

**ORDINANCE NO. 261**

**OPEN BURNING AMENDMENT ORDINANCE**

**AN ORDINANCE TO AMEND CERTAIN PORTIONS OF THE CODE OF ORDINANCES OF SPRING LAKE TOWNSHIP, OTTAWA COUNTY, MICHIGAN, TO REVISE REGULATIONS FOR OPEN BURNING IN THE TOWNSHIP; AND ESTABLISHING AN EFFECTIVE DATE.**

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

Section 1. Open Burning. The regulation of open burning in Article II of Chapter 16 of the Code of Ordinances shall be restated in its entirety as follows.

Sec. 16-19. – Purpose.

The purpose of this article is to control open burning in the 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.

Sec. 16-20. – Definitions.

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

*Bonfire* means a type of recreational fire, which may be allowed in accordance with the provisions below.

*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.

*Construction or 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.

*Cost recovery provisions* means the township's cost recovery ordinance, set forth in article V, division 2 of chapter 2.

*Fire Chief* means the chief of the Spring Lake Township Fire Department or other person designated by the fire chief.

*Open burning* means any type of fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

*Recreational fire* means an outdoor fire; burning materials other than rubbish; containing the fuel being burned in an enclosed pit, fire-retaining ring, or portable outdoor fireplace that is no more than three feet in diameter with a total fuel area of three feet or less in diameter and two feet or less in height; intended for pleasure, religious, ceremonial, cooking, warmth, or similar purposes.

*Roadway, sidewalk, street, vehicle* and *motor vehicle* shall have the definitions given to them in the Michigan Vehicle Code, being Public Act No. 300 of 1949 (MCL 257.1 *et seq.*).

*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.

Sec. 16-21. – Regulation of burning.

- (a) No person shall cause or allow any open burning within the township except as otherwise specifically provided in this article.
- (b) The prohibitions contained in this section shall not apply to certain types of open burning. However, nothing in this article shall allow burning in violation of any state, county, or township regulation.
- (c) Open burning shall be conducted only between the hours of 7am and 8pm.
- (d) Open burning shall only be conducted at least 1,400 feet from an incorporated city or village boundary (i.e., Spring Lake Village, the City of Ferrysburg, or the City of Norton Shores).
- (e) A supervising adult must constantly attend any fire. The supervising adult must have fire extinguishing equipment readily available as may be necessary for total control of the fire (i.e., fire extinguisher, garden hose, dirt, or sand). The fire must be totally extinguished before the supervising adult leaves the scene.

- (f) No open burning may be conducted on days when the Department of Environmental Quality has declared an air quality or ozone action day or when the Department of Natural Resources issues a burning ban due to dangerous fire conditions.
- (g) If any open burning 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 provisions pursuant to article V, division 2 of chapter 2.

Sec. 16-22. – Burning permits.

- (a) A permit is required for all open burning unless the activity is exempt. The following activities are exempt from the permit requirement:
  - (1) Recreational, provided that:
    - a. The fire shall not be conducted within 25 feet of a structure or combustible material; and
    - b. Only clean wood that is not rotted or rotting may be burned.
  - (2) Bonfires associated with school, church, or community activities not otherwise exempt in Section 16-22(a)(1) may also be exempt from the permit requirement by specific written approval of the fire chief. Such bonfires shall not be conducted within 50 feet of a structure or combustible material.
  - (3) Salamanders or other recognized trade devices used for heating by construction workers.
  - (4) The burning of trees and brush accumulated when land is cleared for a residential, commercial, industrial, educational, governmental, ecclesiastical, agricultural, or similar development, provided that the burning is performed in compliance with all state and other applicable regulations and the township fire department is notified prior to any burning.
  - (5) Barbecue, gas, or charcoal grills or wood fires used for cooking of food.
  - (6) Fires set for the instruction of public firefighters or to combat fires, if the purpose is for firefighting training or to extinguish a fire, and if it is authorized by the fire chief.
- (b) The issuance of burning permits shall be subject to the following regulations:

- (1) Application for a burning permit shall be on a form provided by the township. The form may be obtained at the township offices during normal office hours or the township website.
- (2) 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.
- (3) To initiate processing of the application, the applicant must pay the permit application fee, as designated by resolution of the township board, and the applicant must also sign a statement agreeing to comply with the requirements of this article and all other applicable rules.
- (4) The burning permit shall only be valid that calendar year.
- (5) All permitted burning must take place on specific burn days designated by the fire chief, which include the third Saturday of the months of March, May, July, September, and November or any alternative dates established by the fire chief. Because the permit is only valid for one calendar year, the fire must take place only on those specific burn dates which remain in the calendar year.
- (6) In the event that a permit is approved, the applicant must check the township fire department's website on the day of the proposed burn to ascertain whether the burn day has been cancelled for any reason. All fires that occur on a cancelled burn day will be in violation of this article, regardless of the existence of a valid permit.
- (7) In deciding whether open burning may actually be permitted on a designated burn day, the fire chief shall consider various factors, including, but not limited to, the following:
  - a. Amount of rainfall in recent weeks;
  - b. Weather conditions and wind velocity;
  - c. Any burning standards or burning index promulgated by the state department of natural resources or any other state agency; and

- d. Any other factors likely to increase the possibility of a dangerous or uncontrollable fire.
- (8) Burning permits may be issued under this article only for wood that is not rotted, rotting, or treated, tree branches and stumps that are out of the ground. Burning permits will not be issued under this article for leaves.
- (9) Any open burning which violates the terms of the permit constitutes a violation of this article.

