

**MARICOPA COUNTY ORDINANCE
AIR POLLUTION CONTROL REGULATIONS**

**P-26
RESIDENTIAL BURNING RESTRICTIONS**

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RESIDENTIAL BURNING RESTRICTIONS**

SECTION 1 – GENERAL

- A. PURPOSE:** This ordinance restricts residential burning when monitoring or forecasting indicates that air quality standards are likely to be exceeded and restricts residential burning of prohibited materials.
- B. APPLICABILITY:** This ordinance applies to:
1. Any residential woodburning device that is located within sections of Area A that are within Maricopa County;
 2. Any chiminea, outdoor fireplace, or other outdoor device that is located at a residence and burns solid fuel; and
 3. Any outdoor fire pit or similar outdoor fire that is located at a residence, burns solid fuel, and is used exclusively for recreation or ambiance, or to provide warmth for human beings. However, any outdoor fire pit or similar outdoor fire that is not used exclusively for these purposes must comply with Rule 314 of these rules.
- C. EXEMPTIONS:** This ordinance does not apply to:
1. Appliances, including but not limited to, grills, ovens, and smokers, that are used exclusively for the cooking, smoking, or flavoring of food; however any appliance that is exempt from this ordinance must comply with all applicable requirements in Rule 314 of these rules.
 2. Devices or equipment, including fire pits and fireplaces, that are designed and used to burn natural gas, propane, or liquefied petroleum gas exclusively.

SECTION 2 – DEFINITIONS: For the purpose of this ordinance, the following definitions shall apply:

- A. ADEQUATE SOURCE OF HEAT:** A permanently installed furnace or heating system, connected to or disconnected from its energy source, designed to heat utilizing oil, natural gas, electricity, or propane, and designed to maintain a minimum of 70° Fahrenheit at a point three feet above the floor in all normally inhabited areas of a residence.
- B. APPROVED WOODBURNING DEVICE:** The following devices shall be approved woodburning devices, even though such devices may burn a solid fuel other than wood:
1. A device that has been certified by the Environmental Protection Agency (EPA) as conforming to Phase II EPA Standards of Performance for Wood Heaters in 40 Code of Federal Regulations (CFR) 60, Subpart AAA as amended through July 1, 2006.

2. A device that has been certified by the EPA as conforming to the particulate matter standards in 40 CFR 60, Subpart AAA, §60.532(a)-(c), as amended through October 23, 2019.
3. Any pellet stove.
4. Any masonry heater or any other solid fuel burning device that meets all of the following requirements:
 - a. Is not subject to the particulate matter standards in 40 CFR 60, Subpart AAA, as amended through October 23, 2019;
 - b. Meets performance standards that are equivalent to the standards in 40 CFR 60, Subpart AAA as amended through July 1, 2006; and
 - c. Is approved by the Control Officer and the Administrator of the EPA.

C. AREA A: As defined in Arizona Revised Statutes (A.R.S.) § 49-541(1), the area in Maricopa County delineated as follows:

Township 8 North, Range 2 East and Range 3 East
 Township 7 North, Range 2 West through Range 5 East
 Township 6 North, Range 5 West through Range 6 East
 Township 5 North, Range 5 West through Range 7 East
 Township 4 North, Range 5 West through Range 8 East
 Township 3 North, Range 5 West through Range 8 East
 Township 2 North, Range 5 West through Range 8 East
 Township 1 North, Range 5 West through Range 7 East
 Township 1 South, Range 5 West through Range 7 East
 Township 2 South, Range 5 West through Range 7 East
 Township 3 South, Range 5 West through Range 1 East
 Township 4 South, Range 5 West through Range 1 East

- D. CHARCOAL:** The carbon and hydrocarbon residue that remains after water and other volatile constituents of wood have been removed by pyrolysis.
- E. CHIMINEA:** A device made from clay, aluminum, steel, or another non-combustible material, that is designed to burn solid fuel, and that is used outside to provide warmth or for aesthetic purposes.
- F. CHIMNEY:** A passage for smoke that is usually made of bricks, stone, or metal and often rises two feet above the roof of a building. An approved, factory-built chimney will have a label on each chimney connector and gas vent specifying that such chimney can be used for all fuels and will show the minimum safe clearances to combustibles.
- G. FLUE:** Any duct or passage for air or combustion gases, such as a stack or chimney.
- H. MANUFACTURED FIRELOG:** A log that is made from recycled wood, such as sawdust, that is compressed to form a log or mixed with a binder and extruded into a log shape.
- I. OUTDOOR FIRE PITS AND SIMILAR OUTDOOR FIRES:** Any combustion of material outdoors, where solid fuels including wood or any other non-gaseous or non-liquid

fuels are burned in the fuel bed, and the products of combustion are not directed through a flue or chimney.

