

ORDINANCE #22

AN ORDINANCE RELATING TO OPEN BURNING WITHIN THE CITY OF STOCKTON and REPEALING AN EXISTING ORDINANCE ENTITLED “ORDINANCE FOR STOCKTON, OPEN BURNING”

THE CITY OF STOCKTON ORDAINS:

SECTION 1. ADOPTION BY REFERENCE OF MN STATUTES. Except as herein specifically addressed or modified, the following provisions of state law are hereby adopted by reference: Minnesota Statutes Section 88.01 to 88.195

SECTION 2. DEFINITIONS.

- A. Building Material: Lumber, wood shakes and other wood products, but shall not include composite shingles, tar paper, insulation, wall board, wiring or other similar smoke producing materials.
- B. Campfire: 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.
- C. Cooking fire: A fire contained in charcoal grill, camp stove or other device designed for the purpose of cooking.
- D. Demolition Debris: Burnable building material generated from demolition of buildings or structures.
- E. Garbage: Discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.
- F. Hazardous Waste: No person shall conduct, cause, or permit open burning of hazardous waste as defined in Section 116.05, Subdivision 11, and applicable commissioners rules.
- G. Heating Devices: Furnaces or other devices which burn fuel oil, coal, natural gas, propane, and wood or used petroleum products, and which conform to all local, state and federal environmental and safety regulations, intended to provide heat.
- H. Open Burning: Open burning is the burning of any matter which is not contained within a fully enclosed firebox or container, and whereby the resulting combustion products are emitted directly to the atmosphere without passing through a stack, duct, or chimney.
- I. Prohibited Materials: Rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke including, but not limited to, tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, paint filters and oil.
- J. Rubbish: Non-putrescible solid waste, such as paper, cardboard, yard clippings and other natural matter not included in garbage.

- K. Solid Waste: Garbage, refuse, sludge from a water supply treatment plant or air containment treatment facility, and other discarded waste materials and sludge's, I solid, semisolid, liquid or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities.
- L. Wildfires: A fire requiring suppression action, burning any forest, brush, grassland, cropland, or any other vegetative material.

SECTION 3. RESTRICTIONS ON BURNING. No person shall cause, allow or permit open burning of any prohibited materials, hazardous wastes, solid wastes, demolition debris, motor vehicles, building materials, garbage, or rubbish within the City limits of the City of Stockton.

SECTION 4. EXCEPTIONS. Open burning is allowed for the following exceptions only;

- A. Open fires started when the ground is snow covered. The ground is considered snow covered when the snow is at least three inches deep and is unbroken surrounding the fire for an area sufficient to keep the fire from spreading. MN Statute 88.01, Subd. 26.
- B. Campfires. A campfire is a fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by three feet high, and the ground surrounding the fire has been cleared of all combustible material for five feet from the base of the fire. MN Statute 88.01, Subd. 25.
- C. Fires contained in charcoal grills, camp stoves, or other devices designed for the purpose of cooking or heating.
- D. When the ground is not snow covered, fires to burn dried vegetative materials and other materials allowed by law in a burner of a design, which has been approved by the commissioner. There can be no combustible materials within five feet of the base of the burner and the burner can only be used during the hours of 6:00 pm to 8:00 am. When the ground is snow covered these materials could be burned at any time without a permit based on Exception A. above.

Exemption to conduct fires under this section does not excuse a person from the consequences, damages or injuries which may result there from, nor does it exempt any person from regulations promulgated by the Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, or any other governmental unit exercising jurisdictions in matters of pollution or fire hazard regulations.

SECTION 5. PERMITS. The City of Stockton Fire Warden, or a person designated by the Stockton Fire Warden shall be responsible to issue burning permits. No permit for a fire issued by any person or agency other than the Fire Warden or the Warden's designee shall be valid.

- A. Permit forms and fees. The Fire Warden shall prepare application and permit forms. Fees for fire permits may be set from time to time by resolution of the City Council, but where a particular fire will, in the discretion and

judgment of the Fire Warden, require supervision by Fire Department personnel, the standard rate of \$100.00 per hour will be charged to help defray the City's actual expense of such supervision.

- B. Length of Permit. A permit, once issued, shall be for such period of time as it is stated on the permit.
- C. Extension of Permit. The Fire Warden may grant up to one extension of a permit, each for a time span not longer than the duration of the initial permit, without requiring and additional permit fee.
- D. Type of permit. The permit must set the conditions for starting and burning the fire, and must also list all the materials, which may be burned under the permit.
- E. Permit Holder. The permittee must have the permit on his or her person at all times and must remain with the fire until it is completely extinguished. The permit must be given to a forest officer, fire warden or other peace officer when requested for inspection.
- F. Site of Permit. No person may start or cause a fire to be started on any land that is not owned by them or under their legal control without the written permission of the owner or lessee of the land, even if they have obtained a permit from the Fire Warden or other authority.

Examples of permits required:

- A. Ground thawing for utility repair, underground utility construction and preparation of burial grounds.
- B. Bona-fide instruction and training of firefighting personnel and for the testing of fire extinguishing equipment.
- C. Fires set for the elimination of a fire hazard, which cannot be abated by another practicable means.
- D. The burning by City staff of trees, brush, grass and other vegetative matter in the maintenance of municipal property.

SECTION 6. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

SECTION 7. PENALTY. Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be sentenced to a fine and/or imprisonment in accordance with law.

SECTION 8. REPEAL. That certain ordinance entitled "Ordinance for Stockton, Open Burning" adopted June 2, 1972, and any other ordinance that is inconsistent with this ordinance is hereby repealed.

SECTION 9. EFFECTIVE DATE. This ordinance shall be effective upon its enactment and publication according to law.

Passed and adopted by the Stockton City Council this _____ day of - _____, 2005.

Mayor Jack Roberts

Attest:

Bethany Winchester, City Clerk

(seal)