

An Ordinance to Amend Chapter 26 of the Code of Ordinances
for the Village of Ontonagon.

The Village of Ontonagon ordains, that Chapter 26 (Fire Prevention and Protection) be amended, that Article III (Open Burning) be deleted in its entirety and replaced with a new Article III (Outdoor Burning, Open Burning and Burning of Refuse), to read as follows:

ARTICLE III. OUTDOOR BURNING, OPEN BURNING AND BURNING OF REFUSE

Section 26.III-1 Purpose

Section 26.III-2 Applicability

Section 26.III-3 Definitions

Section 26.III-4 General prohibition on outdoor burning and refuse burning

Section 26.III-5 Materials that may not be burned

Section 26.III-6 Burning leaves, brush, clean wood and other vegetative debris

Section 26.III-7 Beach Fires

Section 26.III-8 Burn barrels

Section 26.III-9 Outdoor furnaces

Section 26.III-10 Fire department practice burns

Section 26.III-11 Exemption for burning certain papers

Section 26.III-12 Burning Permits

Section 26.III-13 Liability

Section 26.III-14 Right of entry and inspection

Section 26.III-15 Enforcement and penalties

Section 26.III-16 Severability

Section 26.III-17 Effective Date

SECTION 26.III-1: 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 Village of Ontonagon due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning.

SECTION 26.III-2: APPLICABILITY

This ordinance applies to all outdoor burning and refuse burning within the corporate limits of the Village of Ontonagon.

2.1. This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.

2.2. This ordinance does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined in Section 26.III-5 of this ordinance.

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 26.III-3: DEFINITIONS

3.1. ABurn Barrel@ means any non-combustible container not specifically designed for burning wood, coal or other material that is commonly used as a source of heating fuel, or specifically designed for cooking.

3.2. "Campfire" means a small outdoor fire intended for recreation or cooking not including a fire intended for disposal of waste wood 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. AConfidential papers@ means printed material containing personal identification or financial information that the owner wishes to destroy.

3.5. "Fire Chief" means the Chief of the Village of Ontonagon Fire Department or other person authorized by the Fire Chief.

3.6. "Outdoor Burning" means open burning or burning in an outdoor wood-fired or pellet-fired furnace.

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.

3.8. "Outdoor Furnace" means a wood-fired or pellet-fired furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

3.9. "Refuse" means any waste material except clean wood.

SECTION 26.III-4: GENERAL PROHIBITION ON OPEN BURNING, OUTDOOR BURNING AND REFUSE BURNING

Open burning, outdoor burning and refuse burning are prohibited in the Village of Ontonagon unless the burning is specifically permitted by this ordinance.

SECTION 26.III-5: MATERIALS THAT MAY NOT BE BURNED (See also Appendix A)

5.1. Unless a specific written approval has been obtained from the Michigan Department of Natural Resources, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device.

5.2. Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.

5.3. Waste oil or other oily wastes, unless within an appliance specifically manufactured for that purpose.

5.4. Asphalt and products containing asphalt.

5.5. 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.

5.6. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

5.7. Rubber including tires and synthetic rubber-like products.

SECTION 26.III-6: OPEN BURNING OF LEAVES, BRUSH, CLEAN WOOD AND OTHER VEGETATIVE DEBRIS

Open burning of leaves, weeds, brush, stumps, clean wood other vegetative debris is allowed only in accordance with the following provisions.

6.1. All allowed open burning shall be conducted in a safe nuisance free manner, when wind and weather conditions are such as to minimize adverse effects such as offensive or noxious smoke and 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.

6.2. Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Fire Chief or the Michigan Department of Natural Resources has issued a burning ban applicable to the area.

6.3. Open burning shall be conducted only on the property on which the materials were generated or at a facility approved by and in accordance with provisions established by the Michigan Department of Natural Resources and the Fire Chief.

6.4. Unless explicitly allowed elsewhere in this ordinance, a commercial enterprise other than an agricultural or silvicultural operation may open burn only at a facility approved by and in accordance with provisions established by the Michigan Department of Natural Resources and the Fire Chief.

6.5. Open burning of weeds or brush on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.

6.6. Fires set for forest, prairie or wildlife habitat management are allowed with the approval of the Michigan Department of Natural Resources.

6.7. Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a fire ring, or fire pit. Bonfires are allowed only if approved by and in accordance with provisions established by the Fire Chief.

6.8. Burning of trees, limbs, stumps, brush or weeds for clearing or maintenance of rights-of-way is allowed if approved by the Fire Chief and if in accordance with other provisions of this ordinance.

