

**CITY OF SHEBOYGAN
ORDINANCE 40-23-24**

BY ALDERPERSONS SALAZAR AND FELDE.

FEBRUARY 5, 2024.

AN ORDINANCE amending various provisions of the municipal code related to open burning so as to create additional regulation of open burning within the City, including regulations allowing additional forms of open burning so long as such forms are safe and approved by the fire department.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

SECTION 1: **AMENDMENT** “Sec 24-154 Exceptions” of the Sheboygan Municipal Code is hereby *amended* as follows:

A M E N D M E N T

Sec 24-154 Exceptions

Open burning is prohibited with the following exceptions:

- (a) Fires set by the fire department for practice or instruction of firefighters, instructing the public or testing firefighting equipment.
- (b) Practice fires, set by fire brigades, as defined by 29 CFR 1910.155(18), that satisfy all of the requirements of 29 CFR 1910.156 or hazardous materials response teams that satisfy all of the requirements of 29 CFR 1910.120, subject to the following:
 - (1) Fires may be set for hand fire extinguisher training only.
 - (2) The fire must be set on the property of the fire brigade or hazardous materials response team, in a container constructed of a noncombustible material, not exceeding one foot in height or eight cubic feet in volume, and the fire may be located no closer than 20 feet from any building, structure or combustible material.
 - (3) No fire under this subsection (b) may be set between the hours of 5:00 p.m. and 7:00 a.m.
 - (4) Notification of the proposed training fire shall be made to the chief of the fire department at least 24 hours in advance on a form prescribed by the department.
- (c) ~~Fires set for the purpose of burning leaves at cemeteries. A cemetery employee must be in constant attendance from the time the fire is ignited until it is totally extinguished.~~ Fires set by fire or law enforcement personnel for the purpose of burning explosives or dangerous material for which there is no other safe means of disposal.

(d) Fires set for the purpose of land restoration (including but not limited to the removal of invasive species), preparation for redevelopment, and burning of leaves in cemeteries, subject to the following conditions:

- (1) The individual or entity responsible for setting and controlling the fire must obtain a Prescribed Burn Permit from the fire department. When the permit is requested by an entity other than an individual, the permit application shall include the name of a responsible party legally authorized by the entity to communicate with representatives of the fire department and make decisions related to the permit. The permit application shall include the name, address, telephone number, and email address of the individual applying for the permit or of the responsible party. The fee for such a permit shall be \$75.00 and shall be paid prior to issuance of the permit. The fire chief may, at his discretion, waive the permit fee for governmental entities and subdivisions.
- (2) The fire chief or designee may withdraw a Prescribed Burn Permit or modify the terms of the permit (including limiting the time or conditions for burning) at any time after initial approval or issuance. Said withdrawal or modification will be effective immediately upon notification in writing to the individual or responsible party named in the permit. An email communication to the email address listed on the permit application is sufficient notice under this subsection. Any withdrawal or modification pursuant to this subsection shall be at the complete discretion of the fire chief or designee.
- (3) Notwithstanding the issuance of a permit pursuant to this subsection, no fires shall be permitted on any day when the DNR fire danger for Sheboygan County is at High or above.
- (4) The fire chief or designee may order any fire started under this subsection to be extinguished immediately at any time that the chief or designee deems the community to be at risk from the fire.

(e) Fires set for outdoor cooking with the following exceptions:

- (1) Wood or other nonexplosive fuel may be burned for the purpose of cooking or preparing foods, subject to the following conditions:
 - a. fires must be ~~only~~ under constant supervision;
 - b. fires are prohibited on any balcony or deck or under any overhanging portion of any structure;
 - c. fires are prohibited at any location closer ~~not nearer~~ than ten feet ~~from~~ ~~any~~ ~~structure~~;
 - d. fires shall be contained within a substantial burner built of metal, concrete, or brick as approved by the fire chief or designee.
 - e. burners shall be used in accordance with the manufacturer's specifications and the requirements of this section.
- (2) Propane-fueled appliances and burners may be used subject to the following exceptions:
 - a. such appliances and burners shall not be used above the first-floor level of any building or structure, including any porch or deck;
 - b. use of such appliances and burners is permitted on porches and decks

