

adverse impact on the health, safety and welfare of the persons affected, the adverse impact on property affected, and any other adverse effects of granting the variance. The variance may be granted subject to conditions, including a time limit, which shall be clearly stated.

- (b) If the city finds that sufficient controversy exists regarding the proposed exception to the provisions of this section, a public hearing will be held on the proposed application at which all persons affected shall be given an opportunity to be heard.
  
- (5) Exception for emergency work. Noise created exclusively in the performance of emergency work to preserve the public health, safety or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this section for a period not to exceed 24 hours after the work is commenced. Persons responsible for the work shall inform the Police Department, Building Inspector and City Administrator of the need to initiate the work or, if the work is commenced during non-business hours of the city, at the beginning of business hours of the first business day thereafter. Any person responsible for this emergency work shall take all reasonable actions to minimize the amount of noise.

Penalty, see § 91.99

*Ord. #49, adopted 01/10/1990, Ord. amended 05/22/2002, Ord. amended 12/10/2003, Ord. 2d #25, amended 12/10/2008*

## **OPEN BURNING**

### **§ 91.20 PURPOSE.**

The purpose of this subchapter is to establish permitted categories of open burn events for residences and farms within the city and provide for a permitting process for residential and agricultural open burning, except when the open burning is defined as a recreational fire as prescribed in this subchapter.

*Ord. #36A, adopted 08/10/1994*

### **§ 91.21 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***FIRE CHIEF, FIRE MARSHAL and ASSISTANT FIRE MARSHALS.*** The Fire Chief, Fire Marshal and Assistant Fire Marshals of the Centennial Fire District which provides fire protection services to the city through a joint powers agreement.

**OPEN BURNING.** 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.

**RECREATIONAL FIRE.** A fire set with approved starter fuel no more than three feet in height, contained within the border of a recreational fire site 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; for recreational, ceremonial, food preparation for social purposes; 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 RECREATIONAL FIRES. No more than one RECREATIONAL FIRE is allowed on any property at one time.

**RECREATIONAL FIRE SITE.** 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 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 25 feet to any structure.

**STARTER FUELS.**

- (A) Dry, untreated, unpainted kindling, branches, cardboard or charcoal fire starter.
- (B) Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only.
- (C) Propane gas torches or other clean gas-burning devices causing minimal pollution must be used to start an open burn.

**WOOD.**

- (A) Dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cord wood or untreated dimensional lumber.
- (B) The term does not include wood that is green with leaves or treated with paint, glue or preservatives.
- (C) Clean pallets may be used for recreational fires when cut into three-foot lengths.

*Ord. #36A, adopted 08/10/1994*

**§ 91.22 PROHIBITED MATERIALS.**

- (A) No person shall conduct, cause or permit open burning of oils, petro 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, 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.
- (C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.
- (D) No person shall conduct, cause or permit open burning of any leaves or grass clippings.

Penalty, see § 91.99

*Ord. #36A, adopted 08/10/1994*

**§ 91.23 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, except that a permit is not required for any fire which is a recreational fire as defined in this chapter.

Penalty, see § 91.99

*Ord. #36A, adopted 08/10/1994*

**§ 91.24 PURPOSES ALLOWED.**

- (A) Open burn permits may be issued only for the following purposes:
  - (1) Elimination of fire of health hazard that cannot be abated by other practical means;
  - (2) Ground thawing for utility repair and construction;
  - (3) 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;
  - (4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, diseased bee hives; and

- (5) Disposal of unpainted, untreated, nonglued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

(B) Fire training permits can only issued by the Minnesota Department of Natural Resources.

Penalty, see § 91.99

*Ord. #36A, adopted 08/10/1994*

#### **§ 91.25 PERMIT APPLICATION; PERMIT FEES.**

(A) Open burning permits shall be obtained by making application on a form prescribed by the Department of Natural Resources (DNR) and adopted by the Centennial Fire District. The permit application shall be presented to the Fire Chief, Fire Marshal and Assistant Fire Marshals for reviewing and processing the applications.

(B) An open burning permit shall require a fee. Permit fees shall be set annually by City Council resolution. However, the City Council may at other times amend its resolution setting the fee as it deems necessary. The fee established by City Council resolution shall continue to be the required fee until amended by a resolution.

Penalty, see § 91.99

*Ord. #36A, adopted 08/10/1994*

#### **§ 91.26 PERMIT PROCESS.**

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal or Assistant Fire Marshals shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and time of permitted burn and review fire safety considerations.

*Ord. #36A, adopted 08/10/1994*

#### **§ 91.27 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 or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) (1) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site.

- (2) No fire may be allowed to smolder with no person present.
  - (3) It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Centennial Fire District, MPCA representative or DNR forest officer.
- (C)
- (1) 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.
  - (2) 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.

Penalty, see § 91.99

*Ord. #36A, adopted 08/10/1994*

**§ 91.28 REVOCATION OF OPEN BURNING PERMIT.**

- (A) The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal, or Assistant Fire Marshals.
- (B) 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.

Penalty, see § 91.99

*Ord. #36A, adopted 08/10/1994*

**§ 91.29 DENIAL OF OPEN BURNING PERMIT.**

If established criteria for the issuance of an open burning permit are not met during review of the 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 Fire Chief, Fire Marshal or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

*Ord. #36A, adopted 08/10/1994*

**§ 91.30 BURNING BAN OR AIR QUALITY ALERT.**

No recreational fire or open burn will be permitted when 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.

Penalty, see § 91.99

*Ord. #36A, adopted 08/10/1994*

### **§ 91.31 RULES ADOPTED BY REFERENCE.**

The provisions of M.S. §§ 88.16 to 88.22, as amended, and the Minnesota Uniform Fire Code are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

*Ord. #36A, adopted 08/10/1994*

## **CLEANUP OF CLANDESTINE DRUG LAB AND CHEMICAL DUMP SITES**

### **§ 91.45 GENERAL PROVISIONS.**

(A) *Purpose and intent.* The purpose of this subchapter is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals or residue from a suspected clandestine drug lab site or associated dump site may exist. Professional reports, based on assessments, testing and investigations, show that chemicals used in the production of illicit drugs can condense, penetrate and contaminate surfaces, furnishings and equipment of surrounding structures. The City Council finds that these sites, and the personal property within the sites, may contain suspected chemicals and residues that place people, particularly children or adults of childbearing age, at risk when exposed through inhabiting or visiting the site or using or being exposed to contaminated personal property.

(B) *Interpretation and application.*

- (1) In the interpretation and application of this subchapter, the provisions herein shall be construed to protect the public health, safety and welfare.
- (2) Where the conditions imposed by any provision of this subchapter are either more or less restrictive to the public than comparable provisions imposed by any other law, ordinance, statute or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements on the public shall prevail.

(C) *Fees.* Fees for the administration of this subchapter may be established and amended periodically by resolution of the City Council.

*Ord. #77, adopted 12/10/2003*