

Ordinance 0016-25 – Open Burning

An ordinance to Repeal and delete in its entirety Chapter 50, Article III, Division 3; Create Chapter 50, Article V; Amend Chapter 50, Article I, Section 50-3(b); Repeal, delete, and recreate Chapter 70, Article III, Division 1, Section 70-78; Amend Chapter 70, Article I, Section 70-1(b); and Part 6: Create Chapter 2, Article III, Division 8, Section 2-263(j), of the Municipal Code of the City of Racine.

The Common Council of the City of Racine, Wisconsin, do ordain as follows:

Part 1: Chapter 50, Article III, Division 3 is repealed and deleted.

Part 2: Chapter 50, Article V is created as follows:

ARTICLE V. – OPEN BURNING

Sec. 50-530. – Enforcement.

The fire chief or designee and police chief or designee shall have the power to enforce the provisions of this article.

Sec. 50-531. – Definitions.

Bonfire means a fire that has a total fuel area of more than three feet but less than six feet in diameter and more than three feet but less than six feet in height for the purpose of leisure, religion, ceremony, cooking, warmth, or other similar purpose.

Fire pit means a permanent structure built with masonry blocks and a metal insert or a portable bowl or pit that is designed and manufactured for the holding or burning of wood and excludes a burn barrel.

Open burning means the burning of any material wherein the products resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney.

Recreational fire means a fire that has a total fuel area of three feet or less in diameter and three feet or less in height for the purpose of leisure, religion, ceremony, cooking, warmth, or other similar purpose.

Sky lantern means a small hot air balloon made of paper with an opening at the bottom where a small fire is suspended or similar aerial device.

Sec. 50-532. – Prohibitions.

- (a) *Open burning.* No person shall kindle, start, or maintain any open burning within the City of Racine.
- (b) *Sky lanterns.* No person shall kindle, start, or maintain any sky lantern within the City of Racine.

Sec. 50-533. – Exceptions.

The prohibition on opening burning within the City of Racine under section 50-532(a) does not apply to the exceptions under this section.

- (a) *Training.* Open burning by the fire department for training or instructional purposes.
- (b) *Cooking.* Cooking fires ignited and maintained on grilles or similar cooking appliances for the express purpose of cooking food for human consumption.
- (c) *Recreational fires.* Recreational fires on private property and in compliance with section 50-534 of this Code.
- (d) *Bonfires.* Bonfires on private property pursuant to a bonfire permit issued by the Fire Prevention Bureau and in compliance with section 50-535 of this Code.
- (e) *Permitted open burning.* Open burning on public property pursuant to an open burning permit issued by the Fire Prevention Bureau and in compliance with section 50-536 of this Code.

Sec. 50-534. Recreational fire requirements.

Any person who kindles, starts, or maintains and/or any person who permits the kindling, starting, or maintaining of a recreational fire on private property shall abide by the requirements under this section.

- (a) *Container.* Recreational fire shall always be contained within an outdoor fireplace or fire pit.
- (b) *Cover.* Recreational fire shall be fully roofed by a spark screen with mesh holes each no greater than one-half inch and/or a solid cover.
- (c) *Location.* Fire pits shall be located 10 feet or more from any structure and any lot line.

- (d) *Size.* Recreational fire shall have a total fuel area of three feet or less in diameter and three feet or less in height.
- (e) *Hazards.* Recreational fire is prohibited when local circumstances make open burning hazardous or potentially hazardous, including, but not limited to, wind gusts over 15 miles per hour, ozone alerts, dry conditions, and burning bans.
- (f) *Allowable fuel.* Recreational fire shall burn only clean, dry, untreated wood.
- (g) *Prohibited fuel.* Recreational fire shall not burn any garbage, rubbish, leaves, construction waste, rubber, plastic, leather, chemicals, petroleum-based substances, organic material that comes from gardening; lawn care; or landscaping, or any material that produces offensive smoke or odor, among all else not an allowable fuel under subsection (f).
- (h) *Time.* Recreational fire is permitted any day between the hours of 3:00 p.m. and 11:00 p.m.
- (i) *Supervision.* No person shall leave unattended any recreational fire unless and until the fire is completely extinguished and the remaining embers are cold or have been thoroughly wet down.
- (j) *Extinguishment.* A fire extinguisher, garden hose, or other method of fire control shall always be readily available during any recreational fire.
- (k) *Disposal.* No person shall dispose of any coals after extinguishment for at least 48 hours.

