

Outdoor and Open Burning Ordinance for the Township of Hamburg, Michigan.

Ordinance No. 40E

SECTION 1: PURPOSE

- 1.1 This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, safety and welfare of the citizens of the Township of Hamburg, Michigan by regulating the air pollution and fire hazards of open burning and outdoor burning.

SECTION 2: APPLICABILITY

- 2.1 This ordinance applies to all Outdoor Burning and Open Burning within the Township of Hamburg, Michigan.
- 2.2 This ordinance does not apply to grilling or cooking food using charcoal, clean wood, propane or natural gas in cooking or grilling appliances.
- 2.3 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 used for human or animal habitation.
- 2.4 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

- 3.1 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 recreation or cooking but not including a fire intended for disposal of waste, wood or refuse.
- 4.2 “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.
- 4.3 “Construction and demolition waste” means building waste materials, including but not limited to waste shingles, insulation, 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 Hamburg Township Fire Department or other person designated by the Fire Chief.

- 4.5 “Municipality” means a county, township, city, or village.
- 4.6 “Outdoor Burning” means open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.
- 4.7 “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. This includes burning in a burn barrel.
- 4.8 “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.
- 4.9 “Patio wood-burning unit” means a chimney, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- 4.10 “Refuse” means any waste material, garbage, animal carcasses, and trash or household materials except trees, logs, brush, stumps, leaves, and other vegetative matter.

SECTION 5: GENERAL PROHIBITION ON OUTDOOR BURNING AND OPEN BURNING.

- 5.1 Except as provided in this Ordinance, Open Burning and Outdoor Burning are prohibited in the Township of Hamburg.

SECTION 6: OPEN BURNING OF REFUSE

- 6.1 Open burning of refuse or grass clippings is prohibited.

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

- 7.1 Open Burning of trees, logs, and leaves is allowed only in accordance with all of the following provisions:
 - 7.1.1 **Except** Fires occurring during the times specified in 7.2.8, a permit issued in accordance with Section 10 of this ordinance must be obtained prior to Open Burning under this section.
 - 7.1.2 Except for barbecue, gas, and charcoal grills, no Open Burning shall be undertaken during periods when the Governor of Michigan has issued a burning ban applicable to Hamburg Township.
 - 7.1.3 All allowed Open Burning shall not create a visibility hazard on roadways, railroads or airfields. Open Burning shall be conducted in conformance with all local and state fire protection regulations.
 - 7.1.4 Open Burning shall be conducted only on the property on which the materials were generated or naturally deposited.
 - 7.1.5 Outdoor Campfires for cooking, ceremonies, or recreation are allowed. Said fires may be around a home or place of residence, within the curtilage of said dwelling where the material to be burned has been properly placed in a debris burner constructed of metal or masonry. Said burners shall not be larger than 3 feet

square or 3 feet in diameter and located not less than 25 feet away from any building or less than 10 feet from any adjoining property line. Said Campfires must be supervised at all times by an adult. No permits shall be required for such fires. Except as provided in this Ordinance, leaf burning is specifically prohibited.

- 7.1.6** Open Burning under this section shall only be conducted at a location at least 25 feet from the nearest building and 10 feet from any property line.
- 7.1.7** Except for Campfires, Open Burning shall only be conducted during months of April, May, October and November. Burning hours are from sunrise to sunset, local time.
- 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 use such fire extinguishing equipment as may be necessary for the total control of the fire. One adult must be in attendance of each fire (i.e. three fires = three attendees). The adults in attendance must be free from the effects of alcohol and/or illegally used controlled substances and/or over the counter medicines and/or prescribed medications that may impair proper judgment.
- 7.1.9** Open burn fires must not exceed eight (8) feet in diameter or square or be within 25' of a lake, stream, or river.
- 7.1.10** No materials may be burned upon any street, curb, gutter, sidewalk, or active railroad right of way.
- 7.1.11** Barbecue, gas, charcoal grills, and patio wood-burning units are exempt under this section.
- 7.1.12** The Fire Chief or designee shall have the authority to implement a temporary burning ban due to environmental conditions including but not limited to high winds or extreme dry conditions. The fire department shall make a reasonable attempt to inform the public of the ban using available resources. If a temporary burning ban is imposed, the Fire Chief or designee shall have the authority to implement alternate open burning times. The alternate burning times shall be comparable in length to the temporary burning ban.
- 7.1.13** The Township Board may temporarily suspend any of the terms and conditions of this Ordinance for reasons it deems appropriate. The Township Board, after consultation with the Fire Chief or the Fire Marshal, may allow additional open burning times if a storm or storms result in large amounts of downed trees, branches and/or leaves. Such additional open burns shall otherwise comply with the applicable requirements of this Ordinance.

