

The Township of Hamilton
Clare County, Michigan

Ordains

Section 1

Title

This Ordinance shall be known and cited as the Hamilton Township Open Burning Ordinance.

Section 2

Purpose

Since open burning pollutes the air and poses a fire hazard, and since the air pollution created by open burning crosses property lines and can irritate eyes and lungs, obscure visibility, soil, nearby surfaces, create annoying odors or pose other nuisance or health threats and in Michigan, the practice of open burning may be regulated at both the state and local level, Hamilton Township in Clare County Adopts the HAMILTON TOWNSHIP OPEN BURNING ORDINANCE.

An Ordinance to secure the public health, safety and welfare of the residents and property owners of Hamilton Township, Clare County, Michigan, in accordance with the State of Michigan Open Burning regulations, Public Act 451 of 1994, (as amended), Section 11522.

Section 3

General Prohibitions

As stated in State of Michigan Public Act 102 of 2012

R 336.1310 (Rule 310) Open Burning

Rule 310. (1) A person shall not cause or permit open burning of refuse, garbage or any other waste materials, except for the burning of the following:

(a)Waste disposal material from and at 1- or 2-family dwellings that does not contain plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, roofing materials, or hazardous materials, if the burning does not violate any other department rules.

(b)Structures and other materials used exclusively for fire prevention training.

(c)Trees, logs, brush, and stumps in accordance with applicable state and local Regulations.

(d)Beekeeping equipment and products, including frames, hive bodies, hive covers, combs, wax, and honey, if burned for bee disease control.

(e)Logs, brush, charcoal, and similar materials that are used in preparing food or for recreation.

(f)Wooden fruit or vegetable storage bins constructed from untreated lumber.

(g)The burning is conducted for disease or pest control.

Section 4 Penalties

A.First Violation is a Municipal Civil Infraction. A violation of this Ordinance, first offense, is a municipal civil infraction. Any property owner or legally responsible party who violates this Ordinance shall, as a first offense, be responsible for a civil infraction, for which the fine shall be \$250.00 plus fines, costs and restitution.

B.Second Violation (within two years after municipal civil infraction). A second or repeat violation (within two years after a municipal civil infraction) is a misdemeanor. Any property owner or legally responsible party who violates any provision of this Ordinance a second time within 24 months of the date a civil infraction ticket is issued (whether the violation of this Ordinance is for the same offense as a civil infraction or for some other offense under this Ordinance) shall upon conviction and in a court of competent jurisdiction be guilty of a misdemeanor and be subject to a fine of \$500.00 plus court costs and costs of prosecution that may be ordered by the court. For purposes of this Ordinance, each day that a violation occurs shall constitute a separate offense.

C. Third Violation (within two years after municipal civil infraction) Any property owner or legal responsible party who violates any provision of this Ordinance a third time within 24 months of the date of a civil infraction ticket is issued (whether the violation of this Ordinance is for the same offense as a civil infraction or for some other offense under this Ordinance) shall upon conviction in a court of competent jurisdiction be guilty of a misdemeanor and be subject to a fine of \$500.00 and/or imprisonment for a period of not more than 93 days, plus court costs and costs of prosecution that may be ordered by the court. For purposes of this Ordinance, each day that a violation occurs shall constitute a separate offense.

D.Enforcement. Enforcement of the provisions of this Ordinance shall be the Hamilton Township Zoning Ordinance Enforcement Officer (or such other Hamilton Township Official as may be designated by the Hamilton Township Board), the Hamilton Township Zoning Administrator, the Hamilton Township Attorney, the Clare County Sheriff's Department and/or the Michigan State Police.

E.Continuing Offense. Each act of violation and each day upon which any such violation shall occur, shall constitute a separate offense .

F.Remedies Not Exclusive. In addition to any remedies provided for in this Ordinance, any equitable or other remedies available may be sought.

G.Judge or Magistrate. The Judge or Magistrate shall also be authorized to impose costs, damages, and expenses as provided by law.

H.Civil Contempt.

- 1.If a defendant defaults in the payment of a civil fine, costs, damages, expenses, or installment as ordered by the District Court, upon motion of Hamilton Township or upon its own motion, the court may require the defendant to show cause why the defendant should not be held In civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant’s appearance.
- 2.If a corporation or an association is ordered to pay a civil fine, costs, damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
- 3.Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for a payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
- 4.If it appears that the default in the payment of a civil fine, costs, damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, damages or expenses.

Severability

The provisions, sections, sentences and phrases of this Ordinance are declared to be severable and if any such portion is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such finding shall in no way effect or invalidate the remainder of this Ordinance.

Effective Date

The Ordinance shall become effective immediately upon publication as required by law following adoption by the Hamilton Township Board.