

**ALLENDALE CHARTER TOWNSHIP**

**BURNING ORDINANCE**

**Ordinance 1996-2, Amended with Ordinance 1997-9 and 2015-18**

**THE CHARTER TOWNSHIP OF ALLENDALE, COUNTY OF OTTAWA, AND THE 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 residents and other persons. 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 Allendale Charter Township by regulating the air pollution and fire hazards of outdoor burning.

**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 or 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. This includes burning in a burn barrel.
- 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 Charter Township of Allendale, Ottawa County, Michigan.
- F. "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.
- G. "IFC" International Fire Code

### **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 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 purpose, 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 4 feet or less in diameter and 3 feet or less in height.
  - 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 firefighters if the purpose of the fire is for firefighter training. Structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions.
    - A. The burn must be exclusively for fire prevention training.
    - B. The burning shall not be used as a means to dispose of waste material including tires and other hazardous materials.
    - C. 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.
    - D. Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.
    - E. At least fourteen days (14) before a planned practice burn, residents within five hundred feet (500) of the site of the proposed burn shall be notified.
    - F. 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).
    - G. All distances from structures combustible materials will follow the most newly adopted code of IFC Allendale Charter Township has adopted.
  - 5. Fire 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 such burning is accomplished in within a burning barrel or other such container able to safely contain a fire and prevent it from spreading. The provisions 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 months 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,
- 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
- E.** Allendale Charter Township Fire Department may extend the time period for burning, as long as there is significant snow fall on the ground or determined by the Fire Chief or his/her designee.

**8.** Open Burning of stumps, brush, logs, fallen branches, and other fallen timber during the months of December, January and February for all years, provided that the burning is:

- A.** Conducted on the land zoned agricultural or rural district under the Township Zoning Ordinance,
- B.** The burning is conducted no closer than 100 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 Section 4
- E.** No nuisance is created and
- F.** There is no violation of any other Township ordinance.

**9.** 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. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

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

- A. A person shall make written application for a burning permits 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 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.

**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 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 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 and 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 a building, without clearing Flammable Material surrounding the operation and without taking such other reasonable precautions as are necessary to insure against starting and spreading of fire.
- G. Operate or cause to be operated any engine, machinery or Motor Vehicle not equipped with spark arrester 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.
- K. A person shall not release or cause to be released an un-tethered sky lantern.

**Section 6. Penalties:** In addition to any 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 by the Township, and a fine of fifty dollars (\$50.00), plus cost and other sanctions, for each infraction. Each day during which any violation continues after due notice has been served shall be deemed separate and distinct offence. Increased civil fines may be imposed for repeated violations of this ordinance, a repeat violation means a second or subsequent civil infraction violation committed by a Person within any twelve (12) month period and for which the 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 offence which is a repeat offence shall be \$250.00, plus costs and other sanctions.
- B. The fines for any offence which is a second repeat offence or any subsequent repeat offence 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 who may from time to time be appointed by resolution of the Township Board, are hereby designated as the authorized Township officials to issue civil infraction notices (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 severable. If any part section, subsection, sentence, phrase and clause is adjusted 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 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 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 here by 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 be extent of such conflict, hereby repealed.

**Section 10. Effective Date:** This Ordinance was approved and adopted by the Township Board on October 12, 2015, after introduction and first reading on September 28, 2015, and publication after such reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective on November 2, 2015.