

TOWNSHIP OF SOLON
COUNTY OF KENT, MICHIGAN

At a regular meeting of the Township Board of the Township of Solon, Kent County, Michigan, held at the Township Hall, 2305 - 19 Mile Road, Cedar Springs, Michigan, on the 8th day of July, 2008, at 7:30 p.m.

PRESENT: Members: Ellick, Gunnell, Rideout, Straub, Zenker

ABSENT: Members: None

The following ordinance was offered by Member Rideout and supported by Member Straub:

ORDINANCE NO. - 53

**AN ORDINANCE TO AMEND ORDINANCE NO.53,
OPENING BURNING ORDINANCE, OF THE TOWNSHIP OF SOLON**

An Ordinance to protect the public health, safety and general welfare by regulating outdoor burning within the Township prohibiting fires within certain prescribed areas; prohibiting fires under certain circumstances; and to provide penalties for the violation thereof.

THE TOWNSHIP OF SOLON ORDAINS:

1. Amendments to Open Burning Ordinance. Ordinance No. 53 has been amended so as to read in its entirety as follows:

Section 1. Purpose.

(a) The burning of leaves, grass, wood and/or trash creates a risk of the accidental spread of fire and also creates hazardous byproducts that can irritate eyes and lungs, obscure visibility, soil nearby surfaces, create odors and pose other health threats. Open burning may substantially increase the discomfort of persons who suffer asthma, chronic bronchitis and other respiratory ailments. This Ordinance is intended to reduce the negative impact of burning throughout the Township.

(b) This Ordinance recognizes the traditional use of open burning in the practice of agriculture and horticulture and is not intended to diminish that use when performed according to the requirements of this Ordinance. This Ordinance shall not apply to the burning of fuels in heating and cooking appliances or similar devices located within a structure nor shall it apply to internal combustion engines and motors.

Section 2. Definitions.

The following words and phrases included in this Ordinance shall have the meanings stated below in this section:

(a) **Annual Sign-up.** The registration, each calendar year, in order to acknowledge receipt of fire department rules and regulations and to become eligible to request a burning permit.

(b) **Approved Incinerator Device.** A properly installed and maintained incinerator displaying an American Gas Association or similar rating seal of approval stating that the device meets such organization's requirements for smokeless/odorless operation at the date of manufacture. The absence of a seal of approval or the noticeable emission of offensive effluent shall be prima facie evidence that such incinerator is not an approved burning device.

(c) **Burn; Burning.** The combustion of materials with or without a visible flame, and including smoldering and the emission of smoke or odor. Burn shall also include the igniting, kindling, or deliberately causing the combustion of materials.

(d) **Burning Permit.** The approval from the Township fire chief or authorized designee permitting open burning as stated in Section 4.

(e) **Covered Barrel.** Any metal 55-gallon barrel or pail covered with a three-quarters inch mesh screen.

(f) **Fire Chief.** The duly appointed Township fire chief and, for the purpose of administering and enforcing this Ordinance, his or her authorized designee.

(g) **Open Burning or Open Fire.** The burning of any flammable material that is not done within a structure or building. Open burning shall not include the use of internal combustion engines, the use of properly installed and maintained smokeless, odorless incinerators, or the use of a manufactured cooking device such as a barbecue grill that is solely used for the cooking of food for immediate human consumption and is extinguished upon completion of the cooking.

(h) **Order to Stop Burning.** A written order of the fire chief directing the extinguishment of a fire and the cessation of burning. An "Order to Stop Burning" may be issued where there is or has been no immediate violation of this Ordinance but an order has been issued pursuant to Section 6 of the necessity of terminating burning. The order shall specify the reasons for its issuance, prohibit further burning, and may warn of the consequences of its violation. The order shall state that an appeal can be submitted to the Township Board.

(i) **Person.** Any individual, corporation, partnership, association, or any officer, employee, or agent of the foregoing.

U) **Recreational Fire.** An open fire kindled on the ground, such as a campfire or fire used for an entertainment or amusement event.

Section 3. Annual Sign Ups for Burning Permits.

The outdoor burning of flammable material in the Township shall occur only in compliance with this Ordinance, including the provisions on burning permits, where such permits are required.

