

AN ORDINANCE REGULATING OPEN BURNING
WITHIN THE CITY OF GRACEVILLE AND PROVIDING
PENALTIES FOR THE VIOLATION THEREOF

THE CITY COUNCIL OF THE CITY OF GRACEVILLE DOES ORDAIN AS FOLLOWS:

Section 1. Minnesota Statutes Adopted.

The provisions of Minnesota Rules, parts 7005. et. seq. and Minnesota Statutes, Chapter 88 et. seq., relating to the definition of terms, open burning restrictions, open burning prohibitions, permits required, permit denial, permit revocation, Minnesota Department of Natural Resources (DNR) jurisdiction, fire training, delegation of authority, compliance with other laws, recreational fires, open burning on farms, open burning of leaves, liability, and those portions of the Minnesota State Fire Code that relate to open burning, are adopted in this ordinance as if printed in full.

Section 2. Open Burning Regulatory Authority.

Through passage of this ordinance, the City of Graceville's Fire Warden (a duly appointed DNR Fire Warden) is hereby authorized to issue open burning restrictions and burning bans to aid in the prevention of wildfire. Burning restrictions implemented by the Fire Warden may be more restrictive, but not less, than those set by the Department of Natural Resources, and shall be in conformance with and consultation with the DNR Division of Forestry and in accordance with provisions of the Wildfire Act: Chapter 88 statutes. The Fire Warden is hereby authorized to consult with DNR Division of Forestry staff and develop burning restriction criteria based upon the Division's open burning program.

Section 3. Definitions.

- A. Campfire: Same as Recreational Fire.
- B. Open Burning: "Open burning" or "open fire" shall mean a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box or structure from which the products of combustion are emitted directly to the atmosphere without passing through a stack, duct, or chimney.
- C. Open Burning Permit: "Open burning permit" means a permit to burn issued by DNR Forestry staff or DNR-appointed Fire Warden, authorizing fires exempted from the general provisions hereof, and setting conditions therefore.
- D. Recreational Fire: "Recreational fire" means a fire set for cooking, warming, ceremonial or social purposes, set within an area no larger than a three (3) foot diameter circle (measured from the inside of the fire ring or border). The maximum height of material in a recreational fire shall not exceed three (3) feet. The fire must be completely surrounded, to a distance of at least five feet from its base, by non-combustible and non-

smoke or odor producing material, either of natural rock, cement, brick, tile or block of ferrous metal only. Outdoor fireplaces, fire pits, and devices manufactured to contain a recreation/camp fire are included. Burners (burn barrels) and mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices, are not camp or recreational fires as defined herein.

- E. Running Fire: An attended fire that is allowed to spread through surface vegetative matter under controlled conditions. Its purpose is that of vegetative management, forest management, game habitat management or agricultural improvement.
- F. Snow-covered: “Snow-covered” means that the ground has a continuous, unbroken cover of snow, to a depth of three inches or more, surrounding the immediate area of the fire sufficient to keep the fire from spreading.
- G. Starter Fuels: “Starter fuels” mean dry untreated, unpainted wood or charcoal fire starter. Paraffin candles, alcohols, and the flame from a propane torch are permitted as starters fuels and as aids to ignition only.
- H. Vegetative Material: As pertains to this ordinance, “vegetative material” means dry, clean fuel such as twigs, branches, limbs, charcoal, cordwood, untreated/unpainted lumber that contains no glues or resins, and manufactured fireplace logs. It does not include material that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue, or preservatives. Paper and cardboard are not considered vegetative materials.

Section 4. Open Burning Prohibited

From and after the effective date of this ordinance, except as herein otherwise provided, open burning shall be prohibited within the City of Graceville.

Section 5. Exceptions.

