CHAPTER 35

Regulation of Fires on Certain Lands

**SECTION 48‑35‑10.** Starting fire in woodlands, grasslands, and other places unlawful unless certain precautions are taken.

It shall be unlawful for any owner or lessee of land or any employee of such owner or lessee or other person to start, or cause to be started, a fire in any woodlands, brushlands, grasslands, ditchbanks, or hedgerows or in any debris, leaves or other flammable material adjacent thereto, except under the following conditions:

(a) Proper notification shall be given to the State Forester, or his duly authorized representative or other persons designated by the State Forester. The notice shall contain all information required by the State Forester or his representative.

(b) Such persons shall have cleared around the area to be burned and have immediately available sufficient equipment and personnel to adequately secure the fire and prevent its spread.

(c) The person starting the burning shall supervise carefully the fire started and have it under control prior to leaving the area.

HISTORY: 1962 Code Section 29‑65.11; 1969 (56) 421.

Library References

Environmental Law 44.

Woods and Forests 8.

Westlaw Topic Nos. 149E, 411.

C.J.S. Health and Environment Sections 167, 173.

C.J.S. Woods and Forests Sections 1, 8, 11 to 13.

Attorney General’s Opinions

The State Forester has discretion to require that the “proper notification” required by Section 48‑35‑10 be written prior to starting a fire. 1989 Op. Atty Gen, No. 89‑113, p 305.

**SECTION 48‑35‑20.** Authorization must be obtained from landowner to conduct burning.

A lessee of any land, or any employee of any landowner or lessee of land, or other person, must receive prior authorization from the landowner to conduct such burning, in addition to complying with the other provisions of this chapter.

HISTORY: 1962 Code Section 29‑65.12; 1969 (56) 421.

Library References

Environmental Law 44.

Woods and Forests 8.

Westlaw Topic Nos. 149E, 411.

C.J.S. Health and Environment Sections 167, 173.

C.J.S. Woods and Forests Sections 1, 8, 11 to 13.

**SECTION 48‑35‑30.** Chapter inapplicable to fires within municipalities.

The provisions of this chapter shall not apply to fires which may be started within the corporate limits of any town or city.

HISTORY: 1962 Code Section 29‑65.13; 1969 (56) 421.

Library References

Environmental Law 44.

Woods and Forests 8.

Westlaw Topic Nos. 149E, 411.

C.J.S. Health and Environment Sections 167, 173.

C.J.S. Woods and Forests Sections 1, 8, 11 to 13.

**SECTION 48‑35‑40.** Burning prohibited during periods of emergency.

No burning shall be carried out during any period which the Governor has declared that an emergency exists in connection with forest fires.

HISTORY: 1962 Code Section 29‑65.14; 1969 (56) 421.

Library References

Environmental Law 44.

Woods and Forests 8.

Westlaw Topic Nos. 149E, 411.

C.J.S. Health and Environment Sections 167, 173.

C.J.S. Woods and Forests Sections 1, 8, 11 to 13.

**SECTION 48‑35‑50.** State Forester may prohibit fires.

The State Forester may direct at any time, when deemed necessary in the interest of public safety, that fires covered by this chapter not be started. The State Forester also may prohibit all open burning regardless of whether a permit or notification is required, including campfires, bonfires, and other fires for recreational purposes. This prohibition shall not apply to fires used for nonrecreational purposes such as those for human warmth or for the preparation of food for immediate consumption.

HISTORY: 1962 Code Section 29‑65.15; 1969 (56) 421; 2017 Act No. 74 (H.3719), Section 1, eff May 19, 2017.

Effect of Amendment

2017 Act No. 74, Section 1, added the second and third sentences, relating to prohibiting open burning and the inapplicability of the prohibition to fires used for nonrecreational purposes.

Library References

Environmental Law 44.

Woods and Forests 8.

Westlaw Topic Nos. 149E, 411.

C.J.S. Health and Environment Sections 167, 173.

C.J.S. Woods and Forests Sections 1, 8, 11 to 13.

**SECTION 48‑35‑60.** Penalties.

Any person violating the provisions of this chapter may be deemed guilty of a misdemeanor and, upon conviction, may be fined not more than two hundred dollars or imprisoned for not more than thirty days for a first offense. For any second or subsequent offense, a fine of not less than five hundred dollars or imprisonment for not more than sixty days, or both may be imposed in the discretion of the court. “Subsequent offense”, as used in this section, shall mean an offense committed within ten years of a previous offense.

HISTORY: 1962 Code Section 29‑65.16; 1969 (56) 421; 2017 Act No. 74 (H.3719), Section 2, eff May 19, 2017.

Effect of Amendment

2017 Act No. 74, Section 2, amended the section, revising the penalties for violating the provisions of this chapter.

Library References

Environmental Law 740.

Fires 1.

Woods and Forests 10.

Westlaw Topic Nos. 149E, 175, 411.

C.J.S. Fires Sections 1 to 4.

C.J.S. Health and Environment Section 160.

C.J.S. Woods and Forests Section 1.