

**MANISTEE TOWNSHIP  
MANISTEE COUNTY, MICHIGAN**

**ORDINANCE NO. 2020-01**

**AN ORDINANCE TO REGULATE OUTDOOR BURNING; TO PROVIDE CERTAIN EXEMPTIONS AND CONDITIONS; TO PROVIDE FOR ISSUANCE OF BURNING PERMITS; TO PROVIDE FOR INSPECTIONS; TO PROVIDE FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS; AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.**

**The Township of Manistee ORDAINS:**

**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 Township of Manistee 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 the Township of Manistee, except as follows:

- 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 an outdoor fire intended for recreation or cooking, but not including a fire intended for disposal of 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 Manistee Township 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 wood furnace” also known as an outdoor wood-fired boiler, outdoor wood-burning appliance, or hydronic heater, means a fuel-burning device that is designed to burn clean wood or other approved solid fuels and is not located within a building intended for habitation by humans or domestic animals; and heats building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.
- 4.8 “Patio wood-burning unit” means a chimenea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- 4.9 “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 the Township of Manistee 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, including but not limited to, by the burning of any materials that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of surrounding property.
  - 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 ¾ 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, PCV, 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**

- 7.1 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 13 of this ordinance must be obtained prior to open burning under this section when the ground is not snow-covered.
  - 7.1.2 Open burning of trees, logs, brush, and stumps must be conducted at least 1,400 feet from an incorporated city or the East Lake village limit.
  - 7.1.3 Open burning of trees, logs, brush, and stumps is prohibited in Village of East Lake.
  - 7.1.4 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.
  - 7.1.5 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.
  - 7.1.6 Open burning shall be conducted only on the property on which the materials were generated.
  - 7.1.7 Campfires and small bonfires, no larger than 4 feet by 4 feet, for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance.
  - 7.1.8 Open burning, other than campfires, 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.
  - 7.1.9 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.
  - 7.1.10 No materials may be burned upon any street, curb, gutter, or sidewalk, or on the ice of a lake, pond, stream, or waterbody.

- 7.1.11 Except for barbecue, gas, charcoal grills and campfires, no burning shall be undertaken within 25 feet from any combustible material, combustible wall or partition, exterior window opening, exit access, or exit unless authorized by the Fire Chief or his designee.
- 7.1.12 No open burning may be conducted on days when the Department of Energy, Great Lakes and Environmental has declared an "air quality action day" applicable to the Township of Manistee.

## **SECTION 8: AGRICULTURAL BURNING**

### **8.00 Agricultural burning.**

Open burning of weeds, brush, and crop stubble on lands under agricultural use is allowed if conducted in accordance with other applicable provisions of this ordinance.

## **SECTION 9: PRESCRIBED BURNS**

### **9.00 Prescribed burning.**

- 9.1 "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. A "prescription" means a written plan establishing the criteria necessary for starting, controlling, and extinguishing a burn. All prescribed burning shall be conducted strictly in compliance with Part 515 of the Natural Resources and Environmental Protection Act, MCL 324.51501 et seq
- 9.2 Fires set for forest, prairie, and wildlife habitat management are allowed only if conducted in accordance with Part 515 of the Natural Resources and Environmental Protection Act, MCL 324.51501 et seq.

## **SECTION 10: OUTDOOR WOOD FURNACES**

### **10.00 Outdoor wood furnaces.**

An outdoor wood furnace may be installed and used in the Township of Manistee only in accordance with the following provisions:

- 10.1 The outdoor wood furnace shall have a permanently attached stack with a minimum stack height of 20 feet above the ground that also extends at least 2 feet above the highest peak of any residence not served by the outdoor wood furnace located less than 200 feet from the outdoor wood furnace.
- 10.2 Fuel burned in the outdoor wood furnace shall be only clean wood, wood pellets made from clean wood, or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas, or propane backup.
- 10.3 The following items are strictly prohibited in outdoor wood furnaces:
- Any material not listed in 10.2.
  - Wood that has been painted, varnished, or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products.

- Rubbish or garbage including, but not limited to, food wastes, food packaging, food wraps.
  - Any plastic materials including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films, and plastic containers.
  - Rubber, including tires or other synthetic rubber-like products.
  - Newspaper, cardboard, or any paper with ink or dye products.
  - Any other items not specifically allowed by the manufacturer or this provision.
- 10.4** Outdoor wood furnaces installed on or after the effective date of this ordinance must comply with the following provisions:
- 10.4.1** The outdoor wood furnace shall be constructed, established, installed, operated, and maintained in conformance with the manufacturer's instructions and the requirements of this ordinance. In the event of a conflict, the requirements of this ordinance shall apply unless the manufacturer's instructions are more strict, in which case the manufacturer's instructions shall apply.
- 10.4.2** The outdoor wood furnace shall be laboratory tested and listed to appropriate safety standards, such as UL, CAN/CSA, ANSI, or other applicable safety standards.
- 10.4.3** The outdoor wood furnace shall be located at least 125 feet from the nearest lot line and in the rear yard as those terms are defined in the Manistee Township Zoning Ordinance.
- 10.4.4** The outdoor wood furnace shall be located on the property in compliance with the manufacturer's recommendations and/or testing and listing requirements for clearance to combustible materials.

