such fires under the control of a responsible person and the fuel is clean, dry wood or charcoal;
  3. In indoor fireplaces and residential solid fuel burning devices except as provided in rules promulgated by the Division of Environmental Quality and published in the Utah Administrative Code;
  4. Burning of prunings from trees, bushes, and plants, including dead or diseased trees, bushes, and plants, including stubble, when such burning is incident to horticultural or agricultural operations and the burning is located on property which is *not* zoned residential;
  5. Burning of weed growth along ditch banks for clearing ditches for irrigation purposes;
  6. Controlled heating of orchards or other crops during the frost season to lessen the chances of their being frozen, so long as the emissions are consistent with the requirements identified in Utah Administrative Code, R307-202-3(3).
- C. Open burning shall be permitted in the following instances:
1. During open burn periods, with a properly issued permit, and in accordance with the permit requirements set forth in Utah Administrative Code, R307-202-7.

In the event that the Spanish Fork City Fire Department receives a complaint of violation of any of the above instances, and an investigation by the Fire Department determines that there is a violation, the Fire Department may extinguish any such blaze or fire.

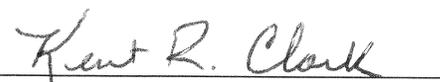
II.

This ordinance shall be effective twenty days after passage and publication.

Dated this 7th day of May, 2013

  
G. WAYNE ANDERSEN, Mayor

Attest:

  
KENT R. CLARK, City Recorder



## UTAH ADMINISTRATIVE CODE

The Utah Administrative Code is the body of all effective administrative rules as compiled and organized by the Division of Administrative Rules (Subsection 63G-3-102(5); see also Sections 63G-3-701 and 702).

NOTE: For a list of rules that have been made effective since April 1, 2013, please see the codification segue page.

**NOTE TO RULEFILING AGENCIES: Use the RTF version for submitting rule changes.**

Download the RTF file

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### **R307. Environmental Quality, Air Quality.**

#### **Rule R307-202. Emission Standards: General Burning.**

As in effect on April 1, 2013

##### **Table of Contents**

- R307-202-1. Applicability.
- R307-202-2. Definitions.
- R307-202-3. Exclusions.
- R307-202-4. Prohibitions.
- R307-202-5. General Requirements.
- R307-202-6. Open Burning - Without Permit.
- R307-202-7. Open Burning - With Permit.
- R307-202-8. Special Conditions.
- KEY
- Date of Enactment or Last Substantive Amendment
- Notice of Continuation
- Authorizing, Implemented, or Interpreted Law

##### **R307-202-1. Applicability.**

R307-202-4 through R307-202-8 applies to general burning within incorporated community under the authority of county or municipal fire authority.

##### **R307-202-2. Definitions.**

(1) "Attainment areas" means any area that meets the national primary and secondary ambient air quality standard (NAAQS) for the pollutant.

(2) "County or municipal fire authority" means the public official so designated with the responsibility, authority, and training to protect people, property, and the environment from fire, within their respective area of jurisdiction.

(3) "Federal Class I Area" means an area that consists of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. See Clean Air Act section 162(a).

(4) "Fire hazard" means a hazardous condition involving combustible, flammable, or explosive material that represents a substantial threat to life or property if not immediately abated, as declared by the county or municipal fire authority.

##### **R307-202-3. Exclusions.**

As provided in Section 19-2-114, the provisions of R307-202 are not applicable to:

- (1) Except for areas zoned as residential, burning incident to horticultural or agricultural operations of:
  - (a) Prunings from trees, bushes, and plants; and
  - (b) Dead or diseased trees, bushes, and plants, including stubble.

- (2) Burning of weed growth along ditch banks for clearing these ditches for irrigation purposes;
- (3) Controlled heating of orchards or other crops during the frost season to lessen the chances of their being frozen so long as the emissions from this heating do not cause or contribute to an exceedance of any national ambient air quality standards and is consistent with the federally approved State Implementation Plan; and
- (4) The controlled burning of not more than two structures per year by an organized and operating fire department for the purpose of training fire service personnel when the National Weather Service clearing index is above 500. See also Section 11-7-1(2)(a).

