

CITY OF FENTON
CODE OF ORDINANCES
FIRE PREVENTION AND PROTECTION AMENDMENT
ORDINANCE NO. 710

At a regular meeting of the City Council of the City of Fenton, Michigan, held at the City of Fenton Office on February 24, 2020 at 7:30 p.m., Council Member Grossmeyer moved to adopt the following ordinance, which motion was seconded by Council Member Bottecelli.

An Ordinance to amend the Fenton Code of Ordinances, Chapter 12 – Fire Prevention and Protection to allow the Fire Chief to appoint officers of the Fire Department and to amend the provisions and regulations related to open burning within the City.

CITY OF FENTON ORDAINS:

SECTION 1. AMENDMENT TO CHAPTER 12, FIRE PREVENTION AND PROTECTION, ARTICLE III, SECTION 12-37 – SAME–REVISIONS: Chapter 12, Fire Prevention and Protection, Article III, Section 12-37, entitled “Same–Revisions,” shall be amended to revise Section 307.1-General, Section 307.2-Permits, and Section 307.4-Location and renumber subsequent provisions:

Sec. 12-37. - Same—Revisions.

The following sections of the code are hereby revised as follows:

- (1) *Section 101.1-Title.* These regulations shall be known as the Fire Code of the City of Fenton, hereafter referred to as "this Code."
- (2) *Section 202-General Definitions, Recreational Fire.* **RECREATIONAL FIRE.** 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 barbeque pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth, or similar purposes. A recreational fire does not include a bonfire.
- (3) *Section 103.2-Appointment.* The fire code official shall be a duly qualified person who shall be appointed by and serve at the discretion of the City Council.
- (4) *Section 105.6.30-Open burning.* A permit need not be obtained from the fire code official prior to opening burning or recreational fires, except a permit shall be obtained from the fire code official prior to the kindling a fire for recognized agricultural or range or wildlife management practices, prevention or control of diseases or pests.

- (5) *Section 109.4-Violation penalties.* Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Chief or fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a municipal civil infraction, punishable by a fine of not more than \$500.00 dollars or by imprisonment not exceeding 90 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Persons who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this Code, shall be guilty of a misdemeanor, punishable by a fine of more than \$500.00 or by imprisonment for not more than 90 days or may be found responsible for a municipal civil infraction and payment of a civil fine of not more than \$500.00 plus costs and other sanctions, for each infraction. Each day the violation is maintained after due notice of a violation shall be considered a new offense and subject to separate fines and costs.

The issuance of a municipal civil infraction citation and the imposition of fines against the violator shall not prohibit the City from also seeking injunctive or other relief against the violator in a civil action, in order to abate the violation or to seek such other relief as provided by law.

- (6) *Section 111.4-Failure to Comply.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this Code and subject to the penalties as provided in Section 109.4.
- (7) *Section 307.1-General.* A person shall not kindle or maintain or authorize to be kindled or maintained any open burning or recreational fires unless conducted and approved in accordance with Article IV of the City of Fenton's Code of Ordinances, Chapter 12, Fire Prevention and Protection, Article IV.
- (8) *Section 307.2-Permits.* A permit need not be obtained from the fire code official prior to opening burning or recreational fires, except a permit shall be obtained from the fire code official prior to a fire for recognized agricultural or range or wildlife management practices, prevention or control of diseases or pests.
- (9) *Section 307.4-Location.* Generally, the location for open burning or other outdoor fires shall not be less than 50 feet (15,240 mm) from

any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure.

- (10) Section 307-4.1-*Bonfires*. Bonfires are prohibited within the City of Fenton.
- (11) *Section 307.5-Attendance*. Open burning, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished by a person at least-eighteen (18) years of age. A minimum of one portable fire extinguished complying with Section 906 of the Fire Code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.
- (12) *Section 308.1.4-Open-flame cooking devices*. Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within ten feet (3048 mm) of combustible construction.