**SECTION 11: PATIO WOOD-BURNING UNITS**

**11.00 Patio wood-burning units.**

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

- 11.1** The patio wood-burning unit shall not be used to burn refuse.
- 11.2** The patio wood-burning unit shall burn only clean wood.
- 11.3** The patio wood-burning unit shall be located at least 25 feet from the nearest structure which is not on the same property as the patio wood-burning unit.
- 11.4** The patio wood-burning unit shall not cause a nuisance to neighbors.

**SECTION 12: FIRE SUPPRESSION TRAINING**

**12.00 Fire suppression training.**

Notwithstanding Sections 5 and 6 of this Ordinance, structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions.

- 12.1 The burn must be exclusively for fire prevention training. The burn shall not be used as a means to dispose of waste material including tires and other hazardous materials.
- 12.2 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.
- 12.3 A notification of the demolition must be submitted to the Michigan Department of Environmental Quality, Air Quality Division, at least 10 business days prior to burning a standing structure. The notification must be submitted using Form EQP 5661 "Notification of Intent to Renovate/Demolish".
- 12.4 All ash and demolished materials must be disposed of in an approved landfill or at an alternate location approved by the Michigan Department of Environmental Quality.
- 12.5 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.
- 12.6 At least **48 hours** before a planned practice burn, residents within **1,000 feet** of the site of the proposed burn shall be notified.
- 12.7 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 13: BURNING PERMITS**

**13.00 Burning permits.**

- 13.1 No person shall start or maintain any open burning covered under this section without a burning permit issued by either the Michigan Department of Natural Resources (DNR) or the Fire Chief or his designee authorized to issue burning permits.
- 13.2 Any person responsible for burning leaves, brush, clean wood, or other vegetative debris under Section 7 of this ordinance shall obtain a one-time burning permit before starting the fire. There is no fee for a one-time burning permit issued by the DNR, the Fire Chief or his designee. Fees for other burning permits may be established by resolution of the Township Board from time to time.
- 13.3 A campfire does not require a permit, provided that the fire complies with all other applicable provisions of this ordinance.
- 13.4 When weather conditions warrant, the DNR, Fire Chief or his designee may temporarily suspend issuing burning permits and may temporarily suspend previously issued burning permits for open burning.
- 13.5 A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.
- 1367 Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

**SECTION 14: LIABILITY**

**14.00 Liability.**

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

**SECTION 15: RIGHT OF ENTRY AND INSPECTION**

**15.00 Right of entry and inspection.**

The Fire Chief or any authorized officer, agent, employee, or representative of the Township of Manistee, and any police officer having jurisdiction to act within Manistee Township who presents proper credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

**SECTION 16: ENFORCEMENT AND PENALTIES**

**16.00 Enforcement and penalties.**

**16.1** The Fire Chief, the Zoning Administrator and any police officer having jurisdiction to act within Manistee Township are authorized to enforce the provisions of this ordinance.

**16.2** 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:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
1 <sup>st</sup> offense within 3-year period*	\$75.00	\$500.00
2 <sup>nd</sup> offense within 3-year period*	\$150.00	\$500.00
3 <sup>rd</sup> offense within 3-year period*	\$325.00	\$500.00
4 <sup>th</sup> or more offenses within 3-year period*	\$500.00	\$500.00

\*Determined on the basis of the date of commission of the offense(s)

**16.3** The violator shall pay costs which may include all expenses, direct and indirect, which the Township of Manistee has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$250 nor more than \$1,000 be ordered. In addition, the Township of Manistee 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. If successful, the Township of Manistee shall be entitled to recover its reasonable attorneys' fees and expenses incurred in the action. Each day that a violation of this ordinance exists shall constitute a separate violation of this ordinance.

**SECTION 17: MISCELLANEOUS**

**Section 17.00 Repealer and Effective Date.**

**17.1 Repealer.** All ordinances and parts of ordinances in conflict herewith are repealed to the extent of the conflict. Without limiting the generality of the foregoing sentence, the ordinance adopted by the Manistee Township Board of Trustees on December 8, 2005, and styled "AN ORDINANCE TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE BY REGULATING FREE STANDING WOOD BURNING FURNACES AND BY REPEALING ALL ORDINANCES IN CONFLICT HEREWITH" is hereby repealed on the effective date of this Ordinance.

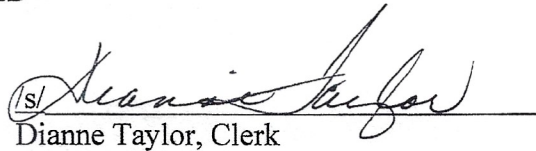
**17.2 Effective Date.** This Ordinance shall take effect at 12:01 a.m. on the 31st day following its adoption and publication as required by law.

THOSE VOTING IN FAVOR: Dontz, Taylor, Finout, Jankwietz, Bjorkquist

THOSE VOTING AGAINST: None

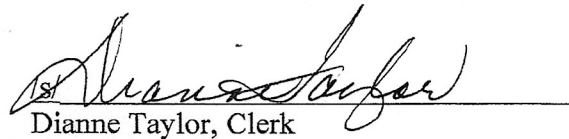
THOSE ABSENT OR ABSTAINING: None

ORDINANCE DECLARED PASSED

  
Dianne Taylor, Clerk

CERTIFICATION

The undersigned, Clerk of the Township of Manistee, hereby certifies that the foregoing is true and correct copy of the Ordinance adopted by the Manistee Township Board of Trustees and at a regular meeting thereof, held on the 9<sup>th</sup> day of July, 2020, at which a quorum was present and which was duly called and held in accordance with the Open Meetings Act.

  
Dianne Taylor, Clerk