Sec. 50-535. – Bonfire permits and requirements.

Only the person who has been issued a bonfire permit by the Fire Prevention Bureau pursuant to this section may kindle, start, or maintain a bonfire on private property and shall abide by the requirements under this section.

- (a) *Purpose.* A bonfire permit may be issued by the Fire Prevention Bureau for the purpose of a bonfire on private property pursuant to the parameters of this section or the parameters of the bonfire permit where such parameters differ from this section.
- (b) *Application.*
 - (1) *Form and fee.* Applicants for a bonfire permit shall submit to the Fire Prevention Bureau a completed bonfire application on a form provided by the Fire Prevention Bureau and pay a fee as determined by the budget as set forth in the fee schedule and established by the common council.

(2) *Application requirements.* Applicants shall provide the following information on or appended to the bonfire permit application form:

- a. Permit holder's name, address, and phone number;
- b. Permit holder's business affiliation's name and address;
- c. Date and time of bonfire;
- d. Location of bonfire.
- e. Plan for audience management, fire protection, and emergency services; and
- f. An indemnification agreement; and
- g. Any other information requested by the Fire Prevention Bureau on the open burning application form.

(3) *Duration.* A bonfire permit issued under this section is valid only during the time period indicated on the bonfire permit.

(4) *Transferability.* A bonfire permit issued under this section is nontransferable.

(5) *Review.* The Fire Prevention Bureau may review a completed bonfire permit application within 15 days of its receipt. Failure to do so constitutes a denial.

(6) *Determination.* The Fire Prevention Bureau may approve, approve with conditions, or deny an application for a bonfire permit. Within 5 days of any denial, the Fire Prevention Bureau shall mail to the applicant a written determination letter with notice of the denial and the reason(s) for the denial.

(7) *Appeal.* Any person aggrieved by the Fire Prevention Bureau's determination may within 15 days of the date on the determination letter appeal in writing to the due process board by filing with or mailing to the Fire Prevention Bureau written notice of appeal. The notice of appeal shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. Not more than 30 days from receipt of the notice of appeal, the due process board shall convene for a hearing on the appeal. The city shall serve the appellant with notice of such hearing by mail or personal service at least 7 days before such hearing. At the hearing, the parties may present evidence, call and

examine witnesses, and cross examine witnesses of the other party. The due process board shall issue its decision pursuant to section 2-263(j).

- (c) *Supervision.* No person shall leave unattended any bonfire unless and until the fire is completely extinguished and the remaining embers are cold or have been thoroughly wet down.
- (d) *Extinguishment.* A fire extinguisher, garden hose, or other method of fire control shall always be readily available during any bonfire.
- (e) *Disposal.* No person shall dispose of any coals after extinguishment for at least 48 hours.

Cross reference— Due Process Board, § 2-261 et seq.

Sec. 50-536. – Open burning permits and requirements.

Only the person who has been issued an open burning permit by the Fire Prevention Bureau pursuant to this section may kindle, start, or maintain open burning on public property and shall abide by the requirements under this section.

- (a) *Purpose.* An open burning permit may be issued by the Fire Prevention Bureau for the purpose of open burning on public property pursuant to the parameters of this section or the parameters of the open burning permit where such parameters differ from this section.
- (b) *Application.*
 - (1) *Form and fee.* Applicants for an open burning permit shall submit to the Fire Prevention Bureau a completed open burning application on a form provided by the Fire Prevention Bureau and pay a fee as determined by the budget as set forth in the fee schedule and established by the common council.
 - (2) *Application requirements.* Applicants shall provide the following information on or appended to the open burning permit application form:
 - a. Permit holder's name, address, and phone number;
 - b. Permit holder's business affiliation's name and address;
 - c. Date and time of open burning;
 - d. Location of open burning.

