

**LOWELL CHARTER TOWNSHIP
KENT COUNTY, MICHIGAN
ORDINANCE NO. 01-2014**

DRAFT 5

OUTDOOR BURNING ORDINANCE

At a regular meeting of the Township Board for Lowell Charter Township held at the Township Offices on February 18, 2014 the following Ordinance was offered for adoption by Township Board Member Thompson, and was seconded by Township Board Member Anderson:

**AN ORDINANCE TO ESTABLISH REGULATIONS FOR
THE OUTDOOR BURNING OF LEAVES, GRASS, WOOD
AND OTHER VEGETATION AND DEBRIS AND TO
ESTABLISH PENALTIES FOR VIOLATIONS OF THIS
ORDINANCE**

THE CHARTER TOWNSHIP OF LOWELL (“Township”) ORDAINS:

ARTICLE 1 TITLE

This Ordinance shall be known as the “Lowell Charter Township Outdoor Burning Ordinance” and may elsewhere be referred to herein as “this Ordinance.”

ARTICLE 2 INTENT AND PURPOSE

The purpose of this Ordinance is to protect the health and safety of the people and property in Lowell Charter Township from air pollution and fire hazards which can result from the outdoor burning of combustible materials particularly in those areas of the Township which are most densely populated, and to provide procedures for enforcement.

ARTICLE 3 DEFINITIONS

A. Open Burning: The outdoor burning of waste flammable materials and yard clippings as defined herein wherein the products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber.

B. Recreational Fire: An outdoor fire or the burning of material other than rubbish, leaves, and yard clippings where the fire being burned is contained in an approved fire pit or ring.

C. Yard Debris: Grass clippings, weeds, leaves, vegetable, or other garden debris, but not including shrubbery, brush, tree branches, or tree trimmings.

D. Flammable Waste Material: Any waste or discarded substance that will burn, including but not limited to refuse, debris, waste forest material, brush, stumps, logs, rubbish, fallen timber, grass, stubble, leaves, fallow land, crops, garbage or crop residue.

ARTICLE 4 ADMINISTRATION AND ENFORCEMENT

The provisions of this ordinance shall be administered and enforced by the Lowell Charter Township Fire Chiefs or their designee or the Officers of the Kent County Sheriff's Department or any duly authorized law enforcement officer who shall be authorized to issue municipal civil infraction citations and notices for any violation of this article.

ARTICLE 5 APPLICABILITY

This Ordinance shall not apply to the burning of fuels such as charcoal or gas in grills or other similar devices solely for the preparation of food or recreation.

ARTICLE 6 PROHIBITED OPEN BURNING

Except for recreational fires, all open burning is prohibited except for properties which are zoned AG-1, Prime Agricultural Preservation, AG-2, Rural Agricultural, and R-1 Rural Low Density Residential.

ARTICLE 7 PERMITTED OPEN BURNING REQUIREMENTS

- A. Open burning, for the disposal of yard waste and flammable waste materials, as defined herein is permitted on property which is zoned AG-1, Prime Agricultural Preservation, AG-2, Rural Agricultural, and R-1 Rural Low Density Residential subject to the following requirements:
- B. Solid waste from a one or two family dwelling may be burned in an approved home incinerator as long as it does not create a smoke or odor nuisance. An approved container is one constructed of metal or masonry and a covering device with openings no larger than $\frac{3}{4}$ inch.

B. Permitting Procedures

- (1) In order to conduct open burning a permit must be issued by the Township Fire Department. The permit shall be in writing or at the discretion, of the Fire Chief or their designee, a verbal permit may be issued. The permit shall be good for two days.
- (2) The Fire Department may impose reasonable conditions on the issuance of a burning permit, including, but not limited to, limitations on the size, duration, time of day, location, and manner of burning.

