

Charter Township of Huron
Open Burn Ordinance
Ordinance No. 09-03
First Reading
Part 197

197.000

An ordinance to establish the regulation and control of fires, burning of trash or rubbish, recovery of costs, and the prevention of foul odors caused by burning within the Charter Township of Huron and providing the penalties and remedies for the violation thereof, and to repeal all ordinances and part of ordinances in conflict therewith.

THE CHARTER TOWNSHIP OF HURON ORDAINS:

197.001

General

Sec.1. This Ordinance shall be known and cited as the Open Burn Ordinance and is designed to protect the Charter Township of Huron from incurring expenses from utilization of township and others' resources to respond to fires and is otherwise adopted in the interest of public safety. It is designed to promote the general peace, health, safety, and welfare of the Charter Township of Huron.

197.002

Open Burning Ban

Sec. 2. No person, partnership, firm, association, corporation, or any other entity shall, within the Charter Township of Huron, set or cause to be set any fire, burn or cause to be burned, at any time, any material or combustibles on any lot, parcel, or ground unless conducted and approved in accordance with this Ordinance.

197.003

Open Burning – Residential

Sec. 3. Subject to the provisions of this section, any person, partnership, firm, association, corporation, or any other entity may open burn sticks, twigs, limbs, or other similar natural waste, on that property, in a residential area subject to the following conditions:

- a. An "Open Burning – Residential" permit is required for any residential open burning. A Residential Burning Permit will be in effect for three (3) days. Application for such permit shall only be presented by and issued to the owner of the land upon which the fire is to be kindled.
- b. Any and all open burnings must begin after 9:00AM and be completely extinguished by 9:00PM on those days designated on the open burning permit, as issued.

- c. All such open burnings must be supervised at all times by a responsible adult and never left unattended until completely extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose, or water truck, shall be available for immediate use.
- d. Residential Open Burning shall be located no less than one hundred (100) feet from any buildings and no less than one hundred (100) feet from the nearest property line.
- e. For the purpose of this Section, the open burning of leaves, grass clippings, garbage, animal carcasses, trash, rubbish, and building or household materials, is strictly prohibited.
- f. Open burning area of approved natural materials shall be no larger than four (4) feet square or four (4) feet in diameter and no more than four (4) feet high when ignited.
- g. An open burn of any combustibles which causes noxious smoke, toxic odor, or smoke of a significant quantity or quality to be released so as to inhibit the use and enjoyment of neighboring properties is hereby declared a nuisance and is hereby prohibited. The property owner and/or other adult who has control or right of control of the property upon which such release of smoke occurs shall be liable to the Township for any costs incurred in attempt to control and/or extinguish the fire. Failure or refusal to pay this restitution shall give rise to a civil infraction citation. Subsequent charges for violations of this Ordinance may be charged as misdemeanors.
- h. Failure to adhere to the above conditions may result in the revocation of any previously issued open burning permit with no fees refunded.
- i. The Fire Chief and/or his or her designee may prohibit any outdoor fires when, in the Fire Chief or his or her designee's opinion, atmospheric conditions or local, county, or state circumstances make such fires hazardous.
- j. The fee for an open burning permit as required shall be set forth in the Fee Schedule established from time to time by the Township Board and shall be paid to the township clerk at the time the application is filed.

197.004

Domestic and Other Type Fires (Contained)

Sec. 4. A "Domestic Fire – Contained" is any fire near a place of residence, in which the material to be burned was generated from that property and has been properly placed in a container constructed of metal or masonry. No permit shall be required for the above-referenced fires.

