

TOWNSHIP OF BYRON
COUNTY OF KENT, MICHIGAN

Resolution No. 18-18-19

At a regular meeting of the Township Board of the Township of Byron, held at the Byron Township Hall, on the 29th day of May 2018, at 5:30 p.m.

PRESENT: Tom Hooker, Peggy Sattler, Carol Houseman, Tim Slot, Louise Evans, Bill DeBoer, Drew Jones

ABSENT:

The following ordinance was offered by Member Slot and supported by Member Jones:

WHEREAS, THE TOWNSHIP OF BYRON ORDAINS:

ORDINANCE NO. 622

**AN ORDINANCE TO REGULATE OPEN BURNING
IN THE TOWNSHIP OF BYRON**

Section 1. The following ordinance shall replace Article III Open Burning, of the Fire Prevention and Protection section of the regulatory ordinances of the Township of Byron. The replacement Article III shall read in its entirety as follows:

Article III

Sec. 18-50. 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 Byron by regulating the air pollution and fire hazards of outdoor burning.

Sec. 18-51. Applicability. This ordinance applies to all outdoor burning within the Township of Byron.

(a) This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

(b) 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.

(c) 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.

Sec. 18-52. 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.

Sec. 18-53. Definitions.

(a) “*Campfire*” means a small outdoor fire, less than three (3) feet in diameter and three (3) feet in height, intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.

(b) “*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.

(c) “*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.

(d) “*Fire Chief*” means the Chief of the Byron Township Fire Department or other person designated by the Fire Chief.

(e) “*Municipality*” means a county, township, city, or village.

(f) “*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.

(g) “*Outdoor burning*” means open burning or burning in an outdoor wood furnace or patio wood-burning unit.

(h) “*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.

(i) “*Patio wood-burning unit*” means a chiminea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.

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

Sec. 18-54. General Prohibition on Opening Burning. Open burning is prohibited in the Township of Byron unless the burning is specifically permitted by this ordinance.

Sec. 18-55. 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. Among the matters that may be considered a nuisance, any burning that creates a foul or offensive odor or that causes smoke emissions that are reasonably offensive to occupants of surrounding properties shall be deemed to be 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 1/2 inch.
 - (3) The material being burned is not prohibited under subsection 18-55(c).
- (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) Corrugated cardboard, container board, office paper.
 - (7) 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.

Sec. 18-56. Open Burning of Trees, Logs, Brush, Stumps, Leaves and Grass Clippings.

- (a) Open burning of leaves and grass clippings is prohibited.
- (b) Open burning of trees, logs, brush and stumps is allowed only in accordance with all of the following provisions:
 - (1) Except for campfires, a permit issued in accordance with Section 18-60 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 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. Open burning shall be conducted in conformance with all local and state fire protection regulations.
- (5) Except for campfires, open burning shall only be conducted from sunrise to sundown.
- (6) Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age (or use another appropriate 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) No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.
- (8) Except for barbecue, gas, and charcoal grills and except authorized patio wood-burning units, no open burning shall be undertaken within 50 feet from any structure, or any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.
- (9) No open burning may be conducted on days when the Department of Environmental Quality has declared an "air quality action day" applicable to Kent County.

Sec. 18-57. Agricultural Burning. Open burning of weeds, brush, and crop stubble on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.

Sec. 18-58. Prescribed Burns.

(a) "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.

(b) 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.

Sec. 18-59. Patio Wood-burning Units. A patio wood-burning unit may be installed and used in the Township of Byron only in accordance with all of the following provisions:

- (a) The patio wood-burning unit shall not be used to burn refuse.
- (b) The patio wood-burning unit shall burn only clean wood.
- (c) The patio wood-burning unit shall be located at least 50 feet from the nearest structure which is not on the same property as the patio wood-burning unit.
- (d) The patio wood-burning unit shall not cause a nuisance to neighbors.

Sec. 18-60. Fire Suppression Training. Notwithstanding Sections 18-54 and 18-55 of this ordinance, 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) 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.
- (c) 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."
- (d) 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.
- (e) 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.
- (f) At least 48 hours before a planned practice burn, residents within 300 feet of the site of the proposed burn shall be notified.
- (g) 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).

Sec. 18-61. Burning Permits.

(a) No person shall start or maintain any open burning covered under this section without a burning permit issued by the Fire Chief or the Fire Chief's designee.

(b) Any person responsible for burning brush, clean wood or other vegetative debris under Section 18-56 of this ordinance shall obtain a one-time burning permit before starting the fire.

(c) A campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.

(d) When weather conditions warrant, the Fire Chief may temporarily suspend issuing burning permits and may temporarily suspend previously issued burning permits for open burning.

(e) 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.

(f) 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.

Sec. 18-62. 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.

Sec. 18-63. Right of Entry and Inspection. The Fire Chief or any authorized officer, agent, employee or representative of the Township of Byron who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

Sec. 18-64. Enforcement and Penalties.

(a) The Fire Chief and designated municipal officials are authorized to enforce the provisions of this ordinance.

(b) 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:

- (1) The fine shall be not less than \$100 nor more than \$500 for the first offense.
- (2) The fine shall be not less than \$250 nor more than \$1,000 for subsequent offenses, in the discretion of the court, in addition to all other costs, damages and expenses incurred by the Township.

(c) For purposes of this section, the term "subsequent offense" means a violation of this article committed with respect to a separate incident by the same person within 12 months of a previous violation of the article which said person admitted responsibility or was adjudicated to be responsible.

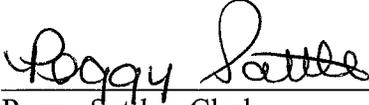
(d) The violator shall pay costs which may include all expenses, direct and indirect, which the Township of Byron has incurred in connection with the municipal infraction. In addition, the Township of Byron shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining 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.

Section 2. This ordinance shall be effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a local newspaper of general circulation in the Township.

AYES: Members: Tom Hooker, Peggy Sattler, Carol Houseman, Tim Slot, Louise Evans, Bill DeBoer, Drew Jones

NAYS: Members:

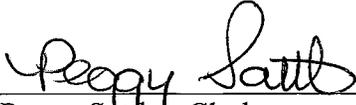
ORDINANCE DECLARED ADOPTED.



Peggy Sattler, Clerk
Township of Byron

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of the Township of Byron at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.



Peggy Sattler, Clerk
Township of Byron