

STATE OF MICHIGAN  
COUNTY OF IOSCO

THE CHARTER TOWNSHIP OF AUSABLE

ORDINANCE NUMBER 97

**OUTDOOR AND OPEN BURNING ORDINANCE**

(Replaces Ordinance Number 39)

Adopted: 10/01/07

Effective: 11/01/07

AN ORDINANCE TO REGULATE OPEN BURNING, FIRES AND RUBBISH IN THE TOWNSHIP OF AUSABLE AND TO PROVIDE PENALTIES FOR VIOLATION THEREOF:

THE CHARTER TOWNSHIP OF AUSABLE DOES HEREBY ORDAIN:

**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 AuSable 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 AuSable.

- 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 purposes 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: DEFINITIONS**

**3.00 Definitions.**

- 3.1. "Bonfire" means an outdoor fire utilized for ceremonial purposes.
- 3.2. "Campfire" means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood, yard waste or refuse.

- 3.3. "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.
- 3.4. "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.
- 3.5. "Municipality" means Township.
- 3.6. "Outdoor burning" means open burning or burning in an outdoor wood-fired boiler or patio wood-burning unit.
- 3.7. "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 trees, logs, brush, stumps, leaves and grass clippings. This does not include campfires or bonfires.
- 3.8. "Outdoor wood-fired boiler" means a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.
- 3.9. "Patio wood-burning unit" means a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
- 3.10. "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

#### **SECTION 4: GENERAL PROHIBITION ON OUTDOOR BURNING AND OPEN BURNING**

##### **4.00 General prohibition on outdoor burning and open burning.**

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

#### **SECTION 5: OPEN BURNING OF REFUSE**

##### **5.00 Open burning of refuse.**

Open burning of refuse and burn barrels are prohibited.

#### **SECTION 6: OPEN BURNING OF TREES, LOGS, BRUSH, STUMPS, LEAVES, AND GRASS CLIPPINGS**

##### **6.00 Burning trees, logs, brush, stumps, leaves and grass clippings.**

6.1. Open burning of trees, logs, brush, stumps, leaves, and grass clippings is allowed only in accordance with all the following provisions:

- 6.1.1 Except for campfires, a permit issued in accordance with Section 10.00 of this ordinance must be obtained prior to open burning under this section when the ground is not snow covered.
- 6.1.2. 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.
- 6.1.3. 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 on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.
- 6.1.4. Open burning shall be conducted only on the property on which the materials were generated except for campfires and bonfires.
- 6.1.5. Outdoor campfires for cooking or recreation are allowed provided they do not cause a nuisance. A permit is not required.
- 6.1.6. Open burning under this section shall only be conducted at a location at least twenty (20) feet from the lot line and twenty-five (25) feet from any building or structure.
- 6.1.7. Open burning shall only be conducted during the time indicated on the burning permit except for campfires and bonfires.
- 6.1.8. 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.
- 6.1.9. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.
- 6.1.10. Except for barbecue, gas, and charcoal grills, no burning shall be undertaken within twenty-five (25) feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit.
- 6.1.11. No open burning may be conducted on days when the Department of Environmental Quality has declared an "air quality action day" applicable to the Charter Township of AuSable.

## **SECTION 7: BONFIRES**

### **7.00 Bonfires.**

- 7.1. A bonfire shall not be more than five (5) feet by five (5) feet in dimension and shall not burn longer than three (3) hours.

- 7.2. Bonfires shall be at least fifty (50) feet from any form of a building or structure, combustible material of any form, or property line.
- 7.3. Material for a bonfire shall consist only of seasoned dry firewood and shall be ignited with a small quantity of paper. The fire shall not be utilized for waste disposal purposes, and the fuel shall be chosen to minimize the generation of air contaminants.
- 7.4. Any bonfire shall be constantly attended until the fire is extinguished. At least one portable fire extinguisher with a minimum 4-A rating, two portable fire extinguishers with a minimum 2-A rating each, or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck shall be available for immediate utilization.
- 7.5. Any bonfire shall not be offensive or objectionable due to smoke or odor emissions when atmospheric conditions or local circumstances make such fires hazardous.

