

**BEAR CREEK TOWNSHIP  
EMMET COUNTY, MICHIGAN**

**OUTDOOR BURNING ORDINANCE**

**ORDINANCE # 37 - 18**

**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 Bear Creek Township by regulating the air pollution and fire hazards of outdoor burning.

**SECTION 2: APPLICABILITY**

**2.00 Applicability.**

This ordinance applies to all outdoor burning within Bear Creek Township.

- 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, 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 Resort/Bear Creek 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. "Outdoor burning" means open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.
- 4.8. "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

## **SECTION 5: GENERAL PROHIBITION ON OPEN BURNING**

### **5.00 General prohibition on open burning.**

Open burning is prohibited in Bear Creek Township 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 (e.g., no materials shall be burned that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of nearby properties).
  - 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.
- 6.3. 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. 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 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.
- 7.1.2. 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.
- 7.1.3. Open burning shall be conducted only on the property on which the materials were grown and from which they were generated.
- 7.1.4. Outdoor campfires and small bonfires for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance.
- 7.1.5. Except for campfires, open burning under this section shall only be conducted at a location at least 100 feet from the nearest building which is not on the same property.
- 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.

## **SECTION 8: FIRE SUPPRESSION TRAINING**

### **8.00. Exempt Training.**

Fire suppression training conducted or overseen by the Resort-Bear Creek Fire Department that is consistent with state administrative rules governing such activity shall be exempt from the provisions of this ordinance.

## **SECTION 9: BURNING PERMITS**

### **9.00 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  $\frac{3}{4}$  of an inch, or a campfire, or any fire within a building.

## **SECTION 10: LIABILITY**

### **10.00 Liability.**

A person and entity 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 11: RIGHT OF ENTRY AND INSPECTION**

### **11.00 Right of entry and inspection.**

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

## **SECTION 12: ENFORCEMENT AND PENALTIES**

### **12.00 Enforcement and penalties.**

- 12.1.** The Fire Chief, the Township Supervisor, and any other designee of the township board are authorized to enforce the provisions of this ordinance and to issue citations for violations.
- 12.2.** Any person, firm, association, partnership, corporation, company, or 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 and shall be subject to the following fines:
- 12.2.1.** For a first offense, the offender shall pay a fine of two hundred fifty dollars (\$250).
  - 12.2.2.** For a second offense or subsequent offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of five hundred dollars (\$500).
  - 12.2.3.** Each day this ordinance is violated shall be considered a separate violation.
- 12.3.** The violator shall pay costs which may include all expenses, direct and indirect, which the Township and/or its fire department has incurred in connection with the municipal civil infraction.
- 12.4** Additionally, 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, to abate any nuisance created by a violation of this Ordinance, and to recover any costs, expenses, damages, and fees, including attorney fees, that may be permitted or allowed by law in connection with such abatement and the enforcement of this Ordinance.

## **SECTION 13: NUISANCE PER SE**

### **13.00 Nuisance per se**

A violation of this ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

## **SECTION 14: NONEXCLUSIVITY**

### **14.00 Nonexclusivity**

The regulations in this ordinance shall be in addition to, and not exclusive of, any other applicable local police power ordinance or zoning ordinance or any other state law or regulation.

## **SECTION 15: EFFECTIVE DATE AND REPEALER**

### **15.00 Effective date and repealer**

This ordinance shall take effect thirty (30) days after publication of the ordinance or a summary thereof in the manner provided by law. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

\_\_\_\_\_  
Dennis Keiser, Township Supervisor

\_\_\_\_\_  
Judy Mays, Township Clerk

**CLERK'S CERTIFICATION**

I hereby certify this ordinance was adopted by the Bear Creek Township Board of Trustees at a regular meeting held on \_\_\_\_\_, 2018, and that the vote was as follows:

FOR:

AGAINST:

I further certify that this ordinance, or a summary thereof, was published in the *Petoskey News-Review*, on \_\_\_\_\_, 2018.

\_\_\_\_\_  
Judy Mays, Township Clerk