

**SUPERIOR CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN**

ORDINANCE NO. 185

**BURNING ORDINANCE,
WHICH REPEALS AND REPLACES
ORDINANCE NO. 105 BURNING ORDINANCE**

**THE TOWNSHIP OF SUPERIOR, WASHTENAW COUNTY, STATE OF
MICHIGAN, ORDAINS:**

Section 185.01. Purpose

The purpose of this ordinance is to provide for the protection of the health, safety, and welfare of Township residents; to protect property from exposure to the dangers of fire; to minimize unnecessary runs by the Township Fire Department; to provide for the enforcement of this ordinance; and to establish penalties and fines for violations of the provisions of this ordinance. Township residents are strongly encouraged to consider recycling, composting and curbside pick-up as alternatives to open burning.

Section 185.02. Scope

1. This ordinance shall apply to open burning, prescribed burns, burn barrels, outdoor wood furnaces/boilers, and patio wood burning units.
2. This ordinance shall not apply to outdoor grilling or cooking food using charcoal, wood, propane or natural gas in a cooking/grilling appliance or in an approved container.
3. This ordinance shall not apply to the use of propane, natural gas, kerosene, gasoline, or acetylene in a device intended for agricultural or construction heating and maintenance activities.
4. This ordinance shall not apply to agricultural flame weeding or flame sanitizers.
5. This ordinance shall 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.

Section 185.03. Definitions

"Brush" means loose branches and twigs generated by trimming or storms on the property.

"Clean wood" means natural wood which has not been painted, varnished or coated with a similar material; has not be pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.

"Food waste" means rejected food wastes including waste accumulations of animal, fruit, or vegetable matter used or intended for food; or wastes that attend the preparation, use, cooking, dealing in, or storing of meat, fowl, fish, fruit, or vegetable matter. Typical waste from home gardens shall not be considered food waste.

"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. This includes burning in a burn barrel.

"Patio wood burning unit" means a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.

"Prescribed burn" means open burning of a continuous cover of fuels, in compliance with an approved prescription to meet planned land management objectives. "Prescription" means a written plan establishing the criteria and elements necessary for starting,

controlling, and extinguishing a specific prescribed burn.

“Property” means one or more adjacent real estate parcels under common ownership or lease agreement.

“Recreational fire” means a small outdoor fire burning materials permitted by section 185.05 that has a total fuel area of 3 feet or less in diameter and 2 feet or less in height. Recreational fires include, but are not limited to fires for pleasure, ceremonial, cooking, warmth, or similar purposes.

Section 185.04. Prohibited Fires

1. Open burning of leaves and grass clippings is prohibited as per PA 102 of 2012 except when such burning is incidental to a permitted open or prescribed burn.
2. Open burning of animal carcasses and manure is prohibited.
3. Open burning of food waste is prohibited.
4. Open burning of household waste that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials is prohibited as per PA 102 of 2012.
5. Open burning of construction and demolition waste is prohibited.
6. Open burning of waste from a commercial or industrial establishment is prohibited.

Section 185.05. Permissible Fires

A person shall not ignite, cause or permit to be ignited, allow or maintain an open burn or outdoor fire except as provided in this section. All open burning requires compliance with all applicable provisions of this section and any additional special restrictions deemed necessary by the Fire Chief or other authorities having jurisdiction. The Fire Chief may deny or suspend burning permits when weather or other conditions warrant. All 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 or visibility hazard.

1. After first obtaining a burn permit, open burning of logs, stumps, trees, brush, agricultural and beekeeping waste is permitted if conducted in accordance with the following:
 - A. The property owner or owner’s authorized representative shall submit an open burning permit application to the Township Clerk’s office on such form as may be approved by the Township Board. The application will be accepted after administrative review confirms that the property size and location meets the requirements of the ordinance. Upon acceptance, the application will be forwarded to the Fire Department for review and approval or denial by the Superior Township Fire Chief or his/her representative. If denied, a reason for the denial must be given. If approved, the application will be retained on file at the Fire Department and subsequent, similar burn permit requests may be phoned into the Fire Department for verbal approval. In all cases, on the day of the intended burn, the applicant shall contact the Fire Department for a burn permit by calling 734-484-1996. The applicant shall give his/her name, address and phone number, a description of the materials to be burned and the time of the intended burning. The Fire Department will either authorize or deny the burn permit depending upon Fire Department resources, weather, or other factors.
 - B. No material may be brought onto a property for the express purpose of burning it, except seasoned dry firewood for recreational fires.
 - C. The open burning of logs, stumps, trees, brush, agricultural and

beekeeping waste is permitted only during daylight hours except when a special permit has been issued. The Fire Chief or his/her representative may issue special permits for agricultural open burns that will last more than one day.

