

Shelby County Air Code Section 3-16 Open Burning

EDITOR’S NOTE: Section 3-16 is applicable only in the unincorporated areas of Shelby County.

- (a) No person shall cause, suffer, allow or permit open burning of refuse, garbage, trade waste, trees, limbs, brush, or materials from salvage operations. The open burning of tires and other rubber products, vinyl shingles and siding, other plastics, asphalt shingles and other asphalt roofing materials, and/or asbestos containing materials is expressly prohibited, and such materials shall not be lawful in any open burning conducted under the provisions of Section 3-16.

- (b) Open burning as listed below may be conducted without permit subject to fire department approval and provided further that no public nuisance is or will be created by the open burning.
 - (1) Fires used for the cooking of food or for ceremonial, recreational or comfort-heating purposes including barbecues and outdoor fireplaces. This exception does not include commercial food preparation facilities and their operation.

 - (2) Fires set for the training and instruction of firemen or for research in fire protection or prevention. However, routine demolition of structures via supervised open burning by responsible fire control persons will not be considered fire training. Additionally, the person responsible for such burning, unless conducted at a recognized fire training academy, must certify compliance with the following requirements by written statement. The certification must be delivered to the Pollution Control Section of the Memphis and Shelby County Health Department (Department) at least ten (10) working days prior to commencing the burn:
 - (i) The open burning is being conducted solely for fire training purposes.

 - (ii) All vinyl siding, carpet, vinyl flooring, asphalt roofing materials, and any other materials expressly prohibited in Subsection 3-16(a), have been removed.

 - (iii) All regulated asbestos containing materials have been removed in accordance with Section 3-25, Reference 1200-3-11-.02(2)(d)3.(x).

 - (iv) A traffic hazard will not be caused by the air contaminants generated by the fire training.

 - (v) A public nuisance will not be created by the open burning.

 - (3) Smokeless flares or safety flares for the combustion of waste gases provided other applicable sections of this Section are met.

 - (4) Fires used for the reduction of leaves on the premises on which they fall by the person in control of the premises.

 - (5) Fire used for carrying out recognized agricultural procedures necessary for the production or harvesting of crops or for the control of diseases or pests, in accordance with practices acceptable to the Department.

 - (6) Fires for the burning of bodies of dead animals, including poultry, where no other safe and/or practical disposal method exists.

- (c) Exceptions to subsection (a) may be permitted for vegetation if all of the following conditions are met when an air curtain destructor is used:
 - (1) A request is filed with the health officer giving the reason why no method except open burning can be employed to dispose of the material involved, the amount and kind of material to be burned, the exact location where the burning will take place, and the dates when the open burning will be done. All changes in types of, or increase in quantities of, materials burned must be preceded by notification. The notification must be delivered to the Department at least ten (10) working days prior to commencing the change in the burn.

 - (2) The person applying for the permit certifies, by written statement, compliance with following distance

requirements, at a minimum:

- (i) The open burning site must be at least five hundred (500) feet from any Federal and from any State highway; and
 - (ii) The open burning site must be at least one thousand (1,000) feet from any school, national or state park, national reservation, national or state forest, wildlife area, and/or residence not on the same property as the air curtain destructor; and
 - (iii) The open burning site must be at least one-half (1/2) mile from any airport, nursing home or hospital.
- (3) The plume from the air curtain destructor must meet the visible emission standards specified in Section 3-17, Reference 1200-3-5-.01(1); however, for certain materials the Department may allow one start-up period in excess of the standard, per day, not to exceed 20 minutes in 24 hours.
 - (4) All material to be burned must be dry and in other respects be in a state to sustain good combustion. Open burning must be conducted when ambient conditions are such that good dispersion of combustion products will result. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.
 - (5) No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn. No fire shall be ignited during any exceedance of the National Ambient Air Quality Standard for ozone, oxides of nitrogen, carbon monoxide, or particulate matter. Permittee is required to contact the Department's Computerized Local Air Index Reporting system (CLAIR) recorded line at (901) 544-7489 or 544-7490 before igniting a fire to determine if it is a Burning Day or a No-Burning Day.
 - (6) Approval is received from the Health Officer in writing.
 - (7) Permission is secured from the fire department in the jurisdiction involved.
 - (8) The burning shall be done between the hours of 9:00 a.m. and 4:00 p.m. or as authorized by the health officer.

