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OPEN BURN PERMIT

***CITY OF LEXINGTON CODE OF ORDINANCE
CHAPTER 10 PUBLIC PROTECTION, CRIMES AND OFFENSES***

SECTION 10.40. OPEN BURNING.

Second Series adopted September 19, 2013

Last revised January 1, 2019

**READ COMPLETELY BEFORE
SUBMITTING PERMIT APPLICATION**

Subd. 1. Purpose. The purpose of this Section is to establish permitted categories of open burn events for residences within the City of Lexington and provide for a permitting process for residential open burning, except when such open burning is defined as a “Recreational Fire” as prescribed in this Section.

- A. Bucket, shovels, garden hoses connected to a water supply or other approved fire-extinguishing equipment shall be readily available for use at any burning site within the City of Lexington.
- B. An attendant shall supervise a fire until such fire has been extinguished.

Subd. 2. Definitions. For the purposes of this Section, the terms in this Section have the meaning stated:

- A. **“Open Burning”** - Means the burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a Recreational Fire as defined herein.
- B. **“Recreational Fire”** – Recreational fires can only burn between 8:00 am and 2:00 am and no more than one recreational fire is allowed on any property at one time.
- C. **“Recreational Fire Site”**- Means an area of no more than a three (3) foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a Recreational Fire Site as defined herein. Recreational Fire Sites shall not be located closer than fifteen (15) feet to any structure or property line.
- D. **“Starter Fuels”** - Means dry, untreated, unpainted kindling, branches, or cardboard, or charcoal fire starter. Paraffin candles and alcohol’s are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an Open Burn.
- E. **“Wood”** - Means dry, clean fuel only such as twigs, branches, limbs, “presto logs”, charcoal, cordwood or untreated dimensional lumber. “Wood” does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three (3) foot lengths.

Subd. 3. Prohibited Materials.

- A. No person shall conduct, cause or permit open burning of oils, petrol fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint fillers.
- B. No person shall conduct; cause or permit open burning of hazardous waste or salvage operations, or open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures. No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

Subd. 4. Permit Required for Open Burning. No person shall start or allow any open burning on any property in the City of Lexington without first having obtained an Open Burn permit, except that a permit is not required for any fire which is a Recreational Fire as defined herein.

Subd. 5. Purposes Allowed for Open Burning. Open Burn permits may be issued only for the following purposes:

- A. Elimination of fire or health hazard that cannot be abated by other practical means.
- B. Ground thawing for utility repair and construction.
- C. Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, land spreading or other alternative methods are not practical.
- D. Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives.
- E. Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.
- F. Fire Training permits can only be issued by the Minnesota Pollution Control Agency (MPCA).
- G. No fire may be allowed to smolder with no flame present.

Subd. 6. Permit Application for Open Burning and Permit Fees.

- A. Open Burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and MPCA and adopted by the City. The permit application shall be presented to the City Clerk or his/her designee for reviewing and processing said applications.
- B. An Open Burning permit shall require a non-refundable application fee. In the event the Open Burning permit application is approved, the permit fee shall be volume based. Application and permit fees shall be set annually by City Council resolution. However, the City Council may at other times amend its resolution setting the fees as it deems necessary. The fees established by City Council resolution shall continue to be the required fee until amended by a resolution.

Subd. 7. Permit Process for Open Burning. Upon receipt of the completed Open Burning permit application and permit fee, the City Clerk or his/her designee shall schedule a preliminary site inspection to locate the proposed burn site, draft a fire event safety plan, and note special conditions. The materials to be burned may then be piled for burning at which time a second inspection shall be scheduled to assess volume of material and associated fees, set dates and times of permitted burn and review fire safety considerations. Two days before burning, the permit holder shall notify the City of Lexington Fire Department of the proposed burn.

Subd. 8. Permit Holder Responsibility.

- A. Prior to starting an Open Burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every Open Burn event shall be constantly attended by the permit holder or his/her competent representative. The Open Burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan. The Open Burn fire shall be completely extinguished before the permit holder or his/her representative leaves the site. It is the responsibility of the permit holder to have a valid permit, as required by this section, available for inspection on the site by the Fire Department, MPCA representative, and/or DNR Forest Officer.
- B. The permit holder is responsible for compliance and implementation of all general conditions, special conditions and the burn event safety plan as established in the permit issued. The permit holder shall be responsible for All costs incurred as a result of the burn, including, but not limited to, fire suppression and administrative fees.

Subd. 9. Revocation of Open Burning Permit. The Open Burning Permit is subject to revocation at the discretion of the MPCA commissioner, or DNR forest officer, or the City Administrator or his/her designee. Reasons for revocation include, but are not limited to: a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn, or a fire smoldering with no flame present.

Subd. 10. Denial of Open Burning Permit. If established criteria for the issuance of an open burning permit are not met or during review of said application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the City Clerk or his/her designee, the City Clerk or his/her designee may deny the application for the open burning permit.

Subd. 11. Burning Ban or Air Quality Alert. No Recreational Fire or Open Burn will be permitted if the City or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Subd. 12. Rules Adopted by Reference. Minnesota Rules parts 7005.0705 to 7005.0805 "Open Burning", Minnesota Statutes 88.16 to 88.171 and Minnesota Uniform Fire Code, are hereby adopted by reference and made a part of this ordinance as if fully set forth at this point.