

TOWNSHIP OF SPENCER

COUNTY OF KENT, MICHIGAN

At a special meeting of the Township Board of the Township of Spencer, held at the Spencer Township Office, 14960 Meddler Avenue, within the Township, on the 4th day of April, 2019, at 10 a.m.

PRESENT: Scott Baas, Lisa Wright, Sharon Fase, John Wood,& Jeff Knapp

ABSENT: none

ORDINANCE NO. 00-2

AN ORDINANCE TO AMEND GENERAL ORDINANCE NO. 00-2

[Open Burning Ordinance]

THE TOWNSHIP OF SPENCER ORDAINS:

Section 1. Ordinance No. 00-2 is hereby amended to read in its entirety as follows:

Section 1. Purpose. Unregulated open burning poses a risk to the health, safety and welfare of the residents of Spencer Township. Open burning is a fire risk and may create hazardous by-products that can irritate eyes and lungs, obscure visibility, create odors and pose other health threats. This Ordinance is intended to reduce the adverse and potentially dangerous effect of unregulated open burning throughout the Township.

Section 2. Definitions.

- (a) “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.
- (b) “Fire chief” shall refer to the duly appointed Fire Chief of Spencer Township.
- (c) “Open burning” means any burning of any flammable material that is not done within a structure or building.

Section 3. Prohibition on Open Burning, Except by Permit. Except as permitted by Sections 6 and 7, the open burning of any material other than brush, wood or wood products is prohibited. Brush, wood, or wood products shall not include construction and demolition waste. The open burning of brush, wood or wood products shall only be conducted provided all of the following conditions are satisfied:

- (a) An open burning permit is obtained from the Spencer Township Fire Department (the “Fire Department”);
- (b) The open burning is conducted in accordance with all applicable state laws, including the Air Pollution Control Act (Act 348 of Public Acts of 1965), the Forest Fire Act (Act 329 of 1969), and the Solid Waste Management Act (Act 641 of 1978; Act 267 of 1990);
- (c) The open burning is performed under the constant supervision of a responsible person, who must be 18 years of age or older;
- (d) Open burning shall be permitted only between the hours of 8:00 a.m. and 12:00 a.m. (midnight).
- (e) No open burning may take place within 25 feet of any building or other structure.
- (f) Open burning is not permitted in the Lake Residential (LR) District; provided, however, that the burning of leaves only is permitted in the LR District from April 15 to May 15 and from October 15 to November 15 between the hours of 10:00 a.m. and 6:00 p.m. Any fire burning leaves during that time must be completely extinguished by 6:00 p.m. and must at all times burn hot, no smoldering fires are permitted. A burning permit is not required from the Fire Department for the limited leaf burning permitted by this subparagraph.
- (g) Lake Residential Districts are prohibited from burning of anything in Burn Barrels or any receptacles at any time.
- (h) Burning in Burn Barrels or any receptacles for any non-Lake Residential District; Public Act 102 of 2012 prohibits trash burning of household waste from a family dwelling with the exception of untreated paper. Trash that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials must not be burned as emissions release chemicals which pose a danger to human health and the environment. Homeowners that choose to burn trash that is not prohibited may do so in an approved container on their property as long as it does not violate any other local or state ordinances or regulations. An approved container is constructed of metal or masonry with a metal covering device with openings no larger than 5/8 inch.

Section 4. Consideration of Open Burning Permit.

(a) The fire chief, or an individual delegated the responsibility to issue open burning permits from the fire chief (the “delegate”), may impose reasonable conditions prior to granting approval for an open burning permit, including conditions relating to the time, location, duration, manner of burning and the quantity of material to be burned.

(b) Before issuing a permit, the fire chief or delegate shall take into consideration the physical characteristics of the land on which the fire is to be located, the weather conditions on the date of burning, the extent of possible air pollution, the number of permits already issued, the proximity of the proposed fire to any structure, whether the applicant has the necessary equipment to control the open burning, and other factors which may affect the health, safety and welfare of the people of Spencer Township.

(c) The fire chief or delegate may withdraw approval of a permit if open burning would be unsafe due to the particular circumstances of a request, including, but not limited to, unfavorable weather conditions. The fire chief or delegate may request verification of ownership, control or leasing of the property on which the open burning is to take place. An open burning permit shall not be valid for more than four days after issuance.

Section 5. Exception for Fire Department Training Purposes. The Ordinance shall not apply to fires approved by the fire chief for the purpose of training firefighters.

Section 6. Exception for Recreational (campfires) Fires. This Ordinance shall not apply to open burning of unprocessed wood in a fire no larger than three feet by three feet, with flames no taller than three feet, which is attended at all times by a responsible adult over 18 years of age and extinguished immediately after use. Recreational (campfires) is burning of logs, sticks or limbs for the purpose of food preparation or recreation.

Section 7. Exception for Agricultural Burning. This Ordinance shall not apply to the burning of brush, trees and crop fields consistent with regular and usual agricultural practices. Prior to conducting such burning the person intending to conduct agricultural burning must advise the Spencer Township Fire Department of the time, location and material to be burned.

Section 8. Penalty. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$200 nor more than \$600 for the first offense, and not less than \$200 nor more than \$2,500 for subsequent offenses, in the discretion of the Court, in addition to all other costs, damages and expenses provided by law. For purposes of this Ordinance, “subsequent offense” means a violation of this Ordinance committed with respect to a separate incident by the same person within 12 months of a previous violation of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall all be considered separate first offenses. Each day that a violation occurs shall constitute a separate offense.

Section 9. In addition to any other official authorized by ordinance, the Township Fire Chief or delegate is authorized to issue citations for violation of this ordinance, if the Fire Chief or delegate has reasonable cause to believe a violation has occurred, based upon personal observation or the report of a person who has allegedly witnessed said violation.