

NOTICE

At a Regular Rochester Hills City Council Meeting held at the City of Rochester Hills Municipal Offices, 1000 Rochester Hills Drive, Oakland County, Michigan on Monday, March 6, 2023:

Present: President Ryan Deel, Members David Blair, Susan Bowyer, Dale Hetrick, Carol Morlan, Theresa Mungiolli and David Walker

QUORUM PRESENT

MOTION BY Hetrick, seconded by Blair that **Ordinance No. 642** an Ordinance to Amend Article III, Sections 58-57 and 58-58, of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Rochester Hills, Oakland County, Michigan, to Adopt the 2021 International Fire Code, to Specify Enforcement Authority, and to Adopt Amendments to the Fire Code; and to repeal conflicting ordinances and prescribe a penalty for violations.

BE AND IS HEREBY ADOPTED and shall become effective on Monday, March 13, 2023 following its publication in the Oakland Press.

Ayes: Blair, Bowyer, Deel, Hetrick, Morlan, Mungiolli and Walker

Nays: None

Absent: None

MOTION CARRIED

ORDINANCE NO. 642

AN ORDINANCE TO AMEND ARTICLE III, SECTIONS 58-57 AND 58-58, OF CHAPTER 58, FIRE PREVENTION AND PROTECTION, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO ADOPT THE 2021 INTERNATIONAL FIRE CODE, TO SPECIFY ENFORCEMENT AUTHORITY, AND TO ADOPT AMENDMENTS TO THE FIRE CODE; AND TO REPEAL CONFLICTING ORDINANCES AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Sections 58-57 and 58-58 of Chapter 58 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 58-57. Adopted; enforcement.

- (a) *Adopted.* There is adopted by the city, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the 2021 International Fire Code, including appendices B, C, D, H, I and J, promulgated by the International Code Council, Inc., except such portions as are deleted, modified or amended in section 58-58. Not less than three copies of such code shall be maintained on file in the office of the city clerk, and the code is hereby adopted and incorporated in this article as if set out at length in this section. The provisions of the code, with any modifications in this article, shall be controlling within the city limits.
- (b) *Enforcement authority.* Enforcement of this article may be by the fire chief, the deputy fire chief, the fire marshal, the assistant fire marshal, fire and life safety lieutenants, and the county deputy sheriffs.
- (c) *Municipal civil infraction.* A person who violates any section of this article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 66-37. Repeat offenses under this article shall be subject to increased fines as set forth in section 66-37.

Sec. 58-58. Amendments.

- (a) *Sections deleted.* The following sections of the fire code adopted in section 58-57 shall be deleted: Section D103.6 and Appendices A, E, F, G, K, L, M, and N.
- (b) *Amendments.* The fire code shall be amended with the following modifications and additions:

Section 101.1, General, shall be modified to read as follows:

Title. These regulations as set forth herein shall be known as The Fire Prevention Code of the City of Rochester Hills and is herein referred to as such or as "this code."

Section 111.1, Board of Appeals, shall be modified to read as follows:

Appeals. Appeals may be taken to the Rochester Hills Construction Board of Appeals by any person aggrieved by any decision or interpretation made by the code official pursuant to this code. The construction board of appeals is hereby constituted and granted authority to act as the Fire Prevention Code Board of Appeals with full power to interpret and decide appeals as provided herein.

Section 112.5, Restitution, shall be added to read as follows:

112.5.1 General. When the fire department is called to respond to any emergency or incident resulting from a violation of any federal, state or local regulation governing fire

safety, or through gross negligence, the responsible person shall reimburse the fire department for all costs incurred as a result of responding to the emergency or incident.

Section 115, General, is added to read as follows:

115.1 Review Fees. When, at the discretion of the code official, plans and specifications are to be reviewed by an outside consultant, the person submitting the plans and specifications shall be responsible for payment of such consulting fees or charges, plus a ten-percent administrative charge. The code official shall select the consultant. Consulting fees plus administrative charge shall be submitted in full with the plans and specifications prior to review.

Section 503, Fire Apparatus Access Roads, shall be modified to read as follows:

503.3 Marking. All fire lanes shall be conspicuously posted on both sides of the fire lane with fire lane signs, which shall conform to the Michigan Manual of Uniform Traffic Control Devices as prescribed by the code official. Signs shall be erected no further than 100 feet apart in all areas designated as fire lanes. Signs shall read “No Stopping Standing or Parking Fire Lane.” Signs shall have a minimum dimension of 12 inches wide by 18 inches high and have red letters on a white reflective background.

503.7 Enforcement and Penalties. Enforcement of this section, being section 503, may be by the city fire chief, deputy fire chiefs, fire marshal, assistant fire marshal, fire and life safety lieutenants, firefighters working under the direction of the fire marshal, and the Oakland County Sheriff’s Department.

