

FIRST READING: April 05, 2022
SECOND READING/ADOPTION: May 04, 2022

CITY OF MOUNT RAINIER, MARYLAND
Ordinance No. 02-2022

Introduced by Mayor & City Council

Amending the Code of Ordinances of the City of Mount Rainier, Chapter 6, “Health and Nuisances (Municipal Infractions)”, Section 6-107, “Open burning prohibited”, to permit outdoor burning of certain combustible materials under certain conditions; and Chapter 10, “Peace and Order”, to repeal Section 10-115 in its entirety.

WHEREAS, pursuant to § 5-202 of the Local Government Article of the Annotated Code of Maryland, the Mayor and Council of the City of Mount Rainier, Maryland (the “City Council”) has the authority to pass such ordinances as it deems necessary to assure the good government of the municipality, protect and preserve the municipality’s rights, property, and privileges, preserve peace and good order, secure persons and property from danger and destruction, and protect the health, comfort, and convenience of the residents of the municipality; and

WHEREAS, pursuant to the foregoing authority, the City Council has adopted Chapter 6, “Health and Nuisances (Municipal Infractions)” and Chapter 10, “Peace and Order”, of the City Code; and

WHEREAS, it has come to the attention of the City Council that both Chapter 6 and Chapter 10 have provisions relating to outdoor burning of combustible materials that appear to overlap in subject matter; and

WHEREAS, it has come to the further attention of the City Council that the City Code fails to permit residents to engage in certain outdoor burning activities, including the use outdoor firepits, chimineas, and similar devices, to the same extent as permitted by Prince George’s County; and

WHEREAS, the City Council desire to combine all the Code provisions relating to outdoor burning of combustible materials in on section and to permit outdoor burning of certain materials, including the use of firepits, chimineas, and similar devices, to the same extent as Prince George’s County permits them, in order to avoid confusion and for the general enjoyment of City residents,

Section 1. NOW THEREFORE BE IT ORDAINED FURTHER AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland that Chapter 6, “Health and Nuisances (Municipal Infractions)”, Section 6-107, “Open burning prohibited”, shall be and hereby is amended to read as follows:

Section 6-107. - Open burning prohibited.

UNDERLINED TEXT IN SMALL CAPS : Indicates matter to be added to the City Code
[**Bold brackets**] : Indicate matter to be deleted from the City Code

A. EXCEPT AS PERMITTED IN SUBSECTIONS B AND C OF THIS SECTION, it [It] shall be unlawful for any person or firm[,] to set on fire or cause to be burned within the limits of the City of Mount Rainier, any garbage, filth, rubber, paper products, trash, leaves, or other substance, except within stove or furnaces located within buildings, or within incinerators approved by the fire marshal and building inspector in compliance with the air pollution control regulations in effect.

B. THE CITY OF MOUNT RAINIER MAY, UPON APPLICATION ON A FORM PROVIDED BY THE CITY, GRANT A PERMIT TO BURN APPROPRIATE MATERIAL IN OR ON PUBLIC PROPERTY. THE PERMIT WILL SPECIFY THE NATURE OF THE PERMITTED ACTIVITY, THE PLACE AT WHICH THE ACTIVITY MAY TAKE PLACE, AND THE DATE AND TIME DURING WHICH THE ACTIVITY MAY BE PERMITTED.

C. BURNING OF MATERIALS ON PRIVATE PROPERTY IS PERMITTED ONLY AS FOLLOWS:

(1) OPEN BURNING MEANS A FIRE, WHERE MATERIAL IS BURNED ON THE GROUND OR IN AN OPEN RECEPTACLE WITHOUT A CHIMNEY OR STACK, INCLUDING CAMPFIRE. OPEN BURNING SHALL BE SUBJECT TO THE FOLLOWING CONDITIONS:

A. OPEN FIRES SHALL BE ATTENDED AT ALL TIMES BY A PERSON EIGHTEEN (18) YEARS OF AGE OR OLDER, WHO IS IN DIRECT VIEW OF THE FIRE. THE FIRE SHALL BE ATTENDED UNTIL COMPLETELY EXTINGUISHED.

B. GARBAGE, DEAD ANIMALS, ANIMAL WASTE, TIRES, PLASTIC, RUBBER, AND OTHER MATERIALS WHICH CREATE DENSE SMOKE OR EMISSIONS INJURIOUS OR NOXIOUS TO PEOPLE OR PROPERTY SHALL NOT BE BURNED.

C. IT SHALL BE UNLAWFUL FOR ANY PERSON TO KINDLE ANY OPEN FIRE, EXCEPT COOKING FIRES OR RECREATIONAL FIRES, WITHOUT FIRST NOTIFYING PUBLIC SAFETY COMMUNICATIONS OF SUCH BURNING. WHERE THE BURNING CONTINUES FOR MORE THAN ONE (1) DAY, PUBLIC SAFETY COMMUNICATIONS SHALL BE NOTIFIED PRIOR TO 8 A.M. ON EACH DAY OF BURNING.

