



## Ordinance 22-07

### An Ordinance Amending Chapter 22, Article IV, Open Burning to the City of Elk River, Minnesota, City Code

The City Council of the City of Elk River does hereby ordain as follows:

**SECTION 1.** That Chapter 22, Article IV, Open Burning, to the City of Elk River Code of Ordinances shall be amended to read as follows:

#### ARTICLE IV. OPEN BURNING <sup>1</sup>

##### *DIVISION 1. GENERALLY*

**Sec. 22-101. Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Camp fire* means a fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by three feet high, and has had the ground five feet from the base of the fire cleared of all combustible material.

*Open fire* or *open burning* shall mean a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct, or chimney.

*Recreational fire* means a campfire which meets the following requirements set forth in section 22-104.

*Running fire* means an attended fire that is allowed to spread through surface vegetative materials under controlled conditions. Its purpose is that of vegetative management, forest management, game habitat management or agricultural improvement.

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<sup>1</sup>Editor's note(s)—Ord. No. 02-12, § 1, adopted Sept. 16, 2002, repealed the former Art. IV, §§ 22-101—22-134, and enacted a new Art. IV as set out herein. The former Art. IV pertained to similar subject matter and derived from Code 1982, §§ 410.00—410.02, 410.04, 410.06, 410.08, 410.10, 410.12, 410.16, 410.18, 410.20.

State law reference(s)—Wildfire Act, Minn. Stats. § 88.02 et seq.



*Starter fuels* means dry, untreated, unpainted wood or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start on open fire.

*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-foot lengths.

(Ord. No. 02-12, § 1(410.00), 9-16-2002)

Cross reference(s)—Definitions generally, § 1-2.

**Sec. 22-102. ~~Establishment of no open burning zone.~~ Reserved**

~~The city council, from time to time, via adoption of an official map, shall establish a "No-Burn Zone", within which open burning is prohibited.~~

(Ord. No. 02-12, § 1(410.01), 9-16-2002)

**Sec. 22-103. ~~Exemptions from no burn zone prohibitions.~~**

- (a) Open burning of the types, and subject to the conditions as hereinafter stated shall be exempt from the prohibitions of this article.

Fires under managed supervision for which a burning permit has been obtained from the fire chief or designee of the fire chief, but limited to the following:

- (1) Fires purposely set for the instruction and training of public and industrial firefighting personnel.
  - (2) Fires set for the elimination of a fire hazard, which cannot be abated by any other practicable means.
  - (3) Fires purposely set for forest and game management purposes.
  - (4) The burning of trees, brush, grass, and other vegetable matter in the clearing of land, the maintenance of street, road, and highway right-of-way, and in accepted agricultural land management practices.
- (b) Permits to conduct fires under this section do not excuse a person from the consequences, damages, or injuries which may result therefrom, nor exempt any person from regulations promulgated by the Minnesota Pollution Control Agency or any other governmental unit exercising jurisdiction in matters of pollution or fire hazard regulations.

(Ord. No. 02-12, § 1(410.06), 9-16-2002)

#### Sec. 22-104. Recreational fires permitted.

Recreational fires are permitted within the city limits, ~~including the "no burn zone"~~. Recreational fires may take place 24 hours per day and do not require an open burning permit. Recreational fires must meet the following requirements:

- (1) Recreation fire site requirements. An area of no more than a three-foot diameter circle (measured from the inside of the fire ring or border) completely surrounded by noncombustible and nonsmoke or odor producing material either of natural rock, cement, brick, tile, or block of 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. Recreation fire sites shall not be located closer than ~~50~~ 25 feet from any structure. Burners are not recreational fire sites as defined herein.
- (2) Recreational fire burn requirements. When a campfire is used for recreational purposes, it must be ignited with an approved starter fluid using dry, clean wood; producing little detectable smoke, odor, or soot beyond the property line; conducted with an adult tending the fire at all times; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance health or safety hazards will not be created. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as camp or recreational ~~fires, and~~ fires and are not covered by this article.

(Ord. No. 02-12, § 1(410.02), 9-16-2002)

#### Sec. 22-105. Prohibited materials.

It is illegal to burn at any time:

- (1) Oils, rubber, plastics, chemically treated materials, or other materials that produce excessive or noxious smoke.
- (2) Hazardous waste.
- (3) Burnable building materials from demolition of a commercial or institutional structure (farm buildings are not commercial).
- (4) Industrial solid waste generated from an industrial or manufacturing process, or from a service or commercial structure.
- (5) Motor vehicles or conduct salvage operations by open burning.
- (6) Garbage from the handling, procession, storage, preparation, serving, or consumption of food.

