

ORDINANCE NO. 350

VILLAGE OF SPRING LAKE BURNING REGULATIONS ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES ADOPTED BY THE VILLAGE OF SPRING LAKE, COUNTY OF OTTAWA, STATE OF MICHIGAN, AMENDING CHAPTER 135 CONCERNING BURNING REGULATIONS AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

THE VILLAGE OF SPRING LAKE, COUNTY OF OTTAWA AND STATE OF MICHIGAN ORDAINS:

Section 1. Amendment of Chapter 135. Chapter 135 of the Code of Ordinances adopted by the Village of Spring Lake, Ottawa County, State of Michigan, is hereby amended to state in its entirety as follows:

§ 135-1. Purpose and findings.

The purpose of this chapter is to control unregulated burning in the Village. The Village has found that unregulated burning increases the risk of property damage caused by fires, and threatens the safety and well-being of the Village's residents and other persons. The Village further finds that greater regulation of burning is necessary because the residential density of the Village has increased dramatically, and because smoke from open burning, particularly burning leaves, exacerbates breathing difficulties for many individuals. Further, other local units of government bordering the Village and in the general area have enacted leaf-burning bans. The Village has approved this chapter to regulate open burning throughout the Village.

§ 135-2. 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:

Bonfire means a type of recreational fire, which may be allowed in accordance with the provisions below.

Fire Chief means the chief of Spring Lake Fire Department or other person designated by the fire chief.

Roadway, Sidewalk, Street, Vehicle and Motor Vehicle shall have the definitions given to them in the Michigan Vehicle Code, being Public Act No. 300 of 1949 (MCLA § 257.1 et seq.).

Supervising adult means a person who is an adult (i.e., at least 18 years of age) and who is the person responsible to supervise a fire.

§ 135-3. Unlawful Burning.

- (A) No person shall ignite or otherwise cause to burn any garbage, trash, grass clippings, brush, debris or refuse, whether animal, vegetable, mineral, wood or synthetic in any open fire, in a bonfire, in a receptacle or in any other manner within the lands of the Village, except as may be permitted by subsection (B) or (C) of this section.
- (B) A bonfire may be set for recreational purposes only when expressly permitted by the Village Council. Requests for recreational bonfires shall be considered for a permit by the Village Council if:
 - (1) The recreational bonfire is sponsored by governmental agency or nonprofit corporation;
 - (2) The proposed site of the bonfire and safety plans have been evaluated by the Fire Chief, or designee, and have been found to be reasonable;
 - (3) A supervising adult must constantly attend the fire. The person shall have readily available for use such fire extinguishing equipment as may be necessary for total control of the fire (i.e. fire extinguisher, garden hose, dirt, sand.) The fire must be totally extinguished before the supervising adult leaves the scene;
 - (4) The Fire Chief has determined that the proposed location is safely removed from any building, structure or other material which could ignite or which could create a public health or safety problem due to smoke or heat;
 - (5) If any recreational fire or bonfire gets out of control and the fire department is called, the supervising adult shall be liable for costs incurred by the fire department pursuant to the cost recovery provisions pursuant to Chapter 152.
 - (6) The fuel for such fire shall consist of dry wood.

Requests for recreational bonfires shall be submitted to the Village Manager in time to be reviewed in advance of submission to the Village Council for their consideration.

- (C) A recreational fire may be set on private property by the owner of the property or in specifically designated areas of public campgrounds. The fire must be contained to an enclosed pit, fire-retaining ring or portable outdoor fireplace and have a total fuel area of 3 feet or less in diameter and 2 feet or less in height.

The fire shall not be conducted within 25 feet of a structure or combustible material and a supervising adult must be present at all times. A recreational fire must be totally extinguished before the supervising adult leaves the scene. Recreational fires are limited to clean wood which is not rotted or rotting, or construction wood which is not treated.

