

ORDINANCE NO. 2017-11

BURNING ORDINANCE

AN ORDINANCE TO PROMOTE THE GENERAL HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF THE VILLAGE OF LAKEVIEW AND SPECIFICALLY TO RESTRICT BURNING WITHIN THE VILLAGE LIMITS AND TO REPEAL IN ITS ENTIRETY ORDINANCE NO. 93-3, AS AMENDED.

The Village of Lakeview ordains:

SECTION 1. BURNING WITHIN VILLAGE PROHIBITED

No person shall ignite or otherwise cause any campfire, open burning, outdoor burning, or other burning whatsoever on any of the lands within the Village of Lakeview except in accordance with the terms of this Ordinance. No person shall ignite or cause to burn any waste or refuse or construction material and demolition waste or any other debris, material, or refuse whatsoever on any of the lands within the Village of Lakeview except in accordance with the terms of this Ordinance. The provisions of this Ordinance shall not prohibit the burning of clean fuels in an indoor fireplace or stove for the purpose of cooking or providing heat, nor shall it prohibit the use of portable fire receptacle units, campfires, or other burning as allowed under the terms of this Ordinance.

SECTION 1.1. DEFINITIONS:

- A. "Campfire" means an outdoor fire burning clean wood or charcoal intended for recreation or cooking but not including a fire intended for disposal of waste or refuse or construction material and demolition waste. A campfire must be contained within a fire pit unless within and in accordance with the rules of a designated campground.
- B. "Clean Wood" means natural wood which has not been painted, varnished, or coated with a similar material, has not been pressure treated with preservatives, and does not contain resins or glues such as in plywood or other composite wood products, except that clean wood does include manufactured "starter logs" commercially available and commonly used in fireplaces and campfires.
- C. "Construction Material and Demolition Waste" means building waste materials, including but not limited to waste shingles, insulation, lumber, other wood materials including but not limited to treated wood and painted wood, wiring, plastics, packaging, and rubble, and includes any material other than clean wood that results from construction, remodeling, repair, and demolition operations on a house, commercial, or industrial building or structure.
- D. "Waste or Refuse" means any garbage, trash, grass clippings, leaves, weeds, brush, plastics, rubber, construction material and demolition waste or other combustible materials, whether animal, vegetable, mineral, wood, or synthetic material.
- E. "Open Burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or chimney but does not include any burning in any portable fire receptacle unit.

- F. "Outdoor Burning" means any open burning or any other burning outside the walls of any man-made building, house, or other structure, including any burning in an outdoor boiler/burner, portable fire receptacle unit, or fire pit.
- G. "Outdoor Boiler/Burner" means a wood-fired boiler, wood burner, stove, furnace, device, appliance, equipment, apparatus, or structure that is designated, intended and/or used to provide hot water heat, hot water, or steam to any associated structure, and that operates by burning wood, charcoal, coal, corn, pellets, or other fuel sources approved for or customarily used for burning in an outdoor boiler/burner and is not located within the structure to be heated.
- H. "Portable Fire Receptacle Unit" means outdoor burning or open burning fire receptacles which are not permanently affixed to any structure such as a chimney, patio warmer, smokers and grills, or other portable devices used for outdoor recreation, cooking, and/or heating.
- I. "Fire Pit" means a permanently fixed, outdoor burning or open burning receptacle located no closer than forty feet from any public surface street, or within twenty feet of any building or property line. All fire pits must be constructed in accordance with Section 2(J) of this Ordinance.
- J. The definitions set forth in this Section 1.1 shall apply to the above terms whether capitalized or not, plural or singular, and however used throughout this Ordinance No. 93-3.

