

**ORDINANCE NO: 2010-29**

**OPEN BURNING**

**AN ORDINANCE TO REGULATE AND RESTRICT OPEN BURNING;  
PROVIDE FOR EMERGENCY AUTHORITY TO ABATE DANGEROUS  
CONDITIONS; TO ESTABLISH COST-RECOVERY CHARGES;  
AND OTHERWISE PROMOTE THE PUBLIC HEALTH,  
SAFETY AND WELFARE OF THE TOWNSHIP**

**The Township Board of the Township of Davison Ordains:**

**Section 1 – Title**

This ordinance shall be known and may be cited as the “Township of Davison Open Burning Ordinance”, and is referred to herein as “this Ordinance”.

**Section 2 – Enforcement Authority**

The Township of Davison Building Department is hereby designated as the enforcement agency for this ordinance. Citations for violations of the provisions of this ordinance may be issued by the Davison Township Police Department with building code official, or Davison/Richfield Fire Department employee as complainant.

**Section 3 – Definitions**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

***Open Burning*** shall mean the setting of fire, igniting or combustion of any natural or man-made material, item, or thing outside of an enclosed building.

***Person*** shall mean any individual, general partnership, corporation, limited liability company, limited liability partnership, or trust.

***Township*** shall mean the Township of Davison, Genesee County, Michigan.

***Competent Person*** shall mean a person who has attained the age of 17 years and who is capable of manipulating and operating a garden hose, rake, broom, shovel or other such tools as may be required to control permitted open burning.

**Section 4 – General Prohibitions**

***Open Burning Prohibited.*** It shall be unlawful for any person to cause, permit, or maintain any open burning on property situated within the Township of Davison, except as provided herein.

## Section 5 – Exemptions

(a) ***Open burning allowed without permit.*** The following shall not be considered “Open Burning” and shall be allowed without permit:

- (1) A campfire, if such fire is not more than three (3) feet by three (3) feet by two (2) feet high in dimension. Fuel for a campfire shall consist only of seasoned dry firewood.

(b) ***Open Burning Allowed With Permit.*** The following open burning shall be allowed with permit as provided in Article Five of this Ordinance:

- (1) Brush, tree trimmings, shrubbery, and other wood materials.
- (2) Open burning for recognized agriculture, forestry, and range or wildlife management practices, or the prevention or control of disease or pests.

## Section 6 – Permit Requirements

(a) ***Permit Application.***

- (1) Request for a permit shall be made by the owner of the property or person in control of the property upon which the burning is to occur, to the Davison Township Building Department. Requests must be made in person.
- (2) Requests must be made in person.
- (3) The property owner or person in control of the property shall have a permit to burn in their possession anytime open burning is taking place.
- (4) Failure to have a permit will result in penalties assessed as specified in Section 13.
- (5) Permits are valid for the year in which they are issued.

(b) ***Permit Issued/Conditions.*** The Township building code official is authorized to issue permits for open burning, and may attach to such permit such conditions as are necessary at his discretion to minimize offensive or objectionable characteristics or to minimize the potential for the fire to spread. The building code official may, based upon the exercise of reasonable discretion, prohibit open burning otherwise authorized under this Ordinance, if such burning would be offensive or objectionable to owners or occupants of nearby properties due to smoke, odor or particle emissions, when atmospheric conditions or local circumstances make such fires a potential hazard or nuisance, or when any burning would be in violation of any other applicable state law, local ordinance or applicable regulation. Prohibition under this subsection may be determined prior to the ignition of a fire, or following ignition by order of extinguishment.

## **Section 7 – Standards for Open Burning**

Standards applicable to all open burning:

- a. No person shall burn garbage, animal carcasses, refuse, trash, rubbish, or burn like material giving off foul or offensive odors, at any time.
- b. All fires must be of a manageable size as determined by the Township Building Code Official.
- c. Outside burning shall be constantly attended by a competent person until the fire is completely extinguished.
- d. Burning shall be during daylight hours only, except for campfires as provided by Section 5(b).
- e. No open burning shall be allowed in or on any public road or right-of-way.
- f. No person shall burn plastics, tires, petroleum, or any kind of like products that would emit black smoke, or other objectionable smoke, odors, or particle emissions.
- g. No open burning shall be allowed on any property used for commercial purposes or within 50 feet.
- h. No open burning of construction and/or demolition waste shall be allowed.

## **Section 8 – Prohibited Acts**

The following acts are prohibited:

- a. Disposing 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 object or substances.
- b. Setting on fire or causing 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.
- c. Leaving a fire before it is extinguished.
- d. Discharging or causing to be discharged, a gun firing flares, incendiary or tracer bullets or tracer charge onto or across any forest or grassland or structure.
- e. The operation of outdoor incinerator devices or structures intended to provide a heating source to an adjacent structure in a residential zone within 300 feet of a habitable structure.

### **Section 9 – Cost Recovery Charges**

Pursuant to Public Act 33 of 1951 (MCL 41.801 et. seq.) the Township shall bill for and collect cost recovery charges from those receiving direct benefits from the fire protection and other emergency services provided by the Township and/or Davison/Richfield Fire Department.

### **Section 10 – Time for Payment Run**

All of the foregoing charges are due and payable within 30 days from the date the service is rendered.

### **Section 11 – Non-Exclusive Charge**

The foregoing rates and charges are not the only charges that may be made by the Township for the costs and expenses of providing fire protection and other emergency services. Charges may additionally be collected by the Township through general taxation after a vote of the electorate approving the same or by a special assessment established under the applicable Michigan statutes. General fund appropriations may also be made to cover such additional costs and expenses of providing fire protection and other emergency services.

### **Section 12 – Multiple Property Protection**

When a particular fire protection or other emergency service rendered by the Township directly benefits more than one person or property, the owner of each property so benefited, and each person so benefited where property protection is not involved, is liable for the payment of the full charge for such service. The interpretation and application of this section is delegated to the Township Fire Chief, subject only to appeal, within the time limits for payment, to the Township Board and shall be administered so that charges shall only be collected from the recipients of the service.

### **Section 13 – Penalties**

Any person who shall violate any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed Five Hundred and 00/100 (\$500.00) dollars and costs of prosecution or by imprisonment in the county jail for up to 90 days or by both such fine and imprisonment in the discretion of the court.

### **Section 14 -- Severability**

If any article, section, or provision of any section of this Ordinance shall be held void, ineffective, or unconstitutional, such clause shall not affect the validity of any other sections hereof.

**Section 15 – Repealer**

This ordinance repeals and replaces any other township ordinances related to open burning.

**Section 16 – Effective Date**

This Ordinance shall become effective thirty (30) days after publication.

*Kurt W. Lopez*

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Supervisor

*Karen M. Miller*

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Clerk

**CLERK'S CERTIFICATION**

I, Karen Miller, the duly elected, qualified and acting clerk of the township of Davison, Genesee County, do certify that the above Ordinance was adopted at a regular meeting of the Township Board held in the Government Center, 1280 N. Irish Road, Davison, Michigan on the 10<sup>th</sup> day of August, 2010 by a majority of the members of the board presenting and voting.

*Karen M. Miller*

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Karen Miller, Clerk