

# Open Burning Ordinance for the Township of Forsyth, Michigan.

Ordinance No. 1-09

## SECTION 1: PURPOSE

### 1.00 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 Forsyth by regulating the air pollution and fire hazards of open burning.

## SECTION 2: APPLICABILITY

### 2.00 Applicability.

This ordinance applies to all open burning within the Township of Forsyth. If a provision in a township ordinance covers a provision contained in a Marquette County ordinance, the township ordinance controls.

- 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, less than or equal to 4 foot diameter, 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, 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 the Chief of the Forsyth Township Fire Department or other person designated by the Fire Chief.
- 4.5. "Municipality" means a county, township, city, or village.
- 4.6. "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.
- 4.7. "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.
- 4.8. "Nuisance" means no materials shall be burned that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of surrounding property

## SECTION 5: GENERAL PROHIBITION ON OPEN BURNING

### 5.00 General prohibition on open burning.

Open burning is prohibited in the Township of Forsyth unless the burning is specifically permitted by this ordinance.

## **SECTION 6: OPEN BURNING OF REFUSE**

### **6.00 Open burning of refuse.**

- 6.1.** Open burning of refuse from a commercial or industrial establishment is prohibited.
- 6.2.** Open burning of refuse from and at a one or two family dwelling is allowed if all of the following conditions are met:
  - 6.2.1.** The burning does not create a nuisance
  - 6.2.2.** 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.
  - 6.2.3.** The material being burned is not prohibited under subsection 6.3.
  - 6.2.4.** A permit issued in accordance with section 8 of this ordinance has been obtained.
- 6.3.** Open burning of the following materials is prohibited.
  - 6.3.1.** Construction and demolition waste.
  - 6.3.2.** Hazardous substances including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents.
  - 6.3.3.** Furniture and appliances.
  - 6.3.4.** Tires.
  - 6.3.5.** Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
  - 6.3.6.** Newspaper.
  - 6.3.7.** Corrugated cardboard, container board, office paper.
  - 6.3.8.** 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**

### **7.00 Burning trees, logs, brush, stumps, leaves, and grass clippings.**

- 7.1.** Open burning of trees, logs, brush, stumps, leaves, and grass clippings is allowed only in accordance with all of the following provisions
  - 7.1.1.** Except for campfires, a permit issued in accordance with Section 8 of this ordinance must be obtained prior to open burning under this section when the ground is not snow covered.
  - 7.1.2.** 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.
  - 7.1.3.** 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.
  - 7.1.4.** Open burning under this section shall only be conducted at a location at least 100 feet from the nearest occupied building which is not on the same property.
  - 7.1.5.** Except for campfires, open burning shall only be conducted no later than midnight.
  - 7.1.6.** Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age 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.
  - 7.1.7.** No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.

7.1.8. 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.

**SECTION 8: BURNING PERMITS**

**8.00 Burning Permits.**

At any time the ground is not snow-covered, a person shall not burn any flammable material on or adjacent to forest land, except for domestic purposes, without a permit from the Michigan Department of Natural Resources. "Domestic purposes" means any fire within the curtilage of a dwelling where the material being burned has been properly placed in a debris burner constructed of metal or masonry with metal covering devices with openings no larger than 3/4 of an inch, or a campfire, or any fire within a building.

**SECTION 9: LIABILITY**

**9.00 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 10: RIGHT OF ENTRY AND INSPECTION**

**10.00 Right of entry and inspection.**

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

**SECTION 11: ENFORCEMENT AND PENALTIES**

**11.00 Enforcement and penalties.**

11.1. The Fire Chief or any officer of the Police Department are authorized to enforce the provisions of this ordinance.

11.2. 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>Fine</u>
1 <sup>st</sup> Offense	\$75.00
2 <sup>nd</sup> Offense	\$150.00
3 <sup>rd</sup> Offense	\$325.00
4 <sup>th</sup> or More Offense	\$500.00

11.3. The violator shall pay costs which may include all expenses, direct and indirect, which the Township of Forsyth has incurred in connection with the municipal infraction. In no case, however, shall costs of less than \$75 nor more than \$500.00 be ordered. 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.