

**TOWNSHIP OF ONTWA
CASS COUNTY, MICHIGAN**

BURNING ORDINANCE

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY, AND GENERAL WELFARE OF PROPERTY WITHIN THE TOWNSHIP OF ONTWA, AND THE STATE OF MICHIGAN, BY REGULATING OPEN AND CONTAINER BURNING WITHIN ONTWA TOWNSHIP, CASS COUNTY, MICHIGAN; AND TO PROVIDE FOR ENFORCEMENT THEREOF AND PENALTIES FOR VIOLATIONS.

THE TOWNSHIP OF ONTWA, CASS COUNTY, MICHIGAN ORDAINS:

SECTION 1. TITLE.

This Ordinance shall be known and cited as the "Burning Ordinance" of Ontwa Township, Cass County, Michigan.

SECTION 2. PURPOSE.

The purpose of this ordinance is to protect the people of and property within Ontwa Township against health and safety hazards by regulating methods of burning materials within the Township of Ontwa.

SECTION 3. PROHIBITED BURNINGS.

It shall be unlawful for any person, firm, or corporation to:

1. Burn any materials whatsoever on any street, road, or sidewalk;
2. Openly burn refuse from a multiple dwelling, which for purposes of this ordinance shall mean a dwelling housing three (3) or more families;
3. Openly burn refuse at commercial and industrial sites;
4. Openly burn building demolition or excess construction material;
5. Openly burn automobiles or parts thereof;

6. Openly burn highly flammable, toxic or explosive materials.

7. Openly burn in areas adjacent to forest lands when the ground is not snowcovered without a permit from the Michigan Department of Natural Resources.

For purposes of this ordinance, "openly burn" or "open burning" shall mean any burning not in an approved burning container or receptacle.

SECTION 4. OTHER PROHIBITED BURNINGS.

A. Foul Odor Burnings. No person shall burn garbage, grass clippings, animal carcasses, refuse, trash, rubbish, or like material giving off foul odors, at any time. This subsection applies to domestic, commercial, and industrial fires.

B. Burnings During Burning Ban. Whenever a burning ban is in effect in Ontwa Township due to extreme fire hazard conditions, all open burning shall be prohibited. The ban shall remain in effect until rescinded by the issuing authority or unless or until the extreme conditions do not, or no longer, exist in the Township. The Cass County Office of Emergency Preparedness shall determine if a burning ban shall be in effect.

SECTION 5. PERMITS.

A. Issuance of Permits. When approval is necessary for any burning under this ordinance, such approval shall be by permit from the Edwardsburg Fire Department. Permits shall be issued only by the Fire Chief of said fire department or his designated representative. A chronological written record of permits issued, denied, or modified will be maintained by said fire department. The record will contain, as a minimum, a permit number, name of applicant, date, time, location, action taken, and signature of issuer. Said permit shall be in accordance with Act 329 of the Public Acts of 1969 of the State of Michigan, as amended; being MCLA 320.21; 320.38; MSA 13.267(1) - 13.267(18).

B. Permits Required. Any burning which is not specifically covered in this ordinance shall be allowed only if a permit is issued for such burning by the Edwardsburg Fire Department.

SECTION 6. DOMESTIC FIRES.

A "domestic fire" is any fire within the curtilage of a dwelling or home, where the material being burned has been properly placed in a debris burner constructed of metal or masonry with an approved spark arrestor or metal covering with openings no larger than 3/4 of an inch. Burners of the metal drum or portable type shall not be

located less than 20 feet from any building or less than 10 feet from the adjoining property line. Leaves may be burned without the use of such container provided proper safeguards are followed. No permit shall be required for domestic fires.

SECTION 7. CONTAINER BURNING AND APPROVED BURNING CONTAINERS AND INCINERATORS.

A. Burning Containers. Except as otherwise specifically allowed under the provisions of this ordinance, no person shall set or cause to be set, burn or cause to be burned, any paper, trash, rubbish, unless confined within a fireproof container constructed of metal or masonry with an approved spark arrestor or metal covering with openings no larger than 3/4 of an inch. Burners of the metal drum or portable type shall not be located less than 20 feet from any building or less than 10 feet from the adjoining property line. Masonry or heavy metal constructed burners or incinerators shall be constructed to withstand the heat of 1200 degrees Fahrenheit and shall be located not less than 3 feet from a combustible building or property line.

B. Incinerators. Incinerators shall be constructed with or attached to a suitable stack, with the top of the stack being at least 3 feet above the eave line of any adjoining building if such building is less than 20 feet from the stack. All stacks are to be properly capped with approved spark arresters or metal coverings.

For purposes of this ordinance, any burning which is done in any approved container or receptical shall be known and referred to as a "container burning".

SECTION 8. PERMITTED BURNINGS.

