

## ARTICLE IV. OPEN BURNING\*

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**\*Editor's note:** An ordinance adopted July 21, 2010, amended article IV in its entirety to read as herein set out. Former article IV, §§ 12-101--12-108, pertained to similar subject matter, and derived from Ord. No. 83, §§ 2.1--2.3, 3.1, 4.1, 5.1, 6.1, 7.1, 8.1, 5-21-2002; Ord. of 9-21-2005, § 2--10.

**State law references:** Open burning of leaves and grass clippings, MCL 324.11522.

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Sec. 12-101. Short title.

This article shall be known and may be cited as the "Holly Township Open Burning Ordinance", and is referred to herein as "this article."

(Ord. of 7-21-2010(2), § 1.1)

Sec. 12-102. Enforcement authority.

The North Oakland County Fire Authority is hereby designated as the enforcement agency for this article. Citations for violation of the provisions of this article may be issued by the chief of the authority or by personnel authorized by the chief to issue citations.

(Ord. of 7-21-2010(2), § 2.1)

Sec. 12-103. Definitions.

*Agricultural or ground burning* means open burning of weeds, grass, brush and crop stubble that may still be rooted into the soil.

*Approved container* means a container constructed of metal or masonry with a metal covering device with openings no larger than three-quarters ( $\frac{3}{4}$ ) of an inch wide and/or a patio wood burning unit as defined below.

*Campfire* means a small outdoor fire no larger than three feet by three feet by two feet high in dimension, intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse. Fuel shall consist of seasoned dry wood.

*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.

*Competent person* shall mean a person who has attained the age of 18 years and who is capable of manipulating and operating a garden hose, rake, broom, shovel or other such tools as may be required to control permitted open burning.

*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.

*Designated representative* shall mean the fire department officer highest in rank, pursuant to fire department policy, present at the scene of a fire, or, if no such officer is present, the fire department personnel present with the highest seniority.

*Fire chief* shall mean the Chief of the North Oakland County Fire Authority, or such other individual as may have been designated as "fire chief" by the fire chief.

*Fireworks* means any product containing an explosive or flammable compound such as nitrates, sulfates, nitroglycerine, phosphorous, or any other explosive material commonly used and sold as fireworks.

*Open burning* shall mean the kindling, maintaining or setting of fire, igniting or combustion of any natural or manmade material, item, product or thing emitted directly into the ambient air without passing through a stack or a chimney outside of an enclosed building. This includes burning in a burn barrel.

*Patio wood-burning unit* means a chimenea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.

*Person* shall mean any individual, general partnership, corporation, limited liability company, limited liability partnership, or trust.

*Prescribed burn* means the burning, in compliance with a prescription and to meet planned fire or land management objectives, of a continuous cover of fuels.

*Prescription* means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a burn.

*Refuse* means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

*Residential dwelling* means a building or place of residence.

*Township* shall mean the Township of Holly, Oakland County, Michigan.

(Ord. of 7-21-2010(2), § 3.1)

#### Sec. 12-104. General prohibitions.

(a) *Open burning prohibited.* It shall be unlawful for any person to cause, permit, or maintain any open burning on property situated within the Township of Holly, except as provided herein.

(b) *Additional prohibited acts.* The following acts are prohibited:

(1) Disposing of a lighted match, cigarette, cigar, ashes or other flaming or glowing substance, or any other substance or thing that is likely to ignite a forest, brush or grass fire or throw or drop from a moving vehicle any such object or substances.

(2) Setting on fire or causing to be set on fire any flammable material without taking reasonable precautions, both before and at all times after lighting the fire, to prevent the fire from spreading.

(3) Leaving a fire before it is extinguished.

(4) Using or operating a welding torch, tar pot, or any other device which may cause a fire outside of a building without clearing flammable material surrounding the operation and without taking such other reasonable precautions necessary to insure against the starting and spreading of fire.

(5) Discharging or causing to be discharged, a gun firing flares, incendiary or tracer bullets or tracer charge onto or across any forest or grassland or structure.

(6) No open burning shall be allowed in or on any public road or right-of-way or on the ice of a lake, pond, stream or waterbody.

(7) No person shall burn plastics, tires, petroleum, or any kind of like products that would emit black smoke, or other objectionable smoke, odors, or particle emissions.

- (8) No person shall burn garbage, animal carcasses, refuse, trash, rubbish, or burn like material giving off foul or offensive odors, at any time.
  - (9) No open burning shall be allowed on any property used for commercial purposes or within 50 feet of any combustible structure, combustible material, combustible wall or partition, heavy vegetation areas, exterior window opening or exit access. (see subsection (11))
  - (10) No open burning shall be allowed within 50 feet from the nearest building which is not on the same property.
  - (11) No open burning shall be allowed on any property within 1,400 feet of the municipal boundaries of any incorporated city or village.
  - (12) No open burning of construction and/or demolition waste shall be allowed.
  - (13) No burning during periods when the Governor of Michigan has issued a burning ban applicable to the area or the fire chief deems it necessary to implement a temporary burning ban.
- (Ord. of 7-21-2010(2), § 4.1)

Sec. 12-105. Exemptions.