- J. OUTDOOR FIREPLACES AND OTHER OUTDOOR DEVICES:** Any combustion of solid fuels in an outdoor fuel bed where the products of combustion are directed through a flue or chimney.
- K. PELLET FUEL:** Refined and densified fuel shaped into small pellets or briquettes that are uniform in size, shape, moisture, density and energy content.
- L. PROHIBITED MATERIAL:** Aerosol spray cans; animal carcasses; animal waste; antifreeze; asbestos; asphalt, asphalt shingles and other asphalt products; batteries; chemically treated or soaked wood; cleaners; coal; counter tops; electrical wire insulation; explosives or ammunition; fabrics; fiberboard; flammable liquids; flooring; furniture; garbage; grass clippings; green plants; hazardous material containers, including those that contain lead, cadmium, mercury, and arsenic compounds; hazardous waste; insulation; landscape waste; painted wood; paper and paper products, including books, magazines, and office records; leaves; liquid or gelatinous hydrocarbons; oleanders; packaging; paints; pesticides, pesticide bags, and pesticide containers; plastic, including plastic bags and other plastic products; polyester products; rags; refuse; rubbish; solvents; stains; tar and tar paper; tires; transformer oils; tree trimmings; varnishes; waste petroleum products, including waste crankcase oil, transmission oil, and oil filters; any substance that emits dense smoke or obnoxious odors; and any material other than seasoned wood.
- M. RESIDENTIAL WOODBURNING DEVICE:** A device designed for solid fuel combustion that generates heat inside a residence. These devices can be used for aesthetic or space-heating purposes.
- N. RESTRICTED-BURN PERIOD:** A condition declared by the Control Officer whenever meteorological conditions are conducive to an accumulation of CO, ozone and/or particulate matter in exceedance of the standards or when air quality reaches other limits established by the Control Officer.
- O. SEASONED WOOD:** Wood with a moisture content less than or equal to 20 percent, as determined using a moisture meter that is operated in accordance with the manufacturer's recommendations. For the purposes of this rule, seasoned wood includes charcoal, pellet fuel, and manufactured firelogs.
- P. SOLE SOURCE OF HEAT:** One or more residential woodburning devices which constitute the only source of heat in a residence and/or the sole source of heat for cooking for a residence. No residential woodburning device shall be considered the sole source of heat if the residence is equipped with a permanently installed furnace or heating system which utilizes oil, natural gas, electricity, or propane and which is designed to heat the residence whether or not such furnace or heating system is connected to or disconnected from its energy source. Nothing in this definition shall relieve the owner or operator of a residential woodburning device from complying with all applicable laws, rules, and regulations, including municipal or county building codes and public safety requirements.

Q. SOLID FUEL: Any fuel that is in a solid state prior to combustion.

SECTION 3 – BURNING RESTRICTIONS:

A. RESTRICTED-BURN PERIODS: During a restricted-burn period declared by the Control Officer, a person shall:

1. Not operate a residential woodburning device, unless one of the following exemptions applies:
 - a. During a declared restricted-burn period, a person may operate a residential woodburning device if the Control Officer has issued an exemption for such device according to Section 4 of this ordinance, the device is installed according to the instructions and restrictions specified by the manufacturer, only seasoned wood is ignited, and no visible emissions to the atmosphere are produced after 20 consecutive minutes immediately following an ignition of, or a refueling of, such residential woodburning device.
 - b. During a declared restricted-burn period, a person may operate an approved woodburning device if the device is installed according to the instructions and restrictions specified by the manufacturer, only seasoned wood is ignited, and no visible emissions to the atmosphere are produced after 20 consecutive minutes immediately following an ignition of, or a refueling of, such residential woodburning device.
2. Not operate a chiminea, outdoor fireplace, or any other outdoor device that burns solid fuel.
3. Not operate a fire pit or similar outdoor fire.

B. WHEN RESIDENTIAL BURNING IS ALLOWED: When the Control Officer has not declared a restricted burn period, a person shall not:

1. Operate a residential woodburning device, unless such residential woodburning device has been installed according to the instructions and restrictions specified by the manufacturer.
2. Ignite any fuel other than seasoned wood.

C. ADDITIONAL RESTRICTIONS: At any time, a person shall not:

1. Burn or attempt to burn any prohibited material in a residential woodburning device.
2. Burn or attempt to burn any prohibited material in a chiminea, an outdoor fireplace, or any other outdoor device that burns solid fuel.
3. Burn or attempt to burn any prohibited material in a fire pit or similar outdoor fire.

D. DECLARATION OF A RESTRICTED-BURN PERIOD:

1. The Control Officer shall declare a restricted-burn period if, after reviewing available meteorological data, atmospheric conditions, and ambient temperatures, the Control Officer determines that air pollution levels could exceed:

- a. The primary ambient air quality standard for carbon monoxide, eight-hour average, in Rule 510 of these rules;
 - b. The primary ambient air quality standard for ozone, eight-hour average, in Rule 510 of these rules; or
 - c. Either of the following 24-hour average concentrations for particulate matter:
 - (1) PM₁₀ – 120 micrograms per cubic meter; or
 - (2) PM_{2.5} – 30 micrograms per cubic meter.
2. A person responsible for any fire or device listed in Section 1(B) of this ordinance, excluding those devices described in Sections 3(A)(1)(a) and 3(A)(1)(b) of this ordinance, already in operation at the time a restricted-burn period is declared shall withhold new fuel from the fire or device for the duration of the restricted-burn period.
 3. Any person operating or in control of a fire or device listed in Section 1(B) of this ordinance has a duty to know when a restricted-burn period has been declared.
 4. Notice of a restricted-burn period shall be distributed and/or announced at least three hours before initiating any enforcement action for a violation of this ordinance. Notice of a restricted-burn period shall be distributed and/or announced using one or more of the following methods:
 - a. Press releases to electronic and print media;
 - b. Email and/or text messages;
 - c. Social media;
 - d. The Maricopa County Air Quality Department website;
 - e. The Clean Air Make More website and mobile application;
 - f. By a recorded telephone message.

