

# STATE OF MICHIGAN

## COUNTY OF MARQUETTE, TOWNSHIP OF NEGAUNEE

### OUTDOOR BURNING, OPEN BURNING and WOOD-FIRED BOILER ORDINANCE

Adopted: June 11<sup>th</sup>, 2009

Effective: July 18<sup>th</sup>, 2009

#### ARTICLE I GENERAL PROVISIONS

##### Section 101 Title

This Ordinance shall be known and cited as the Negaunee Township Outdoor Burning, Open Burning and Wood-Fired Boiler Ordinance.

##### Section 102 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 Negaunee Township by regulating the air pollution and fire hazards of open burning and outdoor burning.

##### Section 103 Applicability

- A. This ordinance applies to all outdoor burning, open burning and outdoor wood-fired boilers within Negaunee Township.
- B. This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- C. 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.
- D. 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 104 Definitions

- A. The following key definitions are reiterated here for clarity, as well as the following specific definitions:
  - 1. Campfire: A small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.
    - a. Must be no more than 48 inches (48") in diameter ringed with stone, brick or steel for containment of fire;
    - b. Have a minimum of 24 inch (24") area cleared outside of fire ring.
  - 2. Clean wood: 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.

3. Construction and demolition waste: 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. Existing or 'In existence': The outdoor wood-fired boiler, patio wood-burning unit, or other appliance is in place on site and operational.
5. Fire Chief: The Chief of the Negaunee Township Fire Department or *any* other person within the Fire Department designated by the Fire Chief.
6. Firewood: Trunks and branches of trees and bushes but does not include leaves, needles or vines.
7. Municipality: A county, township, city, or village.
8. Ordinance Enforcement Officer: The Township Board's authorized representative charged with the responsibility of administering this Ordinance.
9. Outdoor Burning: Open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.
10. Open Burning: 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.
11. Outdoor Wood-Fired Boiler: A wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals. Said devices are also known as outdoor furnaces, outdoor boilers, and outdoor stoves which are used to provide heat and/or hot water to any associated structure.
12. Patio Wood-Burning Unit: A chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
13. Nuisance Fires/Burning: No materials shall be burned that create a foul or offensive odor or that causes smoke emissions that are reasonably offensive to occupants of surrounding property.
14. Refuse: Any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.
15. Untreated lumber: 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.

**ARTICLE II**  
**GENERAL PROHIBITION ON OUTDOOR BURNING AND OPEN BURNING**

Section 201 General Prohibition on Outdoor Burning and Open Burning

Open Burning and outdoor burning are prohibited in Negaunee Township unless the burning is specifically permitted by this ordinance.

**ARTICLE III  
OPEN BURNING OF REFUSE**

Section 301 Open Burning of Refuse

- A. Open burning of refuse from a commercial or industrial establishment is prohibited.
- B. Open burning of refuse from and at a one or two family dwelling is allowed if ALL of the following conditions are met:
  - 1. The burning does not create a nuisance;
  - 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 ¼ inch (0.25”);
  - 3. Metal barrel must be in good repair with no holes in sides and solid bottom;
  - 4. Fire must be attended at all times;
  - 5. The material being burned is not prohibited under subsection C of this Section.
- C. Open burning of the following materials is PROHIBITED:
  - 1. Construction and demolition waste;
  - 2. Hazardous substances including, but not limited to: batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents;
  - 3. Furniture and appliances;
  - 4. Tires;
  - 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. Newspaper;
  - 7. Corrugated cardboard, container board, office paper;
  - 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.

**ARTICLE IV  
OPEN BURNING OF TREES, LOGS, BRUSH, STUMPS, LEAVES AND GRASS CLIPPINGS**

Section 401 Burning Trees, Logs, Brush, Stumps, Leaves and Grass Clippings

- A. Open burning of trees, logs, brush, stumps, leaves, and grass clippings is allowed only in accordance with ALL of the following provisions:
  - 1. Except for campfires, a permit issued in accordance with Article XIII of this ordinance must be obtained prior to open burning under this section when the ground is not snow-covered;
  - 2. Open burning of trees, logs, brush, and stumps must be conducted at least 1,400 feet (1400') from an incorporated city or village limit;

3. 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;
4. 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;
5. Open burning shall be conducted in conformance with all local and state fire protection regulations;
6. Open burning shall be conducted only on the property on which the materials were generated;
7. Outdoor campfires and small bonfires for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance;
8. Open burning under this section shall only be conducted at a location at least one hundred feet (100') from the nearest building which is not on the same property;
9. 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;
10. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or water body;
11. Except for barbecue, gas, and charcoal grills, no 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;
12. Prohibited if determined by the Fire Chief that conditions are such that burning would be hazardous to the health, safety, and general welfare of persons or property in the community.

