

ORDINANCE NO. 61

WHITEFORD TOWNSHIP MONROE COUNTY, MICHIGAN

Burning Ordinance for Whiteford Township, Michigan

SECTION 1: PURPOSE AND TITLE

1.1 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 Whiteford Township by regulating the air pollution and fire hazards of outdoor and open burning.

1.2 Title.

This Ordinance shall be known and cited as the Whiteford Township Burning Ordinance.

SECTION 2: APPLICABILITY

2.00 Applicability

This Ordinance applies to all outdoor and open burning within Whiteford Township except for the following:

- 2.1. This Ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- 2.2. This Ordinance does not apply to 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.
- 2.3. This Ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

SECTION 3: SEVERABILITY

3.00 Severability.

Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

SECTION 4: DEFINITIONS

4.00 Definitions.

- 4.1. "Campfire" means a small outdoor fire intended for recreation or cooking, but not including a fire intended for disposal of waste wood or Refuse.

- 4.2. "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.
- 4.3. "Construction and demolition waste" means building waste materials that are associated with the property or are generated on site, 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.
- 4.4. "Fire Chief" means a Fire Chief of Whiteford Township or other person designated by a Fire Chief.
- 4.5. "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.
- 4.6. "Outdoor burning" means open burning or burning in an outdoor wood furnace or patio wood-burning unit.
- 4.7. "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.
- 4.8. "Patio wood-burning unit" means a chimenea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- 4.9. "Refuse" means any waste material such as trees, logs, brush, stumps, leaves, grass clippings, landscaping material, yard waste and other vegetative matter.
- 4.10. "Household Waste" means any waste material regulated by Public Act 102 of 2012, or similar statute, such as plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals or hazardous materials.

SECTION 5: GENERAL PROHIBITION ON BURNING OF HOUSEHOLD WASTE.

5.00 General prohibition on Burning of Household Waste.

Burning of Household Waste is prohibited in Whiteford Township. Citizens of Whiteford Township shall be permitted to burn waste material that is not regulated by Public Act 102 of 2012, such as cardboard and paper products, provided that the waste material is associated with the citizen's property or is generated on site and that the burning does not create a nuisance. A "nuisance" shall be defined within this Ordinance as burning materials that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of the surrounding property.

SECTION 6: OPEN AND OUTDOOR BURNING OF REFUSE, CLEAN WOOD AND CONSTRUCTION MATERIAL

6.00 Open and outdoor burning of Refuse, Clean Wood and Construction Material.

- 6.1. Open and outdoor burning of Refuse, clean wood and construction and demolition material from a property zoned industrial, residential, business, quarry or agricultural is allowed if all of the following conditions are met:
 - 6.1.1. The burning does not create a "nuisance", which shall be defined within this Ordinance as burning materials that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of the surrounding property.
 - 6.1.2. The material being burned is not prohibited under Subsection 6.2. of this Ordinance.
 - 6.1.3. The material being burned is associated with the property or is generated on site.
 - 6.1.4. All citizens conducting open and outdoor burning on property zoned business, quarry and industrial must obtain a burning permit in advance.
- 6.2. Open and outdoor burning of the following materials or under the following circumstances is prohibited:
 - 6.2.1. Construction and demolition waste that is not associated with a citizen's property or is not generated on site.
 - 6.2.2. Hazardous substances, including, but not limited to, batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents.
 - 6.2.3. Furniture and appliances.
 - 6.2.4. Tires.
 - 6.2.5. Any plastic materials, including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
 - 6.2.6. Household Waste that is regulated by Public Act 102 of 2012.

SECTION 7: OPEN AND OUTDOOR BURNING GENERALLY

7.00 Open and outdoor burning generally.

Open and outdoor burning are allowed only in accordance with all of the following provisions:

- 7.1. All allowed open and outdoor burning, including the burning of clean wood, 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 and outdoor burning shall be conducted in conformance with all local and state fire protection regulations.
- 7.2. Except for barbecue, gas, and charcoal grills, no open or outdoor burning shall be undertaken during periods when the Governor of Michigan has issued a burning ban applicable to the area.

- 7.3. No open or outdoor burning may be conducted on days when the Department of Environmental Quality has declared an “air quality action day” applicable to Whiteford Township.
- 7.4. Open burning shall be conducted only on the property on which the materials were generated.
- 7.5. Campfires and small bonfires for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance, as said term is defined within this Ordinance.
- 7.6. Open and outdoor 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.
- 7.7. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or body of water.

