

**CHAPTER 71**

**OPEN BURNING**

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**SEC. 71.1 PURPOSE.** The purpose of this Ordinance is to reduce the danger to public health, safety, and welfare from uncontrolled open burning of materials within the City Limits by adoption of the following regulations.

**SEC. 71.2 DEFINITIONS.** For the purpose of this Ordinance these words shall have the following meanings:

1. "Person" includes any individual, firm, corporation, partnership, trust, or any other organized group.
2. "Combustible Material" is any material that will take fire and burn including, rubbish, trash, or discarded materials from commercial, industrial, domestic or agricultural operations or other normal community activities. "Combustible material" for the purpose of this Ordinance shall not include "yard wastes".
3. "Yard Wastes" means organic debris (e.g. grass clippings, leaves, tree limbs, bark branches, flowers, etc.) which is produced on the property as a part of yard and garden development and maintenance.
4. "Clean Dry Wood" is defined as tree limbs, bark, or branches that have been allowed to dry to a point where it is easily combustible without creating undue amounts of smoke plus other wood products free of glue, paint, varnish, stain, and preservatives.
5. "Recreational Fires" means fires for cooking, heating, camping, recreation or bonfires using clean dry wood or charcoal.
6. "Burn Barrel" means any barrel, drum, trash container, or other container not specifically designed to house a fire.

**SEC. 71.3 PROHIBITIONS.** No person shall allow, cause, or permit open burning of combustible materials or yard waste except as provided in the exemptions contained in this Ordinance. No person shall burn any material in a burn barrel.

**SEC. 71.4 EXEMPTIONS.** The following open burning of combustible materials and yard wastes shall be permitted:

1. Recreational fires no greater than four feet in diameter shall be permitted.
2. Prairie grass or wildflower areas that require annual burnoffs. These areas may be burned by permit following notification to the City. Each burn event requires a permit.
3. Burning of yard waste on lots over one-half acre by permit issued annually by the City of Waverly. A new permit is required prior to initial burning of yard waste and in the case of a change in property ownership or a change in size of parcel.
4. Burning by Government. Open burning of combustible material by the government unit for public benefit shall be permitted when supervised by the Fire Department.
5. Variances from rules. Any person wishing to conduct open burning of materials not exempted shall make written application delivered to the City Administrator or their designee for variance to allow burning of materials. Variance may be granted by the City Administrator or their designee only upon a finding of special or emergency circumstances. If variance is granted a permit shall be issued specifying the time and manner in which the burning shall be allowed.

**SEC. 71.5 PERMITS.** Permits allowing open burning of yard wastes as provided by this Ordinance shall be issued by the Waverly Zoning Office except for emergency permits issued by the City Administrator or their designee. Applications for burn permits shall be available at the Zoning Office or the City Clerk's Office. Copies of all permits shall be provided to the Police Department and Fire Department. Three types of permits shall be available:

1. Permits authorizing burning yard wastes on lots over one-half acre.
1. Permits authorizing burning prairie grass or wild flower areas.
2. Permits authorizing emergency burns.

The fees for permits shall be established by resolution of the City Council.

Appeal from Administrative denial of a burn permit shall be made to the City Council.

**SEC. 71.6 GENERAL CONDITIONS.** (For Open Burning)

1. The Fire Chief, County or State may prohibit any or all open burning when atmospheric conditions or local circumstances make such fires hazardous or a nuisance.
2. Attendance of Open Fires. Open fires shall be constantly attended by an adult person until such fire is extinguished. This person shall have a hose connected to the water supply, or other fire-extinguishing equipment readily available for use.
3. Authority to Investigate. The City shall have authority to enter onto private property to investigate and determine if violations of this Ordinance exist, or to extinguish fires as provided by Section 71.8 of this Ordinance.
4. Hours. Open burning may only be performed between the hours of 9:00 a.m. and sundown. At sundown, all fires must be completely extinguished so that no burning embers remain or smoke or gas emit there from. These time restrictions shall not apply to recreational fires.

**SEC. 71.7 LIMITATIONS.** Open burning of materials within the City shall be limited as follows:

1. Open burning of materials shall not cause a nuisance as defined at Chapter 455B of the Iowa Code.
2. Open burning of materials shall not cause a nuisance as defined at Chapter 63 of the Waverly Municipal Code.
3. Open burning of materials except by a Government agency for public benefit shall not be conducted on City streets, alleys, or any other City property.
4. Open burning of materials shall not take place so close to any building or structure so as to constitute a danger to the building or structure.
5. Open burning of materials shall not be conducted when weather conditions including wind or dry conditions constitute a risk of spread of fire.
6. Open burning permits may be denied or revoked based on a violation of this Ordinance.

**SEC. 71.8 AUTHORITY TO EXTINGUISH.** The City of Waverly through its Public Works Department, Fire Department or Police Department is authorized to prohibit or immediately extinguish any open burning occurring within the City that is deemed by City Officials to violate prohibitions of this Ordinance or to constitute an emergency or a danger to the safety of persons or property within the City.

**SEC. 71.9 PENALTIES.** Violation of this Ordinance shall constitute a simple misdemeanor or a municipal infraction subjecting violators to appropriate criminal or civil penalties.