

ORDINANCE NO. 2009 – 12

AN ORDINANCE AMENDING ORDINANCE 2008 – 04(OUTDOOR BURNING BAN) AND DECLARING AN EMERGENCY

An Ordinance of the Village of Warsaw, Coshocton County, Ohio, enacted in accordance with the provisions of Ohio Revised Code Chapters 737, authorizing the Village to establish all necessary regulations to guard against the occurrence of fires and to protect the property and lives of its citizens against damage and accidents resulting therefrom, an Ordinance prohibiting outdoor burning, providing for exemptions, and establishing penalties for the violation of the provisions in this Ordinance or any amendment thereto, for the purpose of protecting the Public Health, Safety, Comfort, and General Welfare hereby provided thereof; and to declare an emergency.

WHEREAS, smoke from outdoor burning in populated areas can present a serious health hazard to individuals with respiratory ailments, including children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

WHEREAS, smoke from outdoor burning is a common cause of nuisance complaints between neighbors and is often a public nuisance impacting not only residents but the traveling public; and

WHEREAS, outdoor burning is one of the most frequent nuisance-related complaints placing demands on the limited personnel resources of the Walhonding Valley Fire Department; and

WHEREAS, smoke pollution is a historical and traditional nuisance, especially considering the proven adverse health impacts of smoke on human beings; and

WHEREAS, the Village Council finds that it is in the interest of the public health, safety, and welfare of the citizens of the Village, to strictly regulate outdoor burning.

WHEREAS, Ordinance 2008 – 04 was enacted on May 21, 2008 by the Council of Village of Warsaw and contained a provision for bi-annual burns which should not have been in the original ordinance.

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Warsaw, Coshocton County, State of Ohio that Ordinance 2009 -12 An Ordinance Amending 2008- 04, which shall be known as the “Outdoor Burning Ordinance”, is hereby enacted according to the section and subsection numbers and letters as herein contained.

Section 1. Recitations.

The above recitations are true and correct and are incorporated herein by this reference.

Section 2. Prohibitions.

(a) Except as provided in Section 4 below, No person shall kindle, start, maintain or allow to be maintained, an “open outdoor fire”. For purposes of this Ordinance an “open outdoor fire” shall include any open outdoor fire within the ordinary definition and understanding of said words, and shall include but not be limited to, the outdoor burning of grass, hay, straw, or similar material, as well as commercially available fuel, wood, tree limbs, branches, leaves, trimmings, or any other woody debris, and may also include burning other inappropriate material such as waste, debris, trash, rubbish or garbage, regardless of whether the fire is in the open or contained in a fire ring, burn barrel, outdoor fireplace, trash burner, incinerator, barbecue pit, fire pit or other similar burning container.

(b) No person shall kindle, start, maintain, or allow to be maintained, a garbage fire or rubbish fire. A garbage fire or rubbish fire is an open outdoor fire in which the materials burned are ordinarily found in household garbage and trash, including but not limited to food packaging, cardboard and plastic food containers, as well as putrescible and nonputrescible materials.

Section 3. Exemptions.

The following activities are specifically exempted from the prohibition in Section 2 above:

(a) Cooking Fire. Outdoor fire used for pleasure, religious, ceremonial, cooking or similar purposes with the fire contained in a fireplace, barbecue grill, barbecue pit, or other similar enclosure specifically designed for outdoor recreation or cooking. Notwithstanding this exception, no outdoor fire is permitted in any type of burn barrel.

(b) Recreational fire. A fire, as defined in Ohio Administrative Code 1301:7-7-03(B)(1)(302.1), to wit: An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet (914mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

(c) Training. Fires set and maintained for fire fighting training or training fire protection personnel provided all safety precautions required by the Fire Department are met.

(d) Emergency Fire. When an emergency is declared, the Mayor may suspend the open burning ban and permit case by case burning subject only to the written or verbal approval of the Fire Department, and in accordance with such conditions and restrictions deemed necessary by the Fire Department to protect public health and safety. Any open outdoor fire authorized in this Section shall only be used to

burn commercially available fuel, wood, tree limbs, branches, leaves, trimmings, or any other woody debris.

Section 4. Penalty.

(a) A violation of Section 2, paragraph (a) of this Ordinance shall be punishable by a fine of up to three hundred dollars (\$300.00).

(b) A violation of Section 2, paragraph (b) of this Ordinance or a second conviction under Section (2), paragraph (a) of this Ordinance shall be punishable by a fine of up to six hundred dollars (\$600.00).

(c) A violation of the limitations on exemptions set forth in Section 3 of this Ordinance or of any special permit condition granted pursuant to this Ordinance shall be punishable by a fine of up to \$300.00. A second conviction for violation of the limitations set forth in Section 3 or of any special permit condition shall be punishable by a fine of up to six hundred dollars (\$600.00).

(d) In addition to any fines imposed by the Court, the Court is specifically authorized to order abatement and restitution, as well as community service, not to exceed forty eight (48) hours.

Section 5. Inspection and Citation.

(a) The following are listed “Enforcement Officers” and are hereby specifically authorized by law to make such investigations and inspections as are necessary to enforce the provisions of this Ordinance, and to issue violation citations to individuals or entities to appear in the Coshocton Municipal Court:

1. Any Sheriff or Deputy Sheriff, Mayor, Village Administrator, Zoning Inspector, and such other Employee(s) of the Village as are specifically identified in an Order or Resolution of the Village Council.

(b) When it may be necessary to inspect any premises to enforce the provisions of this Ordinance, any Enforcement Officer having reasonable cause to believe that there exists, upon a premises, a condition which is contrary to or in violation of this Ordinance, the Enforcement Officer, in accordance with administrative policy, may enter at reasonable times to inspect or to perform the duties imposed by this Ordinance, provided that if such premises be occupied that credentials be presented to the occupant and entry requested. If such premises are unoccupied, the Enforcement Officer shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the Enforcement Officer shall have recourse to the remedies provided by law to secure entry, including specifically an administrative search warrant from the Municipal Court.

Section 6. Interpretation.

In case of any conflict between this Ordinance, or any part thereof, and the whole or part of any existing Village Ordinance, this Ordinance shall, in all cases, apply.

Section 7. Severability.

If any section, provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other sections, provisions, clauses or paragraphs of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 8. Other Laws.

Nothing in this Ordinance authorizes or commands or shall be interpreted as authorizing or commanding the performance of an activity which is in violation of any County, State or Federal law or regulation.

Village Council declares this to be an emergency ordinance necessary for the preservation of the public, peace, health and safety, such emergency arising out of the present probability of the occurrence of fires and in order to protect the property and lives of its citizens against damage and accidents resulting therefrom, the foregoing legislation is needed without undue delay; wherefore this Ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

Mayor, Village of Warsaw, Ohio

Attest: Village Clerk

Date: _____ 2009