



Lincoln-Lancaster County
Health Department

Lincoln-Lancaster County Health Department Air Quality Program

Backyard Fire Pits, Opening Burning, and Public Health Nuisances in the City of Lincoln

The Lincoln-Lancaster County Health Department (LLCHD) Air Quality Program has created this open burning fact sheet to inform residents living within the City of Lincoln of guidance and legal requirements pertaining to open burning.

What is open burning?

- Lincoln Municipal Code (LMC) 8.06 (Air Pollution) defines open burning as the burning of any matter in such a manner that the products of fire combustion are released directly into the outdoor air without passing through an adequate stack, duct, or chimney. This would include burning wood in a fire pit of any kind (metal, block, in-ground pit, etc.), a chiminea, fire tables, propane fire pits, or a freestanding fireplace.

When is open burning a problem?

- Any time smoke travels onto a neighboring property and affects the health and safety of the neighbors it can be considered a public health nuisance. In accordance with LMC 8.06.150, it is unlawful to cause or allow a public health nuisance.

What can I burn?

- You can only burn clean dry wood for purposes of cooking, warmth, or ceremonial purposes. Tree limbs and branches that have been cut, split, and dried are okay to burn.

What can't I burn?

- You cannot burn yard waste of any kind (leaves, pine needles, grass clippings, brush, fallen limbs/branches) or any kind of household trash. You cannot use open burning to dispose of any kind of waste, including wood waste. It is unlawful to burn treated lumber of any kind, including wood that has been painted or stained, pressure treated lumber, particle board, wafer board, and plywood.

How big of a fire can I have?

- The fire cannot be larger than 8 cubic feet, or about 3 feet in diameter.

Where can I have a fire?

- All fire pits must be located a minimum of 25 feet from any structure or combustible material and you must have fire extinguishing materials (water, dirt, sand, etc.) available at all times.

Do I have to supervise the fire?

- A responsible adult must constantly attend and supervise the fire until it has been completely extinguished. 'Completely extinguished' means there are no remaining hot coals or smoldering embers. The LLCHD recommends completely saturating any remaining coals/embers with water to ensure the fire is extinguished.

Why is smoke a health concern?

- The smoke created from wood burning creates air pollution and public health problems. By definition, smoke is toxic because it contains hazardous air pollutants that can cause cancer. It also creates fine particle pollution that can trigger asthma attacks, aggravate allergies, damage lung tissue, and lead to lung and heart problems when inhaled. Children, the elderly, and people with asthma, allergies, and heart or lung conditions such as emphysema or COPD are at greater risk of health problems resulting from smoke inhalation.

What should I consider when burning?

- Please, be a good neighbor – don't burn if the smoke from your fire will impact neighbor's property or health, especially if you know they have underlying health conditions or are at greater risk of health problems.
- Always be mindful of wind speed and direction when burning. This will help prevent nuisance conditions and reduce potential safety hazards.

What laws apply to open burning?

- There are several local and state laws that apply to open burning in some way. One of the first laws to note is Nebraska Revised Statute §81-520.01(1), which states, "There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land." One general exception to this burn ban is small recreational fires (i.e., 8 cubic feet in size or smaller) used for cooking or warmth that are contained in a fire pit or similar structure. In Lincoln, fires are also regulated under LMC 19.03 (Fire Code) and LMC 8.06 (Air Pollution). LMC 19.03 adopts the International Fire Code (with certain exceptions) and is intended primarily to regulate fire safety matters. LMC 8.06 regulates fire as a matter of air pollution and public health impacts. In accordance with LMC 8.06.180, violations of LMC 8.06 may be punished by imprisonment in the county jail for a period of not to exceed six months or by a fine of not to exceed \$500.00 recoverable with costs, or both. The following sections of LMC 8.06 are of particular importance as they pertain to open burning:

LMC 8.06.140 – Open Burning.

- a. It shall be unlawful for any person to cause, suffer, allow, or permit open burning of refuse or salvage material within the city limits of the City of Lincoln with the following exceptions:
 1. Fires set in structures (grills and fireplaces) for cooking and warmth as provided by the Lincoln Parks and Recreation Department.
 2. Fires of less than eight cubic feet in size that are used for cooking or ceremonial purposes provided such fires comply with Lincoln Fire Codes (LMC 19.03). Fires of a size greater than eight cubic feet to be used for cooking or ceremonial purposes are allowed if a permit has been issued under Section 8.06.145 of this chapter (LMC 8.06).
 - ...
 5. Fires permitted pursuant to Section 8.06.145 of this chapter.
- c. It shall be unlawful for any person, or industrial, commercial, governmental or institutional facility, or solid waste disposal site within the City or within three miles thereof to cause, permit, or allow any of the following:
 1. Burning any garbage or salvage material.
 2. Open burning which permits smoke from the fire to travel onto any street, road or highway in such a way as to obscure the vision of any person operating a vehicle on that street, road or highway.
 3. Except as permitted by the Director for fire training purposes, burning or using any of the following as incineration or acceleration materials:
 - i. Gasoline, diesel oil, heavy oil, solvents, or other flammable petroleum products.
 - ii. Treated wood of any kind including railroad ties, treated posts, utility poles, wood paneling and particle board.
 - iii. Plastic and items containing plastic of any kind.
 - iv. Rubber and asphalt products including rubber tires, roofing shingles, tar paper, asphalt siding and sheeting and items containing rubber or asphalt compounds.
 - v. Any material being burned for the purpose of salvaging all or part of said material.
 - vi. Any other chemical material which produces highly toxic smoke or fumes which may endanger the public or firefighters called to extinguish the fire.
 4. Burning which permits smoke from the fire to travel onto a neighboring property, park or recreational area where it becomes a public nuisance to people who occupy the neighboring dwelling, business structure, or are using the park or recreational area.

If you have any questions about fire pits, open burning, and public health nuisances, please call the LLCHD Air Quality Program at (402) 441-8040.