- a. Containers of the metal drum or masonry type shall not be located less than fifty (50) feet away from any building or less than fifty (50) feet from any adjoining property line. No permits shall be required for the above-referenced fires.
- b. These types of fires shall be supervised at all times by a responsible adult and never left unattended until completely extinguished.
- c. For the purpose of this Section, the burning of leaves, grass clippings, garbage, animal carcasses, trash, rubbish, and building or household materials is strictly prohibited.
- d. A contained burn of any combustibles which causes noxious smoke, toxic odor, or smoke of a significant quantity or quality to be released so as to inhibit the use and enjoyment of neighboring properties is hereby declared a nuisance and is hereby prohibited. The property owner and/or other adult who has control or right of control of the property upon which such release of smoke occurs shall be liable to the Township for any costs incurred in attempt to control and/or extinguish the fire. Failure or refusal to pay this restitution shall give rise to a civil infraction citation. Subsequent charges for violations of this Ordinance may be charged as misdemeanors.
- e. The Fire Chief and/or his or her designee may prohibit any outdoor fires when, in the Fire Chief or his or her designee's opinion, atmospheric conditions or local, county, or state circumstances make such fires hazardous.

197.005

Campfires, Bonfires, and Recreational Fires

Sec. 5. "Campfires," "bonfires," and "recreational fires" are those fires of natural materials located within the immediate vicinity of a camp or place of residence that are contained within or surrounded by a metal or masonry type material. No permits shall be required for the above-referenced fires.

- a. Campfires, bonfires, and recreational fires must be supervised at all times by a responsible adult and never left unattended until completely extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose, or water truck, shall be available for immediate use.
- b. These types of fires shall not be located less than one hundred (100) feet from any building or less than one hundred (100) feet from any adjoining property line.
- c. These types of fires shall be no larger than four (4) feet square or four (4) feet in diameter and no more than four (4) feet high when ignited.

- d. For the purpose of this Section, the burning of leaves, grass clippings, garbage, animal carcasses, trash, rubbish, and building or household materials is strictly prohibited.
- e. A campfire, bonfire, or recreational fire of any combustibles which causes noxious smoke, toxic odor, or smoke of a significant quantity or quality to be released so as to inhibit the use and enjoyment of neighboring properties is hereby declared a nuisance and is hereby prohibited. The property owner and/or other adult who has control or right of control of the property upon which such release of smoke occurs shall be liable to the Township for any costs incurred in attempt to control and/or extinguish the fire. Failure or refusal to pay this restitution shall give rise to a civil infraction citation. Subsequent charges for violations of this Ordinance may be charged as misdemeanors.
- f. The Fire Chief and/or his or her designee may prohibit any outdoor fires when, in the Fire Chief or his or her designee's opinion, atmospheric conditions or local, county, or state circumstances make such fires hazardous.

197.006

Special Event Fires

Sec. 6. "Special Event Fires" are those fires that are normally incidental to commemorative or celebratory events that are sponsored by schools, municipalities, and other not-for-profit organizations. Any person, partnership, firm, association, corporation, or other entity seeking to ignite or otherwise host a special event fire must make application to and obtain from Huron Township a permit for such fire. A formal written request for the permit must be made to the Charter Township of Huron Fire Department in care of the Clerk of Huron Township at least thirty (30) days in advance of any special event fire.

- a. Special event fires shall be no larger than ten (10) feet square or ten (10) feet in diameter and no more than ten (10) feet high when ignited.
- b. These types of fires shall be located no less than two hundred fifty (250) feet from any building and no less than two hundred fifty (250) feet from any property line.
- c. Special event fires must be supervised at all times by a responsible adult and never left unattended until completely extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose, or water truck, shall be available for immediate use.
- d. For the purpose of this Section, the burning of leaves, grass clippings, garbage, animal carcasses, trash, rubbish, and building or household materials is strictly prohibited.
- e. A special event fire of any combustibles which causes noxious smoke, toxic odor, or smoke of a significant quantity or quality to be released so as to inhibit the use and enjoyment of neighboring properties is hereby declared a nuisance and is hereby prohibited. The property

owner and/or other adult who has control or right of control of the property upon which such release of smoke occurs shall be liable to the Township for any costs incurred in attempt to control and/or extinguish the fire. Failure or refusal to pay this restitution shall give rise to a civil infraction citation. Subsequent charges for violations of this Ordinance may be charged as misdemeanors.

