

ALLENDALE CHARTER TOWNSHIP  
BURNING ORDINANCE

Ordinance 1996-2, Amended with Ordinance 1997-9

THE CHARTER TOWNSHIP OF ALLENDALE, COUNTY OF OTTAWA, AND STATE OF MICHIGAN ORDAINS:

**Section 1. Findings and Purpose.** The Township Board finds that unregulated Open Burning increases the risk of property damage caused by uncontrolled fires, and threatens the safety and well-being of the Township's residents and other persons. This Ordinance is intended to regulate Open Burning throughout the Township.

**Section 2. Definitions.** For the purpose of their use in this Ordinance, the following words and terms are hereinafter defined. Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

(a) "**Person**" means an individual, cooperative, public or private corporation, partnership, joint venture, association, personal representative, receiver, trustee, any unit or agency of government, or any equivalent entity, or any combination of them, or any officer, employee or agent of any of the foregoing.

(b) "**Open Burning**" means a fire from which the emissions into the air from the combustion are emitted directly into the open air without first passing through a stack or chimney.

(c) "**Flammable Material**" means any substance that will burn, including, but not limited to, refuse, debris, waste, brush, stumps, logs, rubbish, fallen timber, grass, stubble, leaves, fallow land, slash, crops or crop residue.

(d) "Roadway," "Sidewalk," "Street," "Vehicle," and "Motor Vehicle" shall have the definition given to each of them in the Michigan Vehicle Code, being Michigan Act 300 of 1949, as amended.

(e) "Township" means the Charter Township of Allendale, Ottawa County, Michigan.

**"Section 3. Regulation of Burning."**

(a) No Person shall cause or permit any Open Burning within the Township, except as otherwise specifically provided below.

(b) No Person shall conduct a salvage operation by Open Burning within the Township.

(c) The prohibitions contained in this Section shall not apply to the following types of Open Burning:

(1) Open fires used for recreational purposes, such as campfires, provided no nuisance is created, there is no violation of any other Township ordinance, dry seasoned wood is used, and the fire is no larger than 5 feet x 5 feet x 5 feet;

(2) Salamanders or other recognized trade devices used for heating by construction workers, provided no nuisance is created and there is no violation of any other Township ordinance;

(3) Open charcoal or wood fires used for cooking food, provided no nuisance is created and there is no violation of any other Township ordinance;

(4) Fires set for the instruction of public fire fighters if the purpose of the fire is for fire fighting training;

(5) Fires set in connection with the ongoing operation of a farm or other agricultural enterprise including, but without limitation, fires set to clear agricultural land, provided that the Person conducting the Open Burning obtains a burning permit in advance from the Township pursuant to Section 4, and there is no violation of any other Township ordinance;

(6) Open fires used for destroying household paper from one- and two-unit residential dwellings (i.e. wastepaper which normally and customarily is produced by the normal and customary operations of a household), provided that such household paper is in fact produced by the household located on the lot or parcel of land on which the burning takes place, there is no violation of any other Township ordinance, no nuisance is created and that any such burning is accomplished within a burning barrel or other such container able to safely contain a fire and prevent it from spreading. This provision shall not be construed to allow the burning of garbage or anything other than household paper as defined above;

(7) Open Burning of brush and fallen branches from the premises on which one- and two-unit residential dwellings are located after sunrise and before sunset during the month of November for the year 1997 only, and the months of December, January and February for all years, provided that the Person conducting the Open Burning:

(a) obtains a burning permit in advance from the Township pursuant to Section 4, except that such permit shall not be required for Open Burning during the month of November of 1997,

(b) no nuisance is created,

(c) such Open Burning is not for the clearing of a building site, and

(d) there is no violation of any other Township ordinance; and

(8) Open Burning of stumps, brush, logs, fallen branches, and fallen timber during the month of November for the year 1997 only, and the

months of December, January and February for all years, provided that the burning is:

- (a) conducted on land zoned agricultural or rural district under the Township Zoning Ordinance,
- (b) the burning is conducted no closer than 300 feet from any single, two-family or multi-family residence,
- (c) the material comes from within the Township,
- (d) the person conducting the burning obtains a burning permit in advance from the Township pursuant to Section 4, except that no such permit shall be required for Open Burning during the month of November of 1997,
- (e) no nuisance is created, and
- (f) there is no violation of any other Township ordinance."

**Section 4. Burning Permits.** The issuance of burning permits shall be subject to the following regulations.

- (a) A Person shall make written application for a burning permit to the Township Fire Chief or his/her designee on forms prescribed by the Township. The permit application forms shall contain such information as the Township determines is necessary for the Township to evaluate the permit application including, but not limited to, the name, address and telephone number of the applicant, the date(s) and time(s) of the proposed burning, the type of material to be burned, and the approximate quantity of material to be burned.

(b) A burning permit may be issued by the Township Fire Chief of his/her designee subject to the burning be conducted at specified times or under specified conditions. The times and conditions shall be stated in the burning permit and shall be in addition to all of the terms, restrictions and provisions of this Ordinance. A copy of this Ordinance or the terms, restrictions and conditions of this Ordinance which pertain to the proposed burning, shall be given to the applicant at the time the burning permit is issued. Any burning done in violation of the terms or conditions of the burning permit constitutes a violation of the Ordinance.