- provided that the deck is at the first-floor level, is no closer than five feet to the main structure or any combustible materials, and the burner is not located under any overhanging portion of the structure, including balconies or decks;
- c. such appliances and burners shall be pre-manufactured and not homemade, and shall be ~~Ap~~installed and used in accordance with the manufacturer's specifications and the requirements of this section.
- (3) Natural gas outdoor cooking appliances may be used subject to the following exceptions:
- a. ~~s-~~such cooking appliances shall not be used above the first-floor level of any building or structure, including any porch or deck;
- b. use of such cooking appliances is permitted on porches and decks provided that the deck is at the first-floor level, is no closer than five feet to the main structure or any combustible materials, and the burner is not located under any overhanging portion of the structure, including balconies or decks;
- c. such cooking appliances shall be pre-manufactured and not homemade, and shall be installed and used in accordance with the manufacturer's specifications and the requirements of this section.
- (4) Other cooking devices, including hibachis, grills, electric grills, and similar devices used for cooking may be used subject to the following exceptions:
- a. such cooking devices shall not be used above the first-floor level of any building or structure, including any porch or deck unless:
1. the porch or deck is protected by an approved sprinkler system, or
 2. all exposed exterior construction materials and surfaces of the building or structure are constructed with non-combustible materials.
- b. use of such cooking devices is permitted on porches and decks provided that the deck is at the first-floor level, is no closer than five feet to the main structure or any combustible materials, and the burner is not located under any overhanging portion of the structure, including balconies or decks, so long as
1. the porch or deck is protected by an approved sprinkler system, or
 2. all exposed exterior construction materials and surfaces of the building or structure are constructed with non-combustible materials.
- c. such cooking appliances shall be pre-manufactured and not homemade, and shall be installed and used in accordance with the manufacturer's specifications and the requirements of this section.
- (5) The fire chief or designee is authorized to issue exceptions to the provisions of this subsection on a case-by-case basis. Any such exception shall be at the discretion of the chief or designee, and issued in writing. No right to any such exception is created by the provisions of this subsection.

- (f) Recreational bonfires on private property may be set with the following conditions:
- (1) ~~Small~~ Recreational bonfires shall be used solely for recreation and roasting.
 - (2) Recreational bonfires shall be contained in a fire ring constructed of brick, stone, or metal ~~which is~~, no larger than 36 inches outside diameter ~~and which~~; ~~Th is shall~~ extends upward a minimum of six inches above the landscaped ground level.
 - (3) Recreational bonfires shall ~~not~~ be no closer than ten feet to any building, structure, lumber, wooden fence, ~~or~~ woodpile, trees, or vegetation which may pose a fire risk.
 - (4) Recreational bonfires may only be maintained ~~be~~ between 12:00 noon and 10:00 p.m., except that on Fridays and Saturdays, and on Sundays preceding a Monday on which falls a federal or state holiday, the time limit shall be between 12:00 noon and 12:00 midnight.
 - (5) Recreational bon-fires shall be under constant supervision.
 - (6) ~~The fire ring shall extend upward a minimum of six inches above the landscaped ground level.~~ Fuel for recreational bonfires shall consist only of clean, dry wood; ~~only~~
 - (7) Recreational bonfires and shall not be ignited with or contain any flammable or combustible liquids.
 - (8) Material for bonfires may not include rubbish, garbage, trash, pallets, furniture, or ~~any~~ material made or coated with rubber, plastic, leather or petroleum-based materials ~~and may not contain any flammable or combustible liquids.~~
 - (9) The maximum height of the ~~wood fuel load~~ materials being burned ~~for bonfires~~ shall not exceed 18 inches ~~above grade or the landscape.~~
 - (10) A means to extinguish the recreational bonfire must be readily available and be capable of extinguishing and controlling the fire.
 - (11) ~~At no time shall the smoke or heat created by such burning be an annoyance or discomfort to the neighborhood or the traveling public.~~ Any pre-manufactured portable device or burner used to contain a recreational bonfire ~~or simulate a bonfire must be UL approved;~~ shall be operated in accordance with the manufacturer's specifications and as designed by the manufacturer; ~~and operated in accordance with~~ the regulations in this subsection (f).
 - (12) Any pre-manufactured portable device used to simulate a bonfire or provide heat without an open flame (including but not limited to propane or natural gas fueled fire tables, patio heaters, or similar devices) may be used on decks or porches provided they are no closer than five feet from the structure and substantial combustibles. All such portable devices shall be pre-manufactured and shall be installed in accordance with the manufacturer's specifications and the requirements of this section.
- (g) Recreational bonfires in city parks and on city-owned property may be set with the following conditions:
- (1) The bonfires shall be used solely for recreation and roasting.
 - (2) With the exception of the city-installed fire rings located in Deland Park and

