

# Outdoor and Open Burning Ordinance for the Charter Township of Marquette Michigan

Ordinance No. \_\_\_\_\_

## SECTION 1: PURPOSE

### 1.00 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 the Charter Township of Marquette by regulating the air pollution and fire hazards of open burning and outdoor burning.

## SECTION 2: APPLICABILITY

### 2.00 Applicability.

This ordinance applies to all outdoor burning and open burning within the Charter Township of Marquette.

- 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 used 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

### 3.00 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

### 4.00 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. Existing or in existence means that the outdoor wood-fired boiler is in place on the site and operational.
- 4.5. "Fire Marshall" means the Fire Marshall of the Marquette Township Fire Department or other person designated by the Fire Marshall.
- 4.6. "Firewood" means trunks and branches of trees and bushes but does not include leaves, needles, vines.
- 4.7. "Municipality" means a county, township, city, or village.
- 4.8. "Outdoor burning" means open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.
- 4.9. "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.
- 4.10. "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.

- 4.11. "Patio wood-burning unit" means a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- 4.12. "Nuisance fires, burning" no materials shall be burned that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants or surrounding property.
- 4.13. "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.
- 4.14. "Untreated Lumber" means dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint, or other substance.

## **SECTION 5: GENERAL PROHIBITION ON OUTDOOR BURNING AND OPEN BURNING**

### **5.00 General prohibition on outdoor burning and open burning.**

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

## **SECTION 6: OPEN BURNING OF REFUSE**

- 6.1. Open burning of refuse from a commercial or industrial establishment is prohibited.
- 6.2. Open burning of refuse from and at a one or two family dwelling is allowed if all of the following conditions are met:
  - 6.2.1. The burning does not create a nuisance
  - 6.2.2. The burning is conducted in a container constructed of metal or masonry that has a metal covering device that does not have an opening larger than ¼ inch.
  - 6.2.3. The material being burned is not prohibited under subsection 6.3.
- 6.3. Open burning of the following materials is prohibited.
  - 6.3.1. Construction and demolition waste.
  - 6.3.2. Hazardous substances including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents.
  - 6.3.3. Furniture and appliances.
  - 6.3.4. Tires.
  - 6.3.5. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
  - 6.3.6. Newspaper.
  - 6.3.7. Corrugated cardboard, container board, office paper.
  - 6.3.8. 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 (trees, logs, brush, stumps, leaves, and grass clippings) is allowed only in accordance with all of the following provisions:
  - 7.1.1. **Except** for campfires, a permit issued in accordance with Section 11 of this ordinance must be obtained prior to open burning under this section when the ground is not snow covered.
  - 7.1.2. Open burning of 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 has issued a burning ban applicable to the area.
  - 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, railroads or airfields. Open

burning shall be conducted in conformance with all local and state fire protection regulations. Open burning shall be conducted in conformance with all local and state fire protection regulations.

- 7.1.5. Open burning shall be conducted only on the property on which the materials were generated.
- 7.1.6. Outdoor campfires and small bonfires for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance
- 7.1.7. Open burning under this section shall only be conducted at a location at least 100' feet from the nearest building which is not on the same property.
- 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.
- 7.1.9. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or water-body.
- 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 Marshall.

## **SECTION 8: OUTDOOR WOOD-FIRED BOILERS**

### **8.00 New Outdoor wood-fired boilers.**

No person shall install, use, or maintain an outdoor wood-fired boiler in the Charter Township of Marquette without first having obtained a permit from the Township Fire Marshall. Application for the permit shall be made to the Fire Marshall on the forms provided.

### **8.1.0 Existing outdoor wood-fired boilers**

Any outdoor wood-fired boiler in existence on the effective date of the Ordinance shall comply with all of the following provisions:

- 8.1.1. The owner completes a registration form at no charge, to reduce the potential for unwarranted response of the Fire Department due to smoke emissions.
- 8.1.2. The burning does not create a nuisance, as defined in section 4.12.
- 8.1.3. Upon the effective date of this Ordinance all the provisions hereof except sections 8.2.1, 8.2.4, and 8.2.5 shall immediately apply to existing outdoor wood-fired boilers.
- 8.1.4. All of the provisions of the Ordinance shall continue to apply to existing outdoor wood-fired boilers upon registration except sections 8.2.1, 8.2.4, and 8.2.5.

### **8.2.0 Specific requirements**

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

- 8.2.1. The outdoor wood-fired boiler shall be installed and used only in an areas zoned; Rural Residential, Scenic Resource Districts and Resource Production.
- 8.2.2. Only firewood and untreated lumber are permitted to be burned in any outdoor wood-fired boiler.
- 8.2.3. The outdoor wood-fired boiler shall not be used to burn refuse.
- 8.2.4. The outdoor wood fired boiler shall be set back not less than 200' feet from the nearest lot line. In circumstances where lot configuration does not allow for the minimum 200' separation the Fire Marshal may review and issue permits on a case by case basis.
- 8.2.5. The outdoor wood-fired boilers shall be permitted only on lots of three (3) acres or more.

- 8.2.6. The outdoor wood-fired boiler shall have an insulated chimney that extends at least fifteen feet (15') above the ground surface. If there are any residences within 200 to 500 feet of the outdoor wood fired boiler that are negatively impacted by the units emissions the Fire Marshal can require the chimney to be extend up to as high above the ground surface as the height of the roofs of all such residences. The Fire Marshall may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors
- 8.2.7. All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors.