- (D) No person within the municipal boundaries of the Village shall ignite or otherwise cause to burn any leaves and yard waste, and no leaves and yard waste shall be permitted to be placed in any receptacle, or otherwise picked up by a disposal service, for delivery to a type II sanitary landfill. All leaves and yard waste shall be disposed of by utilization on the premises from which the leaves and yard waste were gathered or otherwise in conformity with this section. Such leaves and yard waste may at all times be placed, in accordance with a resolution of the Village Council, directing the manner, time, place and fees for use, in an alternative solid waste composting disposal area licensed and maintained on behalf of the Village, in conformity with part 113 of Public Act No. 451 of 1994 (MCL 324.19501 et seq., MSA 13A.19501 et seq.) and the solid waste alternative program administrative rules promulgated under that act.

§ 135-4. Prohibited Acts.

Subject to the provisions of § 135-3B, no person shall:

- A. Set on fire or cause to be set on fire any flammable material located on a roadway, sidewalk, bicycle path, or any improved portion of a street;
- B. Dispose of a lighted match, cigarette, cigar, ashes or other flaming or glowing substance, or any other substance or thing that is likely to ignite a forest, brush, or grass fire, or throw or drop from a moving vehicle any such objects or substances;
- C. Set on fire or cause to be set on fire any flammable material without taking reasonable precautions, both before and at all times after lighting the fire, to prevent the fire from spreading;
- D. Leave a fire before it is extinguished, if the person is the supervising adult;
- E. Set a backfire or cause a backfire to be set, except under the direct supervision of the Fire Chief;
- F. Use or operate a welding torch, tar pot, or any other device which may cause a fire outside of a building, without clearing flammable material surrounding the operation and without taking such other reasonable precautions necessary to ensure against the starting and spreading of fire;

- G. Operate or cause to be operated any engine, machinery or motor vehicle not equipped with spark arresters or other suitable devices to prevent the escape of fire or sparks;
- H. Discharge or cause to be discharged a gun firing flares, incendiary or tracer bullets or tracer charge onto or across any forest or grassland;
- I. Engage in open burning except in compliance with this chapter, and even with a supervising adult present, who shall be liable for costs incurred by the Village;
- J. As a supervising adult, allow an open fire to smolder;
- K. As a supervising adult, allow an open fire to remain burning when wind velocity is below three miles per hour or exceeds seven miles per hour; or
- L. Engage in any other activity which is prohibited by the terms of this chapter.

§ 135-5. Violations and penalties; enforcement.

In addition to any other charges, fines or penalties for which a person may be liable under applicable law or local ordinance, any violation of this chapter shall constitute a municipal civil infraction, subject to § 1-2, plus costs and other sanctions, for each infraction. Each day during which any violation of this chapter continues shall be deemed a separate and distinct offense. Increased civil fines may be imposed for “repeated violations,” which means a second or subsequent municipal civil infraction violation committed by a person within any twelve-month period and for which a person admits responsibility or is determined to be responsible. The increased civil fine for repeat violations is set forth in § 1-2.

Section 2. Administrative Liability. No officer, agent, or employee of the Village shall be personally liable for any damages the Village may accrue to any person as a result of any act required or permitted in the discharge of duties under and in the enforcement of this Ordinance.

Section 3. Severability and Captions. This Ordinance and its various sections, subsections, sentences, phrases, and clauses are declared to be severable. If any section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid, the remainder of this Ordinance shall not be affected. Pronouns shall be read as masculine, feminine, or neuter as may be appropriate. Captions appearing at the beginning of any section shall not be deemed as part of this Ordinance and shall have no independent significance.

Section 4. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances which are in conflict in whole or in part with any of the provisions of this Ordinance as of its effective date are repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall take effect upon publication.

VILLAGE OF SPRING LAKE

Dated: _____, 2018

By: _____
Mark Powers
Its: President

By: _____
Marvin Hinga
Its: Clerk

CERTIFICATE

I, Marvin Hinga, the Clerk/Treasurer for the Village of Spring Lake, Ottawa County, Michigan, certify that the foregoing Spring Lake Village Burning Regulations Ordinance was adopted at a regular meeting of the Village Council held on _____, 2018. The following members of the Village Council were present at that meeting: _____.

The following members of the Village Council were absent: _____.

The Ordinance was adopted by the Village Council with members of the Council _____ voting in favor, and members of the Council _____ voting in opposition. Notice of Adoption of the Ordinance was published in *The Grand Haven Tribune* on _____, 2018.

Marvin Hinga, Clerk/Treasurer
Village of Spring Lake