

NOTICE
CHARTER TOWNSHIP OF ORION
ADOPTION OF ORDINANCE 157
OPEN BURNING REQUIREMENTS

The Charter Township of Orion Board of Trustees, at the regular meeting of Monday, October 7, 2019, held at 7:00 p.m., at the Orion Township Hall, 2525 Joslyn Rd., Lake Orion, Michigan 48360, adopted an Ordinance to protect the safety and welfare of the people of the Township of Orion and Village of Lake Orion relating to the regulation of open burning; to provide penalties for violation of this Ordinance; to provide for severability; to repeal all Ordinances or parts of Ordinances in conflict therewith and to provide an effective date.

Section I - Definitions

The term “Open Burning” as used in this Ordinance is defined as a fire where any material is burned on the ground or in an open receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney. It also includes campfires.

The term “Approved Container” includes the following: a non-combustible barrel with lid or cover to suppress sparks, an outdoor fireplace, a portable outdoor fireplace used in accordance with the manufacturer's instructions or a below-grade enclosure.

The term “Recreational Fire” means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbecue pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purpose.

The term “Bonfire” means an outdoor fire utilized for ceremonial purposes. These are usually large fires that are associated with crowd activity and size is no larger than 6 foot in height and 6 foot in width.

The term “Approved” shall mean acceptable to the Fire Chief or his designee.

The term “Portable Outdoor Fireplace” means a portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

Section II - Nuisances

Burning is prohibited if it is offensive or a nuisance due to smoke, odor, fire, debris (embers, sparks, or ash) or when atmospheric conditions (winds exceeding 10 mph or prolonged drought) create a fire hazard. Burning may also be prohibited when deemed necessary by the Fire Chief or his designee.

Section III – Open Burning Regulations

A. Allowable Burning

Natural wood material, including dry, seasoned tree trunks, and branches/limbs may be burned. Additionally, a small amount of paper product including cardboard, wood kindling, or commercially available fire starters may be used to aid in the ignition of an open flame. Open burning shall always be tended to by a competent adult over 18 years of age until the fire is extinguished.

No person(s) shall Open Burn or otherwise burn any allowable material(s) prior to calling the burn hotline number at ((248) 693-1838), to ensure there is no burn ban in effect.

B. Prohibited Burning

Gasoline, kerosene, fuel oil, or any other flammable or combustible liquid may not be used to start a fire. Burning of leaves or any other material other than tree cuttings or brush is prohibited.

C. Recreation Fires

Recreation Fires shall not be conducted within 25 feet of a structure, combustible material and lot of lines. Conditions that could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition.

D. Bonfire

A bonfire shall not be conducted within 50 feet of a structure, combustible material and lot of lines. Conditions that could cause a fire to spread within 50 feet of a structure shall be eliminated prior to ignition.

E. Fires in Portable Outdoor Fireplaces

Fires in portable outdoor fireplaces shall be used in accordance with manufactures recommendations and shall not be operated within 15 feet of a structure, combustible material and lot of lines. Portable outdoor fireplaces shall not be used on combustible decks.

F. Open Burning on Easements or Common Areas

Open burning on easements or common areas requires written permission from the Fire Chief or his designee.

Written permission is also required by the entity having control over or any legal interest in the easement or common area (i.e., Homeowners Association, etc.).

G. Proper Extinguishment

An individual shall provide adequate means of extinguishment that is immediately available to extinguish any burning operation. Examples of extinguishment include a fire extinguisher (minimally Class A rated), a shovel with dirt or sand, or a garden hose. Conditions that could cause fire to spread to nearby combustibles shall be eliminated before the ignition of any open burning.

Section IV – Authority of Fire Department

If the Fire Department receives any complaints, it has the authority to inspect the fire at issue. If the Fire Department determines that the burning has created or added to a hazardous situation or has become a nuisance, a Fire Department representative is authorized to order the extinguishment of the open burning operation. If non-compliance of this ordinance is found, the Fire Department representative also has the authority to issue a township or municipal civil infraction at his or her discretion.