This approval shall not relieve the person responsible for such burning from the consequences of any damages, injuries, or claims resulting from such burning.

(d) Definitions.

- (1) "Air Curtain Destructor" is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a burn chamber with vertical walls in such a manner as to maintain a curtain of air over the surface of the burn chamber and a recirculating motion of air under the curtain. The use of an air curtain destructor is considered controlled open burning.
- (2) "Air Pollution Emergency Episode" is defined as air pollution alerts, warnings, or emergencies declared by the Health Officer during adverse air dispersion conditions that may result in harm to public health or welfare.
- (3) "Natural Disaster" is defined as any event commonly referred to as an "Act of God" and includes but is not limited to the following weather related or naturally occurring categories of events: tornadoes, hail and wind storms, snow or ice storms, flooding, and earthquakes.
- (4) "Open Burning" is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack.
- (5) "Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, an agency, authority, commission, or department of the United States government, or of the State of Tennessee government; or any other legal entity, or its legal representative, agent, or assigns.

- (e) Burning after natural disasters.
 - (1) Open burning of materials resulting from a natural disaster, and when conducted in conformity with the following conditions: conditions, may be permitted:
 - (i) Fires disposing of structural and household materials and vegetation are allowed only when those structures or materials are destroyed or severely damaged by natural disaster. Input from Emergency Management personnel may be requested in determining qualification with this criteria. The provisions of this Section pertaining to structural and household materials may be waived if the persons seeking to open burn under this provision make a reasonable effort to remove all expressly prohibited material from the structural remains before ignition. The Department reserves the right to inspect the proposed materials to be burned before ignition. The alternative use of chippers and grinders, landfilling, or on-site burial of waste in lieu of burning, if lawful, is encouraged.
 - (ii) If a governmental collective burn site for disposing of structural and household materials and vegetation damaged by a natural disaster is planned, the person responsible for such burning must notify the Department of the proposed location. The notification must be delivered to the Department at least three (3) days prior to commencing the burn. The Department may request that alternate sites be identified to minimize impact to air quality. The alternative use of chippers and grinders in lieu of burning is encouraged.
 - (iii) A traffic hazard will not be caused by the air contaminants generated by the fire.
 - (iv) No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn. No fire shall be ignited during any exceedance of the National Ambient Air Quality Standard for ozone, oxides of nitrogen, carbon monoxide, or particulate matter. Contact the Department's Computerized Local Air Index Reporting system (CLAIR) recorded line at (901) 544-7489 or 544-7490 before igniting a fire to determine if it is a Burning Day or a No-Burning Day.
 - (v) Open burning conducted under this exception is only allowed where no other safe and/or practical means of disposal is available.
 - (2) The Health Officer reserves the right to require a person to cease or limit open burning if emissions from the fires are deemed by the Health Officer or his designee to jeopardize public health or welfare, create a public nuisance or safety hazard, create a potential safety hazard, or interfere with the attainment or maintenance of the air quality standards.
 - (3) Any exception to the open burning prohibition granted by this Section does not relieve any person of the responsibility to obtain a permit required by any other agency, or of complying with other applicable requirements, ordinances, or restrictions. [Particular attention is directed to *T.C.A. §39-14-306*, which prohibits open air fires between October 15 and May 15 within five hundred (500) feet of any forest, grasslands or woodlands without first securing a permit from the State forester in unincorporated portions of Shelby County.]

(Code 1967, §3-16. Ord. No. 1265, §1, 4-25-72. Amended by Shelby County Ord. No. 265, effective September 30, 2002.)