E. VIOLATIONS, NOTICES, AND PENALTIES: For purposes of this ordinance, and in accordance with A.R.S. §11-871(D):

1. When the Control Officer has reasonable cause to believe that any person has violated or is in violation of any provision of this ordinance, the Control Officer shall issue, for the first violation of this ordinance, a warning notice which includes a summary of the Maricopa County Residential Burning Restrictions ordinance and information on proper woodburning techniques.
2. The Control Officer shall impose a civil penalty of \$50 to any person who violates this ordinance for the second time after having been issued a warning notice for the first violation of this ordinance.
3. For the third violation of this ordinance, the Control Officer shall impose a civil penalty of \$100. The Control Officer shall impose a civil penalty of \$250 for the fourth or any subsequent violation of this ordinance. After having been issued a citation for a violation of this ordinance, the violation may be refuted by demonstration that the smoke was not caused by a fire or a device listed in Section 1(B) of this ordinance or by proof of an exemption pursuant to Section 4 of this ordinance.

SECTION 4 – PARTIAL EXEMPTIONS THAT REQUIRE CONTROL OFFICER APPROVAL

- A. RESIDENTIAL SOLE SOURCE OF HEAT EXEMPTION:** The Control Officer may grant a residential sole source of heat exemption if the Control Officer determines that a residential woodburning device meets the criteria of sole source of heat as described in Section 2(P) of this ordinance. The recipient of a residential sole source of heat exemption must apply annually to the Control Officer for renewal of such exemption, if such exemption is still necessary. The Control Officer shall not issue a residential sole source of heat exemption after December 31, 1995. However, the Control Officer may renew a residential sole source of heat exemption if such exemption was issued before December 31, 1995 and if the residential woodburning device meets the criteria of sole source of heat as described in Section 2(P) of this ordinance.
- B. TEMPORARY SOLE SOURCE OF HEAT EXEMPTION:** The Control Officer may issue a temporary sole source of heat exemption for economic or health reasons if the Control Officer determines that the applicant qualifies for financial assistance, according to the economic guidelines established under the Nutrition Assistance, Medical Assistance, or low income home energy assistance programs, as administered by the Arizona Department of Economic Security, or if the Control Officer determines that failure to grant a temporary sole source of heat exemption would endanger the health of the applicant. A temporary sole source of heat exemption shall not be issued for more than 150 days.
- C. EMERGENCY EXEMPTION:** The Control Officer may issue an emergency exemption if the Control Officer determines that an emergency situation exists. An emergency exemption shall be valid for a period determined by the Control Officer, but shall not exceed one year from the date it is issued. An emergency situation shall include, but is not limited to, the following:
1. A situation where a person demonstrates that his heating system, other than a residential woodburning device, is inoperable for reasons other than his own actions; or
 2. A situation where a person demonstrates that his heating system has been involuntarily disconnected by a utility company or other fuel supplier.
- D. INADEQUATE ALTERNATE SOURCE OF HEAT EXEMPTION:** The Control Officer may issue an inadequate alternate source of heat exemption if the Control Officer determines:
1. That there is a heat source other than a residential woodburning device available to the residence;
 2. That such heat source is not a sole source of heat, as defined in Section 2(P) of this ordinance, and that such heat source is used in conjunction with a residential woodburning device;
 3. That such heat source is not an approved woodburning device; and
 4. That such heat source is not an adequate source of heat, as defined in Section 2(A) of this ordinance.

The recipient of an inadequate alternate source of heat exemption must comply with municipal or County Building Code requirements (as per authority of A.R.S. §§ 9-499.01, 9-240(B)(7), 9-276(A)(13)–(A)(15), A.R.S. § 9-801 *et seq.*) and must apply annually to the Control Officer for renewal of such exemption, if such exemption is still necessary. The Control Officer shall not issue an inadequate alternate source of heat exemption after December 31, 1995. However, the Control Officer may renew an inadequate alternate source of heat exemption, if such exemption was issued before December 31, 1995 and if the residential woodburning device meets the criteria of this ordinance.

- E. APPLICATION FOR A PARTIAL EXEMPTION:** Any person seeking an exemption shall do so by submitting an acceptable written application to the Control Officer. An application shall state:
1. The applicant's name and mailing address;
 2. The address for which the exemption is sought; and
 3. The reasons for seeking the exemption.
- F. ACTION ON A PARTIAL EXEMPTION APPLICATION:** Following the receipt of an exemption application, the Control Officer shall either grant the exemption, grant the exemption subject to conditions, or deny the exemption. The Control Officer shall notify, in writing, the applicant of such decision.