

Zeeland Charter Township
Burning Ordinance

Ordinance No. 199 BURNING ORDINANCE

AN ORDINANCE TO REGULATE OPEN BURNING IN ZEELAND CHARTER TOWNSHIP, TO PROHIBIT OPEN BURNING WITHIN CERTAIN AREAS OF THE TOWNSHIP, TO AUTHORIZE THE ISSUANCE OF BURNING PERMITS, TO PROHIBIT CERTAIN ACTS AND PRACTICES RELATING TO BURNING AND TO PROVIDE FOR PENALTIES FOR VIOLATIONS OF THIS ORDINANCE AND CERTAIN ADMINISTRATIVE PROVISIONS.

THE CHARTER TOWNSHIP OF ZEELAND, COUNTY OF OTTAWA, AND STATE OF MICHIGAN ORDAINS:

Section 1. Purpose. The Charter Township of Zeeland finds that persons in the Township have historically engaged in the practice of Open Burning, which affected the health and welfare of some Township residents and other persons. In addition, the Township has found that unregulated Open Burning increased the risk of property damage caused by uncontrolled fires, and threatens the safety and wellbeing of the Township's residents and other person. As a result of these determinations, the Township has adopted this Ordinance to regulate Open Burning throughout the Township and to prohibit Open Burning in those areas of the Township where Open Burning negatively affects the health and welfare of the Township's residents and other persons.

Section 2. Definitions. For the purpose of their use in this Ordinance, the following words and terms are hereinafter defined. Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

(a) "Person" means an individual, cooperative, public or private corporation, partnership, joint venture, association, personal representative, receiver, trustee, any unit or agency of government, or any equivalent entity, or any combination of them, or any officer, employee or agent of any of the foregoing.

(b) "Open Burning" means a fire from which the emissions into the air from the combustion are emitted directly into the open air without first passing through a stack or chimney, or a fire in an incinerator which does not comply with the requirements of the Air Quality Control Commission of the Department of Natural Resources.

(c) "Flammable Material" means any substance that will burn, including, but not limited to, refuse, debris, waste, brush, stumps, logs, rubbish, fallen timber, grass, stubble, leaves, fallow land, slash, crops or crop residue.

(d) "Roadway," "Sidewalk," "Street," "Vehicle" and "Motor Vehicle" shall have the definitions given to them in the Michigan Vehicle Code, being Michigan Act 300 of 1949, as amended.

(e) "Township" means the Charter Township of Zeeland, Ottawa County, Michigan.

Section 3. Regulation of Burning:

(a) No Person shall cause or permit any Open Burning within the Township, except as otherwise specifically provided below.

(b) No Person shall conduct a salvage operation by Open Burning within the Township.

(c) The prohibition contained in this Section shall not apply to the following types of Open Burning:

(1) Open fires used for recreational purposes, such as campfires, provided no nuisance is created;

(2) Salamanders or other recognized trade devices used for heating by construction workers, provided no nuisance is created;

(3) Open charcoal or wood fires used for cooking of food, provided no nuisance is created;

(4) Fires set for the instruction of public fire fighters if the purpose of the fire is for fire fighting training, and if a permit is received from the Department of Natural Resources; and

(5) Fires set by the occupants of a single family dwelling, on the lot occupied by the single family dwelling, provided that the fires are set within and totally contained by a "burn barrel" (i.e. a container of fifty-five (55) gallons or less); provided that the fires are not injurious to human health or welfare, to animal life, to plant life, or to property; and provided that the fires do not interfere with the enjoyment of life and property. For purposes of this paragraph, "single family dwelling" and "lot" shall be defined as defined in the Zeeland Charter Township Zoning Ordinance, as amended.

(d) The prohibition contained in this Section shall not apply to the following types of Open Burning, but only if such Open Burning is conducted at least fourteen hundred (1,400) feet from the limits of any incorporated city or village, and only if the Person conducting such Open Burning obtains a burning permit from the Township prior to any such Open Burning:

(1) Fires set to agricultural lands for disease and pest control;

(2) Fires set to rural railroad rights-of-way for maintenance and to reduce potential fire hazards; and

(3) The Open Burning of grass, leaves, brush, stumps, logs, fallen timber, tree trimmings, stubble, fallow land, slash, crops or crop residue at a specific time and/or date and for a

specific purpose.