#### **R307-202-4. Prohibitions.**

- (1) No open burning shall be done at sites used for disposal of community trash, garbage and other wastes.
- (2) No person shall burn under this rule when the director issues a public announcement under R307-302. The director will distribute such announcement to the local media notifying the public that a mandatory no-burn period is in effect for the area where the burning is to occur.

#### **R307-202-5. General Requirements.**

- (1) Except as otherwise provided in this rule, no person shall set or use an open outdoor fire for the purpose of disposal or burning of petroleum wastes; demolition or construction debris; residential rubbish; garbage or vegetation; tires; tar; trees; wood waste; other combustible or flammable solid, liquid or gaseous waste; or for metal salvage or burning of motor vehicle bodies.
- (2) The county or municipal fire authority shall approve burning based on the predicted meteorological conditions and whether the emissions would impact the health and welfare of the public or cause or contribute to an exceedance of any national ambient air quality standard.
- (3) Nothing in this regulation shall be construed as relieving any person conducting open burning from meeting the requirements of any applicable federal, state or local requirements concerning disposal of any combustible materials.
- (4) The county or municipal fire authority that approves any open burning permit will retain a copy of each permit issued for one year.

#### **R307-202-6. Open Burning - Without Permit.**

The following types of open burning do not require a permit when not prohibited by other local, state or federal laws and regulations, when it does not create a nuisance, as defined in Section 76-10-803, and does not impact the health and welfare of the public.

- (1) Devices for the primary purpose of preparing food such as outdoor grills and fireplaces;
- (2) Campfires and fires used solely for recreational purposes where such fires are under control of a responsible person and the combustible material is clean, dry wood or charcoal; and
- (3) Indoor fireplaces and residential solid fuel burning devices except as provided in R307-302-2.

#### **R307-202-7. Open Burning - With Permit.**

- (1) No person shall knowingly conduct open burning unless the open burning activities may be conducted without a permit pursuant to R307-202-6 or the person has a valid permit for burning on a specified date or period, issued by the county or municipal fire authority having jurisdiction in the area where the open burning will take place.
- (2) A permit applicant shall provide information as requested by the county or municipal fire authority. No permit or authorization shall be deemed valid unless the issuing authority determines that the applicant has provided the required information.
- (3) Persons seeking an open burning permit shall submit to the county or municipal fire authority an application on a form provided by the director for each separate burn.
- (4) A permit shall be valid only on the lands specified on the permit.
- (5) No material shall be burned unless it is clearly described and quantified as material to be burned on a valid permit.
- (6) No burning shall be conducted contrary to the conditions specified on the permit.
- (7) Any permit issued by a county or municipal fire authority shall be subject to the local, state, and federal rules and regulations.
- (8) Open burning is authorized by the issuance of a permit, as stipulated within this rule, for specification in R307-202-7(10). These permits can only be issued when not prohibited by other local, state, or federal laws and regulations and when a nuisance as defined in Section 76-10-803 is not created and does not impact the health and welfare of the public.
- (9) Individual permits, as stipulated within this rule, for the types of burning listed in R307-202-7(10) may

be issued by a county or municipal fire authority when the clearing index is 500 or greater. When the clearing index is below 500, all permits issued for that day will be null and void until further notice from the county or municipal fire authority. Additionally, anyone burning on the day when the clearing index is below 500 or is found to be violating any part of this rule shall be liable for a fine in accordance with R307-130.

(10) Types of open burning for which a permit may be granted are:

(a) Except in nonattainment and maintenance areas, open burning of tree cuttings and slash in forest areas where the cuttings accrue from pulping, lumbering, and similar operations, but excluding waste from sawmill operations such as sawdust and scrap lumber.

(b) Open burning of trees and brush within railroad rights-of-way provided that dirt is removed from stumps before burning, and that tires, oil more dense than #2 fuel oil, tar, or other materials which can cause severe air pollution are not present in the materials to be burned, and are not used to start fires or to keep fires burning.

(c) Open burning of a fire hazard that a county or municipal fire authority determines cannot be abated by any other viable option.

(d) Open burning of highly explosive materials when a county or municipal fire authority, law enforcement agency or governmental agency having jurisdiction determines that onsite burning or detonation in place is the only reasonably available method for safely disposing of the material.

(e) Open burning for the disposal of contraband in the possession of public law enforcement personnel provided they demonstrate to the county or municipal fire authority that open burning is the only reasonably available method for safely disposing of the material.