- f. Failure to adhere to the above conditions may result in the revocation of any previously issued open burning permit with no fees refunded.
- g. The Fire Chief and/or his or her designee may prohibit any outdoor fires when, in the Fire Chief or his or her designee's opinion, atmospheric conditions or local, county, or state circumstances make such fires hazardous.
- h. The fee for a Special Event Fire Permit as required shall be set forth in the Fee Schedule established from time to time by the Township Board and shall be paid to the township clerk at the time the application is filed.

197.007

Open Burning – Licensed Commercial Businesses

Sec. 7. Subject to the provisions of this section, any person, partnership, firm, association, corporation, or any other entity may open burn sticks, twigs, limbs, logs, trees, or other similar natural waste materials that are generated as a result of the operation of a licensed commercial business in Huron Township upon the commercial site from which it is generated. Commercial businesses licensed by Huron Township that generate natural waste material are defined as farmers, grower of produce, greenhouses, sod farms, tree farms, nurseries, cemeteries, etc., and are subject to the following open burn conditions:

- a. An "Open Burning – Commercial" permit shall be obtained from the Huron Township Fire Department prior to kindling a commercial open burn in Huron Township. A commercial open burning permit shall only be issued to businesses registered and licensed by Huron Township for recognized agricultural, range or wildlife management practices, prevention or control of disease or pests. A commercial open burning permit shall only allow for the burning of natural waste materials generated from the permit holder's commercial business as defined above. Application for such permit shall only be presented by and permits shall only be issued to the owner of the land upon which the licensed commercial business is located and the fire is to be kindled. A commercial open burning permit shall be in effect for one (1) calendar year. (the first of January through the thirty-first of December of the same year)
- b. Any and all open burnings must begin after 9:00AM and be completely extinguished by 9:00PM. The holder of a commercial open burning permit must notify and request approval of the Huron Township Fire Department at least twenty-four (24) hours prior to kindling any open fire.

- c. All such open burnings must be supervised at all times by a responsible adult and never left unattended until completely extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose, or water truck, shall be available for immediate use.
- d. Commercial open burnings shall be located no less than two hundred fifty (250) feet from any building and no less than two hundred fifty (250) feet from any property line.
- e. For the purpose of this Section, the burning of leaves, grass clippings, garbage, animal carcasses, trash, rubbish, and building or household materials is strictly prohibited.
- f. Commercial open burning of approved natural materials shall be no larger than ten (10) feet square or ten (10) feet in diameter and no more than ten (10) feet high when ignited.
- g. A commercial open burn of any combustibles which causes noxious smoke, toxic odor, or smoke of a significant quantity or quality to be released so as to inhibit the use and enjoyment of neighboring properties is hereby declared a nuisance and is hereby prohibited. The property owner and/or other adult who has control or right of control of the property upon which such release of smoke occurs shall be liable to the Township for any costs incurred in attempt to control and/or extinguish the fire. Failure or refusal to pay this restitution shall give rise to a civil infraction citation. Subsequent charges for violations of this Ordinance may be charged as misdemeanors.
- h. Failure to adhere to the above conditions may result in the revocation of any previously issued open burning permit with no fees refunded.
- i. The Fire Chief and/or his or her designee may prohibit any outdoor fires when, in the Fire Chief or his or her designee's opinion, atmospheric conditions or local, county, or state circumstances make such fires hazardous.
- j. The fee for an "Open Burning – Commercial" permit as required shall be set forth in the Fee Schedule established from time to time by the Township Board and shall be paid to the township clerk at the time the application is filed.

197.008

Prohibited Open Burning

Sec. 8.

