

ORDINANCE NO. 206B

OUTDOOR AND OPEN BURNING ORDINANCE

AN ORDINANCE TO AMEND ORDINANCE 206A, WHICH SECURES THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE OF THE RESIDENTS AND PROPERTY OWNERS OF PORT HURON CHARTER TOWNSHIP BY PRESCRIBING CONDITIONS UNDER WHICH OUTDOOR AND OPEN BURNING MAY BE CONDUCTED, PRESCRIBING CONDITIONS UNDER WHICH OUTDOOR AND OPEN BURNING SHALL BE PROHIBITED, PROVIDING FOR LICENSING OF OUTDOOR AND OPEN BURNING, PROVIDING PENALTIES FOR VIOLATIONS, AND AMENDING ANY ORDINANCES WHICH CONFLICT WITH THE PROVISIONS HEREOF.

PORT HURON CHARTER TOWNSHIP, ST CLAIR COUNTY, MICHIGAN, ORDAINS:

SECTION 1: PURPOSE

This ordinance 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 and property owners in the Township of Port Huron by regulating the air pollution and the air hazards of open burning and outdoor burning.

SECTION 2: APPLICABILITY

This ordinance applies to all outdoor burning and open burning within the Township of Port Huron.

- 2.1. This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- 2.2. This ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building for human or animal habitation.
- 2.3. This ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

SECTION 3: SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

SECTION 4: DEFINITIONS

- 4.1. "Campfire" means a small outdoor fire intended for ceremonial purposes, recreation or cooking but not including a fire intended for disposal of waste

wood or refuse, Size limited to four foot by four foot by four foot. (4' wide x 4' deep x 4' tall).

- 4.2. "Clean Wood" means natural wood which has not been painted, varnished or coated with similar materials; has not been pressure treated with preservatives; and does not contain resins or glues as a plywood or other composite wood products.
- 4.3. "Construction and Demolition Waste" means building waste materials, including but not limited to waste shingles, insulations, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.
- 4.4. "Fire Chief" means the Chief of the Port Huron Township Fire Department or other person designated by the Fire Chief.
- 4.5. "Outdoor Burning" means open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.
- 4.6. "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. Open burning includes campfires.
- 4.7. "Outdoor Wood-Fired Boiler" means a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.
- 4.8. "Patio Wood-Burning Unit" means a chimney, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- 4.9. "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

SECTION 5: GENERAL PROHIBITION ON OUTDOOR BURNING AND OPEN BURNING

Open burning and outdoor burning are prohibited in the Township of Port Huron unless the burning is specifically permitted by this ordinance.

- 5.1. **There shall be no open burning within one thousand feet (1,000') of any school while school is in session.**

SECTION 6: OPEN BURNING OF REFUSE PROHIBITED

- 6.1. All open burning of refuse is prohibited, including but not limited to the burning of:

- 6.1.1. Construction and demolition waste.
- 6.1.2. Hazardous substances including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes and solvents.
- 6.1.3. Furniture and appliances.
- 6.1.4. Tires.
- 6.1.5. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- 6.1.6. 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.

SECTION 7: OPEN BURNING OF TREES, LOGS BRUSH, STUMPS, LEAVES AND GRASS CLIPPINGS

- 7.1. Open burning of yard waste, including but not limited to trees, logs, brush, stumps, leaves, and grass clippings is allowed only in accordance with all of the following provisions:
 - 7.1.1. A permit issued in accordance with Section 12 of this ordinance must be obtained prior to Open Burning and burning of Campfires.
 - 7.1.2. Open burning of yard waste, including but not limited to trees, logs, brush and stumps must be conducted at least 1,400 feet from an incorporated city or village limit.
 - 7.1.3. Except for barbecue, gas, and charcoal grills, no open burning shall be undertaken during periods when the Governor of Michigan, Department of Environmental Quality or Department of Natural Resources or Fire Chief has issued a burning ban applicable to the area. Permit holders shall be responsible for determining if a ban is in place.
 - 7.1.4. All allowed open burning shall be conducted in a safe, nuisance free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways, railways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.
 - 7.1.5. Except for campfires, open burning shall be conducted only on the property on which the materials were generated.

- 7.1.6. Open burning under this section shall only be conducted at a location at least twenty five feet (25') from the nearest building which is not on the same property.
- 7.1.7. Except for campfires, open burning shall only be conducted **during daylight hours and shall be completely extinguished prior to sunset.**
- 7.1.8. 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 such fire extinguishing equipment as may be necessary for the total control of the fire.
- 7.1.9. No materials may be burned in or upon any street, curb, gutter, sidewalk or ditch.
- 7.1.10. Except for barbecue, gas, and charcoal grills, no burning shall be undertaken within twenty-five feet (25') from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.
- 7.1.11. No open burning may be conducted on days when the Department of Environmental Quality has declared an "air quality action day" applicable to Port Huron Charter Township.

SECTION 8: PRESCRIBED BURNS

- 8.1. **"Prescribed Burn"** means the burning, in compliance with a prescription and to meet planned fire or land management objectives, of a continuous cover of fuels. A "prescription" means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a burn.
- 8.2. Fires set for forest, prairie, and wildlife habitat management are allowed only if conducted in accordance with Part 515 of the Natural Resources and Environmental Protection Act, MCL §324.51501 *et seq.*

SECTION 9: OUTDOOR WOOD-FIRED BOILERS

An outdoor wood-fired boiler may be installed and used in the Township of Port Huron only in accordance with all of the following provisions:

- 9.1. The outdoor wood-fired boiler shall not be used to burn refuse.
- 9.2. The outdoor wood-fired boiler shall be located at least one hundred-fifty feet (150') from the nearest building which is not on the same property as the outdoor wood-fired boiler.

