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Pinckney, MI Code of Ordinances

CHAPTER 91: FIRE PREVENTION; FIREWORKS

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§ 91.01 CONTROL OF OPENING BURNING.

(A) *Title.* This section shall be referred to as the Opening Burning Ordinance and shall apply to all property within the Village of Pinckney.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context indicates or requires a different meaning.

OPENING BURNING. A fire from which the products of combustion are emitted directly into the open air without passing through a stack or chimney, including the burning of a bonfire, rubbish fire, yard waste (including leaves, brush, tree trimmings and grass) or other fire in an outdoor location where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit.

RECREATIONAL FIRE. The burning of materials other than rubbish, garbage, waste paper, leaves, brush, grass or debris from construction or demolition, where fuel being burned is not contained in an incinerator, outdoor fireplace or barbecue grill and the total fuel area is of three feet (914 mm) or less in diameter and two feet (610 mm) or less in height and is within a fireproof ring or pit and provided the fire is used for pleasure, religious, ceremonial, cooking or similar purposes.

(C) *Prohibited burning.*

(1) It shall be a violation of this section for any person to burn or permit the burning within the village of any garbage, food containers, rubbish or other waste material, including by way of description, but not by way of limitation, any leaves, brush, tree trimmings and grass, magazines, boxes, paper, straw, saw dust, paper packing materials, wood shavings, wood chips or any other wood products; except as may be permitted under divisions (D) and (E) below.

(2) No person shall conduct a salvage operation by open burning.

(D) *Permit.* Open burning may be done under permits as follows:

(1) Open burning may be conducted upon obtaining a written permit from the Police Chief or his or her designee for occasional special events, such as high school rallies, block

parties, yule logs and religious gatherings and for the burning of yard waste when burned at a location and under the conditions authorized under this section.

(2) A request is made to the Police Chief or his or her designee for the open burning permit by the party that will be responsible for meeting all conditions and requirements of the permit.

(3) No permit shall be issued unless the issuing officer is satisfied that:

(a) There is no practical available alternative method for disposal of the material to be burned; and

(b) No hazardous condition will be operated by the burning.

(4) Any permit issued may be limited by the imposition of conditions to:

(a) Prevent or limit the creation of smoke; and/or

(b) Protect property and the health, safety and comfort of persons from the effects of open burning.

(5) No permit shall be issued for:

(a) The open burning of building demolition or excess construction materials;

(b) The open burning of refuse from a multiple dwelling;

(c) The open burning of refuse at commercial or industrial sites;

(d) The open burning of yard waste, such as leaves, brush, tree trimmings and grass, within 300 feet of a residential dwelling; and

(e) Open burning at the same property address more often than once per week.

(6) Any permit issued under this section may be revoked or canceled by the Police Chief or his or her designee.

(E) *Exceptions to section.* Provided there is compliance with the provisions of the Uniform Fire Code, as duly adopted by the county, this section shall not apply to:

(1) The preparation of food in conventional charcoal, wood or gas grills specifically designed for that purpose;

(2) The use of approved gaseous or liquid fired salamanders commonly employed in conjunction with building and construction operations when used in accordance with accepted safety standards;

(3) Roofers, tanners, plumbers or other mechanics pursuing a business requiring the use of fire, or for the purpose of boiling tar, pitch or oil used in the course of an appropriate business or trade and while being used in a safe and sanitary manner;

(4) Fires set for Fire Department training purposes or similar Fire Department activities; and

(5) **RECREATIONAL FIRES**, as defined in division (B) above.

(F) *Evidence of violation.* It shall be prima facie evidence that a person who owns or controls property on which open burning occurs has caused or permitted the open burning.

(Ord. 70, passed 1-23-2006) Penalty, see § 91.99

§ 91.02 OUTDOOR FREE-STANDING FURNACES.

(A) *Purpose.* The purpose of this section is to establish and impose restrictions upon the construction and operation of outdoor furnaces within the limits of the village to secure and promote the public health, safety and welfare of the village and its inhabitants. Outdoor furnaces can create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles and other products of combustion, particularly when restricted airflow and low operating temperatures are present. These products can be detrimental to citizen's health and can deprive neighboring residents of the enjoyment of their property. These regulations are intended to eliminate noxious and hazardous conditions caused by outdoor furnaces.

(B) *Definitions.* **FREE-STANDING FUEL-BURNING FURNACE** is any device or structure that:

(1) Is designed, intended or used to provide heat and/or hot water to any residence, or other structure;

(2) Operates by the burning of wood or other fuel;

(3) Is not located within a residential or other structure for which it provides heat, unless the structure is designed solely to house the furnace; and

(4) Excluded from the definition of a **FREE-STANDING FUEL-BURNING FURNACE** is any device which is not designed or used to heat a structure other than the structure in which it is located.

