

ORDINANCE NO. 061509

AN ORDINANCE AUTHORIZING AND REGULATING THE OPEN BURNING WITHIN THE CITY OF
NEWFOLDEN, MINNESOTA

The City Council of the City of Newfolden ordains as follows:

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. Leaves: Foliage from trees, shrubs, or other perennial plant.
- B. Building Material: Treated, painted or glued lumber, wood shakes and other wood products, composite shingles, tar paper, insulation, wall board, wiring or other similar smoke producing materials.
- C. 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. No more than one recreational fire is allowed on any property at one time. Described in greater detail in Section 4.
- D. 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 non-combustible and non-smoke 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 “recreation fire site” as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure.
- E. Cooking fire: A fire contained in charcoal grill, camp stove or other device designed for the purpose of cooking.
- F. Starter Fuels. Dry, untreated, unpainted, kindling, branches, cardboard (not defined as rubbish), 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 maybe used to start an open burn.
- G. Wood. Dry, clean fuel only such as twigs, branches, limbs, “presto logs”, charcoal, cord wood or untreated dimensional lumber. The term 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 or less.
- H. Demolition Debris: Burnable building material generated from demolition of buildings or structures.
- I. Garbage: Discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.

- J. Hazardous Waste: Any substance defined by the MPCA.
- K. 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.
- L. 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.
- M. 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.
- N. Rubbish: solid waste, such as paper, cardboard from the handling, processing, storage, preparation, serving, or consumption of food.
- O. Vegetative Materials. Dry leaves, dry grass clippings, twigs, branches, tree limbs, untreated or unpainted wood that contains no glue or resins, and other similar materials.
- P. Solid Waste: Garbage, refuse, sludge from a water supply treatment plant or air containment treatment facility, and other discarded waste materials and sludge's, solid, semisolid, liquid or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities.
- Q. Wildfires: A fire requiring suppression action, burning any forest, brush, grassland, cropland, or any other vegetative material.
- R. MPCA: Minnesota Pollution Control Agency
- S. DNR: Department of Natural Resources

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 Newfolden.

PROHIBITED MATERIALS.

- (A) No person shall conduct, cause, or permit open burning 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, except as provided in Section 4-C.

SECTION 4. EXCEPTIONS.

Open burning without a permit is allowed for the following exceptions only:

- A. Recreational Fires at Recreational Fire Sites as defined in Section 2C and 2D.
- B. Fires contained in charcoal grills, camp stoves, or other devices designed for the purpose of cooking or heating.
- C. Fires to burn dried vegetative materials such as leaves, twigs, and garden material will be allowed under the following limits and conditions:
 - 1. The open burning of leaves will only be permitted between September 15th and December 1st.
 - 2. A fire shall not be less than five (5) feet from any property line or within 25 feet of any building, lumber pile, wood yard, hay stack, or other comparable hazard.
 - 3. An adult shall be in constant attendance until the fire is completely extinguished.
 - 4. Burning will only be allowed during daylight hours.
 - 5. The burning of leaves is prohibited in City streets, maintained alleyways, sidewalks, boulevards, or any public parking by private citizens.
 - 6. No burning shall take place during an air pollution alert, high fire danger, warning or other emergency declared by this city, the MPCA, or the DNR.
 - 7. The Fire Chief, or another local fire authority designee, will have the authority to discontinue a burn when:
 - A. A fire hazard exists or develops during the course of the burn.
 - B. It is determined the smoke emissions are offensive to occupants of the surrounding property.
- D. 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 MPAC, Minnesota DNR, or any other governmental unit exercising jurisdictions in matters of pollution or fire hazard regulations.

SECTION 5. PERMITS.

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 Section 4.

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

- A. Permit forms and fees. The Fire Chief 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 Chief or designee, 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 Chief 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 an 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.
- G. Revocation of Permit. The Open Burning Permit is subject to revocation at the discretion of a DNR forest officer, or the Fire Chief or Assistant Fire Chief. Reasons for revocation include, but are not limited to:
 - a. 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.
 - b. 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.

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. Each day a violation exists shall be a separate violation.

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

Passed and adopted by the Newfolden City Council this 5th day of October 2015.

First reading: September 7, 2015
 Second reading: September 21, 2015
 Third reading: October 5, 2015

 Mayor Lori Warne

Attest:

 Tammy Hansen, City Administrator

The City Council of the City of Newfolden ordains as follows:

Ordinance No. 061509 entitled “An Ordinance Authorizing and Regulating the Open Burning within the City of Newfolden” is hereby amended as follows:

Section II definitions for Recreational Fire, Recreational Fire Site, Starter Fuels, Wood, Rubbish, and Vegetative Materials has been updated.

Section III of the Ordinance has been updated to include the following:

PROHIBITED MATERIALS.

- (A) No person shall conduct, cause, or permit open burning 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, except as provided in Section 4-C.

Section VI was updated to include:

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 Section 4. This amendment shall become effective upon its publication in the official newspaper of the City of Newfolden.