The following types of burning are permitted provided such burning (1) is not in violation of this ordinance, (2) does not create a nuisance or hazard to public health, and (3) is not a safety hazard in view of or when local weather conditions are taken into consideration:

1. Burning of household refuse from 1 and 2 family dwellings in a debris burner constructed of metal or masonry with a metal covering device with openings no larger than 3/4 inch.

2. Backyard burning of household refuse and leaves, notwithstanding the fact that this type of burning is not recommended and is to be discouraged.

3. Fires purposely set for the actual instruction and training of public and industrial fire fighting personnel, provided, however, that this technique shall not be

construed to mean that a building demolition, as such, shall be designated as a training function.

4. Camp fires and fires used for outdoor cooking and other recreational purposes or ceremonial occasions.

5. Burning of trees, logs, brush, and stumps for land clearing operations in rural areas may be allowed, provided, however, that tires, plastics, and similar materials are not to be used in such fires.

6. Fires purposely set for disease and pest control and other accepted agricultural and wildlife management practices.

The Fire Chief of the Edwardsburg Fire Department may prohibit any or all bonfires which are or could be offensive or objectionable due to smoke or odor emissions.

SECTION 9. GENERAL BURNING REQUIREMENTS.

All permitted burnings shall be subject to the following additional requirements:

1. All permitted burning, except for camp fires and fires used for outdoor cooking and other recreational purposes or ceremonial occasions which are not limited by this provision, shall be done during the period of time from 10:00 a.m. to 9:00 p.m. on Tuesdays, Thursdays, and Saturdays and from noon to 9:00 p.m. on Sundays. No such burning shall take place at any other times.

2. All permitted burning, either open or container burning, shall be done during daylight hours and be completely out by 9:00 p.m.

3. Fires shall be constantly attended by a competent person having readily available suitable equipment to control and/or extinguish the fire if needed.

4. Fires must be a safe distance from all buildings. A safe distance is determined by the weather conditions, material to be burned, and other requirements as listed in this ordinance.

SECTION 10. ENFORCEMENT.

This Ordinance shall be enforced by the Ontwa Township-Edwardsburg Police Department, and its authorized agents and representatives, or any other person authorized by resolution of the Township Board to enforce this ordinance. The person

authorized to enforce this ordinance may, in the performance of its enforcement duty, enter upon or into any premises on or in which it has reasonable cause to believe a violation of this ordinance has occurred. For purposes of this section, premises shall not include buildings or dwellings.

SECTION 11. PENALTIES FOR VIOLATION AND CIVIL LIABILITY.

A. Penalties. Any person, firm, or corporation who shall start or set a fire contrary to the provisions of this ordinance or who shall otherwise be in violation of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to a maximum penalty of 90 days imprisonment in the Cass County jail or a fine of not more than \$500.00 and the costs of prosecution, or both such imprisonment and fines and costs of prosecution. The costs of prosecution may include the reasonable and ordinary expenses incurred by the fire department involved in the suppression of the fire.

B. Civil Liability. In addition to the penalties prescribed in the foregoing subparagraph, any person who shall start or set a fire contrary to the provisions of this ordinance shall be civilly liable for all expenses incurred by the Township in having a fire department respond to a fire call, including, but not limited to, the cost of going to and from the scene of the fire and in extinguishing the fire. Nothing in this subsection or any other part of this ordinance shall be construed to limit any other civil liability on the part of an offending person under the statutes or common law of the State of Michigan.

SECTION 12. SEVERABILITY.

Should any section, clause, paragraph, or provision of this ordinance be declared to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the ordinance as a whole, or any part not ruled to be invalid.

SECTION 13. REPEALER PROVISION.

All other ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

SECTION 14. EFFECTIVE DATE.

This Ordinance shall take effect and be in force thirty (30) days after publication.

SECTION 15. ADOPTION PROVISION.

This Ordinance is hereby declared to have been adopted by the Township Board of the Township of Ontwa, Cass County, Michigan on the 13th day of September, A.D., 1993, and this ordinance is ordered to be given publication in the manner prescribed by law.

MOTION TO ADOPT ORDINANCE

Moved by J. Durben and supported by Jerry Duck
that the foregoing ordinance be adopted.

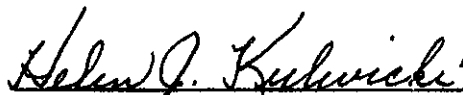
Vote:

Ayes H. Kulwicki, P. Michael, J. Durben, J. Duck
Nays W. Leist and R. Szalai
Absent W. Hardin

Ordinance declared adopted: September 13, 1993

CERTIFICATION

I hereby certify that the foregoing is a true copy of the Burning Ordinance duly adopted by the Township Board of Ontwa Township, Cass County, Michigan, on September 13, 1993, and published in the Edwardsburg Argus on September 29, 1993.


Helen J. Kulwicki
Helen J. Kulwicki
Township Clerk