

**CHAPTER 11
ENVIRONMENTAL CONTROL**

THE CITY COUNCIL OF THE CITY OF LUCAN DOES ORDAIN:

REGULATION OF OPEN BURNING

11.301. ADOPTION OF STATE LAW BY REFERENCE. The provisions of *Minnesota Statutes*, Chapter 88, as they be amended from time to time, with reference to the definition of terms, conditions of operation, permits, and all other matters pertaining to open burning are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the City Council that all future amendments of *Minnesota Statutes*, Chapter 88, are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance was adopted.

11.302. CITY MAY BE MORE RESTRICTIVE THAN STATE LAW. The Council is authorized to impose, and has imposed in this ordinance, additional restrictions on open burning within its limits beyond those contained in *Minnesota Statutes*, Chapter 88, as it may be amended from time to time.

11.303. PURPOSE. The purpose of this ordinance is to regulate open burning within the City of Lucan, to protect the public health, safety and welfare. Through the passage of this ordinance, 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.

11.304. DEFINITIONS.

- A. Building Material: Lumber, wood shakes, and other wood products, but shall not include composite shingles, tar paper, insulation, wall board, wiring or other similar smoke producing materials.
- B. Cooking Fire: A fire contained in a charcoal grill, camp stove, or other device designed for the purpose of cooking.
- C. Demolition Debris: Burnable building material generated from demolition of buildings or structures.
- D. Designated Fire Official: The Lucan Fire Chief and/or other designee appointed by the Lucan City Council.
- E. Garbage: Discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.
- F. Hazardous Waste: No person shall conduct, cause, or permit open burning of hazardous waste as defined in Section 116.056, Subdivision 11, and applicable commissioners rules.
- G. 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.

- H. **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.
- I. **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 fillers and oil.
- J. **Recreational Fire/Campfire:** A fire set for cooking, warming or ceremonial purposes, which is not more than three feet in diameter by three feet high, and has had the ground five feet from the base of the fire cleared of all combustible material.
- K. **Rubbish:** Non-putrescible solid waste, such as paper, cardboard, yard clippings and other natural matter not included in garbage.
- L. **Solid Waste:** Garbage, refuse, sludge from a water supply treatment plant or air containment treatment facility, and other discarded waste materials and sludge's, in solid, semisolid, liquid or contained gaseous form, resulting from industrial, commercial, mining, and agricultural operations, and from community activities.
- M. **Wildfires:** A fire requiring suppression action, burning any forest, brush, grassland, cropland, or any other vegetative material.
- N. **Wood:** Dry, clean fuels, such as twigs, branches, limbs, manufactured fireplace logs, cord wood, or untreated dimensional lumber, not exceeding three feet in length. "Wood" 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 less than three foot lengths.

11.305. 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, rubbish, or leaves within the City of Lucan.

11.306. EXCEPTIONS. Open burning is allowed for the following exceptions only:

- A. **Recreational Fire/Campfire.** Open fires for recreational purposes will be allowed in the City of Lucan without the need to acquire a permit. The designated fire official may perform periodic on-site inspections. Open fire for recreational purposes must satisfy the following requirements:
- **Size:** The fire may not exceed three (3) feet in diameter or three (3) feet in height. The ground within five (5) feet of the base of the fire must be cleared of all combustible materials, including grass and weeds.
 - **Setbacks:** The fire must be located at least fifteen (15) feet from the nearest structure and at least fifteen (15) feet from the nearest motor vehicle.

- **Burning Area:** The fire must be placed in a fire pit which shall be six (6) inches deep and three (3) feet in diameter, or in a non-combustible fire ring six (6) inches in height and three (3) feet in diameter. Burning barrels are not allowed for any purpose.
- **Material:** Clean wood only may be used - NO building materials, demolition debris, garbage, hazardous waste, prohibited materials, rubbish, leaves, grass clippings, or solid waste.
- **Curfew:** Open fires for recreational purposes may not be conducted between midnight and 6:00am Sunday through Thursday and 2:00am and 6:00am Friday through Saturday.
- **Supervision:** Fire must be constantly attended by an individual over 18 years of age until extinguished.
- **Approval:** No person shall kindle a fire upon the land of another without first obtaining written permission of the property owner or legal property designate.
- **Control:** A means of controlling the fire (such as buckets of water, shovels, sand, or a garden hose) must be available at the site at the time of the fire.
- **Smoke:** A recreational fire shall be extinguished immediately if it generates smoke that becomes a nuisance to adjacent or nearby properties, including imposition of smoke into a neighboring structure.
- **All fires when finished must be extinguished. When extinguished, the fire must not be allowed to smolder.**

B. Fires contained in charcoal grills, camp stoves, outdoor fireplaces, or other devices designed for the purpose of cooking or heating.

