

**TOMPKINS TOWNSHIP
JACKSON COUNTY, MICHIGAN**

OPEN BURNING AND FIRE REGULATIONS ORDINANCE

ORDINANCE NO. 12042014

[An ordinance for protection of health, safety and welfare; to provide regulations for outdoor open burning; to provide for issuance of permits for outdoor open burning and for the administration, enforcement, and for fees to defray the cost of enforcement; to repeal and replace inconsistent ordinances; and to provide a penalty for violation hereof.]

THE TOWNSHIP OF TOMPKINS, JACKSON COUNTY, MICHIGAN HEREBY ORDAINS:

SECTION 1 TITLE

This Ordinance shall be known and cited as the Tompkins Township Open Burning and Fire Regulations Ordinance.

SECTION 2 PURPOSE

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 the Township of Tompkins by regulating the air pollution and fire hazards of outdoor burning.

SECTION 3 APPLICABILITY

This Ordinance applies to all outdoor burning within the Township of Tompkins except the following:

- A. Grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- B. Burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- C. The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

SECTION 4 DEFINITIONS

- A. "Campfire" means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.
- B. "Clean wood" means natural wood which has not been painted, varnished or coated with

a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.

C. “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.

D. "Fire Chief" means the Chief of the Rives Tompkins Fire Department or other person designated by the Fire Chief.

E. “Municipality” means a county, township, city, or village.

F. “Nuisance” as used under the terms of this Ordinance shall mean the burning of materials that create a foul or offensive odor or that causes smoke emissions which are offensive to occupants of surrounding property. No person, firm or corporation shall create, cause or maintain any public nuisance within the Township by the unreasonable emission of dust, smoke, fly ash or noxious odors which are offensive or disturbing to adjacent property owners and residents or persons in the area.

G. "Open burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

H. "Outdoor burning" means open burning or burning in an outdoor wood furnace or patio wood-burning unit.

I. “Outdoor wood furnace” also known as an outdoor wood-fired boiler, outdoor wood-burning appliance, or hydronic heater, means a fuel-burning device that is designed to burn clean wood or other approved solid fuels and is not located within a building intended for habitation by humans or domestic animals; and heats building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

J. “Patio wood-burning unit” means a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.

K. “Prescribed Burn” means the burning, in compliance with a prescription and to meet planned fire or land management objectives, of a continuous cover of fuels. A "prescription" means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a burn.

L. “Refuse” means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

SECTION 5 GENERAL PROHIBITION ON OPEN BURNING

Open burning is prohibited in the Township of Tompkins unless the burning is specifically permitted by this Ordinance.

SECTION 6 OPEN BURNING OF REFUSE

- A.** Open burning of refuse and waste from a commercial or industrial establishment is prohibited.
- B.** Open burning of household waste and refuse from one or two family dwellings is allowed if all of the following conditions are met:
- (i) The burning does not create a nuisance as defined in this Ordinance.
 - (ii) The burning is conducted in a container constructed of metal or masonry that has a metal covering device that does not have an opening larger than $\frac{3}{4}$ inch, and such container is placed at least 25 feet from the nearest property line and not closer than 25 feet from any building.
 - (iii) The material being burned does not contain any of the material prohibited under subsection (iv) below.
 - (iv) Open burning of the following materials is prohibited.
 - (a) Construction and demolition waste.
 - (b) Hazardous substances including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents.
 - (c) Furniture and appliances.
 - (d) Tires.
 - (e) Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
 - (f) Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

SECTION 7 OPEN BURNING OF TREES, LOGS, BRUSH, STUMPS, LEAVES, AND GRASS CLIPPINGS

Open burning of trees, logs, brush, stumps, leaves, and grass clippings is allowed only in accordance with all of the following provisions:

- (a) Except for campfires, a permit issued in accordance with Section 10 of this Ordinance must be obtained prior to open burning under this section when the ground is not snow-covered.
- (b) Except for barbecue, gas, and charcoal grills, no open burning shall be undertaken during periods when the Governor of Michigan has issued a burning ban applicable to the area.
- (c) All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with

all local and state fire protection regulations.

- (d) Open burning shall be conducted only on the property on which the materials were generated.
- (e) Campfires and small bonfires for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance.
- (f) Open burning under this section shall only be conducted at a location at least 25 feet from the nearest property line and at least 25 feet from any building.
- (g) Open burning shall be constantly attended and supervised by a competent person until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.
- (h) No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.
- (i) Except for barbecue, gas, and charcoal grills, no burning shall be undertaken within 25 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.
- (j) No open burning may be conducted on days when the Department of Environmental Quality has declared an "air quality action day" applicable to the Township of Tompkins.