## **SECTION 9: PATIO WOOD-BURNING UNITS**

### **9.00 Patio wood-burning units.**

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

- 9.1. The patio wood-burning unit shall not be used to burn refuse.
- 9.2. The patio wood-burning unit shall burn only clean wood.
- 9.3. The patio wood-burning unit shall be located at least twenty-five feet (25') from the nearest structure which is not on the same property as the patio wood-burning unit.
- 9.4. The patio wood-burning unit shall not cause a nuisance to neighbors.

## **SECTION 10: FIRE SUPPRESSION**

### **10.00 Fire suppression training.**

Notwithstanding sections 5 and 6 of this ordinance, structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions.

- 10.1. 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.
- 10.2. **Any** standing structure that will be used in a fire suppression training must be inspected and should be inspected by a licensed asbestos inspector. A notification of this inspection must be submitted to the Michigan Department of Environmental Quality, Air Quality Division at least ten business days prior to burning a standing structure. The notification must be submitted using Form EQP 5661 "Notification of Intent to Renovate/Demolish."
- 10.3. All asbestos must be removed prior to conducting the fire suppression training. If the structure is a residential dwelling, the owner may remove the asbestos or have it removed by a licensed abatement contractor. If it is a commercial building, all asbestos must be removed by a licensed abatement contractor.
- 10.4. All ash shall be disposed of in an approved landfill or at an alternate location approved by the Michigan Department of Environmental Quality.
- 10.5. Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Marshall determines that they are necessary for the fire practice.
- 10.6. At least 48 hours before a planned practice burn, residents within 500' feet of the site of the proposed burn shall be notified.
- 10.7. All fire suppression training should conform to the guidelines established by the National Fire Protection Association (NFPA) Standard on Live Fire Training Evolutions (NFPA 1403).

## **SECTION 11: BURNING PERMITS**

### **11.00 Burning Permits.**

At any time the ground is not snow-covered, a person shall not burn any flammable material on or adjacent to forest land, except for domestic purposes, without a permit from the Michigan Department of Natural Resources and the Marquette Township Fire Department. "Domestic purposes" means any fire within the curtilage of a dwelling where the material being burned has

been properly placed in a debris burner constructed of metal or masonry with metal covering devices with openings no larger than 3/4 of an inch, or a campfire, or any fire within a building.

**SECTION 12: LIABILITY**

**12.00 Liability.**

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 13: RIGHT OF ENTRY AND INSPECTION**

**13.00 Right of entry and inspection.**

The Fire Marshall as the authority having jurisdiction or his appointee of the Charter Township of Marquette who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

**SECTION 14: ENFORCEMENT, PENALTIES, WAIVERS, REPEALS, FEES AND EFFECTIVE DATE**

**14.00 Enforcement and penalties.**

- 14.1. The Fire Marshall as the authority having jurisdiction or his appointee is authorized to enforce the provisions of this ordinance.
- 14.2. 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>Minimum Fine</u>	<u>Maximum Fine</u>
1 <sup>st</sup> Offense within 3-year period	\$50.00	\$500.00
2 <sup>nd</sup> Offense within 3-year period	\$120.00	\$500.00
3 <sup>rd</sup> Offense within 3-year period	\$250.00	\$500.00
4 <sup>th</sup> or More Offense within 3-year period	\$400.00	\$500.00

14.3. The violator shall pay costs which may include all expenses, direct and indirect, which the Charter Township of Marquette has incurred in connection with the municipal infraction. In no case, however, shall costs of less than \$50.00 or more than \$500.00 be ordered. In addition, the Charter Township of Marquette 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. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this ordinance. Any fine imposed hereunder shall constitute a lien upon the real property where the violation occurs until all fines are paid, and outstanding violations corrected. In addition, any permit issued pursuant to this ordinance shall be revoked upon conviction or a second offence.

**14.4 Waivers; Property Maintenance Appeals Board**

Where the Property Maintenance Appeals Board finds that extraordinary and unnecessary substantial justice may be done and the public interest secured, provided that such variations will not have the effects of nullifying the intent and purpose of this ordinance or of jeopardizing the health, safety, or welfare of the public. In varying and regulations the Property Maintenance appeals Board may impose such conditions and requirements, as it deems reasonable and prudent. The Property Maintenance Appeals Board may at its discretion, hold a public hearing as part of its review. If the Property Maintenance Appeals Board grants the waiver, a permit shall be issued for the particular issue for which the waiver was granted. If the Property Maintenance Appeals Board denies the waiver, the violation must either be brought into compliance with the ordinance or removed. If the Property

Maintenance Appeals Board does not take any action with respect to the waiver within sixty (60) days from its receipt of an application for waiver, the waiver shall be deemed denied.

**14.5 Effect of Other Regulations**

Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules, or regulations promulgated by the United States Environmental Protection Agency, Michigan State Department or Environmental Quality or any other federal, state, regional, or local agency. Outdoor wood-fired boilers and any electrical, plumbing or other apparatus or device used in connection with an outdoor wood-fired boiler, shall be installed, operated, and maintained in conformity with the manufacturer's specifications and any and all Federal, State, or Local, codes, laws, rules, and regulations. In case of a conflict between any provision of this ordinance and any applicable Federal, State or Local ordinances, codes, laws, or regulations, the more restrictive provision or requirement shall prevail.

**14.6 Repealer**

All ordinances or parts of ordinances in conflict with any part of this ordinance are hereby repealed, except that this ordinance shall not be construed to repeal any provisions in the Marquette Township Zoning Ordinance.

**14.7 Fees**

There shall be a Fifty Dollar (\$50.00) fee accessed at time of application for the installation of an outdoor wood fired boiler.

**14.8 Effective Date**

The Ordinance shall take effect 30 days following its publication after adoption.