(a) In order to be eligible for a burning permit, a person who owns, resides on or leases property where burning is proposed to take place must do each of the following: (1) submit a completed application to the Township for each calendar year. The application shall be submitted at the Township offices, or at the fire chief's office, during normal business hours; (2) acknowledge receiving a copy of the fire department rules and procedures on outdoor burning, and (3) grant access to the Township in accordance with Section 5.

(b) The application does not of itself constitute approval to burn. A permit for approved outdoor burning must be received in accordance with Section 4 of this Ordinance prior to any open burning regulated by this ordinance.

Section 4. Burning Permit Application.

(a) Prior to any permitted burning, a property owner or lessee who has submitted an application with all necessary information concerning the proposed burning, including the location, material to be burned, estimated duration of the burning, proposed time of day and other requested information, and who has received a copy of the fire department rules and procedures for burning, and granted access to the Township pursuant to Section 5 of this ordinance, must obtain a permit to burn. An applicant may provide all necessary information concerning the proposed burning at the time of application; or alternatively, may pre-apply and defer only provision of the time, date and expected duration of the burning. The time, date and expected duration may then be provided by telephone to the Township or the fire chief, as long as the applicant actually speaks with a person in the Township offices or the fire chief. It is not sufficient for the applicant merely to record such request and information on an answering machine or voice mail system in the Township office.

(b) Upon receiving the above-stated information from the applicant, and any other relevant information deemed necessary by the Township, the fire chief or other authorized person will approve the burning and issue a permit, or will deny such approval. If approval is given and a record of the approval indicated in the Township files, information about the proposed burning may be forwarded by the Township office or the fire department to the Kent County emergency dispatch system, so as to notify dispatching personnel regarding the proposed burning.

(c) In determining whether to grant or deny a request for a permitted burning, the fire chief shall consider factors such as, but not limited to, the proposed location, weather conditions, the need for and/or availability of fire department resources necessary to guard against the spread of fire, previous ordinance compliance by the applicant, and other factors likely to affect the public health, safety, and welfare of persons and property in the Township.

(d) The fire chief may impose reasonable conditions prior to approval including, but not limited to, restrictions or limitation on the duration of the burning, the time of day, the manner of burning, and the type and quantity of material to be burned. Generally, open burning by permit shall be for daylight hours only.

(e) The applicant shall be required to pick up a written permit from the Township office or the fire department. Additional conditions or restrictions should be included in the written permit.

(f) If the request for permission to burn is denied, the reasons for denial shall be provided in writing to the applicant within five business days of the denial.

(g) A permit to burn may cover a period of time of up to four days; provided, however, that in the discretion of the fire chief, the chief may approve a greater number of days. If an owner or other person is not able to accomplish the burning within the period of time specified in the permit, the Township office or the fire department must then be contacted again for a subsequent or revised permit.

Section 5. Consent to Enter Property to Assure Compliance.

By submitting an application for a burning permit, a person shall be deemed to have consented to the fire chief's entry or the fire chief's designee's entry onto the person's property to determine compliance with any permit conditions. The fire chief or the chief's designee, may enter onto all property within the Township, whether there is a permit or not, where smoke, open burning, or fire has been observed, for the purpose of reviewing the burning permit, to investigate the nature of a non-permitted fire, to extinguish a non-permitted, illegal, accidental, or unconfined fire, or to cite the person responsible for a violation of this Ordinance.

Section 6. Revocation of a Burning Permit.

The fire chief may revoke a burning permit in the event any of its terms and conditions are being violated or should circumstances become such that the fire chief believes that the burning poses a health or safety risk or otherwise will result in a condition detrimental to the Township or its residents. The fire chief may order the extinguishment of or may cause to be extinguished any open fire, whether permitted or non-permitted, a fire in a covered barrel, outdoor cooking fire, recreational fire, fire in an unapproved burning device, or other burning which the chief deems to be a nuisance or hazard to public health and safety.