6.9. In emergency situations such as natural disasters burning that would otherwise be prohibited is allowed if specifically approved by the Michigan Department of Natural Resources.

6.10. Open burning under this section shall be conducted only following issuance of and in accordance with a permit issued under Section 26.III-11 of this ordinance.

6.11. Open burning under this section shall only be conducted at a location at least 40 feet from the nearest building which is not on the same property.

6.12. 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.

6.13. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or water body.

6.14. Except for barbecue, gas and charcoal grills, no burning shall be undertaken near any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.

6.15. No open burning may be conducted on days when the Michigan Department of Natural Resources has declared a high risk of fire danger applicable to the Village of Ontonagon.

SECTION 26.III-7: BEACH FIRES

1.1 Nothing contained in this article shall be construed so as to require a permit for the burning of charcoal or a similar substance in a grill or other cooking device designed for that purpose.

1.2 Nothing contained in this article shall be construed so as to require a permit to build a fire on the shore of Lake Superior, provided that any such fire shall consist of only clean wood, be located on sand and within 15 feet of the water's edge.

1.3 Beach fires shall have a base of not more than three feet in diameter.

1.4 Beach fires shall not be left unattended, and shall be completely extinguished with water prior to departure.

1.5 The Fire Chief or his or her designee may suspend the operation of this section for a specified time based on the criteria for the issuance of permits set forth in Section 26.III-12.

SECTION 26.III-8 BURN BARRELS

No person shall use or maintain a burn barrel in the Village of Ontonagon.

SECTION 26.III-9 OUTDOOR FURNACES.

An outdoor furnace may be installed and used in the Village of Ontonagon only in accordance with the following provisions:

- 9.1. The outdoor furnace shall be a commercially manufactured unit approved by the US EPA (guidelines pending), and shall be installed and used only in accordance with manufacturer's recommendations.
- 9.2. The outdoor furnace shall not be used to burn any of the prohibited materials listed in Section 26.III-5 of this ordinance. (See also Appendix A)
- 9.3. No more than one (1) outdoor furnace may be installed and used and must be located in the rear yard only of any parcel in any zoning district.
- 1.4. The outdoor furnace shall be installed and used only in parcels of sufficient size to meet the distance requirements of this ordinance.
- 1.5. The outdoor furnace shall be located at least 15 feet from the nearest property line and at least 40 feet from the nearest habitable building which is not on the same property as the outdoor furnace.
- 1.6. Units located seventy-five (75) feet or closer from any other structure must have a stack height at least two (2) feet higher than the eave height of the nearest residential structure.
- 1.7. If located more than seventy-five (75) feet but less than one hundred (100) feet from the nearest structure, the stack height shall be not less than seventy-five percent (75%) of the eave height of the nearest residential structure, plus two (2) feet.
- 1.8. If located more than one hundred (100) feet but less than one hundred fifty (150) feet from the nearest structure, the stack height shall be no less than fifty percent (50%) of the eave height of the nearest residential structure, plus two (2) feet.
- 1.9. If located more than one hundred and fifty (150) feet but less than Two hundred (200) feet from the nearest structure, the stack shall be no less than twenty five percent (25%) of the eave height of the nearest residential structure, plus two (2) feet.
- 1.10. No part of any outdoor heating unit structure should be permitted to locate closer than ten (10) feet from any property line.
- 1.11. Every outdoor heating unit must have a spark arrestor securely installed on top and must be constantly maintained in good repair to the requirements of this ordinance, without rust or other blighted condition.
- 1.12. The owner of the outdoor furnace shall obtain an annual permit from the Village in accordance with Section 26.III-12 of this ordinance.
- 1.13. There shall be no grandfathering. Owners of existing outdoor furnaces shall have 24 months from the date of adoption of this ordinance to come into compliance with this ordinance.

SECTION 26.III-10: FIRE DEPARTMENT PRACTICE BURNS

Notwithstanding Sections 26.III-4 and 26.III-5 of this ordinance, the Ontonagon Village Fire Department may burn a standing building if necessary for fire fighting practice and if the practice burn complies with the requirements of the Michigan Department of Natural Resources.

SECTION 26.III-11: EXEMPTION FOR BURNING CERTAIN PAPERS

11.1. Notwithstanding Subsection 26.III.6 of this ordinance, paper and cardboard products may be used as a starter fuel for a fire that is allowed under this ordinance

11.2. Small quantities of confidential papers from a residence may be burned if necessary to prevent the theft of financial records, identification or other confidential information.

