

CITY OF LUNA PIER ORDINANCE NO. 240

CITY OF LUNA PIER OUTDOOR BURNING ORDINANCE

An ordinance enacted pursuant to the authority granted in Act No. 246 of the Public Acts of 1945, as amended, to regulate the setting of fires and to provide penalties for the violation thereof, and to provide a method for the collection of costs and expenses of the City caused by the setting of fires; and to generally provide for the public health, safety and general welfare of the persons and property of the City of Luna Pier: and to appeal all other ordinances or parts of ordinances in conflict hereof.

THE COUNCIL OF THE CITY OF LUNA PIER, COUNTY OF MONROE, STATE OF MICHIGAN, ORDAINS:

SECTION 1. SHORT TITLE

This Ordinance shall be known and referred to as the "City of Luna Pier Burning Ordinance."

SECTION 2. OUTDOOR BURNING

No person, partnership, firm, association, or corporation shall kindle, start, or maintain any outdoor fire of any combustible materials, or authorize any such outdoor fire to be kindled, started or maintained, on or in any public or private street, alley or road, or any other public or private grounds or premises without first obtaining a Burning Permit from the City of Luna Pier.

SECTION 2-A OZONE ACTION DAYS

All outdoor burning, including, but not limited to, open burning and/or burning in incinerators, fireproof containers, metal drums or similar type containers shall be prohibited on ozone action days, as determined and posted by the City of Luna Pier Fire Chief's and/or their designees.

SECTION 3. HOURS TO BURN

No person, partnership, firm, association, or corporation shall kindle, start, or maintain any outdoor fire of any combustible materials, or authorize any such outdoor fire to be kindled, started or maintained, except during daylight, between sunrise and sunset unless otherwise provided for herein.

SECTION 4. OBTAINING A PERMIT

Any person, partnership, firm association, or corporation wishing to set or start a fire must obtain a permit which states the name and address of the applicant, the location of the land and premises where such fire is to be set, the time contemplated for setting such fire, and any other information reasonably required by the City of Luna Pier. Said permit may be obtained from the Fire Chief of Luna Pier or for the district in which the fire is to occur, or a duly authorized representative of the chief of the fire district where the fire is to occur, at the fire department of the same district or the City Hall, unless a permit is not required as state herein. The applicant for the permit shall comply with this Ordinance,

and any rules and regulations adopted pursuant to this Ordinance, and other ordinances, law, rule or regulation relating to outdoor burning.

SECTION 5. PERMITTED MATERIALS

No person shall kindle, start, or maintain any outdoor fire of any combustible materials within the limits of the City of Luna Pier at any time, except small amounts of debris from a building, brush, leaves, limbs, tree branches, other tree parts, natural and unfinished or untreated wood, and any other yard waste so long as it is not "green" (has sufficiently dried as to not create a nuisance smell) unless a special permit is obtained or otherwise provided for in the Ordinance.

SECTION 6. SPECIAL PERMITS

6.1 The City Council of Luna Pier may grant permission to authorized persons for the burning of trash, rubbish, or similar waste material in open supervised burning areas.

6.2 A permit may be issued for a bon or camp type fire to be burned after sunset so long as the material to be burned is natural brush, limbs, or trees or unfinished and untreated wood and that quantity does not exceed one cubic yard.

SECTION 7. SUPERVISION

Any fire or fires, whether or not requiring a permit, shall be attended until completely extinguished by a competent person of the age of eighteen (18) years or older who shall possess the necessary means or materials to control or extinguish such fire, unless the same is wholly contained within approved incinerator or container as herein described.

SECTION 8. PROHIBITED ACTIVITY

No person shall burn garbage, animal carcasses, refuse, trash, rubbish, or like material giving off foul odors at any time. No person shall start a fire when the wind speed or direction shall make a fire unsafe or to cause a nuisance to adjacent property owners. This Section applies to domestic, commercial, and industrial fires.

SECTION 9. PERMITTED LOCATIONS

No open fires shall be located within fifteen (15) feet from any adjoining property line or twenty-five (25) feet from any building unless otherwise provided for in this Ordinance or a special permit is issued by the fire chief.

SECTION 10. PERMITS FOR COMMERCIAL AND INDUSTRIAL PROPERTY

No person shall set, or cause to be set, burn, or cause to be burned, any paper, trash, rubbish, leaves, cut grass, or weeds unless confined within a fireproof container constructed of metal or masonry with an approved spark arrester or opening no larger three-quarters (3/4) of an inch in any commercial or industrial zoning district. No fire shall be set or kindled except during daylight hours, between sunrise

and sunset. Burners of the metal drum, or portable type, shall not be located within fifteen (15) feet of any building, or within five (5) feet of the adjoining property line.

Masonry or heavy metal constructed burners or incinerators shall be constructed to withstand the heat of 1200 F and shall be located a distance of more than three (3) feet away from a combustible building or a property line. Masonry or heavy metal burners or incinerators shall be constructed with or attached to a suitable stack, the top of the stack to be at least three (3) feet above the eave line of an adjoining building if such building is less than fifteen (15) feet from the stack. All stacks are to be properly capped with an approved spark arrester.