- 9.3. The outdoor wood-fired boiler shall have a chimney that extends at least fifteen feet (15') above the ground surface. If there are any residences within two hundred fifty feet (250') the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. The Fire Chief may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations.
- 9.4. The owner of the outdoor wood-fired boiler shall obtain an annual permit from the Fire Chief in accordance with Section 12 of this ordinance.
- 9.5. Wood-Fired Boilers installed prior to the adoption of this ordinance may be exempt from 9.2 and 9.3.

SECTION 10: PATIO WOOD-BURNING UNITS

A patio wood-burning unit may be installed and used in the Township of Port Huron only in accordance with all of the following provisions:

- 10.1. The patio wood-burning unit shall not be used to burn refuse.
- 10.2. The patio wood-burning unit shall burn only clean wood.
- 10.3. The patio wood-burning unit shall be located at least 10 feet (10') from the nearest structure which is not on the same property as the patio wood-burning unit.
- 10.4. The patio wood-burning unit shall not cause a nuisance to neighbors.

SECTION 11: FIRE SUPPRESSION TRAINING

Notwithstanding Sections 5 and 6 of this ordinance, structures and other material may be burned for fire prevention training only after 7 day notice to and approval by the Port Huron Township Fire Department Fire Chief and only in accordance with all of the following provisions.

- 11.1. The burn must be exclusively for fire prevention training. The burning shall not be used as a means to dispose of waste material including tires and other hazardous materials.
- 11.2. All ash shall be disposed of in an approved landfill or at an alternate location approved by Michigan Department of Environmental Quality.
- 11.3. Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.
- 11.4. At least 48 hours before a planned practice burn, residents within one thousand feet (1,000') of the site of the proposed burn shall be notified.

- 11.5. All fire suppression training must conform to the guidelines established by the National Fire Protection Association (NFPA) Standard on Live Training Evolutions (NFPA 1403).

SECTION 12: BURNING PERMITS - NON CONFORMING FIRES

Campfires in any licensed or regulated campground shall not require permits but must conform to size limitations in Section 4, Definition 4.1.

- 12.1. No person shall start or maintain any outdoor burning or open burning covered under this section without a burning permit issued by the Port Huron Township Fire Department or its designee, the Township of Port Huron.
- 12.2. Any person responsible for burning leaves, brush, clean wood, or other vegetative debris under Section 7 of this ordinance shall obtain a yearly burning permit before starting the fire. The fee for each yearly burning permit shall be fifteen dollars (\$15.00) and shall expire March 1st of each year.
- 12.3. The owner or occupant of the property shall obtain an annual burning permit for each outdoor wood-fired boiler before using. The fee for each annual burning permit shall be fifteen dollars (\$15.00). An annual permit expires March 1st of each year.
- 12.4. A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.
- 12.5. Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance and shall constitute a municipal civil infraction.

SECTION 13: LIABILITY

Owners of all property 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.

SECTION 14: RIGHT OF ENTRY AND INSPECTION

The Fire Chief or his designee, representing the Township of Port Huron who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

SECTION 15: ENFORCEMENT AND PENALTIES

- 15.1. The Fire Chief and the Port Huron Township Fire Department are authorized to enforce the provisions of this ordinance.

15.2. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this ordinance or fails to comply with a duly authorized order issued pursuant to this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by civil fine determined in accordance with the following schedule:

<u>Offense</u>	<u>Fine</u>
1 st Offense	\$50.00
2 nd Offense within 3-year period*	\$100.00
3 rd Offense within 3-year period*	\$250.00
4 th or more Offense within 3-year period*	\$500.00

* Determined on the basis of the date of commission of the offense(s).

15.3. The violator shall pay costs which may include all expenses, direct and indirect, which the Township of Port Huron incurs in connection with the municipal infraction. In no case, however, shall costs of less than \$250.00 nor more than \$500.00 be ordered. In addition, the Township of Port Huron shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this ordinance. Each day that a violation of this ordinance exists shall constitute a separate violation of this ordinance.

15.4 In addition to any other penalties established hereunder, the Township may revoke a permit issued hereunder upon a third violation of this ordinance and/or may refuse issuance of another permit hereunder for up to one (1) year.

SECTION 16: REPEAL CLAUSE

All ordinances in conflict with the provision of this are, to the extent of such conflict, hereby repealed.

SECTION 17: EFFECTIVE DATE

This Ordinance shall be effective 30 days after publication.

The above Ordinance was offered for adoption by Township Board Member Davis and was seconded by Township Board Member Riehl, the vote being as follows:

YEAS: Davis, Livingston, Shonka, Riehl, Collins & Davis

NAYS: None

ABSTAIN/ABSENT: Lewandowski

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance introduced by the Charter Township of Port Huron Board at a board meeting held on Monday, April 7, 2014, at the Charter Township of Port Huron Hall, pursuant to the required statutory procedures.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Benita E. Davis", written over a horizontal line.

By: Benita Davis, Clerk
Charter Township of Port Huron

#96013