Section V – Reference to International Fire Code

Orion Township has adopted the current version of the International Fire Code and all appendixes as amended at the time of the adoption and as amended in the future in Ordinance No. 146. This Ordinance will comply with all sections of the International Fire Code as stated (Ordinance No. 146), except for sec. 105.6.32 and Section 307, which govern permits for open burning. Henceforth, open burning shall be regulated by this Ordinance. Ordinance No. 146 is not repealed; however, the sections of the International Fire Code in conflict herewith should be considered subordinate to this Ordinance.

Section VI - Violation and Penalties

A. Municipal Civil Infraction/Payment of Fine.

Any person, firm, or corporation violating a provision of this Ordinance, upon an admission or a finding of responsibility for such violation, shall be deemed responsible for a municipal civil infraction as that term is defined and used in MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended, and shall pay a civil fine up to the maximum allowed by law but in no event less than Five Hundred Dollars (\$500) or as otherwise determined by the district court, district court judge, or district court magistrate.

B. Costs.

A person, firm, or corporation ordered to pay a fine under Subsection A shall be ordered by the district court judge or magistrate to pay costs of not less than Nine Dollars (\$9) or more than Five Hundred Dollars (\$500), which costs may include all expenses, direct and indirect, to which the Township of Orion has been put in connection with the violation of the Ordinance up to the entry of the court's judgment or order to pay fine and costs.

C. Additional Writs and Orders.

A person who admits or is found responsible for violation of this Ordinance shall comply with any order, writ, or judgment issued by the district court to enforce this Ordinance pursuant to Chapter 83 and Chapter 87 of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

D. Default on Payment of Fines and Costs.

A default in payment of a civil fine, costs, or damages or expenses ordered under Subsection A or B or an installment of the fine, costs, or damages or expenses as allowed by the court, may be collected by the Township of Orion by a means authorized for the enforcement of a judgment under Chapters 40 or 60 of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

E. Failure to Comply with Judgment or Order.

If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under Subsection G.

F. Failure to Appear in Court.

A defendant who fails to answer a citation or notice to appear in court for a violation of this Ordinance is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500) plus costs and/or imprisonment not to exceed ninety (90) days.

G. Civil Contempt.

1. If a defendant defaults in the payment of a civil fine, costs, or other damages or expenses, or installment as ordered by the district court, upon motion of the Township of Orion or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
2. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this Subsection.
3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
4. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the

amount of payment or of each installment or revoking the fine, costs, or damages or expenses.

5. The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall be specified in the order of commitment and shall not exceed one day for each Thirty Dollars (\$30) due. A person committed for nonpayment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30) per day.
6. A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:
 - a. A defendant is credited with an amount due pursuant to Subsection G, 5.
 - b. The amount due is collected through the execution of process or otherwise.
 - c. The amount due is satisfied pursuant to a combination of Subdivisions G, 6, a and b.
7. The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection G, 6.

ARTICLE VII – SAVINGS CLAUSE

Nothing in this Ordinance hereby adopted shall be construed to affect any just or legal right or remedy of any chapter, nor shall any just or legal right or remedy of any chapter be lost, impaired or affected by this Ordinance.

ARTICLE VIII – SEVERABILITY

If any article, section, subsection, sentence, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any court of competent jurisdiction, such article, section, subsection, sentence, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance; but the remainder of this Ordinance shall stand and be in full force and effect.

ARTICLE IX – EFFECTIVE DATE

This Ordinance shall be published in a newspaper of general circulation in the Township of Orion, and shall become effective upon publication, as provided by law.

Copies of the Ordinance are on file in the office of the Township Clerk, 2525 Joslyn, Lake Orion, Michigan, 48360, and may be examined during normal business hours, 8:30 a.m. to 4:30 p.m., Monday through Friday.

Penny S. Shults, Clerk
Charter Township of Orion

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