

ORDINANCE #59

THE CHARTER TOWNSHIP OF CHOCOLAY, MARQUETTE, MICHIGAN OUTDOOR AND OPEN BURNING ORDINANCE

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 Charter Township of Chocolay by regulating the air pollution and fire hazards of open burning and outdoor burning.

SECTION 2: APPLICABILITY

2.00 Applicability

This Ordinance applies to all outdoor burning and open burning within the Charter Township of Chocolay.

- 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, 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 Fire Chief of the Charter Township of Chocolay Fire Department or other person designated by the Fire Chief.

- 4.5 "Municipality" means a county, township, city, or village.
- 4.6 "Outdoor burning" means open burning or patio wood burning unit.
- 4.7 "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 a burn barrel.
- 4.8 "Patio wood-burning unit" means a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- 4.9 "Nuisance fires, burning" 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.
- 4.10 "Refuse" means any combustible or solid waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.
- 4.11 "Untreated Lumber" means dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical , preservative, glue, adhesive, stain, paint, or other substance.

SECTION 5: GENERAL PROHIBITION ON OUTDOOR BURNING AND OPEN BURNING

5.00 General prohibition on outdoor burning and open burning.

Open burning and outdoor burning are prohibited in the Charter Township of Chocolay unless the burning is specifically permitted by this Ordinance.

SECTION 6: 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 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 Open burning is at least 150 feet from a building that is not located on the same property as the burn barrel.
 - 6.2.5 Open burning shall be continuously attended and supervised by a competent person until the fire is extinguished and cold.
- 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, LOG, 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 10 of this Ordinance must be obtained prior to open burning under this Section when the ground is not snow covered.

7.1.2 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. Open burning shall be conducted in conformance with all local and state fire protection regulations.

7.1.4 Outdoor campfires for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance.

7.1.5 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 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. No materials may be burned upon the ice of a lake, pond, stream or water-body except for a campfire.

7.1.8 No open burning shall be undertaken within twenty-five feet (25') from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.

SECTION 8: PATIO WOOD-BURNING UNITS

8.00 Patio wood-burning units.

A patio wood-burning unit may be installed and used in the Charter Township of Chocolay only in accordance with all of the following provisions:

8.1 The patio wood-burning unit shall not be used to burn refuse.

8.2 The patio wood-burning unit shall burn only clean wood or untreated lumber.

8.3 The patio wood-burning unit shall be located at least twenty-five feet (25') from the nearest structure which is not on the same property as the patio wood-burning unit.

8.4 The patio wood-burning unit shall not cause a nuisance to neighbors.

SECTION 9: FIRE SUPPRESSION

9.00 Fire suppression training

- 9.1 The burn must be exclusively for fire suppression training. The burning shall not be used as a means to dispose of waste materials including tires and other hazardous materials.
- 9.2 Any standing structure that will be used in a fire suppression training must be inspected and should be inspected by a licensed asbestos inspector. A notification of this inspection must be submitted to the Michigan Department of Environmental Quality, Air Quality Division at least ten business days prior to burning a standing structure. The notification must be submitted using Form EQP 5661 "Notification of Intent to Renovate/Demolish".
- 9.3 All asbestos must be removed prior to conducting the fire suppression training. If the structure is a residential dwelling, the owner may remove the asbestos or have it removed by a licensed abatement contractor. If it is a commercial building, all asbestos must be removed by a licensed abatement contractor.
- 9.4 All ash shall be disposed of in an approved landfill or at an alternate location approved by the Michigan Department of Environmental Quality.
- 9.5 Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.
- 9.6 At least 48 hours before a planned practice burn, residents within 500 feet of the site of the proposed burn shall be notified.
- 9.7 All fire suppression training should conform to the guidelines established by the National Fire Protection Association (NFPA) Standard on Live Fire Training Evolutions (NFPA 1403).

SECTION 10: BURNING PERMITS

10.00 Burning Permits

At any time the ground is not snow-covered, a person shall not burn any flammable material except for domestic purposes without a permit from the Michigan Department of Natural Resources. "Domestic purposes" means any fire within the area immediately surrounding a residence, including yards and closely associated buildings and structures used for domestic activities of the residents, where the material being burned has been properly placed in a debris burner constructed of metal or masonry with metal covering devices with opening no larger than $\frac{3}{4}$ of an inch, or a campfire, or any fire within a building.

SECTION 11: LIABILITY

11.00 Liability

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other Township liability resulting from damage caused by the fire.

SECTION 12: ENFORCEMENT, PENALTIES, WAIVERS, REPEALS, FEES AND EFFECTIVE DATE

12.00 Enforcement and Penalties

- 12.1 The Fire Chief and/or Police Chief as the authorities having jurisdiction or his/her appointee is authorized to enforce the provisions of this Ordinance.
- 12.2 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:

	Minimum Fine	Maximum Fine
1 st Offense within 3-year period	\$50.00	\$500.00
2 nd Offense within 3-year period	\$120.00	\$500.00
3 rd Offense within 3-year period	\$250.00	\$500.00
4 th or More Offense within 3-year period	\$400.00	\$500.00

- 12.3 The violator shall pay costs which may include all expenses, direct and indirect, which the Charter Township of Chocolay has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$50.00 or more than \$500.00 be ordered. In addition, the Charter Township of Chocolay 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. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Ordinance. Any fine imposed hereunder shall constitute a lien upon the real property where the violation occurs until all fines are paid, and outstanding violations corrected.
- 12.4 Effect of other Regulations: Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules, or regulations promulgated by the United States Environmental Protection Agency, Michigan State Department of Environmental Quality or any other federal, state, regional, or local agency. In case of a conflict between any provision of this Ordinance and any applicable Federal, State, or Local ordinances, codes, laws, or regulations, the more restrictive provision or requirement shall prevail.
- 12.5 Repealer: All ordinances or parts of ordinances in conflict with any part of this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provisions in the Charter Township of Chocolay Zoning Ordinance.
- 12.6 Effective Date: The Ordinance shall take effect 30 days following its publication after adoption.