- (a) *Open burning allowed without permit.* The following shall not be considered "open burning" and shall be allowed without permit:
  - (1) The burning and/or use of highway safety flares, candles, lanterns, lamps, bug repellent torches, fireplaces, cigarettes, cigars, pipes, charcoal cookers, braziers, hibachis, barbecue grills, or any flammable liquid or liquefied gas fire stoves or similar devices maintained and used solely intended for heating or the preparation of food.
  - (2) A campfire, if such fire is not more than three feet by three feet by two feet high in dimension. Fuel for a campfire shall consist only of seasoned dry firewood.
  - (3) Fires set by the occupants of a residential dwelling, on the lot occupied by the residential dwelling, provided that the fires are set within an approved container burning units only in accordance with all of the following provisions:
    - a. Approved container burning shall not be injurious to human health or welfare, to animal life, to plant life or to property and shall not interfere with the enjoyment of life and property.
    - b. The approved container burning unit shall not be used to burn refuse.
    - c. The approved container burning unit shall be located at least 50 feet from the nearest structure which is not on the same property.
    - d. The approved container burning unit must be at least 15 feet from any combustible structure, combustible material, combustible wall or partition, heavy vegetation areas, exterior window opening, exit access or exit.
    - e. The approved container burning unit shall be located at least 50 feet from the nearest structure which is not on the same property as the approved container burning unit and 15 feet from any combustible structure, combustible material, combustible wall or partition, heavy vegetation areas, exterior window opening, exit access or exit .
    - f. The approved container burning unit shall not cause a nuisance to neighbors.
  - (4) Patio wood-burning units shall burn only clean wood.
  - (5) Structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions.

- a. 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.
  - b. 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."
  - c. 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.
  - d. At least 48 hours before a planned practice burn, residents within 1,000 feet of the site of the proposed burn shall be notified.
  - e. 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).
- (b) *Open burning allowed with permit.* The following open burning shall be allowed with permit as provided in 12-106 of this article:
- (1) Brush, grass clippings, trees, tree trimmings, logs, shrubbery, leaves and other wood materials or vegetative matter.
  - (2) Agricultural or Ground Burning conducted in accordance with subsection (3) in this section (prescribed burning).
  - (3) Prescribed burning for recognized agriculture, forestry, and range or wildlife management practices, or the prevention or control of disease or pests with a prescription and to meet planned fire or land management objectives.
  - (4) Fires set for forest, prairie, and wildlife habitat management if conducted in accordance with Part 515 of the Natural Resources and Environmental Protection Act, MCL 324.51501 et seq.
- (Ord. of 7-21-2010(2), §§ 5.1, 5.2)

Sec. 12-106. Permit requirements.

- (a) *Permit.* No person shall start or maintain any outdoor burning or open burning covered under this section without a burning permit issued by the Fire Chief or other North Oakland County Fire Authority designee.
- (b) *Permit application.* Request for a permit shall be made by the owner of the property or person in control of the property upon which the burning is to occur, to the fire chief (or the chiefs duly authorized representative). Request may be by phone or by written application.
- (c) *Permit issued/conditions.*
  - (1) The fire chief is authorized to issue permits for open burning, and may attach to such permit such conditions as are necessary in the discretion of the fire chief to minimize offensive or objectionable characteristics or to minimize the potential for the fire to spread. The fire chief may, based upon the exercise of reasonable discretion, prohibit open burning otherwise authorized under this article, if such burning would, in the

opinion, of the fire chief, be offensive or objectionable to owners or occupants of nearby properties due to smoke, odor or particle emissions, when atmospheric conditions or local circumstances make such fires a potential hazard or nuisance, or when any burning would be in violation of any other applicable state law, local ordinance or applicable regulation. Prohibition under this subsection may be determined prior to the ignition of a fire, or following ignition by order of extinguishment.

(2) A burn permit will only be issued between the hours of 6:00 a.m. and 6:00 p.m.

(3) Open burning permits are valid only for the date on which they are issued. No open burning permits will be issued in advance of the day on which the permittee will be burning.

(4) A burning permit issued under this article shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.

(5) Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance and the burning permit and shall immediately void the permit.

(Ord. of 7-21-2010(2), §§ 6.1--6.3)

Sec. 12-107. Standards for open burning.

Standards applicable to all open burning:

(1) All fires must be of a manageable size as determined by the fire chief or his/her designee.

(2) Outside burning shall be constantly attended by a competent person until the fire is completely extinguished.

(3) Burning shall be during daylight hours only, except for campfires as provided by section 12-105(a)(2).

(4) All burning shall be conducted with fire extinguishing equipment as deemed necessary for total control of the fire.

(5) 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.

(6) Burning shall be conducted in conformance with all local and state fire protection regulations.

(7) Burning shall be conducted only on the property on which the materials were generated.

(8) Outdoor campfires and small bonfires for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance and are safely maintained by a competent person at all times until the fire is extinguished and cold.

(Ord. of 7-21-2010(2), § 7.1)

Sec. 12-108. Permit regulation.

*Regulation of permit.* A burning permit may be revoked as follows:

(1) The fire chief or designee determines that continued burning would constitute a fire hazard for any reason, a health problem or a nuisance to owners or occupants of nearby properties;

(2) If a complaint is received by the fire department, following an on-site inspection by the fire chief or designated representative, a determination shall be made whether burning is allowed to continue.

(Ord. of 7-21-2010(2), § 8.1)

Sec. 12-109. Right of entry and inspection.

*Right of entry and inspection.* The fire chief or any authorized officer, agent, employee or representative of the North Oakland County Fire Authority who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

(Ord. of 7-21-2010(2), § 9.1)

Sec. 12-110. Penalties.

(a) A violation of this article shall be deemed a municipal civil infraction subject to penalties set forth in the municipal civil infraction provisions of this Code.

(b) A violation of this article shall be subject to costs which shall include all direct and indirect expenses and any other liabilities incurred in connection with a violation.

(c) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punishable separately.

(d) The township reserves the right to seek injunctive relief from the circuit court to enforce compliance with this article.

(Ord. of 7-21-2010(2), § 10.1)