- on North Beach, no person shall set, maintain, or be present with a recreational bonfire in a city park or on city-owned property unless a permit has been issued for the fire by the fire department in conjunction with an event permit or a park rental permit issued by the department of public works.
- (3) With the exception of the city-installed fire rings located in Deland Park and on North Beach, all recreational bonfires in city parks and on city-owned property shall be contained in a portable pre-manufactured device that is operated as designed by the manufacturer, which is no larger than 36 inches in diameter and extends upward a minimum of six inches above the landscaped ground level.
 - (4) Recreational bonfires in city parks and on city-owned property shall be no closer than ten feet to any structure, trees, or vegetation which may pose a fire risk.
 - (5) Recreational bonfires in city parks and on city-owned property may only be maintained during hours when the park is open, and in no case shall a fire be allowed after 10:00 p.m.
 - (6) Recreational bonfires in city parks and on city-owned property shall be properly extinguished at the end of the activities.
 - (7) No person shall start, maintain, or be present with a recreational bonfire in a city park or on city-owned property unless the bonfire is under constant supervision by an adult.
 - (8) Fuel for recreational bonfires in city parks and on city-owned property shall consist only of clean, dry wood; may not include rubbish, garbage, trash, pallets, furniture, or any material made or coated with rubber, plastic, leather or petroleum-based materials; and may not contain any flammable or combustible liquids.
 - (9) The maximum height of the materials being burned for bonfires shall not exceed 18 inches above grade or the landscape.
 - (10) A means to extinguish the recreational bonfire must be readily available and be capable of extinguishing and controlling the fire.
 - (11) Upon extinguishing a recreational bonfire in a city park or on city-owned property, the permittee (or the person responsible for the fire if there is no permit required) shall properly dispose of the ashes in a park ash barrel or remove the ashes using the portable pre-manufactured device. Said permittee or responsible person shall ensure that the site of the bonfire is restored to its pre-bonfire condition before leaving the site. Any extra clean-up or expense incurred by the city as a result of such a recreational bonfire shall be the responsibility of the permittee or responsible person. Failure to pay such costs upon receiving an invoice is a violation of this section.
- (h) Notwithstanding this section, fires may be permitted pursuant to section 40-60 of this Code.
- (i) Open burning will be allowed for small open flames for welding, acetylene torches, safety flares, heating tar or similar applications.
 - (j) At no time shall the smoke or heat created by burning under subsections (b), (d), (e), (f), and (g) of this section be an annoyance or discomfort to the neighborhood or the

traveling public. Any such fire may be ordered extinguished by any firefighter or police officer. Failure to immediately extinguish a fire under this subsection is a violation of this section.

- (k) ~~Open burning when allowed under subsection (c) of this section requires a permit from the state department of natural resources (DNR) and a permit from the city fire department bureau of fire prevention. At no time shall the smoke or heat created by burning under subsections (b), (c) and (f) of this section be an annoyance or discomfort to the neighborhood or the traveling public, and the fire shall be ordered extinguished upon any complaint.~~ A bonfire may be allowed at officially sponsored activities of civic, educational, and religious organizations located within the city, subject to the following conditions:

- (1) Any bonfire occurring on property other than private property shall require a special events permit issued by the City of Sheboygan.
- (2) Regardless of location, a bonfire under this subsection shall require a bonfire permit issued by the Sheboygan Fire Department.
- (3) Four responsible adult employees, officers, or officials of the sponsoring organizations must be present at all times to supervise the bonfire.
- (4) The location of the bonfire shall be no closer than 50 feet to any structure, tree or shrub.
- (5) A bonfire under this subsection shall not be more than ten feet in diameter.
- (6) The fuel load for the bonfire may not consist of any material other than clean, nontreated lumber or firewood. Flammable or combustible liquids shall not be used on the fire.
- (7) The height of the fuel load for a bonfire under this subsection shall not exceed ten feet.
- (8) A means to extinguish the bonfire must be readily available and be capable of extinguishing and controlling the fire.
- (9) A bonfire under this subsection shall be properly extinguished at the end of the activities, but in any event, no later than 10:00 p.m. and in compliance with any more restrictive ordinance, regulation, or statute.
- (10) After a bonfire under this subsection is extinguished, but before the supervisors provided for in subsection (j)(3) above leave the bonfire, the area shall be made safe as to not present a hazard to the community.
- (11) The site of any bonfire on public land shall be restored to its pre-bonfire condition within 24 hours of extinguishing the fire.
- (12) No bonfire under this section shall be permitted unless the sponsor obtains a bonfire permit from the fire department no later than three business days prior to starting the bonfire. ~~Four responsible adult employees, officers or officials of the sponsoring organizations must be present at all times to supervise the bonfire. The location of the bonfire on the beach shall be no closer than 50 feet to any structure, tree or shrub. A bonfire shall be in a pit at least two feet deep and no more than ten feet in diameter. The fuel load for the bonfire shall consist of clean, nontreated lumber or firewood. The height of the fuel load shall not exceed ten feet from the bottom of the pit. The bonfire shall be properly extinguished at the end of the activities, but in any event, not later~~

~~than 10:00 p.m. After the bonfire is extinguished, but before the supervisors leave the area, a snow fence or other similar obstacle shall be installed around the bonfire pit, enclosing the pit. The fence or other protective device shall be removed upon final cleanup of the bonfire site, as set forth in subsection (j)(9) of this section. The site of the bonfire shall be restored to its pre-bonfire condition within 24 hours of extinguishing the fire. The sponsor shall obtain a local burning permit from the city fire prevention bureau at least 24 hours prior to starting the bonfire.~~

- (l) Fires in metal containers on the ice at the Harbor Centre Marina, during the winter season, provided the container is in good condition and located no closer than ten feet from any building, pier, dock or other structure.

