

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

ORDINANCE NO. 2022-01

**AN ORDINANCE AMENDING THE LAKE ELMO CITY CODE OF ORDINANCES BY
AMENDING CHAPTER 3.12 AND CHAPTER 5.12 RELATING
TO THE ORGANIZATION OF THE
LAKE ELMO FIRE DEPARTMENT AND OPEN BURNING**

SECTION 1. The City Council of the City of Lake Elmo hereby amends Chapter 3.12 and Chapter 5.12; (Amended language is underlined to represent added language and ~~strikethrough~~ represents deleted language):

CHAPTER 3.12 – III FIRE DEPARTMENT

3.12.290 Organization

~~The fire department shall consist of one chief, one assistant chief at each fire station, and up to 28 firefighters between the ages of 18 to 65 years of age who are approved by the council.~~

3.12 .290 Establishment

There is hereby established a city fire department, which shall consist of a combination staffing model of full-time and part-time firefighters.

3.12.300 Purpose

The department shall be responsible for the prevention and suppression of fires, the protection of life and property against fire, and the enforcement of all state and city fire code provisions.

3.12.310 Personnel

The council shall determine the number of persons serving in the department as full-time and part-time firefighters.

3.12.320 Fire Chief

The department shall be under the direction and supervision of a fire chief, subject to the general supervision of the city administrator.

3.12.330 Firefighters relief association.

There is hereby continued in the city a firefighter's relief association, whose function is to manage a service pension benefit for firefighters, which are authorized under state statutes, and to provide other services to firefighters of the city fire department as deemed appropriate by members of the association.

- (a) Any proposed change to the association's bylaws or articles of incorporation which will affect the benefits paid from the association's special fund shall not be effective until ratified by the city council.

~~5.12-IV OPEN FIRES PROHIBITED~~

~~5.12.320 Adoption By Reference~~

~~The ambient air quality standards, air pollution control regulations of the Minnesota Pollution Control Agency (MPCA), and the Open Burning Restrictions and Permitting Regulations of the state department of natural resources (DNR) are adopted by reference, and have the same force and effect as if they were reproduced in their entirety.~~

~~5.12.330 Permits~~

~~Open fires are prohibited, provided that a recreational fire is allowed upon issuance of a permit by the city fire chief or the fire chief's designee.~~

5.12 -IV OPEN BURNING

5.12.320 City may be more restrictive than state law.

The council is authorized to impose, and has imposed in this article, additional restrictions on open burning within its limits beyond those contained in Minn. Stat. ch. 88, as it may be amended from time to time.

5.12.330 Adoption By Reference

The ambient air quality standards, air pollution control regulations of the Minnesota Pollution Control Agency (MPCA), and the Open Burning Restrictions and Permitting Regulations of the state department of natural resources (DNR) are adopted by reference, and have the same force and effect as if they were reproduced in their entirety.

5.12.340 Purpose.

The purpose of this article is to regulate open burning within the City of Lake Elmo, to protect the public health, safety and welfare. Through passage of this article, the designated fire official is hereby authorized to adopt and impose burning restrictions to aid in the prevention of wildfire and to consult with the department of natural resources (DNR), division of forestry to develop any restrictions or other criteria.

5.12.350 Definitions.

For purposes of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Fire code official means the city's fire chief or their authorized representative.

Open burning means the burning of any matter if the resulting combustion products are emitted directly into the atmosphere without passing through a stack, duct or chimney, except a recreational or camp fire as defined herein. Mobile cooking devices such as charcoal grills, wood smokers, manufactured hibachis, and propane or natural gas devices are not considered open burning devices.

Portable outdoor fireplace means a portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace

may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

Recreational fire means a fire no more than three feet in diameter contained within 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, or social food preparation; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality requirements so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.

Recreational fire site means an area of no more than a three-foot diameter circle (as measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either natural rock, cement, brick, tile, blocks or ferrous metal. 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 or combustible material.

Running fire means an attended fire allowed to spread through surface vegetative matter under controlled conditions for the purpose of vegetative management, forest management, game habitat management, or agricultural improvement.

Starter fuels means dry, untreated, unpainted, kindling, branches or charcoal fire starter. Paraffin candles are permitted as a starter fuel and an aid to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open burn.