11.3. Confidential papers from a commercial enterprise shall be shredded or destroyed in a manner other than burning.

11.4. A fire set for burning of a small quantity of confidential papers shall be subject to and comply with Subsections 6.1-6.3, 6.6, and 6.11-6.15 of this ordinance.

SECTION 26.III-12: BURNING PERMITS

12.1. No person shall start or maintain any open burning without a burning permit issued by the Village of Ontonagon Fire Chief or his/her authorized designee.

12.2. An outdoor campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.

12.3. Any person responsible for burning leaves, brush, clean wood or other vegetative debris under Section 26.III-7 of this ordinance shall obtain a one-time burning permit before starting the fire.

12.4. The owner or occupant of the property shall obtain an annual burning permit for each outdoor furnace before using the outdoor furnace. An annual permit expires on August 1st of each year. Permit applications shall be available at the Village of Ontonagon Office located at 315 Quartz St., Ontonagon, MI 49953. Completed applications are to be returned to the Village Office to be considered for approval.

12.5. When weather conditions warrant, the Fire Chief or the Michigan Department of Natural Resources may declare a burning moratorium on all open burning and temporarily suspend previously issued burning permits for open burning.

12.6. 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.

12.7. 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 26.III-13: 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 26.III-14: RIGHT OF ENTRY AND INSPECTION

The Fire Chief or any authorized officer, agent, employee or representative of the Village of Ontonagon who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. Note: If the owner or occupant of the premises denies access to the property for this purpose, the permit is automatically null and void, and renders the property owner subject to penalties in accordance with Section 1-10 of the Code of Village Ordinances.

SECTION 26.III-15: ENFORCEMENT AND PENALTIES

15.1. The Fire Chief and Village Manager or his or her designee are authorized to enforce the provisions of this ordinance.

15.2. The penalty for violation of any portion of this ordinance shall be in accordance with Section 1-10 of the Code of Village Ordinances, plus the cost of prosecution.

SECTION 26.III-16: SEVERABILITY

If any section, clause, or provision of this Amendatory Ordinance were declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Village of Ontonagon Village Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

SECTION 26.III-17: EFFECTIVE DATE

This Amendatory Ordinance shall become effective thirty (30) days after a notice of adoption has been published in a newspaper of general circulation within the community.

Ayes: President Frazer; Trustees: James, Johnson, Polakowski

Nays: Trustee Harris

Absent: None

Abstain: None

ORDINANCE DECLARED ADOPTED. Date: January 8, 2007

Sample List of Materials Which Are NOT Legal To Burn

These household materials can NOT legally be burned on the same property where generated:
(The number listed after the materials below refers to the legal explanations of why the item may not be burned.)

- _ Plastic Milk Jug 1,5 _ Urethane Foam Pad 1,2 _ Asphalt Sealant 1
- _ Plastic Soda Bottles 1,2 _ Treated Lumber 3 _ Plastic Food Wrap 1
- _ Magazines / Catalogues 5 _ Plywood 6 _ Insulated Electrical Wire 1
- _ Plastic Pipe 1 _ OSB / Composite Board 6 _ Rubber Hose 1
- _ Food Waste / Garbage 4 _ Plastic Weed Barrier 1 _ Tires 1
- _ Wooden Furniture 3 _ Water Softener Salt Bag _ Plastic siding 1 1,2
- _ Plastic Garbage Bags 1 _ Aluminum Beer Cans 5 _ Waste Oil 4

_ Asphalt Shingles 1 _ Nylon Carpet 1,2 _ Painted Siding 3
_ Polystyrene Plates 1,2 _ Plastic Vapor Barrier 1 _ Tar Paper 1
_ Plastic Toys 1 _ Nylon Upholstery Fabric 1,2 _ Old Building 7
_ Polystyrene Foam Packaging 1,2

Explanations & Alternatives:

- 1 All plastic, rubber and asphalt materials are prohibited from open burning under state law.
- 2 This synthetic material is Aplastic@ and may not be burned.
- 3 Wood that is painted or chemically treated may not be burned under state law.
- 4 These materials are specifically prohibited from open burning under state law.
- 5 These materials should be recycled. They cannot be burned.
- 6 These materials contain resins and glues making them unsuitable for burning. They are not Adry unpainted, untreated wood@ as referenced and exempted.
- 7 Individuals or businesses may not burn a building. The only exception is that a building may be burned only by a fire department for training purposes after notification to DNR and removal of illegal materials.