- A. Open burning of the types, and subject to the conditions, as hereinafter stated, shall be exempt from the prohibition of Section 4 of this ordinance.
 - 1. Recreational fires.
 - 2. Fires in authorized containers used solely for food preparation or warmth, including charcoal, gas, propane, or electric grills, camp stoves, manufactured hibachis, and wood smokers.
 - 3. Fires under managed supervision for which an open burning permit has been obtained, but limited to the following:
 - a. Burning to dispose of vegetative matter for managing forest, prairie, or wildlife habitat, and in approved agricultural practices.
 - b. Burning to develop and maintain land and rights-of-way where chipping, composting, land spreading, or alternative methods are not practical.
 - c. Burning to dispose of diseased trees generated on site, diseased or infected nursery stock, or diseased beehives.
 - d. Fires to thaw ground thaw for utility repair and construction.

- e. Burning to dispose of raw, unpainted, unglued, untreated solid wood/lumber when recycling, reuse, removal, or other alternate disposal methods are not practical.
- f. Fires set for the elimination of a fire hazard that cannot be abated by any other practical means.
- g. Fires purposely set for the instruction and training of public and industrial firefighting personnel.
- h. Burning at the designated permanent tree and brush open burning site by authorized City Staff.
- i. Public ceremonial fires larger than campfires.

B. Exemption to conduct fires under this section does not excuse a person from the consequences, damages, or injuries which may result therefrom nor does it 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 regulation.

Section 6. Permit Required for Open Burning.

- A. No person shall start or allow any open fire on any property within the city limits of Graceville (included periods when the ground is snow-covered) without first having obtained an open burning permit, except that a permit is not required for:
 - 1. A recreational fire.
 - 2. A fire in an authorized container used solely for food preparation or warmth, including a charcoal, gas, propane, or electric grill, camp stove, manufactured hibachis, and wood smoker.
- B. Open burning permits may be obtained from the Fire Warden for the City of Graceville.
- C. Open burn permit fees for the City of Graceville are as follows:
 - 1. *Permits are \$10.00 from the Fire Warden (city Clerk)*
- D. Special Permits Needed:
 - 1. A special permit, issued only by DNR Division of Forestry staff, must be obtained for the following:
 - a. Fires for the instruction and training of firefighters. Fire department training burns must be approved in form and execution by the DNR Division of Forestry, and should be conducted when weather conditions carry smoke away from neighboring residences and when fire, public health or traffic hazards will not result.
 - b. Permanent tree and brush open burn sites.
 - c. Fires set for the elimination of a fire hazard that contains prohibited material, when the hazard cannot be abated by any other practical means. A written request to DNR Forestry from a local or State Department of Health to eliminate said material by fire is required prior to issuance of a special permit.
 - 2. Although the Fire Warden is authorized to issue running fire permits, it is recommended that Fire Warden consult with DNR Forestry prior to issuing such permits.
- E. It is not the intent of the City of Graceville or the Department of Natural Resources to promote open burning. Alternative methods such as composting and recycling must first

be considered before a permit will be issued. *To minimize risks of fire damage and reduce smoke impacts and conflicts, the City of Graceville provides a collection site for vegetative material (City of Graceville's permanent tree and brush burn site). Permit requests for open burning within Graceville may be refused if delivering material to this site is considered by the Fire Warden to be a reasonable alternative to burning at resident locations.*

Section 7. Open Burning Conditions.

A. Prohibited materials:

Only vegetative materials as defined herein shall be burned within the municipal limits of Graceville, except for properly permitted fire department training burns and fires set to eliminate a fire hazard. Prohibited materials include, but are not limited to:

1. Oils, rubber, plastics, chemically treated materials, or other materials that produce excessive or noxious smoke.
2. Hazardous waste.
3. Burnable buildings or building materials, including composite shingles, tarpaper, insulation, composite board, sheetrock, wiring or paint.
4. Painted, glued, or treated wood.
5. Industrial solid waste generated from an industrial or manufacturing process, or waste from a service or commercial establishment or from the demolition of a commercial or institutional structure, unless permitted by the Commissioner of Natural Resources, through the Division of Forestry.
6. Motor vehicles or to conduct salvage operations by open burning.
7. Garbage from the handling, storage, preparation, serving or consumption of food.