(a) In the event of a violation of this Ordinance or of a permit, the fire chief may issue to a person who is burning, or to the property owner, or in their absence may post on the property an order to stop burning. Any person receiving an order to stop burning shall immediately extinguish the fire and shall desist from further burning until such time as burning is expressly approved by the fire chief.

(b) It shall be a violation of this Ordinance to reignite or allow the re-ignition of a fire extinguished by order of the fire chief without the fire chief's express approval.

Section 7. Regulated Burning.

Open burning within the Township of any material is hereby prohibited, except as follows:

(a) Open burning of leaves, grass clippings, vegetable and garden debris, shrubbery, brush, wood, twigs or tree trimmings is permitted by a person who has received a burning permit from the fire chief according to the procedures in this Ordinance.

(b) Burning that is confined entirely within a covered barrel may take place without a permit if the covered barrel is at least 50 feet away from a dwelling on any other land and if it is at least 25 feet away from all of the property boundary lines; provided, however, that such burning within a covered barrel shall not take place after 9 o'clock p.m. Such burning is subject to the provisions on extinguishment of outdoor fires and orders to stop burning under Section 6.

(c) Outdoor burning shall take place only during daylight hours, except that permitted burning confined entirely within a covered barrel may occur up to 9 o'clock p.m., as stated in subsection (b) of this section.

(d) Burning shall not take place within 50 feet of any building or other property or within 25 feet of any right-of-way or property line, except the joint property line of adjacent properties jointly conducting burning operations. Burning is prohibited on any public or private roads.

(e) The burning of tires, plastics and any other materials that may result in noxious odors or other seriously offensive condition is prohibited. It shall be a violation of this ordinance to burn any substance which emits in substantial concentration smoke or gas which is toxic to plant or animal life, noxious or offensive in odor, or creates a lasting condition of thick smoke.

(f) The provisions of this ordinance shall not comply to agricultural burning, including the burning of brush, trees and crop fields on farms when performed in accordance with generally accepted agricultural and management practices ("GAAMPS"). Similarly, the ordinance shall not apply to the open burning of bee keeping equipment and products, when burned for bee disease control.

(g) Open fires used solely for cooking for immediate human consumption, or for recreation or ceremonial purposes, shall not be prohibited and shall not require a burning permit or application if the following conditions are satisfied:

(1) The fire does not exceed four feet in diameter or four feet in height. Any fire in excess of four feet in diameter or height shall require an open burning permit.

(2) Such open fire shall not be composed in whole or in substantial part of leaves or grass clippings.

(3) Such open fire shall use non-processed wood and shall not burn garbage or any other material that may be noxious, offensive in odor or create a lasting condition of thick smoke.

(4) Such open fires not be left unattended at any time.

Section 8. Burning Materials Imported into the Township.

No person shall burn any materials imported into the Township from other areas, for the purpose of the disposal or elimination of such materials or for other reasons.

Section 9. Burning of Materials Resulting in Hazardous Smoke.

It shall be a violation of this Ordinance to burn with or without a permit any substance or material which emits in substantial concentration, smoke or gas which is toxic to plant or animal life, noxious or offensive in odor, or creates a lasting condition of thick smoke.

Section 10. Burning at Construction Sites.

Burning of construction debris (including, but not limited to, tree stumps and fallen trees) is prohibited without written authorization by the fire chief and/or the deputy chief.

Section 11. Penalties.

Any person or other legal entity which violates or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction and shall be punished by a civil fine not less than \$50 for a first violation, second offense is \$200 and not less than \$500 for a subsequent violation. A subsequent violation shall mean a violation occurring within one year of a previous violation. Such person or entity shall also be liable for the payment of the costs of enforcement.

(a) Each day during which a violation continues shall constitute a separate offense.

(b) The fines and penalties provided for in this section shall be in addition to the abatement of the violation and any injunctive or other lawful relief.

Section 12. Cost Recovery for Emergency Response.

(a) The Township Board finds that a number of responses of the Township fire department involve persons who fail to burn in accordance with the conditions of an approved permit or who fail to obtain a burning permit as required by law, or by property owners who permit the same. In addition, the Township Board finds that such incidents pose a greater likelihood of personal or property damage. A greater operational and financial burden is placed upon the Township's firefighting and rescue services by persons who fail to burn in accordance with the conditions of approval or failure to obtain a burning permit or property owners who permit the same.

