

ORDINANCE NO. 2004-03

**AN ORDINANCE ADOPTING REGULATIONS FOR OPEN BURNING
IN THE CITY OF WENDOVER, TOOELE COUNTY, UTAH**

Recitals

A. The City of Wendover, Tooele County, Utah is authorized by Utah Code Annotated Title 10 and by other provisions of law to enact rules and regulations governing the health, safety and welfare of its residences and businesses, including the use of fires within the City.

B. The Governing Body of the City believes it necessary and appropriate that regulations be adopted prescribing a process through which permits may be issued and obtained for open burning in the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WENDOVER, TOOELE, COUNTY, UTAH AS FOLLOWS:

Section 1. Adoption of Regulations. The Regulations attached hereto as Exhibit "A" governing open burning within the City of Wendover, Utah are hereby adopted and approved by the City.

Section 2. Adoption of Forms. The forms for Application for an open burning permit and for the Permit allowing such activities, attached hereto as Exhibit "B" are approved and adopted by the City. Said forms may be modified by later ordinance or resolution of the Governing Body.

Section 3. Penalty for Violation. Any person who violates any portion or requirement of this ordinance, including the regulations attached hereto, shall be guilty of a Class B Misdemeanor and punished as provided by law. Any person who submits any untrue statement of fact as part of his/her application for a permit under this ordinance shall be guilty of a Class B Misdemeanor and punished as provided by law. Any person who violates any requirement of a Permit issued under this ordinance shall be guilty of a Class B Misdemeanor and punished as provided by law.

Section 4. Severability. If any section, paragraph, clause or provision of this ordinance, including the regulations and forms attached hereto, shall be held invalid, unlawful or unenforceable, the same shall not effect the validity or enforceability of the remaining provisions of this Ordinance.

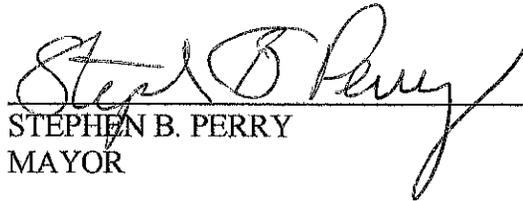
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Regulations and Forms for Permit
and Application
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Section 5. Effective Date. This ordinance shall become effective twenty days after publication or posting or 30 days after final passage by the governing body, whichever is closer to final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF WENDOVER TOOELE COUNTY, UTAH THE 21st DAY OF APRIL, 2004.

THE CITY OF WENDOVER

BY:


STEPHEN B. PERRY
MAYOR

ATTEST:


MARGARET L. WHEELER
CLERK/RECORDER

Seal:

EXHIBIT "A"

City of Wendover, Utah
Open Burning Regulations

OPEN BURNING REGULATIONS

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1- 010. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Agricultural burning” means burning in rural areas, essential to agricultural operations, including the growing of crops, the raising of fowl, animals or bees, when conducted on the premises where produced.

“Air conservation committee” means that committee created pursuant to the provisions of Section 26-24-3, 1, Utah Code Annotated, 1953,

“Air contaminant” means any particular matter or any gas, vapor, suspended solid or any combination thereof, excluding steam and water vapors.

“Air contaminant source” means any and all sources of emission of air contaminants whether privately or publicly owned or operated.

“Air pollution” means the presence in the ambient air of one or more air contaminants in quantities, or characteristics and under conditions and circumstances and of a duration sufficient to cause or contributes 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 adopted by the air conservation committee.

"Appropriate authority" means the Governing Body of the City, which by this ordinance delegates its authority to issue permits hereunder to the City Administrator who shall, prior to the issuance of a permit, obtain the advice and consent of the City Fire Chief.

"Atmosphere" means the air that envelops or surrounds the earth and includes all spaces outside of buildings, stacks or exterior ducts.