D. COOKING FIRES SHALL BURN ONLY THE FOLLOWING FUELS:

(1) CLEAN FIREWOOD

(2) DRIED FIREWOOD

(3) CHARCOAL OR

(4) FUEL DETERMINED TO BE SAFE AND APPROPRIATE BY THE FIRE CHIEF OR THE FIRE CHIEF'S DESIGNEE.

E. THE FIRE CHIEF OR AUTHORIZED REPRESENTATIVE MAY PROHIBIT OPEN BURNING AT ANY TIME IT IS DETERMINED THAT THE KINDLING OF AN OPEN FIRE CREATES A FIRE HAZARD.

F. EXCEPT FOR THOSE FIRES USED FOR COOKING FOOD ON PROPERTY OCCUPIED BY A SINGLE-FAMILY DWELLING, OPEN FIRES SHALL BE NOT LESS THAN THIRTY (30) FEET FROM ANY BUILDING OR STRUCTURE. A CLEAR SPACE FREE OF IGNITABLE MATERIALS NOT LESS THAN TEN (10) FEET IN DIAMETER SHALL BE MAINTAINED AROUND THE FIRE.

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G. THE BURNING OF MATERIALS OF ANY KIND ON OR WITHIN THIRTY (30) FEET OF ANY PUBLIC ROADS, STREETS, HIGHWAYS, ALLEYS, SIDEWALKS, AND PUBLIC RIGHTS-OF-WAY SHALL BE PROHIBITED AT ALL TIMES.

H. WHERE OPEN BURNING IS BEING CONDUCTED UNDER THE TERMS OF A PERMIT ISSUED BY THE PRINCE GEORGE'S COUNTY HEALTH DEPARTMENT, THE PERMITTEE SHALL BE PERSONALLY RESPONSIBLE FOR THE FIRE AT ALL TIMES. THE PERMIT SHALL BE IN THE POSSESSION OF THE PERSON SUPERVISING THE BURNING AT ALL TIMES.

I. NO PERSONS SHALL KINDLE A FIRE UPON THE LAND OF ANOTHER WITHOUT PERMISSION OF THE OWNER THEREOF OR THE OWNER'S AGENT.

J. RECREATIONAL FIRES SHALL BE NO LARGER THAN THREE (3) FEET IN DIAMETER.

K. A WAY TO EXTINGUISH A FIRE SHALL BE AVAILABLE AT ALL OPEN BURN SITES.

L. RECREATIONAL FIRES SHALL NOT BE USED TO DISPOSE OF LEAVES, BRANCHES, BRUSH OR OTHER VEGETATION. ONLY DRY, NATURAL WOOD MAY BE BURNED IN A RECREATIONAL FIRE.

(2) RECREATIONAL FIRES ARE PROHIBITED DURING DROUGHT CONDITIONS, IF WINDS ARE GREATER THAN TWELVE (12) MILES PER HOUR (MPH) OR DURING AN AIR POLLUTION EVENT. AN AIR POLLUTION EVENT IS WHEN THE AIR QUALITY HAS BEEN DESIGNATED CODE RED OR CODE ORANGE.

(3) FIRES IN SALAMANDERS OR OTHER SIMILAR DEVICES, FIRED WITH PROPANE OR NO. 2 FUEL OIL AT CONSTRUCTION SITES, ARE PERMITTED.

(4) FIRES IN FIXED OR PORTABLE OUTDOOR FIREPLACES, CHIMINEAS, AND OTHER SIMILAR DEVICES ARE PERMITTED. SUCH FIRES SHALL BE FUELED ONLY BY SEASONED DRY FIREWOOD, MUST BE USED IN ACCORDANCE WITH THE MANUFACTURER'S GUIDELINES, AND ARE SUBJECT TO THE FOLLOWING CONDITIONS:

A. FIRES SHALL BE ATTENDED AT ALL TIMES BY A PERSON EIGHTEEN (18) YEARS OF AGE OR OLDER WHO IS IN DIRECT VIEW OF THE FIRE. THE FIRE SHALL BE ATTENDED UNTIL IT IS COMPLETELY EXTINGUISHED. A FIRE EXTINGUISHER OR HOSE MUST BE AVAILABLE DURING USE OF THE DEVICES DESCRIBED IN THIS SUBSECTION (C)(4).

B. FIRES SHALL BE AT LEAST THIRTY (30) FEET FROM ANY STRUCTURE. FIRES ARE NOT PERMITTED ON ANY BALCONY OR DECK.

C. THE FIRE CHIEF OR THE FIRE CHIEF'S DESIGNEE MAY PROHIBIT SUCH FIRES AT ANY TIME THE FIRE CHIEF OR HIS DESIGNEE DETERMINES THAT THEIR USE CREATES A FIRE HAZARD.

D. FIRES IN THESE DEVICES, DESCRIBED IN THIS SUBSECTION (C)(4), ARE PROHIBITED ON OR WITHIN THIRTY (30) FEET OF ANY PUBLIC ROADS, STREETS, HIGHWAYS, ALLEYS, SIDEWALKS, AND PUBLIC RIGHTS-OF-WAY.