## **ARTICLE V OUTDOOR WOOD-FIRED BOILERS**

### Section 501 New Outdoor Wood-Fired Boilers

No person shall install, use, or maintain an outdoor wood-fired boiler in Negaunee Township without first having obtained a permit from the Zoning Administrator. Application for the permit shall be made to the Zoning Administrator on forms provided.

### Section 502 Existing Outdoor Wood-Fired Boilers

- A. Any outdoor wood-fired boiler in existence on the effective date of this Ordinance shall comply with ALL of the following provisions:
  1. The owner completes a registration form at no charge and receives a permit from the Zoning Administrator within ninety (90) days after adoption of Ordinance;
  2. The burning does not create a nuisance, as defined in Section 104 of this Ordinance;
  3. Upon the effective date of this ordinance, all the provisions hereof, except Section 503, subsection A, items number 1 and 4, shall immediately apply to existing outdoor wood-fired boilers;

4. All of the provisions of the ordinance shall continue to apply to existing outdoor wood-fired boilers that receive permits except Section 503, subsection A, items number 1 and 4.

#### Section 503 Specific Requirements

- A. An outdoor wood-fired boiler may be installed and operated in Negaunee Township only in accordance with ALL of the following provisions:
  1. The installation and/or operation of outdoor wood-fired boilers are PROHIBITED on lots with fewer than five (5) square acres;
  2. Only seasoned firewood and dry untreated lumber are permitted to be burned in any outdoor wood-fired boiler;
  3. The outdoor wood-fired boiler shall not be used to burn refuse;
  4. The outdoor wood-fired boiler shall be set back not less than one hundred-fifty feet (150') from the nearest lot line and three hundred feet (300') from the nearest residence;
  5. The outdoor wood fired-boiler shall have a chimney that is recommended by the manufacturer's specifications.
    - a. If there are any residences within three hundred feet (300') of the outdoor wood-fired boiler that are negatively impacted by the units emissions, the Negaunee Township Board can require the chimney to be extended up to as high above the ground surface as the roofs of all such residences.
    - b. The Negaunee Township Board may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors;
  6. All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors.

#### Section 504 Fees

There shall be a fee assessed at the time of application for the installation of an outdoor wood-fired boiler. The fee shall be established by the Negaunee Township Board.

### **ARTICLE VI PATIO WOOD-BURNING UNITS**

#### Section 601 Patio Wood-Burning Units

- A. A patio wood-burning unit may be installed and used in Negaunee Township only in accordance with ALL of the following provisions:
  1. The patio wood-burning unit shall not be used to burn refuse;
  2. The patio wood-burning unit shall burn only clean wood;
  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;
  4. The patio wood-burning unit shall not cause a nuisance to neighbors.

**ARTICLE VII  
FIRE SUPPRESSION TRAINING**

Section 701 Fire Suppression Training

- A. Notwithstanding Articles II and III of this ordinance, structures and other materials may be burned for fire prevention training only in accordance with ALL of the following provisions:
1. The burn must be exclusively for fire prevention training. The burning shall not be used as a means to dispose of waste material including tires and other hazardous materials;
  2. Any standing structure that will be used in 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 (MDEQ), Air Quality Division, at least ten (10) business days prior to burning a standing structure. The notification must be submitted using Form EQP 5661 "Notification of Intent to Renovate/Demolish";
  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;
  4. All ash shall be disposed of in an approved landfill or at an alternate location approved by the Michigan Department of Environmental Quality (MDEQ);
  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;
  6. At least 48 hours before a planned practice burn, residents within five hundred feet (500') of the site of the proposed burn shall be notified;
  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).