Exceptions: Single family dwellings.

- (13) *Section 5704.2.9.6.1-Location Where Above-Ground Tanks Are Prohibited*. Storage of Class I and Class II liquids in above-ground tanks is prohibited in the City of Fenton, unless approved by the fire code official and such storage complies with all other applicable laws. The provisions of this Code shall not be deemed to nullify any other ordinance of the City of Fenton or other regulations pertaining to the storage of Class I and Class II liquids in above-ground tanks. Where Code provisions for the storage of Class I and Class II liquids in above-ground tanks are in conflict, the most rigid requirements shall apply.
- (14) *Section 5706.2.4.4-Locations Where Above-Ground Tanks Are Prohibited*. Storage of Class I and Class II liquids in above-ground tanks is prohibited in the City of Fenton, unless approved by the fire code official and such storage complies with all other applicable laws. The provisions of this Code shall not be deemed to nullify any other ordinance of the City of Fenton or other regulations pertaining to the storage of Class I and Class II liquids in above-ground tanks. Where Code provisions for the storage of Class I and Class II liquids in above-ground tanks are in conflict, the most rigid requirements shall apply.
- (15) *Section 5806.2-Limitations*. Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited in the City of Fenton, unless approved by the fire code official and such storage complies with all other applicable laws. The provisions of this Code shall not be deemed to nullify any other ordinance of the City of

Fenton or other regulations pertaining to the storage of flammable cryogenic fluids in stationary containers outside of buildings. Where Code provisions for the storage of flammable cryogenic fluids in stationary containers outside of buildings are in conflict, the most rigid requirements shall apply.

(16)*Section 6104. 2-Maximum Capacity Within Established Limits.* Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L). In particular installations, this capacity limit may be increased or decreased as determined by the fire code official, after consideration of special features such as topographical conditions, nature of occupancy and proximity to buildings, capacity of proposed LP-gas containers, degree of fire protection to be provided, and capabilities of the local fire department. The provisions of this Code shall not be deemed to nullify any other ordinance pertaining to the storage of liquefied petroleum gas.

SECTION 2. AMENDMENT TO CHAPTER 12 FIRE PREVENTION AND PROTECTION, ARTICLE III –INTERNATIONAL FIRE CODE: Chapter 12, Fire Prevention and Protection, Article III, entitled “International Fire Code” shall be amended to add Section 12-39 to enforce violations of the Fire Code through municipal civil infractions:

Sec. 12-39

A violation of any provision of this article is a municipal civil infraction punishable by a fine of not more than \$500.00, or by imprisonment for not more than 90 days, or both.

SECTION 3. AMENDMENT TO CHAPTER 12, FIRE PREVENTION AND PROTECTION, ARTICLE IV – OPEN BURNING AND RECREATIONAL FIRES: Chapter 12, Fire Prevention and Protection, Article IV, entitled “Open Fires” shall be amended to be titled “Open Burning and Recreational Fires” and read as follows:

ARTICLE IV. – OPEN BURNING AND RECREATIONAL FIRES

Sec. 12-51. - Definitions.

(a) “Open Burning” as used in this article, means the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudge-pots and similar devices associated with safety or occupational uses typically considered open flames, recreational fires or use of portable outdoor fireplaces. For the purpose of this definition, a chamber shall be regarded as enclosed when, during

the time combustion occurs, only apertures ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

(b) “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 barbeque pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth, or similar purposes. A recreational fire does not include a bonfire.

(c) “Nuisance” shall mean any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition, or thing either:

- (1) Injures or endangers the comfort, repose, health, or safety of others; or
- (2) Offends decency; or
- (3) Is offensive to the senses; or
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous from passage any public or private street, highway, sidewalk, stream, ditch, or drainage; or
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Sec. 12-52. – General Prohibitions on Burning of waste material, leaves, brush, etc., prohibited; exceptions.