SECTION 8: OUTDOOR WOOD-FIRED BOILERS

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

- 8.1.1** The outdoor wood-fired boiler shall not be used to burn refuse and shall be used to burn only clean wood.
- 8.1.2** The outdoor wood-fired boiler shall be located at least 100 feet from the nearest residential dwelling which is not on the same property as the outdoor wood-fired boiler.
- 8.1.3** The outdoor wood-fired boiler shall have a chimney that extends at least 15 feet above the ground surface or 3 feet above the building it serves, whichever is greater. In addition, the chimney shall extend 3 feet above the highest peak of any residence located within 500 feet from the wood-fired boiler. The Fire Chief or designee may approve a lesser height on a case-by-case basis if, in the opinion of the Fire Chief or designee, it is necessary to comply with manufacturer's recommendations and if a lower chimney height does not create a nuisance for neighbors.
- 8.1.4** The owner of the outdoor wood-fired boiler shall obtain a permit from the Fire Chief prior to any installation and the final installation shall be inspected by the Fire Chief and only put into operation with written approval from the Fire Chief. The purpose of the Fire Chief's inspection will only be to ensure compliance with this ordinance and shall not be considered a safety inspection.

SECTION 9: PATIO WOOD-BURNING UNITS

- 9.1** A patio wood-burning unit may be installed and used in the Township of Hamburg only in accordance with all of the following provisions:
 - 9.1.1** The patio wood-burning unit shall not be used to burn refuse.
 - 9.1.2** The patio wood-burning unit shall burn only clean wood.
 - 9.1.3** The patio wood-burning unit shall be located at least 25 feet from the nearest structure which is not on the same property as the patio wood-burning unit.

SECTION 10: BURN PERMITS

- 10.1** For all fires not otherwise defined in this Ordinance or for fires which would otherwise result in the violation of specifications and requirements of this Ordinance, a permit shall be obtained through the Hamburg Township Fire Department. The Fire Chief or its designee has the discretion to issue all such permits. The application must be made to the Hamburg Township Fire Department at least 30 days in advance of any such fire. The Fire Chief or its designee shall immediately notify the Hamburg Township Board of any such application.
- 10.2** A burning permit for a Special Event Fire is necessary. Special Event Fires are those which are normally incident to commemorative or celebration events that are sponsored by schools, municipalities and other charitable type organizations. Any person, partnership, firm, association, corporation, other entity seeking a special event fire must make application to and obtain from the Hamburg Township Fire Department a permit for such fire. A formal written request must be made to the

Hamburg Township Fire Department c/o the Fire Chief at least 30 days in advance of any such special event fire.

- 10.3** The Fire Chief or designee shall immediately notify the Hamburg Township Board of any such application.

SECTION 11: LIABILITY

- 11.1** 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.

SECTION 12: RIGHT OF ENTRY AND INSPECTION

- 12.1** Upon probable cause of a possible violation of this ordinance, the Fire Chief or any authorized officer, agent, employee or representative of the Township of Hamburg who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

SECTION 13: ENFORCEMENT AND PENALTIES

- 13.1** The enforcing authority for this Ordinance shall be the Hamburg Township Board, Hamburg Township Police Department, Hamburg Township Fire Department or the Hamburg Township Zoning Department.
- 13.2** The fines and penalties in Section 8 entitled "Sanctions for Violations: set forth in Hamburg Township Ordinance No. 71 (CIO) are incorporated herein by reference.

SECTION 14: RECOVERY OF COSTS, CHARGES FOR FIRE DEPARTMENT SERVICES AND ADMINISTRATIVE SERVICES.

- 14.1** Any person, partnership, firm, association, corporation or other entity who violates this ordinance, and any owner of any property upon which a fire has been started in violation of this ordinance either through an intentional act or negligence, which necessitates a fire run by the Hamburg Township Fire Department, or any other fire department or police agency, shall pay to Hamburg Township any and all costs and charges incurred by the Township by reason of such fire or emergency run. Provided, however, that the minimum charge for any fire run shall be \$600.00 plus additional minimum charge of \$200.00 for an administration fee. All of the foregoing charges and expenses shall be due and payable within thirty (30) days from the date an invoice is prepared and mailed to any person, partnership, firm, association, corporation, or other entity, who sets or is responsible for such an open fire, or to any property owner upon which such a fire occurred. The Township may proceed in any court of competent jurisdiction for any such civil damages and may recover any

costs, expenses, or attorney fees incurred in the fire run or in the process of the recovery of such costs.

SECTION 15: EFFECTIVE DATE

This Ordinance shall become effective the 3rd day of June, 2008.

SECTION 16: REPEAL OF PREVIOUS ORDINANCE

16.1 Hamburg Township 40D adopted on September 16, 2003 is repealed.

CERTIFICATION

I, Joanna G. Hardesty, duly elected Clerk of the Township of Hamburg, County of Livingston, State of Michigan, do hereby certify the foregoing to be a true copy and the whole of a resolution adopted by the Hamburg Township Board on May 20 2008, at which meeting a quorum was present by a roll call vote of said members as hereinbefore set forth, the said resolution was ordered to take effect upon publication.

Joanna G. Hardesty, Hamburg Township Clerk

Adopted: May 20, 2008
Published: June 3, 2008
Effective: June 3, 2008