(f) Open burning of clippings, bushes, plants and prunings from trees incident to property clean-up activities, including residential cleanup, provided that the following conditions have been met:

(i) Within only the counties of Washington, Kane, San Juan, Iron, Garfield, Beaver, Piute, Wayne, Grand and Emery, the county or municipal fire authority may issue a permit between March 1 and May 30 when the clearing index is 500 or greater. The county or municipal fire authority may issue a permit between September 15 to November 15 for such burning to occur when the state forester has approved the burning window under Section 65A-8-211 and the clearing index is 500 or greater.

(ii) In all other areas of the state, the county or municipal fire authority may issue a permit between March 30 and May 30 for such burning to occur when the clearing index is 500 or greater. The county or municipal fire authority may issue a permit between September 15 and October 30 for such burning to occur when the state forester has approved the burning window under Section 65A-8-211 and the clearing index is 500 or greater.

(iii) Such burnings occur in accordance with state and federal requirements;

(iv) Materials to be burned are thoroughly dry; and

(v) No trash, rubbish, tires, or oil are included in the material to be burned, used to start fires, or used to keep fires burning.

(g) Except for nonattainment and maintenance areas, the director may grant a permit for types of open burning not specified in R307-202-7(3) on written application if the director finds that the burning is consistent with the federally approved State Implementation Plan and does not cause or contribute to an exceedance of any national ambient air quality standards.

(i) This permit may be granted once the director has reviewed the written application with the requirements and criteria found within this rule at R307-202-7.

(ii) Open Burning Permit Criteria.

(A) The director or the county or municipal fire authority shall consider the following factors in determining whether, and upon what conditions, to issue an open burning permit:

(I) The location and proximity of the proposed burning to any building, other structures, the public, and federal Class I areas that might be impacted by the smoke and emissions from the burn;

(II) Burning will only be conducted when the clearing index is 500 or above; and

(III) Whether there is any practical alternative method for the disposal of the material to be burned.

(B) Methods to minimize emissions and smoke impacts may include, but are not limited to:

(I) The use of clean auxiliary fuel;

(II) Drying the material prior to ignition; and

(III) Separation for alternative disposal of materials that produce higher levels of emissions and smoke during the combustion process.

(C) Open burning permits are not valid during periods when the clearing index is below 500 or publicly announced air pollution emergencies or alerts have been declared in the area of the proposed burn.

(D) For burns of piled material, all piles shall be reasonably dry and free of dirt.

(E) Open burns shall be supervised by a responsible person who shall notify the local fire department and

have available, either on-site or by the local fire department, the means to suppress the burn if the fire does not comply with the terms and conditions of the permit.

(F) All open burning operations shall be subject to inspection by the director or county or municipal fire authority. The permittee shall maintain at the burn site the original or a copy of the permit that shall be made available without unreasonable delay to the inspector.

(G) If at any time the director or the county or municipal fire authority granting the permit determines that the permittee has not complied with any term or condition of the permit, the permit is subject to partial or complete suspension, revocation or imposition of additional conditions. All burning activity subject to the permit shall be terminated immediately upon notice of suspension or revocation. In addition to suspension or revocation of the permit, the director or county or municipal fire authority may take any other enforcement action authorized under state or local law.

#### **R307-202-8. Special Conditions.**

(1) Open burning for special purposes or under unusual or emergency circumstances may be approved by the director if it is consistent with the federally approved State Implementation Plan and does not cause or contribute to an exceedance of any national ambient air quality standards.

(a) This permit may be granted once the director has reviewed the written application with the requirements and criteria in R307-202-7.

#### **KEY**

air pollution, open burning, fire authority

#### **Date of Enactment or Last Substantive Amendment**

July 31, 2012

#### **Notice of Continuation**

March 4, 2010

#### **Authorizing, Implemented, or Interpreted Law**

19-2-104; 11-7-1(2)(a); 65A-8-211; 76-10-803

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## **ADDITIONAL INFORMATION**

### **CONTACT**

For questions regarding the content or application of rules under Title R307, please contact the promulgating agency (Environmental Quality, Air Quality). A list of agencies with links to their homepages is available at <http://www.utah.gov/government/agencylist.html> or from <http://www.rules.utah.gov/contact/agencycontacts.htm>.