E. NO PERSON SHALL USE THESE DEVICES, DESCRIBED IN THIS SUBSECTION (C)(4), UPON THE LAND OF ANOTHER WITHOUT PERMISSION OF THE OWNER THEREOF OR THE OWNER'S AGENT.

(5) SMOKE EMISSIONS FROM ANY ALLOWED FIRE MUST NOT CONSISTENTLY EXCEED TWENTY PERCENT (20%) OPACITY, AS DETERMINED BY THE FIRE CHIEF OR THE FIRE CHIEF'S

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DESIGNEE. FIRES WHERE VISIBLE SMOKE STEADILY CONVEYS ACROSS PROPERTY LINES ARE PROHIBITED. NO FIRES SHALL BE LEFT TO SMOLDER. ALL FIRES SHALL BE FULLY EXTINGUISHED WITH ZERO SMOKE EMISSIONS. SMOKE FROM FUEL COOKED FIRES, AS PERMITTED BY STATE AND LOCAL LAW, IS EXEMPT FROM THIS SUBSECTION (C)(5).

(6) FIXED, PORTABLE FIREPLACES AND PITS FUELED BY GAS OR PROPANE ARE PERMITTED AT SINGLE FAMILY DWELLINGS OR TOWNHOUSES WHEN USED IN ACCORDANCE WITH THE MANUFACTURER'S GUIDELINES. THE DEVICES DESCRIBED IN THIS SUBSECTION (C)(6) ARE SUBJECT TO THE FOLLOWING CONDITIONS:

A. THE DEVICE SHALL BE ATTENDED AT ALL TIMES BY A PERSON EIGHTEEN (18) YEARS OF AGE OR OLDER, WHO IS IN DIRECT VIEW OF THE DEVICE. A FIRE EXTINGUISHER OR HOSE SHALL BE AVAILABLE DURING USE OF THE DEVICES DESCRIBED IN THIS SUBSECTION (C)(6).

B. A DEVICE, DESCRIBED IN THIS SUBSECTION (C)(6), USED ON A DECK SHALL BE AT LEAST TEN (10) FEET FROM SINGLE FAMILY DWELLINGS OR TOWNHOUSES. THE COMBUSTION AREA SHALL NOT BE IN DIRECT CONTACT WITH COMBUSTIBLE DECKING.

C. THE FIRE CHIEF, OR THE FIRE CHIEF'S DESIGNEE, MAY PROHIBIT THE USE OF SUCH DEVICES, DESCRIBED IN THIS SUBSECTION (C)(6), AT ANY TIME THE FIRE CHIEF, OR THE FIRE CHIEF'S DESIGNEE DETERMINES THAT THE USE CREATES A FIRE HAZARD.

D. USE OF THESE DEVICES, DESCRIBED IN THIS SUBSECTION (C)(6), ARE PROHIBITED ON OR WITHIN THIRTY (30) FEET OF ANY PUBLIC ROADS, STREETS, HIGHWAYS, ALLEYS, SIDEWALKS, AND PUBLIC RIGHTS-OF-WAY.

E. NO PERSON SHALL USE THESE DEVICES UPON THE PROPERTY OF ANOTHER WITHOUT PERMISSION OF THE OWNER THEREOF OR THE OWNER'S AGENT

Section 2. **BE IT FURTHER ORDAINED AND ENACTED**, by the Mayor and Council of the City of Mount Rainier, Maryland that Chapter 10, "Peace and order" shall be and hereby is amended to repeal Section 10-115, "Open burning prohibited", in its entirety and to reserve Section 10-115 for future purposes.

Section 3. This Ordinance is adopted by the Mayor and Council of the City of Mount Rainier this 04 day of May, 2022 and shall take effect on the 04 day of May, 2022, provided that a fair summary has been read at the meeting at which it is introduced and at the meeting at which it has been acted upon, that a copy shall be posted at City Hall immediately after introduction until it is acted upon and for at least two weeks after it becomes effective, and that a fair summary is published at least once in a newspaper having general circulation in the City, inclusive of the City's newsletter mailed or otherwise delivered to every City household.

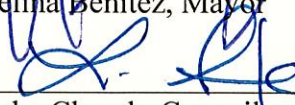
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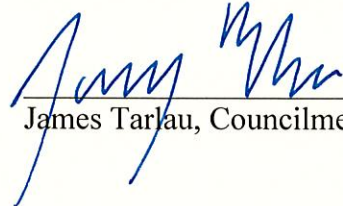
M Sam
Melissa Sam, City Clerk



Celina Benitez, Mayor

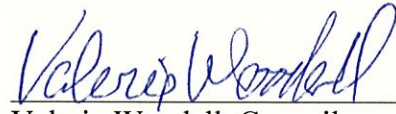


Luke Cheseck, Councilmember Ward 1



James Tarlau, Councilmember Ward 1

Jarrett Stoltzfus, Councilmember Ward 2



Valerie Woodall, Councilmember Ward 2

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