Accordingly, any person is liable for the expense of all emergency response if, while burning without a valid burning permit or in violation of conditions of approval of a valid burning permit, such person's activities cause an incident resulting in an emergency response. The foregoing shall also apply to a property owner who permits or consents to another's burning without a valid burning permit or in violation of conditions of approval of a valid burning permit on that property owner's premises.

(b) The expense of an emergency response shall be a charge against the person or property owner liable for the expense under this Ordinance. The charge shall constitute a lien against the property as well as a debt of that person and is collectible by the Township in the same manner in which general property taxes may be collected or, alternatively, in the same manner as in the case of an obligation under a contract, expressed or implied.

(c) The expense of an emergency response shall include, though shall not be limited to, those amounts calculated as follows:

(i) \$125 per hour, or fraction thereof, for each pumper required, in the opinion of the officer in command, to be utilized in responding to the emergency.

(ii) \$125 per hour, or fraction thereof, for each water tender required, in the opinion of the officer in command, to be utilized in responding to the emergency.

(iii) \$125 per hour, or fraction thereof, for any other Township-owned fire department vehicle or other emergency vehicle required, in the opinion of the officer in command, to be utilized in responding to the emergency.

(d) The fire chief may, within ten days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for such costs by first class mail or personal service to the person liable for the expenses as specified in this Ordinance. The bill shall require full payment in 30 days from the date of mailing or delivery.

(e) Any failure by the person described in this Ordinance as liable for the expense of an emergency response, to pay the bill within 30 days of mailing or delivery shall be considered in default. In the case of default, the Township may impose the expense as a lien on the property where the violation occurred or, alternatively, may commence a civil lawsuit to recover the expenses and any costs permitted by law.

(f) For purposes of this section, the following words and phrases shall be defined as follows:

(1) Emergency response shall mean the providing, sending and/or utilizing of firefighting, emergency medical or rescue services by the Township or county sheriff's department, to an incident involving a fire where the person burning combustible materials, or a property owner permitting such burning, is in violation of a condition of approval of a valid burning permit or where no burning permit has been obtained as required by this Ordinance.

(2) Expense of an emergency response shall mean the direct and reasonable costs incurred by the Township or the county sheriff's department when making an emergency response to the incident, including the costs of providing firefighting and rescue services at the scene of the incident. These costs shall also include those incurred at the scene of the incident; all of the salaries and wages of the Township or county sheriff's department personnel responding to the incident; all salaries and wages of the personnel engaged in investigation, supervision and report preparation; all costs related to any prosecution of the person causing the incident; and any charges

by the local elective utility or the restoration of power lines or other such equipment that may have been affected by the incident.

Section 13. Enforcement.

The Township fire chief, the Township zoning administrator, deputies of the Kent County Sheriff's Department, or any duly authorized law enforcement officer acting on complaint of the fire chief, may enforce the provisions of this Ordinance.

Section 14. Severability.

The sections and other portions of this Ordinance shall be deemed severable. Should any section, clause or provision be declared to be invalid, in whole or in part, the same shall not affect the validity of the ordinance as a whole, other than the section, clause, or provision declared to be invalid.

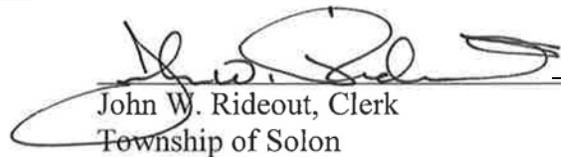
2. **Effective Date.** This amending ordinance shall be effective upon publication of the ordinance amendment, or a summary thereof, in a newspaper of general circulation within the Township.

AYES: Members: Straub, Gunnell, Rideout

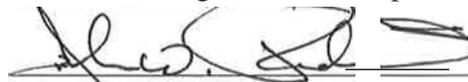
NAYS: Members: Ellick, Zenker

ABSENT: Members: None

ORDINANCE DECLARED ADOPTED.


John W. Rideout, Clerk
Township of Solon

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


John W. Rideout, Clerk
Township of Solon