(C) *Regulations.* It shall be unlawful to install or operate a free-standing fuel-burning furnace, within the village.

(D) *Existing free-standing fuel-burning furnace.* This section shall not apply to any freestanding fuel-burning furnace that was installed, connected and operating as of the effective date of this section. However, this section shall not be deemed as specific authorization for the use of any pre-existing free-standing fuel-burning furnace and shall not be deemed to bar, limit or otherwise affect the rights of any person to take private legal action regarding damage to a nuisance caused by the use of a free-standing fuel-burning furnace. If a pre-existing free-standing fuel-burning furnace is converted, moved to a new location within the same property or is adapted to service additional structures, it will be construed to be a newly installed furnace and this section shall apply in its entirety. Any free-standing fuel-burning furnace installed or operated in violation of this section is hereby declared to be a nuisance per se.

(Ord. 89, passed 7-27-2009) Penalty, see § 91.99

§ 91.03 FIREWORKS.

(A) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

CONSUMER FIREWORKS. That term as defined in Michigan Fireworks Safety Act.

DISPLAY FIREWORKS. That term as defined in Michigan Fireworks Safety Act.

FIREWORK or **FIREWORKS.** That term as defined in Michigan Fireworks Safety Act.

MICHIGAN FIREWORKS SAFETY ACT. Public Act 256 of 2012, being M.C.L.A. §§ 28.451 *et seq.*, as it may be amended from time to time.

RETAILER. That term as defined in Michigan Fireworks Safety Act.

WHOLESALE. That term as defined in Michigan Fireworks Safety Act.

(B) *Use of consumer fireworks, prohibition, holidays.*

(1) No person shall ignite, discharge or use consumer fireworks in the village; except this prohibition shall not preclude any person from igniting, discharging or using consumer fireworks within the village on the day proceeding, the day of, or the day after a national holiday, consistent with Michigan Fireworks Safety Act.

(2) Use of consumer fireworks, as defined in the Michigan Fireworks Safety Act, in the village is limited to the day before, the day of, and the day after, a holiday, as defined in 5 U.S.C. § 6103, and is expressly contingent on the following:

(a) No person under the age of 18 years shall use, possess, explode or cause to explode any fireworks, as defined herein, within the village.

(b) A person shall not ignite, discharge, or use consumer fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance, as the terms are defined in the Michigan Motor Vehicle Code (M.C.L.A. §§ 257.1 *et seq.*).

(c) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission.

(d) A person shall not ignite, discharge, or use consumer fireworks between the hours of 1:00 a.m. and 8:00 a.m.

(C) *Compliance with applicable ordinances and codes.* Unless otherwise expressly provided in this chapter, a retailer or wholesaler of fireworks located within the village must comply with the requirements of the village's Zoning Ordinance, as well as all building codes and regulations, in addition to the requirements of the Michigan Fireworks Safety Act, and any applicable federal laws and regulations.

(D) *Display fireworks permits.* Upon application in writing to the village by any individual, association or group of individuals for the public display of fireworks, the Village Council may grant permission for such display, subject to such conditions as the Police Chief and the Fire Chief may impose to properly safeguard the public, both as to persons and property; and subject to the provisions of the Michigan Fireworks Safety Act. Applicants shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the village to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm, or corporation or an agent or employee of the person, firm, or corporation, and to protect the public. The application form for permits under this section shall be provided the State of Michigan, and applicants shall pay the application fee to the village in an amount determined by Council resolution.

(E) *Violations, fines and penalties.*

(1) *Civil infraction.* Persons who violate a provision of this code section or fail to comply with any of the requirements thereof, shall be guilty of a municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in § 10.99(C), and shall be subject to any other relief that may be imposed by a court for such conduct, which shall also be considered a nuisance per se. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

(2) *Determination of violation; seizure.* If a police safety officer determines that a violation of this code section has occurred, the officer may seize the fireworks as evidence of the violation.

(3) *Disposal.* Following final disposition of a finding of responsibility for violating this code section, the village may dispose of or destroy any fireworks retained as evidence in that prosecution.

(4) *Costs.* In addition to any other penalty, a person that is found responsible for a violation of this code section shall be required to reimburse the village for the costs of storing, disposing of, or destroying fireworks that were confiscated for a violation of this code section.

(Ord. 112, passed 7-23-2012; Ord. 119, passed 6-24-2013)

§ 91.99 PENALTY.

A person who violates any provision of this chapter is responsible for a municipal civil infraction set forth in Chapter 131 of this code, subject to payment of a civil fine as specified in Village's Municipal Civil Infraction Ordinance, plus costs and other sanctions for each infraction. Repeat offenses shall be subject to increased fines.

(Ord. 70, passed 1-23-2006)