

**CHARTER TOWNSHIP OF JAMESTOWN**

**COUNTY OF OTTAWA, MICHIGAN**

At a regular meeting of the Township Board of the Charter Township of Jamestown, held at the Township Hall, on the 20th day of February, 2012, at 7:00 p.m.

PRESENT: Members: Boverhof, Brouwer, Jensen, Miedema, Pruis  
Shaarda and Tacoma.  
ABSENT: Members: NONE

The following Ordinance was offered by Member Pruis and supported by Member Tacoma:

**ORDINANCE # 12-001**

**OPEN BURNING ORDINANCE**

**AN ORDINANCE TO REGULATE OPEN BURNING WITHIN JAMESTOWN CHARTER TOWNSHIP; TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE AND MATTERS RELATED THERETO**

THE CHARTER TOWNSHIP OF JAMESTOWN ORDAINS:

Section 1. Purpose. The purpose of this ordinance is to regulate open burning in Jamestown Charter Township. The Township finds that regulation, and in certain circumstances, monitoring of open burning is necessary because the residential density of the Township has increased, and smoke from open burning near densely-populated areas exacerbates breathing difficulties for some individuals. The Township has approved this Ordinance to promote the public health, safety and welfare of the citizens of Jamestown Charter Township.

Section 2. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (a) "Campfire" means a small contained outdoor fire 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 Jamestown Charter Township Fire Department or the Fire Chief's designee.
- (e) "Flammable material" means any substance that will burn including, but not limited to, refuse, debris, waste, brush, stumps, logs, rubbish, fallen timer, grass, stubble, or leaves.
- (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 chimney.
- (g) "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings and other vegetative matter.

### Section 3. Open Burning of Refuse.

- (a) Open burning of refuse from a commercial or industrial establishment is prohibited.
- (b) Open burning of refuse on properties where there are one or two-family dwellings, which properties are situated outside of developed plats or planned developments is allowed if the following conditions are met:
  - (1) The burning does not create a nuisance, including the burning of materials that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of surrounding property.
  - (2) The burning is conducted in a container constructed of metal or masonry.
  - (3) The material being burned is not prohibited under subsection 3(c).
- (c) Open burning of the following materials is prohibited in all areas of the Township:
  - (1) Construction and demolition waste.
  - (2) Hazardous substances including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, electric wires, 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.

### Section 4. Open Burning of Trees, Logs, Brush, Stumps, Leaves, Grass Clippings and Other Vegetative Matter.

- (a) Open burning of trees, logs, brush, stumps, leaves, grass clippings and other vegetative matter is allowed in accordance with the following provisions:
  - (1) The Township or Fire Chief is informed when the size of the fire may be large enough to attract attention of passers-by unless there is at least 3 inches of snow on the ground.
  - (2) Open burning shall be conducted only on the property on which the materials are generated.
  - (3) Open burning shall only be conducted at a location at least 100 feet from the nearest building which is not the same property.
  - (4) 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.
- (b) Open burning of trees, logs, brush and stumps must be conducted at least 1,400 feet from an incorporated city limit or village.
- (c) Except for barbeque, gas and charcoal grills, no open burning shall be undertaken during periods when the Governor of Michigan, or designated representative of the Governor, has issued a burning ban applicable to the area.
- (d) 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.
- (e) Open burning shall be conducted in conformance with all local and state fire protection regulations.
- (f) No materials may be burned upon any street, curb, gutter or sidewalk or paved pathway.
- (g) Except for barbeque, gas and charcoal grilling, no burning shall be undertaken within 25 feet from any combustible material, combustible wall or partition, exterior window opening, exterior access or exit unless authorized by the Fire Chief.