SECTION 2: PERMISSIBLE BURNING

No person shall ignite or otherwise cause to burn campfires upon any lands within the Village of Lakeview, except in accordance with all of the following requirements:

- A. A person of suitable age and discretion shall remain in constant attendance during the time the campfire is burning or smoldering.
- B. The person or persons tending the campfire shall remain in complete control over the campfire at all times, shall ensure that the campfire does not threaten surrounding properties, and shall ensure that equipment suitable for extinguishing the campfire are nearby and readily available for use to control the fire. Suitable equipment includes but is not limited to a garden hose with water supply, a shovel, fire extinguisher, or other equipment of similar effect.
- C. The quantities of clean wood or charcoal placed in a campfire at one time shall not exceed an amount which would reasonably be controllable or which is likely to create a flame greater than three feet above ground level.
- D. Before abandoning the site of the campfire or disposing of its remains, the person or persons tending the campfire shall take all steps necessary to extinguish any matter still burning, smoking, or smoldering.
- E. At no time shall any burning occur on or within 40 feet of the surface of any public street in the village.
- F. At no time shall any burning occur on or within 20 feet of a building or property line, with the exception of the use of portable fire receptacle units.
- G. At no time shall a person burn or permit the burning of materials which are wet or damp, thus creating smoke in an amount or of a nature to disturb, annoy, or harm.

- H. Materials used in any portable fire receptacle unit shall be limited to clean wood, charcoal, natural or propane gas, or other manufactured clean burning fuels such as pellets or "starter logs". Materials used in any campfire shall be limited to clean wood, charcoal, or other manufactured clean burning fuels such as pellets or "starter logs".
- I. Portable fire receptacle units may be operated on wood decks or other decking as long as safety precautions are used such as placing non-combustible material like brick, stone, concrete, or approved non-combustible mats or other materials between the portable fire receptacle unit and the combustible material. If a portable fire receptacle unit is not operated by burning natural or propane gas, the charcoal, clean wood, or other fuel supply shall be situated no closer than 6 feet from the unit.
- J. Fire pits shall be no greater than four feet in diameter and must be constructed of a non-combustible material such as concrete, brick, stone, metal, soil, or other non-combustible material. Pits excavated into the ground need not be lined with any material below the ground surface. Pits placed on the ground shall have a six in high border above the surface of the ground consisting of non-combustible material which surrounds the campfire.

SECTION 3: PROHIBITED BURNING; EXCEPTIONS.

SECTION 3.1. OUTDOOR BOILER/BURNERS

- A. Outdoor Boilers/Burners: All outdoor boilers/burners shall be installed to meet all of the following requirements:
 1. Be positioned at least 20 feet from each lot line;
 2. Be positioned at least 100 feet from the primary structure on each adjacent lot;
 3. Be positioned to the rear of the primary structure on the lot on which it is placed;
 4. Be installed by a licensed contractor, according to a mechanical permit; and
 5. Be installed with an exhaust stack at least as high as the highest chimney of the primary structure on the lot on which it is placed or on an adjacent lot.
 6. No outdoor burner shall be installed, put to use, or remain in use without first obtaining a permit from the Village of Lakeview, issued by the office of the Village Manager or such office or official of the Village of Lakeview as the Village Manager may designate. Such permits may be issued in the discretion of such official representative of the Village of Lakeview, based upon the applicant's adherence with the following factors, and upon the furnishing to the Village the following information:
 - a. A drawing providing and identifying all of the information necessary to assure compliance with this section.
 - b. Manufacturer's specifications for the outdoor boiler/burner.
 - c. Proof of compliance with all applicable state and federal statutes, rules, regulations, and permit requirements, including, without limitation, all applicable building and construction codes, fire codes, and the zoning ordinance.
 7. Any person owning and operating an outdoor boiler/burner prior to July 5, 2007 shall apply for the permit required by Section 3.1(A)(6) within sixty (60) days of

such date. The Village official reviewing such application shall issue the permit to such a person notwithstanding reasonable variations from the requirements of subsections 1-5 of this Section 3.1(A), so long as such pre-existing outdoor boilers/burners are deemed safe and acceptable in the discretion of the Village official. The Village official may require reasonable alterations to the pre-existing unit prior to issuing the permit in the interest of public safety. All pre-existing outdoor boiler/burners are subject to this Ordinance and all parts hereof, specifically including Sections 3.1(A)(8) -(11).