Notwithstanding anything herein to the contrary, except as provided for in Section 6.1, no material of any kind or nature whatsoever which when burned emit noxious odors and/or noxious smoke, including, but not limited to, rubber products, plastic products, trash, rubbish or similar waste material may be burned in fireproof containers, metal drums or similar containers.

SECTION 11. HIGHLY HAZARDOUS MATERIALS PROHIBITED

No highly flammable, toxic, or explosive substance or material shall be burned within the City of Luna Pier. The burden of proof that any material burned within the City does not violate the foregoing shall be upon the person, firm, corporation engaged in the burning operation.

SECTION 12. DOMESTIC FIRES and/or FIREPLACE/FIREPITS

No permit shall be required for domestic fires. A "domestic fire" is any fire of materials as herein approved for burning from in and around the home, within the curtilage of the dwelling where the material to be burned has been properly placed in a debris burner constructed of metal or masonry with an approved spark arrester with openings no larger than three-quarters (3/4) of an inch. Burners of the metal drum or portable types shall not be located within fifteen (15) feet of any building or within five (5) feet from the adjoining property line.

Domestic Fires shall be permitted beyond sunset so long as the fire is supervised until completely extinguished.

Notwithstanding anything herein to the contrary, except provided for in Section 6.1, no material of any kind or nature whatsoever which when burned emits noxious odors and/or noxious smoke, including, but limited to rubber products, plastic products, trash, rubbish, or similar waste material may be burned in fireproof containers, metal drums or similar containers.

SECTION 13. ENFORCEMENT

The provisions of this Ordinance shall be administered and enforced by the Luna Pier Police Department and all police officers of Luna Pier, City of Luna Pier Fire Chief or their authorized representative or any or all City of Luna Pier appointed Enforcement Officers. The Luna Pier Police Officers, Fire Chiefs or their designees and the enforcement officers may direct that any unlawful outdoor fire extinguished, and if the outdoor fire is not extinguished, or no one is present to extinguish

said fire, the outdoor fire may be extinguished by a member of the Luna Pier Fire Department or an Luna Pier police officer or enforcement officer.

SECTION 14. PENALTIES

Any person, firm, corporation, partnership or other organization or entity, or anyone acting on behalf of said person, firm, corporation, partnership or any other organization or entity who shall violate or fail to comply with any provision of the Ordinance, or any restrictions set forth on any burning permit issued, shall be guilty of misdemeanor, punishable by a fine of not more than \$ 500.00 or by imprisonment for not more than ninety (90) days, or both. Each day a violation continues shall be deemed a separate offense.

A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan Law.

Any persons, partnership, firm, association, or corporation who shall set or start, or cause to be set or started, an open fire without a permit as required by this Ordinance which necessitates calling the Luna Pier Fire Department, or any other fire department may be subject to civil damages for the costs and expenses associated with the response by the Luna Pier Fire Department or any other fire department.

SECTION 15. RIGHT OF ENTRY

This Ordinance shall give any City of Luna Pier Enforcement Agent the right to enter any property of a fire or proposed fire for the purpose of inspection, extinguishment, or other corrective safety action and the enforcement of this Ordinance.

SECTION 16. PRIOR AND INCONSISTENT ORDINANCE REPEALED

All Ordinances, or parts of Ordinances, in conflict with this Ordinance are to the extent of such conflict, repealed.

SECTION 17. SEVERABILITY

This Ordinance and the various parts, sentences, paragraphs, sections, subsections, phrases and clauses thereof are hereby declared severable and if any of them are adjusted unconstitutional or invalid, it is hereby directed that the remainder of the Ordinance shall not be affected.

SECTION 18. EFFECTIVE DATE

This Ordinance shall become effective on the 21st day after it, or a summary of it, is published in a newspaper of general circulation in the City of Luna Pier.

THE CITY COUNCIL OF THE CITY OF LUNA PIER,
COUNTY OF MONROE, STATE OF MICHIGAN

By: _____
Jolene Upchurch, Deputy Clerk

AUTHENTICATED:

By: _____
James Gardner
City of Luna Pier Mayor

I, Jolene Upchurch, do hereby certify that I am the Deputy Clerk, of the City of Luna Pier, do hereby certify that the foregoing ordinance was duly adopted by the Luna Pier City Council, Monroe County, Michigan, at the regular meeting of the Luna Pier City Council held on September 8, 2022.

The vote on said Ordinance, 7 members being present and 0 members being absent, was as follows:

Voting in favor: Welton, Gramza, Grimes, Meadows, Bates, Wakeman, Mayor Gardner

Voting Against: 0

Abstained: 0

Absent: 0

I, Jolene Upchurch, Deputy Clerk for the City of Luna Pier, do hereby certify that this Ordinance of a summary of it was published on the 13th day of September, 2022 in a newspaper of general circulation in the City of Luna Pier, within thirty (30) days after adoption.

Jolene Upchurch, Deputy Clerk

ATTEST:

James Gardner, Mayor
City of Luna Pier

ADOPTED: September 8, 2022

PUBLISHED: September 13, 2022

EFFECTIVE: October 4, 2022