C. Elimination of fire or health hazard that cannot be abated by other practical means.

D. Ground thawing for utility repair and construction.

E. Bona-fide instruction and training of firefighting personnel and for the testing of fire extinguishing equipment. Fire training permits can only be issued by the Minnesota Department of Natural Resources.

11.307. BURNING BAN OR AIR QUALITY ALERT.

A. The designated fire official is authorized to determine when conditions make open burning potentially hazardous and declare a burning ban within the city.

- B. No recreational fire or open burn will be permitted when the city or the DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert.

11.308. LIABILITY. The City of Lucan will not be held liable for any damages to the health or property of anyone that was caused by smoke, ash, or fire. Any claims of health or property damage will be solely the responsibility of the person whose fire caused the damage.

11.309. PENALTY AND REPEATED VIOLATIONS. Violation of this ordinance constitutes a petty misdemeanor. The third violation and all subsequent violations within a one year period of time shall constitute a misdemeanor. The Designated Fire Official, or any law enforcement officer, may:

- a. Order the resident or any individual in control of or supervising any open burning in violation of this ordinance to extinguish the open burning; or
- b. In the event the resident, or the individual in control of or supervising any open burning in violation of this ordinance, fails or refuses to extinguish the open burning, either i) extinguish the open burning himself; or ii) have the Lucan Fire Department extinguish the open burning, in which case the resident, or the individual in control of or supervising such open burning shall be responsible for the cost thereof.

Subsequent to the occurrence of a third violation within a one year period, the resident can no longer burn a recreational fire for a period of one year starting from the date of the last violation.

11.310. SEVERABILITY. If any provision of this ordinance is found to be invalid for any reason by a court of competent judges, the validity of the remaining provisions shall not be affected.

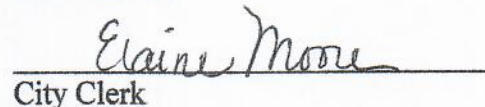
11.311. EFFECTIVE DATE. This ordinance shall be effective upon adoption and publication as provided by law.

Passed by the City Council this 7th day of November, 2011.



Mayor

ATTESTED:



City Clerk

City of Lucan

**An Amendment to Chapter 11: Adopting Open Burning Regulations Within the
City of Lucan, Sections 11.301 through 11.311.
(Summary Only)**

The Lucan City Council authorizes the publication of this Summary pursuant to Minnesota Statutes 331A.01, Subdivision 10 and Minnesota Statutes 412.191, Subdivision 4.

On November 7, 2011 the Lucan City Council adopted an Ordinance regulating Open Burning within the City of Lucan which:

Incorporated by reference Minnesota Statutes Chapter 88, as amended from time to time;

Prohibits open burning within the corporate limits of the City of Lucan; subject to specific limited exceptions;

Giving the designated Fire Official, as defined in the Ordinance, the authority to declare a burning ban and to extinguish open burning conducted in violation of the Ordinance; and

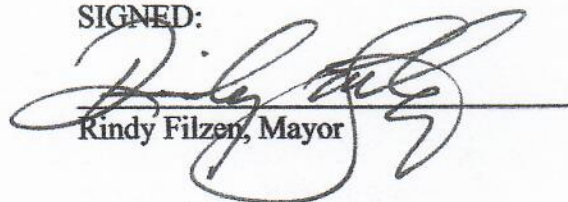
Providing penalties for violation of the Ordinance.

The publication of the Summary has been authorized by a unanimous vote on November 7, 2011, by the City Council of the City of Lucan, and shall be effective upon its publication.

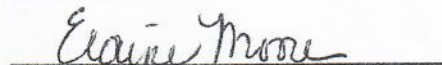
A printed copy of Chapter 11 in its entirety is available for inspection by any person during regular business hours at the office of the city clerk and is posted at Lucan Post Office.

Dated this 7th day of November, 2011.

SIGNED:


Rindy Filzen, Mayor

ATTESTED:


Elaine Moore, City Clerk

OFFICIAL PUBLICATION

City of Lucan

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Dated this 7th day of November, 2011.

SIGNED:

Rindy Filzen, Mayor

ATTESTED:

Elaine Moore, City Clerk
Published in the Wabasso Standard November 16, 2011.

AFFIDAVIT OF PUBLICATION

Wabasso Standard

Redwood Falls, Minnesota
State of Minnesota
County of Redwood

Leanne Kaufenberg, being duly sworn on oath, says that he/she is the publisher or authorized agent and employee of the newspaper known as *The Wabasso Standard*, and has full knowledge of the facts which are stated below:

(A) The newspaper has complied with all of the requirements constituting qualifications as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed notice which is attached, was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive week(s); it was first published on -WEDNESDAY-, the 16th day of NOVEMBER, 2011.

By: Leanne Kaufenberg
Authorized Agent

Subscribed and sworn before me on the 16th day of NOVEMBER, 2011.

By: Faythe King
Notary Public

