

OPEN BURNING ORDINANCE

(Ord. No. 06-01)

An ordinance prohibiting open burning, except under limited conditions and pursuant to permit, prescribing information to be disclosed in an application for permit, and providing penalties for a violation thereof.

THE TOWNSHIP OF GRATTAN ORDAINS:

Section 1. Short Title.

This Ordinance shall be known and may be cited as the Grattan Township Open Burning Ordinance.

Section 2. Enabling Authority.

This Ordinance is adopted pursuant to authority granted to the Township by law, under the terms of the Township Ordinance Act and other Michigan law.

Section 3. Prohibition of Open Burning.

Except as provided in Section 4, open burning of any materials and of any type is expressly prohibited. The term "open burning" means a fire from which the products of combustion are emitted directly into the open air without passing through a stack or chimney.

Section 4. Permitted Open Burning; Permit.

Subsection 4.1

Fires for outdoor cooking, contained recreational bonfires, fires purposely set for the instruction and training of public and industrial firefighting personnel, and agricultural fires may take place at any time, and are exempt from the permit requirements of this Ordinance. For purposes of this Ordinance, the term "agricultural fire" shall mean the burning of brush and other vegetation along fence lines, and for the clearing of land in preparation for agricultural use.

Subsection 4.2

(a) The open burning of brush, tree stumps, branches, hedge clippings, leaves and grass clippings may be permitted after first having secured a permit therefor issued by the Township Fire Department.

(b) **Foul Odors.** No person shall burn garbage, animal carcasses, refuse, trash, rubbish, petroleum based products, or like materials giving off foul odors or caustic smoke at any time. This section applies to domestic, commercial and industrial fires.

Subsection 4.3.

Open burning permits may be secured by calling designated fire department staff at any time and, at a minimum, shall include the following information:

- (a) The name and address of the applicant.
- (b) The location of the land/or premises where such open burning is to occur.
- (c) The type of material to be burned.
- (d) The time and date contemplated for such open burning.

Fees for open burning permits may be established by resolution of the Township Board. No fees shall be charged for a permitted bonfire or other fire that is exempt from the permit provisions hereof.

Subsection 4.4.

Applications for permits may be denied, or permits may be issued with conditions, cancelled or revoked, based upon a determination by the Township Fire Department that the requested open burning may endanger persons or property. No burning shall be permitted at any time or in any location which would be a nuisance, hazard, or annoyance to adjoining persons or property by reason of heat, flame, fly-ash, sparks, smoke, or odor, wind direction or wind speed. All permits are also null and void if a county burning ban has been put in place. The determination of the Township building and zoning inspector or the Township Fire Chief, or their respective designees, shall be conclusive as to whether any burning violates this subsection or any other provision of this Ordinance.

Section 5. Regulation of Permitted Open Burning.

Open burning for which a permit has been issued shall:

- (a) Occur only at the time posted on the permit.
- (b) Not be located within 50 feet of structures, combustible material or woodlots; not closer than 10 feet of any property lines, or streets/roads; and not closer than 10 feet from the water's edge of any natural water body or water course.
- (c) Not include burning of building-demolition refuse or excess construction materials.
- (d) Comply with all conditions of the permit.
- (e) Be supervised by a responsible person at least 18 years of age.

All open burning permits can be revoked, in whole or in part, either orally or in writing, before or during the period of time for burning as specified in the open burning permit. Such revocation can be made by the Township Fire Chief or by other designated officer of the fire

department. Such revocation may be based on any provision of this Ordinance and/or upon the determination of the fire chief or other designated officer that the open burning is or may become hazardous or will otherwise not be consistent with the public safety.

All permit holders shall be fully responsible for containing such open burning and shall assume any and all civil and/or criminal liabilities which may result from a failure to contain or control such open burning.

Section 6. Enforcement.

The Township Fire Chief, a designated fire department officer, a fire department member in command at the scene of a fire or other incident, or such other person or persons designated by the Township Board by ordinance or resolution are hereby authorized to act as enforcement officers under the terms of this Ordinance, and among other matters, to issue municipal civil infractions under the terms of Section 7.

Section 7. Violation; Penalty.

Any person, partnership, firm, association, corporation or other entity who shall set or start, maintain or continue, in whole or in part, a fire without an open burning permit, where such permit is required by the terms of this Ordinance, shall be responsible for a municipal civil infraction. The fine for such municipal civil infraction shall be not less than \$100 nor more than \$500 for the first offense, and not less than \$250 nor more than \$1,000 for any subsequent offense, in the discretion of the court, and in addition to all other costs, damages, expenses and other remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses. Each day during which any violation continues shall be deemed a separate offense.

Section 8. Repeal of Conflicting Provisions.

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

Section 9. Severability.

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 10. Publication; Effective Date.

This Ordinance or a summary of its provisions shall be published in a local newspaper of general circulation in the Township. This Ordinance shall become effective 30 days after such publication.