- (7) Painted or treated wood.
- (8) Any leaves or grass clippings.

(Ord. No. 02-12, § 1(410.04(5)), 9-16-2002; Ord. No. 08-18, § 1, 12-1-2008)

#### **Sec. 22-106. Burning ban or air quality alert.**

No camp or recreational fire or open burn will be permitted when the city or department of natural resources has officially declared a burning ban due to ~~potential~~potentially hazardous fire conditions or when the Minnesota Pollution Control Agency has declared an air quality alert.

(Ord. No. 02-12, § 1(410.08), 9-16-2002)

#### **Sec. 22-107. Running fires.**

Running fires are not permitted in any area of the city except by ~~special~~ permit. (See "exemptions," section 22-103).

(Ord. No. 02-12, § 1(410.10), 9-16-2002)

#### **Sec. 22-108. Penalties.**

Any person violating the provisions of this article shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of up to \$1,000.00 and/or imprisonment for a term not to exceed 90 days. In all cases, the violator may be held accountable for the costs of prosecution and the cost incurred from suppression of the fire.

Ord. No. 02-12, § 1(410.12), 9-16-2002)

#### **Secs. 22-109—22-130. Reserved.**

### *DIVISION 2. PERMITS*

#### **Sec. 22-131. Open burning permit required.**

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit. A permit is not required for any fire, which is a recreation fire as defined in section 22-104.

- (1) Standards.
  - a. Hours.
    - 1. Open burning is only permitted between the hours of 6:00 p.m. to 8:00 a.m., except when there is snow cover of three or more inches.



2. In the event there is snow cover of three or more inches, open burning may occur 24 hours per day.

- (2) *Issuance of permits.* Open burning permits shall be issued through the city, by the fire chief; ~~assistant fire chief, or nstate fire warden~~ or designee of the fire chief.

A three day open burning permit may be acquired at Elk River City Hall after a compliance inspection and a paid permit fee.

(Ord. No. 02-12, § 1(410.04(1)(2)), 9-16-2002)

Sec. 22-132. ~~Special open burn permits.~~ Reserved

~~A special open burn permit is required for open burning in the following circumstances:~~

~~(1) Any open burning in a "no-burn" area of the city. Requests for special open burn permits within the "no-burn zone" shall be made in writing to the fire chief and shall detail the special circumstances warranting the request. Open burning occurring within the "No-Burn Zone" shall be at least 600 feet from any structure.~~

~~(2) Any person requesting to burn between the hours of 8:00 a.m. and 6:00 p.m. when there is not more than three or more inches of snow cover.~~

~~(3) Running fires for the purposes of vegetative management as defined in section 22-101.~~

(Ord. No. 02-12, § 1(410.04(3)), 9-16-2002)

Sec. 22-133. ~~Special o~~Open burn permit application procedure.

- (a) The applicant must contact the fire chief, or designee of the fire chief, and schedule a preliminary site inspection to locate the proposed burn site.
- (b) No burning shall take place without first having obtained an ~~special~~ open burn permit.
- (c) ~~An~~The extended length of the burn permit shall be determined by the fire chief or designee of the fire chief.
- ~~(d) Special burn permit fee. The fees for special burn permits are as follows:~~
- ~~(1) Residential areas \$10.00~~
- ~~(2) Daytime hour special burn permit 25.00~~

(Ord. No. 02-12, § 1(410.04(4)), 9-16-2002)

Sec. 22-134. Denial.

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 of disposal of the material exists, or a pollution or nuisance condition would result, then the fire chief, or designee of the fire chief may deny the open burning permit application.

(Ord. No. 02-12, § 1(410.04(6)), 9-16-2002)

**Sec. 22-135. Revocation.**

The open burning permit is subject to revocation at the discretion of the city fire chief, or designee of the fire chief. 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.

(Ord. No. 02-12, § 1(410.04(7)), 9-16-2002)

**Secs. 22-136—22-160. Reserved.**

**SECTION 2.** That this ordinance shall take effect upon adoption and be published as provided by law.

Passed and adopted by the City Council of the City of Elk River this 21st day of March, 2022.

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John J. Dietz, Mayor

ATTEST:

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Tina Allard, City Clerk