B. Prior to burning:

1. Prior to starting a recreational fire, the property owner on whose land the fire will be located is responsible to confirm that there are no burning bans, burning restrictions, or air quality alerts in effect.
2. Prior to starting a permitted fire, on the day of the burn, the permit holder must:
 - a. Confirm that there are no burning bans, burning restrictions, or air quality alerts in effect.
 - b. Activate the open burn permit by calling the designated activation telephone number.
 - c. Ensure that a valid open burning permit is available on-site for inspection.

C. Recreational Fires:

The property owner on whose land the fire will be located is responsible to ensure that:

1. The fire is ignited with approved starter fuel.
2. Working communications and fire suppression equipment [fire extinguisher, charged water hose, or minimum five (5) gallons of water] are available on-site.
3. A competent adult tends the fire at all times.
4. The fire produces little detectable smoke, odor, or soot beyond the property line.
5. The fire does not create nuisance health or safety hazards.
6. The fire is extinguished completely before quitting the occasion.
7. ***Recreational fires are allowed only from 6:00 pm to 8:00 am, with no additional fuel added after midnight, and all fires out by 8:00 am.)***

D. Permitted Fires:

The permit holder is responsible to ensure:

1. Working communications, sufficient manpower, and fire suppression equipment adequate to contain the fire are available on-site.
2. A competent adult tends the fire at all times.
3. The fire is extinguished completely before the fire attendant leaves the site.
4. All general conditions, special conditions, and hazard mitigation measures addressed in the permit, are complied with and implemented.

E. Fire Setbacks:

1. No recreational fire shall be conducted within 25 feet of a structure or combustible material unless the fire is contained in an approved device or method, such as a fireplace, charcoal grill, etc., located at least 15 feet from any building, fence, or structure. All other open fires shall not be conducted within 50 feet of any structure or combustible materials.
2. No open burning is allowed within one (1) mile of an airport or landing strip without expressed approval from the airport authority, except for recreational fires and fires in authorized containers used solely for food preparation or warmth.

F. Smoldering Fires:

Smoldering fires with no visible flame, no matter what materials are being burned, are prohibited and must be extinguished immediately (except for prairie, forestry, or wildlife management burns).

G. Burn Barrels

Fires in burn barrels (burners) are not allowed in the City of Graceville.

Section 8. Burning Ban, Restrictions, or Air Quality Alert.

No recreational fires or permitted open burning will be allowed if the Fire Warden for the City of Graceville, Big Stone County, or Department of Natural Resources has officially declared a burning ban due to potentially hazardous fire conditions, or when the Minnesota Pollution Control Agency has declared an air quality alert.

Section 9. Penalties.

- A. Any person violating the provisions of this ordinance shall be guilty of a misdemeanor and may be punished by fine or imprisonment. The permit holder is responsible for all costs and damages incurred as a result of the burning including, but not limited to, costs of prosecution, fire suppression, fire and smoke damages, and administrative costs.
- B. Smoke from all open burning, including recreational fires, may be considered a nuisance if it is injurious to health, offensive to the senses, if it obstructs the free use of property, or if it interferes with the comfortable enjoyment of life or property. Nuisances are subject to criminal and civil actions.

Section 10. Duty of Enforcement Officials.

It shall be the duty of all city attorneys, peace officers, and other officials having authority in enforcement of general criminal laws to take all actions to the extent of their authority, respectively, that may be necessary or proper for the enforcement of the provisions, standards and orders implemented under this ordinance.

Section 11. Severability.

Should any provision or any part hereof be declared by any Court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this Ordinance which shall remain in effect.

Section 12. Ordinance conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 13. Effective Date.

This ordinance shall be effective upon adoption and publication as provided by law.

Passed by the City Council of the City of Graceville, this the ____ day of _____, 200_ .

Attest:

_____ City Clerk _____ Mayor