503.7.1 Said enforcement officers shall have the authority to issue appearance citations, as provided by MCL 764.9a — 764.9g, and notices of parking violations, as provided in article IV of chapter 98 of the City of Rochester Hills Code of Ordinances, for violations of this section.

503.7.2 Procedure and Fines. The procedure and fines for parking violations shall be as provided in article IV of chapter 98 of the City of Rochester Hills Code of Ordinances.

503.7.3 Authority to Remove Obstructions. If any vehicle, trailer, or other object is located within a fire lane during a fire emergency or alarm or any other time when use of the fire lane is necessary, any Oakland County Sheriffs Deputy or member of the city fire department may move or cause the vehicle to be moved, by any means reasonably available, without liability for any damages sustained to said vehicle, etc.

Section 505.3, Streets Names, is added to read as follows:

505.3.1 General. Names for any new public or private street or drive shall neither duplicate nor be so similar in spelling or phonetics to the name of an existing street or drive so as to create the possibility of confusion.

505.3.2 *Review.* All new street names, or requests to change existing street names, shall be reviewed by the code official and other appropriate city departments.

Section 912.8, Fire Department Connections, is added to read as follows:

In any building or structure required to be equipped with a fire department connection, a fire hydrant shall be located within 100 feet of the connection which shall be located within 50 feet of a minimum 20-foot wide paved driveway or street.

Section 307, Open Burning, Recreational Fires and Portable Outdoor Fireplaces shall be deleted and replaced with the following:

307.6.1 General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning, recreational fire, use of a portable outdoor fireplace or a preparation of mortar fire unless conducted and approved in accordance with Sections 307.6 through 307.11

307.6.2 Definitions

307.6.2.1 Open Burning. The burning of unwanted materials such as paper, trees, stumps, brush, leaves, grass, construction materials, rubbish and other debris where smoke and other emissions are released directly into the air.

307.6.2.2 Recreational Fire. Burning of dry seasoned firewood, charcoal or commercial fire logs on the ground for pleasure, religious, ceremonial, cooking, warmth or similar purposes and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height. This type of fire includes ordinary campfires and other small fires used for the activities listed.

307.6.2.3 Portable Outdoor Fireplace. 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.

307.6.3 Open Burning

307.6.3.1 Prohibited Open Burning. Open burning is prohibited without the issuance of a permit authorized by the fire code official.

307.6.3.2 Permit Required. A permit shall be obtained from the fire code official prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests. Application for such approval shall only be presented by and permits issued to the owner of the land on which the fire is to be kindled.

307.6.3.3 Authorization. Fires kindled for purposes outlined in Section 307.6.3.2 shall be conducted only by licensed and insured prescribed burn contractors.

307.6.4 Recreational Fire. A recreational fire may be allowed, on detached residential properties, at any time during the year between the hours of 8:00 a.m. and midnight.

307.6.4.1 Permit Required. An annual permit is required for a recreational fire.

307.6.4.2 Permit Issuance. A permit for a recreational fire shall be requested by and issued to the owner of the land upon which the recreational fire is to take place. The fee for an annual recreational fire permit shall be as prescribed in section 54-200.

307.6.4.2 Application for Permit. A permit for a recreational fire shall be obtained online by visiting www.rochesterhills.org/fire, before the fire is set, and shall be in such form and contain such information as required by the code official.

306.6.4.3 Size and Duration. A recreational fire shall not exceed 3 feet in diameter, or 2 feet in height and shall burn no longer than 3 hours.

306.6.4.4 Fuel. Fuel for a recreational fire shall consist only of dry seasoned firewood, charcoal or commercial fire logs and can be ignited with a small quantity of paper.

306.6.4.5 Location. Recreational fires are prohibited within any public road right-of-way, pedestrian-bicycle pathway, within 50 feet of any structure or within 25 feet of any property line.

307.6.5 Portable Outdoor Fire Places. Use of a portable outdoor fireplace may be allowed at any time during the year between the hours of 8:00 a.m. and midnight.

307.6.5.1 Permit Required. An annual permit is not required for portable outdoor fireplaces.

307.6.5.2 Fuel. Fuel for use of a portable outdoor fireplace shall consist only of dry seasoned firewood, charcoal or commercial fire logs and can be ignited with a small quantity of paper.

307.6.5.3 Locations. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure or combustible material.

Exception: Portable outdoor fire places used at one and two family dwellings.

307.6.6 Preparation of Mortar. Open burning shall be allowed on all properties for warming of sand and/or water for the preparation of mortar when such burning is fueled by propane or wood.

307.6.6.1 Permit Required. A permit is required for a preparation of mortar fire.

307.6.6.2 Permit Issuance. A permit for a preparation of mortar fire shall be requested by and issued to the contractor of the land upon which the construction project is taking place. The fee for a preparation of mortar fire permit shall be as prescribed in section 54-200.