SECTION 8: AGRICULTURAL BURNING

8.00 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: FIRE SUPPRESSION TRAINING

9.00 Fire suppression training.

Notwithstanding Sections 6 and 7 of this Ordinance, structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions:

- 9.1. 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. A listing of accredited individuals and companies licensed by the Department of Licensing and Regulatory Affairs Asbestos Program can be accessed at www.dleg.state.mi.us/asbestos_program.
- 9.2. 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.
- 9.3. Residents within 1,000 feet of the site of the proposed burn shall be notified at least twenty-four (24) hours before a planned practice burn.
- 9.4. 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).

SECTION 10: BURNING PERMITS

10.00 Burning Permits.

- 10.1.** A person shall not be required to purchase a burning permit for open burning, outdoor burning and campfires on property zoned residential or agricultural within Whiteford Township.
- 10.2.** A person shall be required to obtain a burning permit for open burning, outdoor burning and campfires on property zoned business, quarry or industrial in advance from a Fire Chief. A burning permit will only be issued, at the discretion of a Fire Chief, if the open burning, outdoor burning or campfire is permitted by this Ordinance and state law. No fee shall be charged for issuing a burning permit.
- 10.3.** When weather conditions warrant, a Fire Chief may temporarily suspend any previously issued burning permits and open burning, outdoor burning and campfires on all properties within Whiteford Township.

SECTION 11: LIABILITY

11.00 Liability.

A person open burning, outdoor burning or maintaining a campfire 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

12.00 Right of entry and inspection.

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

SECTION 13: ENFORCEMENT AND PENALTIES

13.00 Enforcement and penalties.

- 13.1.** A Fire Chief, Constable, Sheriff or other authorized township official is authorized to enforce the provisions of this Ordinance.
- 13.2** Any person, firm, association, partnership or corporation that 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 and governed by the Whiteford Township Municipal Civil Infraction Ordinance; provided however, that the fine for violating this Ordinance shall be, in the discretion of the Court, as follows:
 - a) not less than \$100.00 nor more than \$500.00 for the first offense if the fire department does not have to dispatch a vehicle and not less than \$500.00 nor more than \$1,000.00 if the fire department has to dispatch a vehicle;
 - b) not less than \$200.00 nor more than \$1000.00 for subsequent offenses if the fire department does not have to dispatch a vehicle and

- not less than \$1,000.00 nor more than \$1,500.00 if the fire department has to dispatch a vehicle for a subsequent offense; and
- c) such fine shall be in addition to all other costs, attorneys' fees, damages, expenses, and other remedies provided by law and under this Ordinance. For purposes of this section "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person for the same property within twelve (12) months of a previous violation.

Section 14. EFFECTIVE DATE

14.00 Effective Date.

This Ordinance shall become effective thirty (30) days after its publication, or publication of a summary thereof, in a newspaper in general circulation within Whiteford Township.

This Ordinance was offered for adoption by Tim Hill and was seconded by Donald Sahloff, the vote being as follows:

YEAS: Sahloff, Hill, Heidelberg, Christensen, Ruhl

NAYS: 0


ABSENT / ABSTAIN: 0

This Ordinance is hereby declared to have been adopted and passed by the Whiteford Board of Trustees, Monroe County, Michigan, at a regular meeting thereof duly called and held on the 18 day of March, 2014.


Walter Ruhl, Supervisor
Whiteford Township, Michigan

ATTESTED:

I, Angela Christensen, Whiteford Township Clerk, do hereby certify that the foregoing is a true copy of an Ordinance adopted at a regular meeting of the Whiteford Township Board of Trustees on the 18th day of March, 2014.


Angela Christensen, Clerk
Whiteford Township, Michigan

I, Angela Christensen, the Township Clerk of the Township of Whiteford, do hereby certify that this Ordinance, or a summary of it, was published on the 26th day of March, 2014 in the Monroe Evening News, located in the City of Monroe, Monroe County, Michigan, a newspaper of general circulation in the Township of Whiteford, within thirty (30) days after adoption of the Ordinance.

Dated: March 26, 2014

Angela Christensen
Angela Christensen,
Whiteford Township Clerk

ATTEST:

Walter Ruhl
Walter Ruhl,
Whiteford Township Supervisor

ADOPTED: March 18, 2014

PUBLISHED: March 26, 2014

EFFECTIVE: April 26, 2014