

SPRING LAKE TOWNSHIP
2006 RESTATED BURNING ORDINANCE
ORDINANCE NO. 196

AN ORDINANCE TO REGULATE OPEN BURNING IN SPRING LAKE TOWNSHIP, TO AUTHORIZE THE ISSUANCE OF BURNING PERMITS, TO PROHIBIT CERTAIN ACTS AND PRACTICES RELATING TO BURNING AND TO PROVIDE FOR PENALTIES FOR VIOLATIONS OF THIS ORDINANCE AND CERTAIN ADMINISTRATIVE PROVISIONS.

THE TOWNSHIP OF SPRING LAKE, COUNTY OF OTTAWA, AND STATE OF MICHIGAN, ORDAINS:

Section 1. Purpose. This is an Ordinance to control unregulated Open Burning in Spring Lake Township. The Township has found that unregulated Open Burning increases the risk of property damage caused by fires, and threatens the safety and well-being of the Township's residents and other Persons. The Township further finds that greater regulation of Open Burning is necessary because the residential density of the Township has increased dramatically, and because smoke from Open Burning (particularly burning leaves) exacerbates breathing difficulties for many individuals. Further, other local units of government bordering the Township and in the general area have enacted leaf burning bans. The Township has approved this Ordinance 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 defined. Any word or term not defined below shall be considered to be defined in accordance with its common or standard definition.

- (a) "Cost Recovery Ordinance" means the Township's Cost Recovery Ordinance, Ordinance No. 110, as amended.
- (b) "Fire Chief" means the Fire Chief of the Township Fire Department, or the Fire Chief's designee.
- (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 or leaves.
- (d) "Open Burning" means a fire from which the combustion emissions pass directly into the open air without first passing through a stack or chimney.

- (e) "Person" means an individual, cooperative, public or private corporation, partnership, joint venture, association, personal representative, receiver, trustee, and unit or agency of government, or any equivalent entity, or any combination of them, or any officer, employee or agent of them.
- (f) "Roadway," "Sidewalk," "Street," "Vehicle," and "Motor Vehicle" shall have the definitions given to them in the Michigan Vehicle Code, being Michigan Act 300 of 1949, as amended.
- (g) "Supervising Adult" means a person who is an adult (i.e., at least 18 years of age) and who is the person responsible to supervise a fire.
- (h) "Township" means the Township of Spring Lake, Ottawa County, Michigan.

Section 3. Regulation of Burning:

- (a) No Person shall cause or permit any Opening Burning within the Township except as otherwise specifically provided in this Ordinance.
- (b) The prohibitions contained in this Section shall not apply to the following types of Open Burning. However, nothing in this Ordinance shall allow burning in violation of burning bans imposed by the State of Michigan or any other prohibitions enacted by the State of Michigan, the County of Ottawa, or the Township.
 - (1) Fires used for recreational purposes, such as campfires, are permitted.
 - (i) Recreational fires may not exceed five feet in width.
 - (ii) Recreational fires must have a Supervising Adult present at all times. A recreational fire must be totally extinguished before the Supervising Adult leaves the scene.
 - (iii) Recreational fires are limited to dry tree wood which is not rotted or rotting, or construction wood which is not treated, in order to avoid smoldering.
 - (iv) If a recreational fire gets out of control and the Township Fire Department is called, the Supervising Adult shall be liable for costs incurred by the Township pursuant to the Cost Recovery Ordinance.
 - (2) Salamanders or other recognized trade devices used for heating by construction workers are permitted.

- (3) Open charcoal or wood fires used for cooking of food are permitted.
- (4) Fires set for the instruction of public firefighters or to combat fires, if the purpose is for fire fighting training or to extinguish a fire, and if set by the Fire Chief, are permitted.
- (5) The burning of trees and brush accumulated when land is cleared for a residential, commercial, industrial, educational, governmental, ecclesiastical, agricultural, or similar development is permitted.
- (6) Bonfires associated with school, church or community activities may be permitted, but only if specifically approved by the Township Board.

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 Ordinance Enforcement Office on the Person's first occasion to engage in Open Burning regulated by this Ordinance during a calendar year, on forms prescribed by the Township. The burning permit shall only be good for that calendar year. 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 type of material to be burned, and the approximate quantity of material to be burned. The applicant shall pay the permit application fee designated by resolution of the Township Board.
- (b) A burning permit may be issued by the Fire Chief subject to the Open Burning being conducted in accordance with this Ordinance.
- (c) The times shall be limited to the balance of that calendar year only, and only on the third Saturday in the months of March, May, July, September and November, or such alternative dates as are established by the Fire Chief.
- (d) Prior to receipt of a burning permit for a calendar year, the Person making application shall sign a statement agreeing to comply with the requirements of this Ordinance and all other applicable rules. Any Open Burning done in violation of the terms or conditions of the permit or in violation of the terms of this Ordinance constitutes a violation of this Ordinance.
- (e) Before Open Burning pursuant to a permit issued under this Ordinance, even on the designated days for burning, the Person holding the permit must call the Township Fire Department on the proposed burn day to confirm that Open Burning is allowed that day. The Township shall have an authorized person on duty to answer those

calls. The Person holding the permit shall state the number of the burning permit in hand, what is to be burned, the name of the Supervising Adult, and where the burning will take place.