- e. Plan for audience management, fire protection, and emergency services; and
 - f. An indemnification agreement; and
 - g. Any other information requested by the Fire Prevention Bureau on the open burning application form.
- (3) *Duration.* An open burning permit issued under this section is valid only during the time period indicated on the open burning permit.
- (4) *Transferability.* An open burning permit issued under this section is nontransferable.
- (5) *Review.* The Fire Prevention Bureau may review a completed open burning permit application within 15 days of its receipt. Failure to do so constitutes a denial.
- (6) *Determination.* The Fire Prevention Bureau may approve, approve with conditions, or deny an application for an open burning permit. Within 5 days of any denial, the Fire Prevention Bureau shall mail to the applicant a written determination letter with notice of the denial and the reason(s) for the denial.
- (7) *Appeal.* Any person aggrieved by the Fire Prevention Bureau's determination may within 15 days of the date on the determination letter appeal in writing to the due process board by filing with or mailing to the Fire Prevention Bureau written notice of appeal. The notice of appeal shall state the grounds upon which the person aggrieved contends that the determination should be modified or reversed. Not more than 30 days from receipt of the notice of appeal, the due process board shall convene for a hearing on the appeal. The city shall serve the appellant with notice of such hearing by mail or personal service at least 7 days before such hearing. At the hearing, the parties may present evidence, call and examine witnesses, and cross examine witnesses of the other party. The due process board shall issue its decision pursuant to section 2-263(j).
- (c) *Supervision.* No person shall leave unattended any permitted open burning unless and until the fire is completely extinguished and the remaining embers are cold or have been thoroughly wet down.
- (d) *Extinguishment.* A fire extinguisher, garden hose, or other method of fire control shall always be readily available during any permitted opening burning.

- (e) *Disposal*. No person shall dispose of any coals after extinguishment for at least 48 hours.

Cross reference– Due Process Board, § 2-261 et seq.

Sec. 50-537. – Order to extinguish.

No person shall refuse to comply with an order issued by the chief of fire or designee or chief of police or designee to extinguish any open burning of any kind, whether on private or public property and regardless of any bonfire or open burning permit.

Sec. 50-538. – Penalties.

- (a) *Bond amount*. Any person charged with a violation of this article may pay a deposit of \$400 plus costs in lieu of a court appearance.
- (b) *Forfeiture*. Any person found in violation of this division shall forfeit not more than \$1,000.
- (c) The Fire Prevention Bureau may find any person who violates this article ineligible for a bonfire permit under section 50-535 and/or an open burning permit under section 50-536.

Secs. 50-539 – 50-550. – Reserved.

Part 3: Chapter 50, Article I, Section 50-3(b) of the Municipal Code of the City of Racine is amended as follows:

- Amending the section number from “50-264” to “50-532.”
- Amending the phrase “Open fire violations” to “Open burning violation”; and
- Amending the forfeiture from “\$150” to “\$400.”

Part 4: Chapter 70, Article III, Division 1, Section 70-78 is repealed, deleted, and recreated as follows:

Sec. 70-78. – Open burning.

Except for the purpose of training under section 50-533(a) or the purpose of cooking under section 50-533(b), only the person who has been issued an open burning permit by the Fire Prevention Bureau pursuant to section 50-536 may kindle, start, or maintain open burning in a park, on a beach, or at any other recreation area and shall abide by the requirements under section 50-536.

Cross reference– Exceptions, § 50-533; Open burning permits and requirements, § 50-536.

Part 5: Chapter 70, Article I, Section 70-1(b) of the Municipal Code of the City of Racine is amended as follows:

- Amend the phrase “Fires” to “Open burning”; and
- Amend the forfeiture amount from “75.00” to “400.00.”

Part 6: Chapter 2, Article III, Division 8, Section 2-263 of the Municipal Code of the City of Racine is amended to create subsection (j) as follows:

- (j) Conduct due process hearings on appeal filed by any person aggrieved by the Fire Prevention Bureau’s denial of a bonfire permit under section 50-535 or denial of an open burning permit under section 50-536. Within 20 days after such hearing, the board shall mail or deliver to the appellant its written decision to affirm, reverse, or modify the Fire Prevention Bureau’s determination and shall state therein the reasons therefor.

Cross reference– Bonfire permits and requirements, § 50-535; Open burning permits and requirements, § 50-536.

Part 7: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City of Racine Common Council and publication or posting as required by law.

Fiscal Note: Bonfire permit fees and open burning permit fees as determined by the budget as set forth in the fee schedule and established by the Common Council.

Pursuant to Wisconsin Statutes section 62.09(8)(c), the mayor shall have the veto power as to all acts of the common council, except such as to which it is expressly or by necessary implication otherwise provided. All such acts shall be submitted to the mayor by the clerk and shall be in force upon approval evidenced by the mayor’s signature, or upon failing to approve or disapprove within five days, which fact shall be certified thereon by the clerk. If the mayor disapproves the mayor’s objections shall be filed with the clerk, who shall present them to the council at its next meeting. A two-thirds vote of all the members of the council shall then make the act effective notwithstanding the objections of the mayor.