"Authorized local authority" means the city fire department or county health department, or any other local agency specifically designated by the appropriate authority with approval of the State Division of Health, as the agency to issue permits for open burning under regulations of this chapter or the State Division of Health which may from time to time be adopted.

"City" means the City of Wendover, Tooele County, Utah

"Clearing index" means 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 direction from ground level to 10,000 feet.

"Division" means the State Division of Health.

"Emission" means 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 an atmosphere.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Governing Body" means the City Council of the City of Wendover, Tooele County, Utah.

"Heavy fuel oil" means a petroleum product or similar material heavier than diesel fuel.

"Household waste" means 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.

"Open burning" and/or "open fire" mean any burning or combustible materials where the products of combustion are emitted into open air without passing through a chimney or stack.

"Person" means any individual, public or private corporation, partnership, association, firm, trust or 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 recognized by the law as being subject to rights and duties.

"Refuse" means any solid waste, including garbage and trash.

"Salvage operation" means any business, trade or industry engaged in whole or part in salvaging or reclaiming any product or material, including, but not limited to metals, chemicals, shipping containers or drums.

"Trash" means 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.

"Waste" means all solid, liquid or gaseous materials, 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 trade or industry.

1- 020. Prohibited Burning - - Exceptions.

No person shall burn any trash, garbage, debris or other wastes, or conduct any salvage operation, in any open fire, unless he/she has first made application for and obtained a permit as required by this ordinance and has otherwise complied with all requirements of this Ordinance.

1- 030. Burning Without a 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 the necessity of securing a permit:

- A. In devices for the primary purpose of preparing food such as outdoor Grills and fireplaces;
- B. Indoor fireplaces;
- C. Properly operated industrial flares for combustion of flammable gases;

1- 040. Burning Under a Permit or When Exempted by Conservation Committee.

When not prohibited by other laws or other officials having jurisdiction and when a nuisance is not created, the types of open burning listed in this section are permissible under the terms of individual permits issued by authorized local authority under a clearing index system approved and coordinated by the state division of health or when specifically exempted by the Air Conservation Committee, following written application and appropriate hearing.

- A. Agricultural burning, including on-premises orchard pruning, field stubble and weeds and open burning to clear irrigation ditches.
- B. Open burning of tree cutting, leaves, weeds, limbs and grass clippings.
- C. Open burning of trees, weeds, grass and brush within railroad and public road rights-of-way; provided, that: (1) dirt shall be removed from stumps before burning; and (2) tires, ties, heavy fuel oil or other materials which can cause severe air pollution shall not be used to start or keep fires burning, and shall not be burned under any circumstances;
- D. Open burning of solid or liquid fuels or structures for removal of hazards or eyesores or for firefighters training purposes when conducted under the direct control and supervision of organized fire departments;
- E. Open burning, in remote areas, of highly explosive or other dangerous materials, for which there is no known practical method of disposal, provided that written approval is first secured from the City Fire and Police Departments and conducted in strict conformance to the conditions specified in such written approval;
- F. Open burning for special purposes or under unusual circumstances, when approved by the Division, following formal request therefore.

1- 050. Burning at Waste Disposal Sites.

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 air conservation committee on the basis of justifiable circumstances reviewed and weighted in terms of pollution effects and other relevant considerations at the appropriate hearing following written application.

1- 060. Application and Fee Required.

Any person desiring an open burning permit shall submit a written application on forms provided by the City, together with any other pertinent documents and information requested by the City. The application shall be accompanied by a nonrefundable fee of \$25.00. This fee may be changed from time to time by resolution or ordinance duly adopted by the City. The fee required by this section shall not be imposed on public agencies seeking a permit under Section 1-040.D. of this ordinance.

1- 070. Violation of Ordinance, Application or Permit.

The violation of any provision of this ordinance is a Class B misdemeanor, and punishable as provided by the law of the State of Utah. The submission of any untrue statement of fact on an Application is a Class B misdemeanor, and punishable as provided by the law of the State of Utah. The violation of any condition or requirement of a permit issue under this ordinance is a Class B misdemeanor, and punishable as provided by the law of the State of Utah.