- (f) In deciding whether or not Open Burning may actually be permitted on a designated burn day, the Fire Chief shall consider various factors. If burning is not allowed on a designated burn day, the Fire Chief may specify an alternative date. The factors to be considered before Open Burning is actually permitted include but are not limited to the following:
 - (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.
- (g) Burning permits may be issued under this Ordinance only for wood that is not rotted or rotting or treated; tree branches; and stumps which are out of the ground. Burning permits will not be issued under this Ordinance for leaves.

Section 5. Prohibited Acts. Subject to the provisions of Section 3(b) of this Ordinance, no Person shall:

- (a) Set on fire or cause to be set on fire any Flammable Material located on a Roadway, Sidewalk, bicycle path, or any improved portion of a Street;
- (b) 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;
- (c) Set on fire or cause to be set on fire any Flammable Material without taking reasonable precautions, both before and at all times after lighting the fire, to prevent the fire from spreading;
- (d) Leave a fire before it is extinguished, if the Person is the Supervising Adult;
- (e) Set a backfire or cause a backfire to be set, except under the direct supervision of the Fire Chief;

- (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 necessary to ensure 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) Engage in Open Burning except in compliance with this Ordinance, and even then only with a Supervising Adult present, who shall be liable for costs incurred by the Township pursuant to the Cost Recovery Ordinance if the fire gets out of control and the Township Fire Department is called;
- (j) As a Supervising Adult, allow an Open Fire to smolder;
- (k) As a Supervising Adult, allow an Open Fire to remain burning when wind velocity is below three miles per hour or exceeds seven miles per hour; or
- (l) Engage in any other activity which is prohibited by the terms of this Ordinance.

Section 6. Penalty. In addition to any other charges, fines or penalties for which a Person may be liable under applicable law or local ordinance, including without limitation the assessment of costs under the Cost Recovery Ordinance, any violation of this Ordinance shall constitute a municipal civil infraction. Any Person violating any provision of this Ordinance shall be responsible for a municipal civil infraction and subject to a fine of not less than \$50.00 and loss of burning privileges under this Ordinance for one year for a first offense, and not less than \$200.00 and permanent loss of burning privileges under this Ordinance for a subsequent offense, plus costs, damages, expenses, and other sanctions as authorized under Chapter 87 of the Revised Judicature Act of 1961 and other applicable laws, including, without limitation, equitable relief. Each day a violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this Section are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Ordinance.

For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same Person within 24 months of a previous violation of this Ordinance for which the Person admitted responsibility or was adjudicated to be responsible.

The Township Supervisor, the Ordinance Enforcement Officer, the Ottawa County Sheriff, any Ottawa County deputy sheriff, or any Township Fire Department officer (i.e., Fire Chief, Deputy

Fire Chief, Captain or Lieutenant) is authorized to issue municipal civil infraction citations to any Person alleged to be violating any provision of this Ordinance.

Any Person who aids or abets a Person in a violation of this Ordinance shall be subject to the sanctions provided in this Section.

Section 7. Severability and Captions. This Ordinance and its various parts, sections, subsections, sentences, phrases and clauses are declared to be severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid, the remainder of this Ordinance shall not be affected. 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 Township or a member of the Township 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 duties and responsibilities pursuant to this Ordinance. Notwithstanding any provision in this Ordinance or any other Township 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, and thereby causes damage to another Person or another Person's property, shall indemnify and shall hold the Township harmless from any and all liability arising out of the violation.

Section 9. Effective Date. This Ordinance was approved and adopted by the Township Board of the Township of Spring Lake, Ottawa County, Michigan, on July 24, 2006, and it is ordered to take effect 30 days after publication of the Ordinance or of a summary in the *Grand Haven Tribune*, a newspaper having general circulation in the Township, pursuant to the provisions of Act No. 191 of the Public Acts of 1939, as amended.

John H. Nash, Supervisor

H. Carolyn Boersma, Clerk

CERTIFICATE

I, H. Carolyn Boersma, the Clerk for the Township of Spring Lake, Ottawa County, Michigan, certify that the foregoing 2006 Restated Burning Ordinance was adopted at a regular meeting of the Township Board held on July 24, 2006. The following members of the Township Board were present at that meeting: John Nash, H. Carolyn Boersma, Lou Draeger, Norma Cook, Ronald Lindquist, Robert Shay and Lawrence Mierle. The following members of the Township Board were absent: No one. The Ordinance was adopted by the Township Board with members of the Board Nash, Boersma, Cook, Lindquist and Mierle voting in favor, and members of the Board Draeger and Shay voting in opposition. The Ordinance (or a summary of the Ordinance) was published in the Grand Haven Tribune on August 1, 2006.

H. Carolyn Boersma, Clerk