A person shall not kindle or start or maintain or authorize to be kindled or maintained any open burning or recreational fires unless conducted and approved in accordance with this Article.

Sec. 12-53. Approved open burning and recreational fires.

When required by other state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed. Open burning or recreational fires are allowed for the following purposes, provided that all other requirements of this Article are observed, except when atmospheric conditions or local circumstances make such fires hazardous:

- (1) Fires necessary in the course of recognized agricultural or range or wildlife management practices, prevention or control of disease or pests, provided that no nuisance is created, when approved by City of Fenton Fire Department.

- (2) Fires set in the performance of an official duty by a public officer for the protection of public health or safety.
- (3) Recreational fires for pleasure, religious, ceremonial, cooking, warmth, or similar purposes.
- (4) Except when otherwise required, opening burning or recreational fires do not require authorization from the city fire chief or fire code official.

Sec. 12-54. - Proximity of fire to building.

The location for open burning shall not be less than 50 feet (15,240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure, except in the following circumstances:

- (1) Fires in approved containers that are not less than 15 feet (4572 mm) from a structure. The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.
 - (2) Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.
- (3) Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material, except for portable outdoor fireplaces used at one-and two-family dwellings.

Sec. 12-55. - Fires in streets and public places.

No person shall start or have any open burning on any sidewalk, parkway, street, highway, alley, park or other public way or place except as authorized by the fire chief or his/her designated representative.

Sec. 12-56. - Danger of spreading.

No person shall start or have any fire upon any woodland, lot, subdivision, grassland, field or public right-of-way within the city whenever there is danger of such fire spreading beyond the control of the person starting or having such fire so as to injure, damage or endanger the life, limb or property of another.

Sec. 12-57. - Attendance at fires.

Open burning, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished by a person at least-eighteen (18) years of age. A

minimum of one portable fire extinguished complying with Section 906 of the Fire Code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

Sec. 12-58. - Fires at night.

Except for recreational fires, no person shall start or have any open burning upon any woodland, lot, subdivision, grassland, field or public right-of-way within the city before sunrise or later than one-half hour following sunset; except the fire chief or his/her designated representative may authorize open burning at night for special occasions or conditions.

Sec. 12-59. - Emergency conditions.

- (a) The fire chief or his/her designated representative is hereby authorized and directed to declare when a state of emergency exists with respect to fires within the city to prohibit all out-of-doors burning within the city. The dangerous or emergency condition shall exist when the fire chief or his/her designated representative or the department of natural resources or state fire marshal makes a formal declaration of the existence of such a state of emergency and posts a notice to that effect in a public place within the city hall as well as on the city's official website or city social media, if available.
- (b) When open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the fire code official is authorized to do the extinguishment of the open burning operation.

Sec. 12-60. - Penalties.

A violation of any provision of this article is a municipal civil infraction punishable by a fine of not more than \$500.00, or by imprisonment for not more than 90 days, or both. The following persons are authorized to enforce this Article: City Code Enforcement Officer, Fire Chief, or his or her designees, or any other authorized City official.

Section 4. Severability: The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

Section 5. Effective Date: This Ordinance shall take immediate effect after publication of a notice of adoption of this Ordinance in the local newspaper.

YEAS: Grossmeyer, Jacob, Lockwood, McDermott, Osborn, Sage, Bottecelli.
NAYS: None
ABSENT/ABSTAIN: None.

INTRODUCED FOR FIRST READING ON FEBRUARY 10, 2020 AND SUBSEQUENT
FINAL ADOPTION ON FEBRUARY 24, 2020.

Lynn Markland, City Manager

Sue Walsh, City Clerk

CERTIFICATE

I, Sue Walsh, City Clerk of the City of Fenton, hereby certify this to be a true and complete copy of Ordinance No. 710, duly adopted at a regular meeting of the City Council held on the 24th day of February, 2020.

Sue Walsh, City Clerk