#### Section 5. Applicability.

- (a) Except as otherwise provided in subsection (c) below, this Ordinance applies throughout the Township.
- (b) This Ordinance does not apply to the following:
  - (1) grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances;
  - (2) burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device designed to heat a building used for human or animal habitation;

- (3) the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction, maintenance or recreational activities; or
  - (4) campfires.
- (c) The provisions of Section 4(a) shall not apply to properties located within the AR zoning district, as provided on the Township's zoning map (and as that map may be amended from time to time)

Section 6. Liability. A person conducting an open burning and/or utilizing or maintaining an outdoor fire in violation of this Ordinance shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

Section 7. Administrative Liability. No officer, agent, employee or member of the Township Board shall render himself or herself personally liable for any damage which may occur to any person or entity as the result of any act or decision performed in the discharge of his or her duties and responsibilities pursuant to this Ordinance.

Section 8. Enforcement and Penalties.

- (a) A violation of this Ordinance is a municipal civil infraction. Prior to the issuance of a civil infraction citation for a first violation of this Ordinance, the official authorized to issue municipal civil infractions for violations of this Ordinance shall provide a warning to the violator. For a first offense following a warning, a municipal civil infraction citation shall be issued, for which the fine shall be not less than \$50.00 and not more than \$249 for the first offense, not less than \$250.00 and not more than \$499 for a second subsequent offense, and not less than \$500.00 for third or more subsequent offense, in addition to all other costs, damages, expenses and actual attorney fees incurred by the Township in enforcing the Ordinance as ordered by the court. For the purposes of this Section, "subsequent offense" means a violation of this Ordinance committed by the same person within 12 months of a previous violation of the Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following issuance of a citation for a first offense shall be considered separate first offenses. Each day that such violation occurs shall constitute a separate offense.
- (b) In addition to the above-stated sanctions for violation of this Ordinance, if the Township Fire Department responds to any fire not authorized pursuant to this Ordinance, the person responsible for such fire may be charged a fee for the costs incurred by the Fire Department to respond to the fire, as may be established from time to time by the Township Board, if the fire was not started accidentally.

(c) If there is evidence of a violation of this Ordinance, then the Fire Chief or a law enforcement officer is authorized to issue a municipal civil infraction for such violation.

Section 9. Severability and Captions. This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, sentence phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 10. Repeal. All resolutions, ordinances, orders or parts thereof in conflict in whole or in part with any of the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

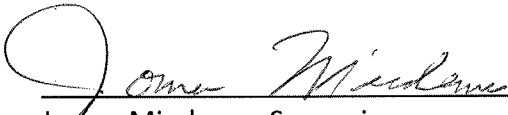
Section 11. Effective Date. A notice of adoption and a summary of the regulatory effect of this Ordinance shall be published in a newspaper of general circulation in the Township. This Ordinance shall become effective 30 days after such publication.

AYES: Boverhof, Brouwer, Jensen, Miedema, Pruis, Tacoma and Shaarda

NAYS: NONE

ORDINANCE DECLARED ADOPTED.

Passed and adopted by the Township Board of the Charter Township of Jamestown, County of Ottawa, Michigan, on Feb. 20, 2012, and approved by me on Feb 21, 2012.

  
James Miedema, Supervisor  
Charter Township of Jamestown

Attest:

  
Ruth Pruis, Township Clerk

First Reading: January 16, 2012

Second Reading: February 20, 2012

Ordinance becomes effective: March 26, 2012

## CERTIFICATE

I, Ruth Pruis, clerk for the Charter Township of Jamestown, Ottawa County, Michigan, do hereby certify that the forgoing Jamestown Township Ordinance was adopted at a regular meeting of the Jamestown Township Board on February 20, 2012. The following members of the Township Board were present and voting: Brouwer, Jensen, Miedema, Pruis, Tacoma, Boverhof and Shaarda. The following members of the board were absent: None. The Ordinance was adopted by the Township Board with members of the Board Brouwer, Jensen, Miedema, Pruis, Tacoma, Shaarda and Boverhof voting in favor and members of the Board: None voting in opposition. Notice of Adoption and Posting of the Ordinance was published in The Grand Valley Advance on February 25, 2012.

A handwritten signature in cursive script, reading "Ruth Pruis", is written over a solid horizontal line.

Ruth Pruis, Clerk