## **SECTION 8: OUTDOOR WOOD-FIRED BOILERS**

### **8.00 Outdoor wood-fired boilers.**

An outdoor wood fired boiler may be installed and used in the Charter Township of AuSable only in accordance with all of the following provisions:

- 8.1. The outdoor wood-fired boiler shall not be used to burn refuse.
- 8.2. The outdoor wood-fired boiler shall be located as per the manufactures specifications.
- 8.3. The outdoor wood-fired boiler shall have a chimney as per the manufactures specifications.
- 8.4. The outdoor wood-fired boiler must have a label that indicated approved design by the manufacture.
- 8.5. The outdoor wood-fired boiler must be installed in accordance with NFPA Code 211 and 212 and meet EPA standards.

## **SECTION 9. PATIO WOOD-BURNING UNITS**

### **9.00 Patio wood-burning units.**

- 9.1. The patio wood-burning unit shall not be used to burn refuse.
- 9.2. The patio wood-burning unit shall burn only clean wood.
- 9.3. The patio wood-burning unit shall be located at least twenty (20) feet from all lot lines.
- 9.4. The patio wood-burning unit shall not cause a nuisance to neighbors.

## **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 without a permit from the Michigan Department of Natural Resources through their 800 telephone number or online site.

## **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 liability resulting from damage caused by the fire.

## **SECTION 12. ENFORCEMENT AND PENALTIES**

- 12.1.** Any person, firm or corporation who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$100.00, nor more than \$500.00 or by imprisonment in the County Jail for a period not to exceed ninety (90) days, or both such fine and imprisonment in the discretion of the judge imposing sentence, plus costs of prosecution and any court costs. Each day that a violation is continued or permitted to exist without compliance shall constitute a separate offense punishable by conviction in the same manner provided in this section, provided no person shall be imprisoned for a single but continuing violation of this Ordinance for a period longer than ninety (90) days.
- 12.2.** The Township shall also, as an alternative to the penalties as provided above, as well as the method for enforcement of this ordinance, shall be able to enforce this ordinance pursuant to its current Civil Infraction Ordinance or may seek any other relief available at law, either in the District and/or Circuit Courts servicing Iosco County, State of Michigan, and/or in the appropriate court of Federal jurisdiction, all as the circumstances may jurisdictionally warrant.
- 12.3.** Furthermore, any person found by the appropriate enforcement officer on behalf of the Charter Township of AuSable to be in violation of this ordinance, shall be obligated upon request, to provide documentation to satisfy the various provisions of this ordinance, or for failure to do so, same shall also constitute a violation of this ordinance. This documentation may include, but is not limited to appropriate licensure or any other information as required by this ordinance and/or as may be mandated by any other law. In the case of a DNR burning permit the person will provide a computer generated DNR permit or the Township will check with DNR.

**SECTION 13. SEVERABILITY**

**13.00 Severability.**

The various sections, parts, and clauses of this ordinance are hereby declared to be severable. If any part, clause, sentence, paragraph or section is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

**SECTION 14. REPEALER**

**14.00 Repealer.**

This ordinance shall repeal that Outdoor and Open Burning Ordinance known as Ordinance Number 39.

**SECTION 15. EFFECTIVE DATE**

**15.00 Effective Date.**

This Ordinance shall be effective thirty (30) days following adoption. At a regular meeting of the AuSable Township Board held on the 1<sup>st</sup> day of October 2007 adoption of the foregoing ordinance was moved by Paul Mayville and seconded by Jan Baldwin.

Voting for: Alanda Barnes, Kevin Beliveau, Paul Mayville, Lynn Mitchell, Mary Jo Samotis, Jan Baldwin

Voting against: Dan Hayes

Absent: None

The Supervisor declared the Ordinance adopted.

CHARTER TOWNSHIP OF AUSABLE

10/01/07  
Date

Albert D. Hayes, Jr.  
By: Albert D. Hayes, Jr.  
Its: Supervisor

10/01/07  
Date

Lynn A. Mitchell  
By: Lynn A. Mitchell  
Its: Clerk

**CERTIFICATION**

I hereby certify that the foregoing ordinance was adopted by the Township Board in a regular session held on 10/01/07 and it was published in the Oscoda Press on 10/10/07.

Lynn A. Mitchell  
Lynn A. Mitchell, Township Clerk