

NOTICE OF ADOPTION

On April 21, 2008, the Lake Odessa Village Council adopted Ordinance 2008-3, which amends fire prevention and protection within the Village of Lake Odessa. Ordinance 2008-3:

AN ORDINANCE TO AMEND THE CODE OF
ORDINANCES OF THE VILLAGE OF LAKE ODESSA
BY AMENDING CHAPTER 12, FIRE PREVENTION
AND PROTECTION

THE VILLAGE OF LAKE ODESSA ORDAINS:

SECTION 1. That Section 12-1 of the Code of Ordinances, Village of Lake Odessa, Michigan, is hereby amended to read as follows:

Sec. 12-1. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“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 a chimney. This includes burning in a burn barrel.

“Patio fireplace” means a chiminea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating; not a freestanding outdoor furnace.

“Recreational campfire” means a small outdoor fire generally used for cooking, ceremonies, or as the focal point of a social gathering.

“Refuse” means garbage, trash, litter, waste, construction or demolition materials, hazardous substances, and non-combustible materials.

“Yard waste” means leaves, grass clippings, flowers, weeds, brush, and other vegetative matter.

SECTION 2. That the Code of Ordinances, Village of Lake Odessa, Michigan, is hereby amended by adding Section 12-2, which reads as follows:

Sec. 12-2. General prohibitions.

(a) No burning shall be permitted at any time or in any location which creates a nuisance, hazard, or annoyance to adjoining persons or property by reason of heat, flame, fly ash, sparks, smoke, or odor. The determination of a police officer, zoning official, fireman or other duly authorized Village employee shall be conclusive as to whether any burning violates this section.

(b) No burning shall be permitted at any time or in any location when:

- (1) the Department of Natural Resources has issued a ban on burning due to fire danger; or
- (2) the Department of Environmental Quality has declared an "air quality action day" applicable to the Village.

(c) No open burning of refuse or yard waste shall be permitted.

(d) No open burning of any materials in commercial and industrial zoning sites, whether on the ground or in a container, shall be permitted except in accordance with Section 12-3.

(e) No open burning shall be permitted on any village street, curb, sidewalk, alley, parking lot, park, or property; except that open burning within barbecue, gas and charcoal grills for the express purpose of food preparation shall be permitted under the following conditions:

- (1) when used within village parks;
- (2) on other village property when a written permit has first been obtained from the village manager or his designee

(f) No other open burning of any material shall be permitted except in accordance with Section 12-3.

SECTION 3. That the Code of Ordinances, Village of Lake Odessa, Michigan, is hereby amended by adding Section 12-3, which reads as follows:

Sec. 12-3. Permitted burning.

(a) *Recreational campfires.* Recreational campfires shall be permitted, provided:

- (1) The campfire shall be no more than 36 inches in diameter.
- (2) The campfire shall be contained within a fire pit or fire ring made of metal, stone, masonry,

brick, or other non-combustible material designed to restrict the size and spreadability of the fire.

- (3) An area clear of all combustible materials is maintained a minimum of 48 inches outside of the fire pit or fire ring.
- (4) The campfire shall be constantly attended by a competent person of at least 18 years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for total control of the fire.
- (5) Only seasoned firewood, small twigs and kindling, which do not extend outside the fire pit or fire ring, are used.
- (6) Smoke, odor and/or sparks do not create a nuisance or danger to adjacent persons or property.

(b) *Patio fireplaces.* Burning within patio fireplaces shall be permitted, provided:

- (1) An area clear of all combustible materials is maintained a minimum of 48 inches outside of the patio fireplace.
- (2) The patio fireplace shall be located at least 25 feet from the nearest structure which is not on the same property as the patio fireplace.
- (3) The patio fireplace shall be constantly attended by a competent person of at least 18 years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for total control of the fire.
- (4) Only seasoned firewood, small twigs, and kindling, which do not extend outside the patio fireplace, are used.
- (5) Smoke, odor and/or sparks do not create a nuisance or danger to adjacent persons or property.

(c) *Grills.* Open burning within outdoor barbecue, gas and charcoal grills for the express purpose of food preparation shall be permitted. Said outdoor barbecue, gas and charcoal grills shall be used only as originally intended by the manufacturer and/or in accordance with manufacturer's instructions.

SECTION 4. That the Code of Ordinances, Village of Lake Odessa, Michigan, is hereby amended by adding Section 12-4, which reads as follows:

Sec. 12-4. Enforcement; violations and penalties; recovery of costs.

(a) The enforcement of this chapter and regulations established by the fire chief shall be performed by the fire chief or any authorized agent of the Lake Odessa Police Department.

(b) Any person who, as a result of violating any provision of this chapter, or of any permit granted under this chapter or of any lawful order of the fire chief or authorized agent of the Lake Odessa Police Department issued in pursuance of this chapter, shall be responsible for a municipal civil infraction.

(c) The sanction for any violation of this chapter shall be a civil fine as set forth at Sec. 2-288 of this Code, as amended from time to time, plus any costs, damages, expenses, and other sanctions, as authorized and permitted under Ch. 87 of Public Act No. 236 of 1961, as amended, and under other applicable laws.

(d) The Village may initiate appropriate legal action in any court of competent jurisdiction for civil damages and injunctive relief, and may recover any costs and expenses incurred by it from any person who violates this chapter.

SECTION 5. The invalidity of any clause, sentence, paragraph or part of this ordinance shall not affect the validity of the remaining parts of this ordinance.

SECTION 6. This ordinance shall become effective seven days following its publication in a newspaper of general circulation in Lake Odessa, Michigan.

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Ordinance 2008-3 will take effect May 4, 2008. The full text of the ordinance is available for inspection at the Lake Odessa Village offices, 839 Fourth Avenue, Lake Odessa, Michigan, during regular business hours, Monday through Friday, 8:30 a.m. to 4:30 p.m.

Pearl Goodemoot, Clerk/Treasurer
Village of Lake Odessa