SECTION 8 AGRICULTURAL BURNING

Open burning of weeds, brush, and crop stubble on agricultural lands is allowed if conducted in accordance with other applicable provisions of this Ordinance.

SECTION 9 PRESCRIBED BURNS

Fires set for forest, prairie, and wildlife habitat management are allowed only if conducted in accordance with Part 515 of the Natural Resources and Environmental Protection Act, MCL 324.51501 et seq.

SECTION 10 BURNING PERMITS

No person shall start or maintain any open burning of leaves, brush, clean wood or other vegetative debris under Section 7 unless a one-time burning permit is first obtained from the Fire Chief of the Rives Tompkins Fire Department or other person(s) authorized to issue burning permits. A campfire does not require a permit under this section provided the fire otherwise complies with all other applicable provisions of this Ordinance. The Fire Chief may temporarily suspend issuing burning permits and may temporarily suspend previously issued burning permits for open burning when weather conditions warrant. A burning permit issued under this section shall require compliance with all applicable provisions of this Ordinance and any additional special restrictions deemed necessary to protect public health and safety. Violation of any condition of a burning permit shall be deemed a violation of this Ordinance. Any violation of this Ordinance or the burning permit shall void the permit.

SECTION 11 LIABILITY

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

SECTION 12 RIGHT OF ENTRY AND INSPECTION

The Fire Chief or any authorized officer, agent, employee or representative of the Township of Tompkins who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this Ordinance.

SECTION 13 ENFORCEMENT AND PENALTIES

The Fire Chief and Ordinance Enforcement Official are authorized to enforce the provisions of this Ordinance. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this Ordinance or fails to comply with a duly authorized order issued pursuant to this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
1 st Offense within 3-year period*	\$75.00	\$500.00
2 nd Offense within 3-year period*	\$150.00	\$500.00
3 rd Offense within 3-year period*	\$325.00	\$500.00
4 th or More offenses within 3-year period*	\$500.00	\$500.00

In accordance with Chapter 87 of the Revised Judicature Code, MCL §600.8701 *et. seq.*, the violator and/or person responsible shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction. In addition the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance exists shall constitute a separate violation of this Ordinance for which a separate penalty may be imposed.

SECTION 14 SEVERABILITY

The provisions of the Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect any portion of the Ordinance other than said part or portion thereof.

SECTION 15 REPEALER

The enactment of this Ordinance hereby repeals and replaces the Tompkins Township Fire Ordinance of 1969 as recorded in the Tompkins Township Ordinance Book by copy of the original newsprint publication for said Ordinance, and further repeals and replaces any other ordinance or parts of ordinances in conflict with any provisions of this Ordinance.

SECTION 16 SAVINGS CLAUSE

The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation or prosecution of any right established, occurring prior to the effective date hereof.

SECTION 17 PUBLICATION AND EFFECTIVE DATE

The Township Clerk shall cause this Ordinance to be published in the manner required by law. This Ordinance shall be effective thirty (30) days after final publication of the Ordinance.

This Ordinance was duly adopted by the Tompkins Township Board at its regular meeting called and held on the 4th day of December, 2014, and was ordered given publication in the manner required by law.

Melanie J. Curran, Clerk
Tompkins Township

CERTIFICATION

I, Melanie J. Curran, Clerk of Tompkins Township, Jackson County, Michigan, hereby certify that the foregoing Tompkins Township Open Burning and Fire Regulations Ordinance, Ordinance No. 12042014, was duly approved and adopted by the Township Board of Trustees of the Township of Tompkins in a regular meeting of said Township Board held on 4th day of December, 2014.

I further certify that Member Melanie Curran moved for adoption of said Ordinance, and that Member Janine Baldwin seconded said motion.

I further certify that the following members voted for adoption of said Ordinance: Curan, Haydo, Baldwin, Tuttle, and Seydell, and that the following members voted against adoption of said Ordinance: none. The following members were absent: none; and the following members abstained from voting on the adoption of said Ordinance: none.

I further certify that after its passage the Ordinance was published in the manner provided by law on December 9, 2014, in the Jackson Citizen Patriot and on the township website.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township and a copy along with this Certificate filed with the Jackson County Clerk.

Dated: 12-04-2014

Melanie J. Curran, Clerk
Tompkins Township