

A T T E N T I O N

Open Burning Regulations

Effective January 1, 2009, the Village of Hales Corners prohibits the open burning of leaves and yard waste and, therefore, will no longer issue burning permits.

The only fires now allowed are "small campfires for cooking, ceremonies or recreation" as defined and regulated in the following Section 14.07(18) of the Village Municipal Code.

ORDINANCE NO. 06 - 01

AN ORDINANCE TO AMEND THE MUNICIPAL CODE
AS IT PERTAINS TO OUTDOOR AND REFUSE BURNING

WHEREAS, the Village Board having created an ad hoc committee to study and report upon the subject of open burning within the Village, and such committee having completed its charge, in part with substantial public input at numerous committee meetings and a town hall meeting and also with the assistance of the staff of the Wisconsin Department of Natural Resources and also with the provision of draft model ordinance alternatives upon the subject matter as prepared by the Department, and the committee having recommended certain legislation for consideration by the Village Board; and

WHEREAS, the Village Board having considered the existing Municipal Code regulations pertaining to open burning and outdoor furnaces and having considered the recommendations of its ad hoc open burning committee and having determined that certain amendments to the Municipal Code were in order to address environmental concerns and to promote the health, safety and welfare of the Community by way of further regulating outdoor burning.

NOW, THEREFORE, the Village Board of the Village of Hales Corners, Wisconsin, do ordain as follows:

SECTION 1: §14.07(18) of the Municipal Code of Hales Corners, Wisconsin, be and the same is hereby amended to read as follows:

(18) OUTDOOR AND REFUSE BURNING.

(a) Purpose. This Subsection (18) is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Village of Hales Corners due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

(b) Applicability. This Subsection (18) applies to all outdoor burning and refuse burning within the Village of Hales Corners.

(1) This Subsection (18) does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.

(2) This Subsection (18) does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined in Subsection (d) of this Subsection (18).

(3) This Subsection (18) does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(c) **Severability.** Should any portion of this Subsection (18) be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Subsection (18) shall not be affected.

(d) **Definitions.**

(1) "Campfire" means a small outdoor fire intended for recreation or cooking using only clean dry wood and sticks, and newspaper or paper to ignite the same, but not including a fire intended for disposal of other yard waste or refuse.

(2) "Clean Wood" means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

(3) "Fire Chief" means the Chief of the Hales Corners Fire Department or other person authorized by the Fire Chief.

(4) "Outdoor Burning" means open burning or burning in an outdoor wood-fired furnace.

(5) "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.

(6) "Outdoor Wood-fired Furnace" means a wood-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

(7) "Refuse" means any waste material except clean wood.

(8) "Yard Waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six (6) inches in diameter.

(e) **General prohibition on outdoor burning and refuse burning.** Open burning, outdoor burning and refuse burning are prohibited in the Village of Hales Corners unless the burning is specifically permitted by this Subsection (18).

(f) **Materials that may not be burned.**

(1) Unless a specific written approval has been obtained from the Department of Natural Resources, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device. The Village of Hales Corners will not issue a permit for burning any of the following materials without air pollution control devices and a written copy of an approval by the Department of Natural Resources.

(2) Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.

(3) Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in Chapter NR 590, Wisconsin Administrative Code.

(4) Asphalt and products containing asphalt.

(5) Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

(6) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

(7) Rubber including tires and synthetic rubber-like products.

(8) Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled in accordance with the recycling ordinance except as provided in Subsection (k) of this Subsection (18).

(g) Burning leaves, brush, clean wood and other vegetative debris. Open burning of dry leaves, weeds, brush, stumps, clean wood other vegetative debris is allowed only in accordance with the following provisions.

(1) Open burning under this Subsection shall be conducted only following the issuance of and in accordance with, a permit issued under Subsection (l) of this Subsection (18), except where noted in Subsections (10) and (11) below.

(2) Open burning under this subsection and conducted under a permit issued under this Subsection (18), may only be conducted between on and after April 15 and through May 15 and between on and after October 15 and through November 30, between the hours of 9:00 a.m. and 4:00 p.m., and on Saturdays only.

(3) All allowed open burning shall be conducted in a safe nuisance free manner, when wind velocity is 9 miles per hour or less as determined by the National Weather Service and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on roadways, railroads, airfields, sidewalks, and ditches.

(4) Open burning shall be conducted only on the property on which the materials were generated.

(5) Open burning shall be constantly attended and supervised by a competent person of at least eighteen (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 the total control of the fire.

(6) No materials may be burned, nor any ash residue disposed of, upon any street, curb, gutter, sidewalk, alley, parkway, drainage ditch, public place, or public right-of-way.

(7) No burning shall be undertaken within 30 feet from any building or structure, combustible material, combustible wall or partition, exterior window opening, building or structure exit access, or building or structure exit, unless authorized by the Fire Chief.