8. The area around an outdoor boiler/burner shall be free of substantial vegetation or other combustible material in a radius of 10 feet from the unit, or in a distance specified by the particular manufacturer of such unit, whichever is greater.
9. Only dry natural hard wood without additive, coal, charcoal, corn, pellets, or other approved or customarily used alternate fuel sources may be burned in an outdoor boiler/burner.
10. Outdoor boiler/burners and associated installations shall be subject to inspection by the Village Zoning Administrator and State Mechanical Inspector at any reasonable time to assure compliance with this section or other applicable laws. Inspection by the Mechanical Inspector shall be required before any outdoor boiler/burner is put into service.
11. Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance with this section. This ordinance shall not be a defense to any civil claims for nuisance or for any other cause.

SECTION 3.2. OUTDOOR OR OPEN BURING

A. Required Conditions for Permitted Outdoor and Open Burning:

1. Shall only be conducted during daylight hours.
2. Shall not be conducted within 350 feet from a structure not located on the same lot that the burning is taking place on.
3. Shall not be conducted within 100 feet from a lot line or right of way.
4. Shall only outdoor or open brush and/or clean or natural wood which has not been treated, painted, varnished or coated with a similar material and does not contain resins or glues as in plywood or other composite wood products.
5. Shall be conducted or performed under the constant supervision of a competent, responsible person at least eighteen (18) years of age. Such person shall have readily available for use fire extinguishing equipment as may be necessary to control the fire.
6. Outdoor or open burning shall not be conducted on days in which the Michigan Department of Natural Resources (DNR) has declared an "air quality action day" applicable to the Village of Lakeview.
7. Outdoor or open burning may only be conducted on days and times as allowed by the Michigan Department of Natural Resources (DNR).

B. Burn Permit Required:

1. Approved Outdoor and open burning of trees, tree-logs, tree-limbs, brush and stumps requires the issuance of a burn permit from the Lakeview Fire Department and authorization from the Village of Lakeview Manager or his/her designee.

C. Liability:

1. A person utilizing or maintaining an outdoor or open fire shall be responsible for all fire suppression costs and other liability resulting from damage caused by such fire.

SECTION 4: VIOLATION

Any person, plan, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction and shall be punished by a civil fine of fifty dollars (\$50.00) for a first violation, one hundred fifty dollars (\$150.00) for a second violation and five hundred dollars (\$500.00) for a third or any subsequent violation and shall be liable for the payment of the costs of prosecution in an amount of not less than nine dollars (\$9.00) and not more than five hundred dollars (\$500.00).

- (a) Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of a fine for each day.
- (b) The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief prescribed by the laws of the State of Michigan for the abatement of a public nuisance or the violation of a Village ordinance designated as a municipal civil infraction.

SECTION 5: ADMINISTRATION RESPONSIBILITY.

It shall be the duty of the Lakeview Police Department and/or the Village Manager to investigate the origin of fires which are in violation of the terms of this ordinance and to actively endeavor with the cooperation of the Village Attorney to secure conviction of all persons violating this ordinance.

SECTION 6: ADMINISTRATION LIABILITY.

No officer, agent, or employee of the Village of Lakeview shall render himself or herself liable for any damage that may accrue to any person as the result of any act, decision, or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this ordinance.

SECTION 7: SEVERABILITY AND CAPTIONS.

This ordinance and the various parts, sections, subsections, sentences, phrases, and clauses thereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this ordinance shall not be affected thereby.

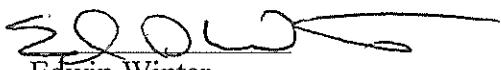
The captions included at the beginning of each section are for convenience only and shall not be considered as part of this ordinance.

SECTION 8: REPEALER.

Ordinance No. 93-3, as amended, is repealed in its entirety and of no further force or effect.

SECTION 9: EFFECTIVE DATE.

This ordinance was approved and adopted by the Village Council on November 13, 2017, and shall be effective 20 days upon publication.



Edwin Winter
Village President