(Code 1975, § 15-183; Code 1997, § 50-182; Ord. No. 94-99-00, § 1, 3-6-2000; Ord. No. 21-04-05, § 1, 7-6-2004; Ord. No. 89-06-07, § 3, 3-5-2007; Ord. No. 4-09-10, § 1, 6-15-2009)

SECTION 2: AMENDMENT “Sec 24-155 Open Flame Candles, Fixtures” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 24-155 Open Flame Candles, Fixtures

- (a) No open flame candles or other flame fixtures shall be used in any public building or structure, except ~~within churches or fraternal lodges~~ as follows:-
 - (1) Within churches or fraternal lodges.
 - (2) Small candles used solely for decorative dining purposes.
 - (3) Premanufactured open flame devices for the specific purpose of keeping food warm.
 - (4) Hurricane-type fixtures with a flame or chimneys used in conjunction with candles shall be the only acceptable method for lighting or decorative purposes in any building or structure used for public amusement, recreation, or dining ~~purposes.~~
 - (5) In all cases, use of open flame candles and other flame fixtures in an unsafe manner is prohibited.
- (b) No airborne open flame device, i.e., a sky lantern, may be launched or used, free floating or tethered, in the city. Airborne open flame devices from neighboring jurisdictions that enter into the city are also prohibited. The term "sky lantern" includes any airborne lantern containing a candle or fuel cell composed of a waxy flammable material or other open flame which serves as a heat source to heat the air inside the lantern to cause it to lift into the air, including sky candles, fire balloons, and airborne

paper lanterns.

- (c) ~~As used in this division, the term "sky lantern" means any airborne lantern typically constructed from paper with a wood frame containing a candle or fuel cell composed of a waxy flammable material or other open flame which serves as a heat source to heat the air inside the lantern to cause it to lift into the air. The term "sky lantern" means and includes sky candles, fire balloons and airborne paper lanterns.~~ Flames and pyrotechnics being used as part of an entertainment event, such as a theatrical performance or a flaming twirling device may be permitted only upon meeting the following requirements:

- (1) A special events permit must be issued by the City of Sheboygan for any event occurring on public property or rights-of-way;
- (2) A "pyrotechnics before a proximate audience" permit must be issued by the fire department for any pyrotechnics involving an audience;
- (3) A "flame effects before an audience" permit must be issued by the fire department for any flames or flame effects used as part of an entertainment event;
- (4) All use of flames and pyrotechnics under this section must meet the requirements set forth in NFPA 1126 and NFPA 160, and shall be specifically approved in writing by the fire department.

(Code 1975, § 15-184; Code 1997, § 50-183)

SECTION 3: AMENDMENT “Sec 40-60 Fire Control” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 40-60 Fire Control

Fires shall be permitted in city parks and on city-owned property only under the following circumstances:

- (a) In metal grills intended for cooking in picnic areas;
- (b) In stove or fire rings no greater than sixty inches in diameter designated and placed in parks or beach areas by the department of public works between the hours of 10:00 a.m. and 11:00 p.m., except no fires shall be permitted in a park or beach area when said park or beach area is closed pursuant to section 40-44 of this Code.
- (c) Along the Lake Michigan shore between the hours of 6:00 p.m. and 10:00 p.m. on the day of the Fourth of July celebration~~A~~;
- (d) As otherwise permitted by the council or provided in this Code; and
- (e) Except as specifically set forth above, all fires permitted in this section are further subject to the limitations on recreational bonfires set forth in section 24-154(f).

(Code 1975, § 27-47; Code 1997, § 74-63; Ord. No. 137-96-97, § 4, 3-17-1997; Ord. No. 29-10-11, § 1, 9-20-2010)

SECTION 4: REPEALER CLAUSE All ordinances or resolutions or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 5: EFFECTIVE DATE This Ordinance shall be in effect from and after its passage and publication according to law.

PASSED AND ADOPTED BY THE CITY OF SHEBOYGAN COMMON COUNCIL

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Presiding Officer

Attest

Ryan Sorenson, Mayor, City of
Sheboygan

Meredith DeBruin, City Clerk, City of
Sheboygan