Sec. 16-23. – Prohibited acts.

Subject to the provisions of 16-21, no person shall:

- (1) Burn at any time:
  - a. Household waste, including but not limited to trash, garbage, plastic, and paper;
  - b. Leaves, including pine cones and yard waste such as grass clippings and weeds;
  - c. Construction or demolition waste, including but not limited to treated wood, wiring, carpet, plastic, roofing materials, drywall, paint or solvents, or siding;
  - d. Structures for the purpose of demolition;
  - e. Commercial or industrial waste;
- (2) Set aflame any flammable material located on a roadway, sidewalk, bicycle path, or any improved portion of a street;
- (3) 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;
- (4) Set aflame any flammable material without taking reasonable precautions, both before and at all times after lighting the fire, to prevent the fire from spreading;

- (5) Set a backfire or cause a backfire to be set, except under the direct supervision of the fire chief;
- (6) 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;
- (7) Operate any engine, machinery, or motor vehicle not equipped with spark arresters or other suitable devices to prevent the escape of fire or sparks;
- (8) Discharge a gun firing flares, incendiary or tracer bullets, or tracer charge onto or across any forest or grassland;
- (9) Engage in activity that is prohibited by this article or in any open burning except in compliance with this article;

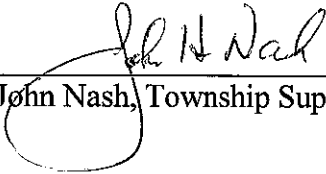
Sec. 16-24. - Penalty.

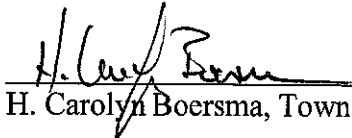
- (a) In addition to any other charges, fines, or penalties for which a person may be liable under applicable law or local ordinance, including without limitation the assessment of costs under the cost recovery provisions as set forth in article V, division 2 of chapter 2, any violation of this article shall constitute a municipal civil infraction. Any person violating any provision of this article 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 article for one year for a first offense, and not less than \$200.00 and permanent loss of burning privileges under this article for a subsequent offense, plus costs, damages, expenses, and other sanctions as authorized under chapter 87 of the Revised Judicature Act of 1961 (MCL 600.8701 et seq.) 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 article.
- (b) For purposes of this section, the term "subsequent offense" means a violation of the provisions of this article committed by the same person within 24 months of a previous violation of this article for which the person admitted responsibility or was adjudicated to be responsible.
- (c) The township supervisor, the ordinance enforcement officer, the county sheriff, any county deputy sheriff, or any township fire department officer (e.g., fire chief, deputy fire chief, captain, or lieutenant) is authorized to inspect any property for the purpose of

ascertaining compliance with this ordinance and issue municipal civil infraction citations to any person alleged to be violating any provision of this article.

- (d) Any person who aids or abets a person in a violation of this article shall be subject to the sanctions provided in this section.

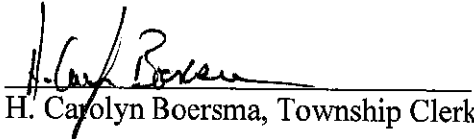
Section 2. Effective Date. This Ordinance was approved and adopted by the Township Board of the Township of Spring Lake, Ottawa County, Michigan, on July 10, 2017, and it is ordered to take effect 30 days after publication in the *Grand Haven Tribune*, a newspaper having general circulation in the Township.

  
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John Nash, Township Supervisor

  
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H. Carolyn Boersma, Township Clerk

**CERTIFICATE**

I, H. Carolyn Boersma, Clerk for the Township of Spring Lake, Ottawa County, Michigan, certify that the foregoing Open Burning Amendment Ordinance was adopted at a regular meeting of the Township Board held on July 10, 2017. The following members of the Township Board were present at that meeting: John Nash, Jim Koster, H. Carolyn Boersma, Rick Homan, Ron Lindquist, Jerry Rabideau, and Rachel Terpstra. The following members of the Township Board were absent: None. The Ordinance was adopted by the Township Board with members of the Board: Nash, Koster, Boersma, Homan, Lindquist, Rabideau, and Terpstra, voting in favor and members of the Board: None, voting in opposition. The Ordinance was published in the *Grand Haven Tribune* on Monday, July 17, 2017.

  
H. Carolyn Boersma, Township Clerk