307.6.6.3 Application for Permit. A permit for a preparation of mortar fire shall be obtained online by visiting www.rochesterhills.org/fire, before the fire is set, and shall be in such form and contain such information as required by the code official.

307.6.7 Special Burn Permits. A burn permit may be issued by the code official for special situations where open burning is determined by the code official to be necessary in order to alleviate a hazard to the health, safety and welfare of the residents or the environment.

307.6.8 Permit Limitations. The code official may refuse to allow open burning, recreational fires, the use of portable outdoor fireplaces and the preparation of mortar fire if the code official determines atmospheric conditions are not conducive to burning. Permits may be conditioned on obtaining authorization from the code official prior to actually starting the fire.

307.6.9 Attendance. Any open burning, recreational fire, the use of portable outdoor fireplaces and the preparation of mortar fire shall be constantly attended until the fire is extinguished. Fire extinguishment equipment shall be present and available for immediate use. Not less than one portable fire extinguisher 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.

307.6.10 Complaints. Any person burning without a permit or not in accordance with Section 307 may be ordered to extinguish the fire. If the person is unable to extinguish the fire it will be extinguished by the fire department.

Section 2304.2.6. Self-Service Stations, shall be added to read as follows:

The owner or lessee of a self-service gasoline station shall conspicuously post at all times at the approved emergency controls the current state or local fire code regulations governing self-service stations, as prescribed by the code official. All persons in charge of the premises shall be familiar with all provisions of the regulations.

Section 5601.1.3 Fireworks, shall be modified to read as follows:

5601.1.3.1 Definitions. For purposes of this Section, the following definitions shall apply:

- (a) "APA Standard 87-1" means 2001 APA Standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.
- (b) "Consumer fireworks" means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

- (c) "Display fireworks" means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA Standard 87-1, 4.1.
- (d) "Firework" or "fireworks" means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.
- (e) "Low-impact fireworks" means ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

5601.1.3.2 Manufacture of Fireworks. The manufacture of fireworks is prohibited within the City limits.

5601.1.3.3 Use of Consumer Fireworks.

- (a) The ignition, discharge and use of consumer fireworks shall be prohibited, except on the following days after 11 a.m.:
 - (i) December 31 until 1 a.m. on January 1.
 - (ii) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
 - (iii) June 29 to July 4 until 11:45 p.m. on each of those days.
 - (iv) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
 - (v) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
- (b) 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 to use those fireworks on those premises.
- (c) A violation of this subsection 5601.1.3.3 shall be a civil infraction for which a civil fine of \$1,000 for each violation shall be imposed.

5601.1.3.4 Display Fireworks. Use of display fireworks shall comply with the rules and regulations issued by the code official for the granting of permits for supervised public displays of fireworks by the City, fair associations, amusement parks, and other organizations. Every such use of display fireworks shall be under the control of a person competent to ensure compliance with the code and ensure proper safety precautions. The

display fireworks shall be arranged, located, discharged or fired in a manner that, in the opinion of the code official will not be a hazard to property or endanger any person.

5601.1.3.5 Exceptions. Nothing in this Section shall be construed to prohibit any of the following:

- (a) A wholesaler, retailer, commercial manufacturer, or importer from selling, storing, using, transporting, or distributing consumer fireworks or low-impact fireworks.
- (b) The use of fireworks by railroads or other transportation agencies or law enforcement agencies for signal purposes or illumination.
- (c) The use of agricultural or wildlife fireworks.
- (d) The sale or use of blank cartridges for any of the following:
 - (i) A show or play.
 - (ii) Signal or ceremonial purposes in athletics or sports.
 - (iii) Use by military organizations.
 - (iv) Use by law enforcement agencies.
- (e) The possession, sale, or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who possess a permit to possess, store, and sell explosives from the Bureau of Alcohol, Tobacco, Firearms, and Explosives of the United States Department of Justice.
- (f) Interstate wholesalers from selling, storing, using, transporting, or distributing fireworks.

Section 5601.1.3.6 Seizure of Illegal Fireworks. If the code official or law enforcement agency determines a violation of this Section has occurred, the code official or law enforcement agency may seize the fireworks as evidence of the violation. Evidence seized under this subsection shall be stored pending disposition of any criminal or civil proceedings arising from a violation of this Section at the expense of the person, if the person is found responsible or liable for the violation.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Penalty. Except as otherwise provided therein, all violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine of \$500.

Section 4. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on March 13, 2023 following its publication in the *Oakland Press* on March 12, 2023.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on March 6, 2023.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON MARCH 6, 2023.

Leanne Scott, Clerk
City of Rochester Hills

Accepted for First Reading: 2/27/23
ab: 3/6/23