C. Regulations for Open Burning

- (1) Such burning shall not take place on a public street.
- (2) The burning shall be at least 25 feet from the nearest public street or highway, and at least 50 feet from all buildings. Open burning shall not be done under electrical power lines.
- (3) No burning shall take place between the hours of one hour before sunset and one hour before sunrise. Fires for agricultural reasons can be excluded with permission of the Fire Chief.
- (4) No burning shall take place when weather conditions are such that burning is, in the opinion of the Township Fire Chief or his designee, likely to create a fire hazard for nearby properties and residents.
- (5) The open burning shall be conducted in such a manner that it will not be detrimental to the health, safety or welfare of other persons or property.
- (6) All burning must be done under the continuous supervision of an adult who shall be present at the fire site.
- (7) The fire will be of a short duration. For the purposes of this Ordinance, "a short duration" shall be construed to be no more than five hours. This regulation shall not apply to properties in AG-1, AG2, and R1 Zoning areas on parcels of 20 acres or more.
- (8) Open burning of the following materials is prohibited including but not limited to: household garbage, plastic, Styrofoam, chemically treated lumber, rubber or rubber-based material, tires and any synthetic material which produces hazardous or toxic smoke or fumes.
- (9) Fire extinguishing equipment or tools must be conveniently available whenever burning is taking place.

ARTICLE 8 RECREATIONAL FIRES

- A. Recreational fires as defined herein are permitted in all zones without a permit subject to the requirements of this Article 8.
- B. Recreational fires must be contained within a fire pit, ring, or in an outdoor fireplace that is no larger than 6 feet by 6 feet. Any recreational fire which is larger must first be authorized by a burning permit from the Township Fire Department.
- C. The fire shall be at least 25 feet from any building or structure.
- D. Burning of the following materials is prohibited including but not limited to: Yard clippings, household garbage, plastic, Styrofoam, chemically treated lumber, rubber or rubber-based material, tires and any synthetic material which produces hazardous or toxic smoke or fumes.
- E. Fires shall not produce smoke or flames which are a nuisance to residents off the site.
- F. Fire must be extinguished by midnight.
- G. The fire shall be attended by an adult at all times.

H. To reduce unnecessary fire calls, it is recommended that the property owner call the Fire Department prior to starting any recreational fire.

ARTICLE 9 EXCEPTIONS

The following are exempt from the rules of this Ordinance prohibiting open burning:

- A. Township parks in which fires are permitted by the rules governing said parks, and
- B. Fires authorized for the training of firefighters or other controlled burnings approved by the Fire Chief.

ARTICLE 10 PENALTIES

A. Violation of this Ordinance is a municipal civil infraction for which the first offense shall receive a written warning, for subsequent violations the fine shall be not less than \$100 nor more than \$500 for the second offense, and not less than \$250 nor more than \$2,500 for subsequent offenses, at the discretion of the District Court, and in addition to all of the costs, damages, and expenses, including reasonable attorneys' fees, incurred by the Township by reason of the violation, as provided by law; provided, however, that a person who has been issued a municipal civil infraction violation notice, as compared to a citation, may appear at the Municipal Ordinance Violations Bureau to admit responsibility for the violation and pay the amount listed in the schedule of civil fines posted by the Bureau, as specified in the notice. The imposition or payment of any municipal civil infraction penalty shall not prevent the Township from seeking injunctive relief or other available relief against a violator as may be permitted by law, nor shall it prevent the Township from taking action against a violator for any subsequent offense. For purposes of this Ordinance, "subsequent offense" means a second or more violation of this Ordinance by a renter or owner committed at one or more addresses.

B. The civil fines, costs, assessments, damages and/or expenses imposed against a person found responsible for violating this ordinance shall be paid to the Township immediately upon entry of the court order. If the civil fines, costs, assessments, damages and/or expenses are not paid to the Township within 30 days, the Township may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fines, costs, assessment, damages and/or expenses with the Kent County Register of Deeds. The lien may be enforced and discharged by the Township in the manner prescribed by the General Property Tax Act.

ARTICLE 11 EFFECTIVE DATE

This ordinance shall take effect seven (7) days following publication of this Ordinance, or a summary thereof, as provided by law.

AYES: Hale, Regan, Benedict, Anderson, Blough, Thompson

NAYS: None

ABSENT: Vanderziel

THIS ORDINANCE IS DECLARED TO BE ADOPTED.