EXHIBIT "B"

City of Wendover, Utah
forms for:
Open Burning Permit Application
and
Permit for Open Burning

CITY OF WENDOVER, UTAH
APPLICATION FOR OPEN BURNING PERMIT

The undersigned makes application for a permit for opening burning in the City of Wendover, Tooele County, Utah.

Name(s) of Applicant(s)	
Address	
Telephone:	
Other contact information:	
Date for proposed burn:	
Time for proposed burn:	
Detailed Description of materials to be burned:	
Other pertinent information and details:	

The undersigned certifies and affirms, under penalty of perjury, the following:

1. I have reviewed a copy of the City of Wendover Open Burning Regulations, and understand all requirements thereof;
2. I understand that if a permit is issued, the proposed open burning may only occur if each and every condition of the permit are met, including without limitation: consistency of combustible material with the above description of materials to be burned; and compliance with the clearing index requirements of the U.S. Weather Bureau and the Utah State Division of Health; and compliance with all directives of the City's public safety officers, including representatives of the Police Department and Fire Department.
3. I understand that I am responsible for any and all losses which may be caused by, or related to, the open burning, and I agree to indemnify and hold harmless the City, and all of its officers, agents, employees, representatives and volunteers from any loss or liability associated with the burning under a permit issued by the City.
4. I understand that the violation of any requirement of the City's Open Burning Ordinance or of any condition of a permit issued under the ordinance is a Class B misdemeanor. I further understand that the submission of any untrue information in this application is a Class B Misdemeanor

 Signature of Applicant
 Date: _____

 Signature of Applicant
 Date: _____

CITY OF WENDOVER, UTAH PERMIT FOR OPEN BURNING

Issuing Agency:	City of Wendover, Utah
Issuing Authority (name and position):	
Date Issued:	
Time Issued:	
Applicant Name(s):	
Applicant phone(s):	
Applicant address:	
Date approved for burn:	
Time approved for burn:	
Location approved for burn:	
Clearing Index (this must be checked and confirmed before any burn commences):	
Notes and conditions:	<ol style="list-style-type: none"> 1. Check for overhead lines, trees and structures; 2. All piles of material must be kept to a manageable size; 3. This permit is issued for burning general debris only (tree limbs and cuttings, weeds, grass clippings) unless otherwise noted below; 4. Permit valid only on date approved for burn as described above; 5. The holder of this Permit shall be on site at all times, with a shovel and operational water hose; 6. All burning must be complete, and debris completely consumed by sunset of the date of Permit. 7. (other) _____ _____ _____ _____ _____
Signature of City Official:	
Signature of Permittee:	

This form to be delivered as follows:

Agency	Telephone No.	Facsimile No.
Wendover City Fire	435-665-7030	435-665-2523
Wendover City Police	435-665-7010	435-665-2576
Tooele County Dispatch	435-882-6471 & 665-2224	435-882-6417
Tooele County Fire Warden	435-204-3295 (pager)	435-882-7613

CERTIFICATE OF POSTING ORDINANCE

I, THE DULY APPOINTED AND ACTING RECORDER FOR THE CITY OF WENDOVER, UTAH,
HEREBY CERTIFY THAT COPIES OF THE FOREGOING ORDINANCE NO 2004-03 WERE POSTED
AT THREE PUBLIC PLACES WITHIN THE MUNICIPALITY THIS 18TH DAY OF AUGUST, 2004.
WHICH PUBLIC PLACES ARE:

1. WENDOVER, UTAH CITY OFFICES
2. FRED'S MARKET
3. WENDOVER, UTAH POST OFFICE
4. FAXED TO THE WENDOVER TIMES

DATED THIS 18TH DAY OF, 2004.


Margaret L. Wheeler
CITY CLERK/RECORDER