(c) The following factors shall be taken into account in determining whether or not to issue a burning permit:

- (1) Amount of rainfall in recent weeks;
- (2) Weather conditions and wind velocity;
- (3) Any burning standards or burning index promulgated by the Michigan Department of Natural Resources or any other state agency; and
- (4) Any other factors likely to increase the possibility of a dangerous or uncontrollable fire.

(d) Any Person who is denied a burning permit or who is issued a burning permit with terms requiring that the burning be conducted at certain times or under certain conditions, and who feels aggrieved by the denial or the imposition of such terms, shall have the right to appeal to the Township Board by filing a written notice of appeal with the Township Clerk. Such written notice of appeal must be filed within ten (10) days after the Person is denied a burning permit or issued a burning permit which contains terms the Person finds objectionable. The Township Board shall hold a hearing within sixty (60) days after the notice of appeal is filed with the Township Clerk. The Township Clerk shall send the appellant written notice of the date and time of the hearing, by first class mail, postage prepaid, at the address shown on appellant's application, at least ten (10) days prior to the day of the hearing. The Township Board may reverse, affirm or modify the initial decision concerning the appellant's burning permit application; the Township Board's decision shall be final.

**Section 5. Prohibited Acts.** No Person shall:

- (a) Set fire or cause to be set on fire any Flammable Material located on a Roadway, safety path, Sidewalk, bicycle path or any improved portion of a Street;
- (b) Set fire or cause to be set on fire any Flammable Material for the purpose of clearing land, except for fires set to clear agricultural land which are permitted pursuant to Section 3(c)(5) above.
- (c) Dispose of a lighted match, cigarette, cigar, ashes or other flaming or glowing substance, or any other substance or thing that is likely to ignite a forest, brush or grass fire, or throw or drop from a moving Vehicle any such objects or substances;
- (d) Leave a fire before it is extinguished;
- (e) Set a backfire or cause a backfire to be set, except under the direct supervision of the Township Fire Chief or his/her designee;
- (f) Use or operate a welding torch, tar pot or any other device which may cause a fire outside of a building, without clearing Flammable Material surrounding the operation and without taking such other reasonable precautions as are necessary to insure against the starting and spreading of fire;
- (g) Operate or cause to be operated any engine, machinery or Motor Vehicle not equipped with spark arresters or other suitable devices to prevent the escape of fire or sparks;
- (h) Discharge or cause to be discharged a gun firing flares, incendiary or tracer bullets or tracer charge onto or across any forest or grassland;
- (i) Allow a fire to smolder; or
- (j) Allow a fire under his/her attendance to remain burning when the wind velocity exceeds 10 miles per hour.

**Section 6. Penalties.** In addition to any other charges, fines or penalties for which a Person may be liable under other applicable law or local ordinances, any Person who shall violate a provision of this Ordinance, or who shall fail to comply with any of the requirements hereof, shall be responsible for a municipal civil infraction and be subject to the enforcement procedures set forth in the Municipal Civil Infraction Ordinance adopted by the Township, and

a fine of fifty dollars (\$50.00), plus costs and other sanctions, for each infraction. Each day during which any violation continues after due notice has been served shall be deemed a separate and distinct offense. Increased civil fines may be imposed for repeated violations of this Ordinance; a repeat violation means a second or subsequent municipal civil infraction violation committed by a Person within any twelve (12) month period and for which a Person admits responsibility or is determined to be responsible. The increased civil fine for repeat violation shall be as follows:

(a) The fine for any offense which is a first repeat offense shall be \$250.00, plus costs and other sanctions; and

(b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$500.00, plus costs and other sanctions.

The Township Zoning Administrator, members of the Ottawa County Sheriff's Department assigned to the Township, members of the Ottawa County Sheriff's Department whose services are contracted by the Township and any other individuals who may from time to time be appointed by resolution of the Township Board, are hereby designated as the authorized Township officials to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction notices (directing alleged violators to appear at the Allendale Charter Township Municipal Ordinance Violations Bureau) as provided in the Municipal Civil Infractions Ordinance adopted by the Township.

**Section 7. Severability and Captions.** This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof, are hereby declared to be severable. If any part section, subsection, sentence, phase and clause is adjudged unconstitutional or invalid, the remainder of the Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

**Section 8. Administrative Liability.** No officer, agent or employee of the Charter Township of Allendale, or a member of the Charter Township of Allendale Board, shall be rendered liable for any damage that may occur to any Person as a result of any act, decision or other consequence or occurrence arising out of the discharge of his or her duties and

responsibilities pursuant to this Ordinance. Notwithstanding any provision in this or any other Charter Township of Allendale ordinance to the contrary, any Person who is issued a permit under this Ordinance who violates the terms of this Ordinance or the terms or conditions of the permit issued thereunder, shall hold the Charter Township of Allendale harmless from any and all liability arising out of said violation.

**Section 9. Repeal.** Section F-403.0 of the BOCA National Fire Prevention Code, 1993, adopted by Allendale Charter Township by reference pursuant to Ordinance No. 1994- 7 on March 14, 1994, is hereby repealed without replacement. In addition, all other resolutions, ordinances, orders or parts thereof in conflict or whole or in part with any provision of this Ordinance are, to the extent of such conflict, hereby repealed.

**Section 10. Effective Date.** This Ordinance was approved and adopted by the Township Board on January 29, 1996, after introduction and a first reading on January 8, 1996, and publication after such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective on February 8, 1996.