**ARTICLE VIII  
BURNING PERMITS**

Section 801 Burning Permits

- A. At any time the ground is not snow-covered a person shall not burn any flammable material on or adjacent to forestland, except for *domestic purposes*, without referring to the Michigan Department of Natural Resources (MDNR) Burn Permit System (toll free: 1-866-922-2876). If burning is permitted by the MDNR, residents shall then notify the Negaunee Township Fire Department OR the Negaunee Township Office.
1. "*Domestic purposes*" means any fire within the enclosed property where the applicants dwelling is located; 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 1/4 of an inch, or any fire within a building.

**ARTICLE IX  
LIABILITY**

Section 901 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.

**ARTICLE X  
RIGHT OF PROPERTY INSPECTION**

Section 1001 Right of Property Inspection

The Ordinance Enforcement Officer of Negaunee Township who presents credentials may inspect any exterior or outdoor property for the purpose of ascertaining compliance with the provisions of this ordinance.

**ARTICLE XI  
ENFORCEMENT AND SCHEDULE OF FINES**

Section 1101 Enforcement

The Ordinance Enforcement Officer is the authority having jurisdiction and is authorized to enforce the provisions of this ordinance.

Section 1102 Schedule of Fines

A. 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 Negaunee Township Municipal Civil Infraction Ordinance and the Negaunee Township Ordinance Enforcement Officer Ordinance. The schedule of civil fines is as follows:

|   | <b>Minimum Fine</b> | <b>Maximum Fine</b> |
|---|---------------------|---------------------|
| 1 <sup>st</sup> Violation within 3-year period*               | \$75.00             | \$500.00            |
| 2 <sup>nd</sup> Violation within 3-year period*               | \$150.00            | \$500.00            |
| 3 <sup>rd</sup> Violation within 3-year period*               | \$325.00            | \$500.00            |
| 4 <sup>th</sup> or Subsequent Violation within 3-year period* | \$500.00            | \$500.00            |

\*Determined on the basis of the date of the violation(s)

B. The violator shall pay costs which may include all expenses, direct and indirect, which Negaunee Township has incurred in connection with the civil municipal infraction. In no case, however, shall costs of less than \$75.00 or more than \$500.00 be ordered. In addition, Negaunee 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. The owners of the 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. In addition, any permit issued pursuant to this ordinance shall be revoked upon conviction of a second offence.

**ARTICLE XII  
WAIVERS**

Section 1201 Waivers

- A. Where the Negaunee Township Board finds that extraordinary and unnecessary substantial justice may be done and the public interest secured, provided that such variations will not have the effects of nullifying the intent and purpose of this ordinance or of jeopardizing the health, safety, or welfare of the public, they may grant a waiver.
  - 1. In varying any regulations the Negaunee Township Board may impose such conditions and requirements, as it deems reasonable and prudent.
  - 2. The Negaunee Township Board may at its discretion, hold a public hearing as part of its review.
  - 3. If the Negaunee Township Board grants a waiver, the permit shall state the conditions of such waiver granted.
  - 4. If the Negaunee Township Board denies the waiver, the violation must either be brought into compliance with the Ordinance or must be removed.
  - 5. If the Negaunee Township Board does not take any action with respect to the waiver within sixty (60) days from its receipt of an application for waiver, the waiver shall be deemed denied.

**ARTICLE XIII  
EFFECT OF THE REGULATIONS**

Section 1301 Effect of the Regulations

- A. 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 Department of State or Department of Environmental Quality or any other federal, state, regional, or local agency.
- B. Outdoor wood-fired boilers and any electrical, plumbing or other apparatus or device used in connection with an outdoor wood-fired boiler, shall be installed, operated, and maintained in conformity with the manufacture's specifications and any and all Federal, State, or Local codes, laws, or regulations.
- C. 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.

**ARTICLE XIV  
SEVERABILITY**

Section 1401 Severability

Sections of this Ordinance shall be deemed to be severable and should any article, section, paragraph or provisions hereof be declared by the Courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.



**ARTICLE X  
REPEALER**

Section 1501 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 Negaunee Township Zoning Ordinance.

**ARTICLE XI  
EFFECTIVE DATE**

Section 1601 Effective Date

This Ordinance shall become effective thirty (30) days from the date of publication.