Vegetative materials means dry leaves, dry grass clippings, twigs, branches, tree limbs, and other similar materials. Paper and cardboard are not considered vegetative materials.

Wood means dry, clean fuels, twigs, branches, limbs, manufactured fireplace logs, charcoal, or cord wood. "Wood" does not include wood or wood based products that is green with leaves or needles, rotten, wet, oil soaked, treated or manufactured with paint, glue, preservatives or other chemicals.

5.12.360 Recreational fires.

(a) Recreational fires are allowed without a permit under the following guidelines:

(1) Only clean, dry, wood can be burned.

(2) The fire shall not exceed three feet in diameter with a flame height of three feet maximum.

(3) The fire shall take place on the owner's property and shall be a minimum of 15 feet from property lines.

(4) The fire shall not be conducted within 25 feet of a structure or combustible material.

(5) Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure or combustible material.

(6) The fire shall not be conducted if the wind speed exceeds ten miles per hour.

(7) The use of flammable or combustible liquid accelerants is not permitted.

(8) The fire must be constantly attended and supervised by an adult until the fire has been completely extinguished.

(9) A connected garden hose or other means to extinguish the fire must be readily available.

(10) Any person planning to have a recreational fire must be aware of local burning bans that have been issued by the state department of natural resources. If a burning ban is in effect, all recreational fires are prohibited.

(11) The fire must be extinguished if it becomes a nuisance to others or if not under adult supervision

5.12.370 Prohibited materials.

- (a) No person shall conduct, cause or permit the open burning of dimensional lumber, oils, petroleum fuels, rubber, plastic, chemically treated materials, or other materials that produce excessive or noxious smoke such as, but not limited to: tires; railroad ties; treated, painted or glued wood composite shingles; tar paper; insulation; composition board; sheet rock; wiring; or paint and paint filters.
- (b) No person shall conduct, cause or permit the open burning of: hazardous waste or materials from salvage operations; solid waste generated from an industrial or manufactured process; materials from a service or commercial establishment; or building materials generated from construction and/or demolition of commercial or institutional structures.
- (c) No person shall conduct, cause or permit the open burning of discarded materials resulting from the handling, processing, storage, preparation, serving or consumption of food.
- (d) No person shall conduct, cause or permit the open burning of any leaves or grass clippings.
- (e) No person shall conduct, cause or permit the open burning of any wood or other vegetative materials through the use of a burner, as described in Minn. Stat. § 88.16, within the city's jurisdiction.
- (f) No person shall conduct, cause or permit the open burning of any materials that have been hauled onto the site.
- (g) No person shall conduct, cause or permit the open burning on any commercial property within the City of Lake Elmo.

5.12.380 Open burning prohibited except by permit.

No person shall start or allow any open burning on any property in the city without first having obtained an open burning permit. A permit is not required for any fire which is a recreational/camp fire as defined in section 5.12.350.

5.12.390 Permitted open burning; special circumstances.

- (a) Under special or extraordinary circumstances, open burning permits may be issued by the city or by a DNR forestry official for:
 - (1) Elimination of health hazard that cannot be abated by other practical means, as determined by the commissioner of health or the local health authority.

- (2) Ground thawing for utility repair and construction.
 - (3) Running fires (prairie restoration).
 - (4) Disposal of diseased trees generated on-site, diseased or infected nursery stock, or diseased bee hives.
- (b) Fire training permits may only be issued by the Minnesota Department of Natural Resources (DNR).
- (c) Permits for the operation of a permanent tree and brush burning sites may only be issued by the Minnesota Department of Natural Resources (DNR).

5.12.400 Open Burn Permit Application Procedure.

- (a) The applicant must submit a completed Open Burn Permit application and fire service fee will be charged in accordance with the city's fee schedule
- (b) Schedule a preliminary site inspection to locate the proposed burn site.
- (c) No burning shall take place without first having obtained an open burn permit.
- (d) An extended length of the burn permit shall be determined by the fire chief or designee of the fire chief.

5.12.410 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.


5.12.420 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.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 3. Adoption Date. This Ordinance 2022-01 was adopted on this 5th day of April 2022, by a vote of 5 Ayes and 0 Nays.

LAKE ELMO CITY COUNCIL



Charles Cadenhead, Mayor

ATTEST:



Julie Johnson, City Clerk