- a. Any burning that will be offensive or objectionable due to smoke or foul odor emissions or when atmospheric conditions or local, county, or state circumstances make such fires hazardous shall be prohibited. The Fire Chief, his or her designee, a police officer, or ordinance enforcement official is authorized to order the extinguishment of any fire that creates or adds to a hazardous or objectionable condition.

- b. Open burning or contained fires consisting of twigs, branches, limbs, logs, trees, and other natural materials that resulted from the clearing of land for commercial building purposes is strictly prohibited.
- c. Open burning is prohibited within 1400 feet of an incorporated city or village limit.
- d. Open burning of construction and/or demolition materials is strictly prohibited.

197.009

Penalties

Sec. 9. Any person, partnership, firm, association, corporation, or other entity who sets or starts a fire in violation of this Ordinance or any property owner and/or other adult who has control or right of control of the property upon which a fire in violation of this Ordinance occurs shall be liable to the Township for any costs incurred in attempt to control and/or extinguish the fire. Failure or refusal to pay this restitution shall give rise to a civil infraction citation. A finding of responsibility for a civil infraction violation of this Ordinance shall result in a court order to pay restitution to Huron Township in addition to a fine in the amount of one hundred dollars (\$100.00). Subsequent charges for violations of this Ordinance may be charged as misdemeanors. Upon conviction thereof, violators shall be subject to a fine or penalty of not less than one hundred (100) dollars nor more than five hundred (500) dollars, imprisonment for a period not to exceed ninety (90) days, or both such fine and imprisonment.

197.010

Recovery of Costs, Charges for Fire Department Services and Administrative Services

Sec. 10.

- a. For any fire that necessitates a response by the Huron Township Fire Department or Police Department, any person, partnership, firm, association, corporation, or other entity who set or started such fire in violation of this Ordinance or any property owner and/or other adult who had control or right of control of the property upon which such fire occurred shall reimburse to the Township of Huron any and all costs and charges incurred by the Township by reason of such fire or emergency response. The minimum charge for any on-site fire response shall be five hundred (500) dollars. The minimum charge for administrative fees for such response shall be one hundred (100) dollars. Therefore, the minimum total amount due to the Township shall be six hundred (600) dollars.
- b. All of the foregoing charges and expenses shall be due and payable within thirty (30) days of the date the invoice is prepared and mailed with first class standard postage or otherwise hand delivered to any person, partnership, firm, association, corporation, or other entity who is deemed responsible for any fire in violation of this Ordinance, or the property owner of the site upon which such fire occurred.

- c. The dollar amount of the foregoing charges remaining unpaid thirty (30) days following the mailing or hand delivery of the notice of such charges may be added to the tax roll of the property owner.
- d. In any court of competent jurisdiction, The Township may pursue any and all civil damages incurred and may recover any and all costs, expenses, and attorney fees incurred in the process of the recovery of such costs, including costs incurred prior to filing suit.

197.011

Enforcement

Sec. 11. The civil and criminal provisions of this Ordinance shall be enforced by those persons or agencies designated by the municipal authority. The Huron Township Fire Chief, his or her designee, Huron Township Police Officers, and the ordinance enforcement officer are at all times granted authority to enforce this Ordinance.

197.012

Saving Clause

Sec. 12.

- a. Nothing in this Ordinance shall be construed to affect any, suit or proceeding pending in any court, rights acquired, liability incurred, or any cause or causes of action acquired or existing under any ordinance repealed by this Ordinance.
- b. No just or legal right or remedy of any character shall be lost, impaired, or affected by this Ordinance.

197.013

Severability

Sec. 13. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance be held invalid, unconstitutional, or conflicting by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

197.014

Repeal

Sec. 14. All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

197.015

Effective Date

Sec. 15. This Ordinance is hereby declared to be necessary for the preservation of the public health, safety, and welfare of the Charter Township of Huron, and shall be given immediate effect.

Dawnette K. Bowers, CMC Clerk
Charter Township of Huron

Publish: HVNH
11/04/09