(8) Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Fire Chief or the Wisconsin Department of Natural Resources has issued a burning ban applicable to the area.

(9) No open burning may be conducted on days when the Department of Natural Resources has declared an ozone action day applicable to the Village of Hales Corners.

(10) Fires set for the ecological management of native plant species are allowed, without obtaining a permit, on property at least one (1) acre in size and zoned P-1 (Parks and Institutional), provided that prior approval is obtained from the Fire Chief, who shall consider climatological conditions, and ground, flora and structure conditions upon the subject property and adjoining property, in light of public safety.

(11) Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way, performed or authorized by the Village Department of Public Works, is allowed, without obtaining a permit, if approved by the Fire Chief and if in accordance with other provisions of this Subsection (18).

(h) Small outdoor campfires (as defined in Subsection (d)(1)) for cooking, ceremonies or recreation are allowed, without obtaining a permit, provided that the fire is confined by a control device or structure such as a fire ring or fire pit. A small outdoor campfire does not require a permit, provided that the fire complies with all other applicable provisions of this Subsection (18).

(1) Small outdoor campfires are subject to the provisions of Subsections (g)(3), (5), (6), (8) and (9) of this Subsection (18).

(i) **Burn barrels.** No person shall use or maintain a burn barrel in the Village of Hales Corners.

(j) **Outdoor wood-fired furnaces.** No person shall install, use or maintain an outdoor wood-fired furnace in the Village of Hales Corners.

(k) **Fire department practice burns.** Notwithstanding Subsections (e) and (f) of this Subsection (18), the Village of Hales Corners may burn a standing building if necessary for fire fighting practice and if the practice burn complies with the requirements of the Department of Natural Resources.

(l) **Permits.** Unless specifically exempted elsewhere in this Subsection (18), no person shall start or maintain any open burning without a burning permit issued by the Village.

(1) The annual permit fee is \$25.00, which fee amount may be changed by the resolution of the Village Board from time to time and kept on file in the Office of the Village Clerk. The term of a burning permit shall be annual, from January 1 through November 30 of each year. The permit shall be displayed on the property at all times while permitted burning is occurring on the property, so that the permit is visible and conspicuous to view by persons from the public street right of way adjoining the property.

(2) Sunset Provision. Open Burning will be permitted until January 1, 2009, when all open burning permitted by a permit under this Subsection (18), shall be prohibited.

(3) A burning permit issued under this Subsection shall require compliance with all applicable provisions of this Subsection (18) and any additional special restrictions deemed necessary to protect public health and safety.

(4) Any violation of the conditions of a burning permit or failure to obtain a burning permit shall be deemed a violation of this Subsection (18). Any violation of this Subsection (18) or the burning permit shall void the permit and subject the violator to the penalty provisions of Subsection (o) of this Subsection (18).

(m) Liability. A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

(n) Right of entry and inspection. The Fire Chief, Zoning Administrator, Village Administrator, Police Chief, Health Administrator, Sanitarian, Building Inspector, or their respective designees of the Village of Hales Corners may inspect any property for the purpose of ascertaining compliance with the provisions of this Subsection (18). [Note: If the owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with Section 66.0119, Wis. Stats.]

(o) Enforcement and penalties.

(1) The Fire Chief, Zoning Administrator, Village Administrator, Police Chief, Health Administrator, Sanitarian, Building Inspector, and any agents designated by these individuals are authorized to enforce the provisions of this Subsection (18).

(2) The penalty for a first offense shall be double the permit fee. Any subsequent violation of this Subsection (18) shall subject the violator to the penalty provisions of Section 19.04 of the Municipal Code.

SECTION 2. §§14.07(19) and (20) of the Municipal Code of Hales Corners, Wisconsin, be and the same are hereby repealed.

SECTION 3: The terms and provisions of this Ordinance are severable. Should any term or provision of this Ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 4: All ordinances and parts of ordinances in contravention to this Ordinance are hereby repealed.

SECTION 5: This Ordinance shall take effect and be in force from and after its passage and publication.

SECTION 6:

Upon and following the effectiveness of this Ordinance, Village staff is hereby directed to prepare and submit, in the manner provided by law, to the electorate at the November 2008 general election, as an advisory referendum, the following question:

“§14.07(18) of the Municipal Code of Hales Corners, Wisconsin, entitled ‘Outdoor and Refuse Burning’, provides in part at Subsection (1)(2): ‘Sunset Provision. Open Burning will be permitted until January 1, 2009, when all open burning permitted by a permit under this Subsection (18), shall be prohibited.’

‘Should the Sunset Provision under §14.07(18)(1)(2) of the Municipal Code of Hales Corners, Wisconsin, be repealed?’

PASSED AND ADOPTED this 9th day of January, 2006.

James R. Ryan, Village President

Countersigned:

(VILLAGE SEAL)

Michael F. Weber, Administrator/Clerk