Section 4. Burning Permits. The issuance of burning permits shall be subject to the following regulations.

(a) A Person shall make application for a burning permit to the Township Clerk or his/her designee on forms prescribed by the Township. The permit application forms shall contain such information as the Township determines is necessary for the Township to evaluate the permit application, including, but not limited to the name, address, and telephone number of the applicant, the date(s) and time(s) of the proposed burning, the type of material to be burned, and the approximate quantity of material to be burned.

(b) No burning permit shall be issued until the payment of the permit application fee, if any, which is set by resolution of the Township Board. The permit shall be issued by the Township Clerk or his/her designee in writing on forms provided by the Township.

(c) The Township Fire Chief or his/her designee shall, consistent with the provisions of this Ordinance, advise the Township Clerk of the times and conditions under which burning shall be permitted. In determining such times and conditions, the Township Fire Chief or his/her designee shall consider the amount of rainfall in recent weeks, wind velocity, temperature, humidity, any burning standards or burning index promulgated by the Department of Natural Resources or any other State agency, and any other factors likely to increase the possibility of a dangerous or uncontrollable fire. In addition, the Township Fire Chief or his/her designee shall advise the Township Clerk, on request, as to whether a specific application for a burning permit should be granted and if granted, whether any times or conditions should be included as part of the permit. No burning permit shall be issued which is inconsistent with the instructions of the Township Fire Chief or his/her designee.

(d) A burning permit may be issued subject to the burning being conducted at certain times or under certain conditions. The times or conditions shall be stated on the burning permit. Any burning done in violation of the terms of a burning permit constitutes a violation of this Ordinance.

(e) Any Person who is denied a burning permit or who is issued a burning permit with terms requiring that the burning be conducted at certain times or under certain conditions, and who feels aggrieved by the denial or the imposition of such terms shall have the right to appeal to the Township Board by filing a written notice of appeal with the Township Clerk. Such written notice of appeal must be filed within ten (10) days after the Person is denied a burning permit or issued a burning permit which contains terms the Person finds objectionable. The Township Board shall hold a hearing within sixty (60) days after the notice of appeal is filed with the Township Clerk. The Township Clerk shall send the appellant written notice of the date and time of the hearing, by first class mail, postage prepaid, at the address

shown on appellant's application, at least ten (10) days prior to the day of the hearing. The Township Board may reverse, affirm or modify the initial decision concerning the appellant's burning permit application; the Township Board's decision will be final.

Section 5. Prohibited Acts. 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 object 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;

(e) Set a backfire or cause a backfire to be set, except under the direct supervision of the Township Fire Chief or his/her designee, unless the setting of such backfire is immediately necessary for the purpose of saving life or valuable property;

(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 insure 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; or

(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.

Section 6. Penalties. In addition to any other charges, fines or penalties for which a person may be liable under other applicable law or local ordinance, any violation of this Ordinance constitutes a misdemeanor, and shall be punishable by a fine not in excess of Five Hundred (\$500) Dollars, plus costs of prosecution, or imprisonment in the Ottawa County Jail not in excess of ninety (90) days, or both such fine and imprisonment at the discretion of the Court. Each day during which any violation of this Ordinance continues shall be deemed a separate and distinct offense.

Section 7. Severability and Captions. This Ordinance and the various parts, sections, subsections,

sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 8. Administrative Liability. No officer, agent, employee or member of the Township Board shall render himself or herself personally liable for any damage that may accrue to any Person as a result of any act or decision performed in the discharge of his or her duties and responsibilities pursuant to this Ordinance.

Section 9. Repeal. All resolutions, ordinances, orders or parts thereof in conflict in whole or in part with any provision of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 10. Effective Date. This Ordinance was approved and adopted by the Township Board on Dec. 16, 1991, after introduction and a first reading on Nov. 18, 1991, and publication-posting after such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective on the day following the publication of a Notice of Adoption and Posting in the Grand Rapids Press.