- D. Adult supervision of open fires is required.
 - E. Open fires must be located fifty (50) feet or more from any structure or property line.
 - F. The fuel area of open fires shall not exceed 15 feet in diameter and 15 feet in height without approval of the Fire Chief or his/her representative.
 - G. Due to the density and the danger of fires spreading and smoke and fumes creating a nuisance, no permits shall be issued for any location in the northeast quarter section of Section 33 or any portion of Sections 34 or 35 of the Township.
 - H. Due to the density and the danger of fires spreading and smoke and fumes creating a nuisance, no permits shall be issued for any property less than one acre in size.
2. After first obtaining a burn permit, prescribed burning for forest, prairie, habitat management and agricultural purposes is permitted if conducted in accordance with the following:
- A. The property owner or owner's authorized representative shall submit a prescribed burn permit application to the Fire Chief's office on such form as may be approved by the Township Board. Upon receipt, the application shall be reviewed by, and approved or denied by the Fire Chief or his/her representative. If denied, a reason for the denial must be given. If approved, the application will be retained on file at the Fire Department and subsequent similar prescribed burn permit requests may be issued based upon the initially submitted application and plan.
 - B. On the day of the intended prescribed burn, the applicant or his/her representative shall contact the Fire Department for a burn permit by calling 734-484-1996. The applicant shall give his/her name, address, and phone number and the time of the intended burn. The Fire Department will either authorize or deny the prescribed burn permit depending upon Fire Department resources, weather, or other factors.
 - C. The Township Board may, by resolution, set reasonable application fees and insurance requirements as deemed appropriate.
3. The following types of fires are permitted without obtaining a burn permit if they occur on property of one half acre or more and are placed more than twenty-five feet from any structure or property line.
- A. A recreational fire.
 - B. Burning of small amounts of household dry waste paper in an enclosed burn barrel or container constructed of metal or masonry that has a metal covering device and does not have an opening larger than $\frac{3}{4}$ of an inch.
4. Patio wood burning units may be used without obtaining a burn permit if they burn clean wood, are used in accordance with the manufacturer's instructions, and are placed not less than 15 feet from a structure.

5. Outdoor wood furnaces/boilers installed on or after the effective date of this ordinance may be installed and operated without obtaining a burn permit but shall:
 - A. Have a permanently attached stack with a minimum height of 15 feet above the ground that also extends at least two feet above the highest peak of any residence not served by the furnace/boiler located within 300 feet.
 - B. Be located on the property in accordance with the Township Zoning Ordinance and no closer than 100 feet from the nearest property line.
 - C. Not be installed unless a mechanical permit has been obtained from the Township Building Department prior to commencing installation.
 - D. Only burn clean wood or other listed fuels specifically permitted by the manufacturer's installation/operation instructions.
6. Notwithstanding section 185.05. of this ordinance, structures and other materials may be burned without permit for fire prevention training so long as conducted in accordance with the National Fire Protection Association (NFPA) Standard 1403 as it may from time to time be amended, and in compliance with rules and regulations of other authorities having jurisdiction. Such burning shall be outlined in writing and approved by the Fire Chief at least 48 hours prior to the training burn.

Section 185.06. Appeals

Whenever the Chief of the Fire Department or his/her representative shall refuse to grant a permit applied for, or when it is claimed that the provisions of the ordinance do not apply or that the true intent and meaning of the ordinance has been misconstrued or wrongly interpreted, or when the strict enforcement of this ordinance would result in unnecessary hardship due to special conditions unique to the land involved, the applicant may appeal the decision of the Chief of the Fire Department or his/her representative to the Charter Township of Superior Board of Trustees.

Such an appeal shall be in writing, citing the nature of the original request, the reason such request was denied a permit, and the remedy sought through the appeal. The appeal shall be made within seven (7) days of the denial, and the Board shall receive and respond to the appeal at their next regularly scheduled Township Board meeting.

Section 185.07. Liability

A person utilizing or maintaining an outdoor fire regulated by this ordinance may be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

Section 185.08. Right of Entry and Inspection

The Fire Chief or any authorized officer, employee, or representative of Superior Township carrying proper identification may inspect any property in order to ascertain compliance with, and enforce the provisions of this ordinance.

Section 185.09. Enforcement

This ordinance shall be deemed an exercise of the police powers of Superior Charter Township for the preservation and protection of the public health, safety, and welfare. It shall be the duty of the Fire Chief or his/her representative to enforce the provisions of this ordinance. Citizen complaints and reports of violations shall be directed to the Fire Department.

Section 185.10. Penalties and Remedies for Violations

1. Any person violating any provision of this Ordinance shall be deemed:
 - A. Guilty of a misdemeanor. Penalties may be imposed including up to ninety (90) days incarceration in the Washtenaw County Jail and/or fines up to five hundred (\$500.00) dollars plus the cost of prosecution.
 - B. Responsible for a civil infraction. Penalties may be imposed in fines as set forth in Section 162.07 of Superior Charter Township Ordinance 162, Civil Infraction Penalty Ordinance, which assesses fines for a first offense of a minimum of one hundred (\$100.00) and a maximum of five hundred (\$500.00).

In addition to the penalties, any person deemed responsible for a civil infraction shall also be liable for the cost to the Township to prosecute any such violation

2. The decision to charge the alleged violator with a misdemeanor and/or civil infraction as a result of a violation of this Ordinance shall be at the sole discretion of the Township.
3. In addition to the foregoing, any violation of the Ordinance shall be deemed a nuisance per se, permitting the Township Board, its officers, agents or any private citizen to take such action in any court of competent jurisdiction to cause the abatement of such nuisance, including injunctive relief. Further, upon a determination by a court that a person has violated this Ordinance, thereby creating a nuisance per se, the Township shall be entitled to its actual attorney fees incurred in seeking abatement of the nuisance.

Section 185.11. Abrogation and Conflict of Authority

Nothing in this Ordinance shall be interpreted to conflict with present or future State statutes in the same subject matter; conflicting provisions of this Ordinance shall be abrogated to, but only to, the extent of the conflict. Moreover, the provisions of this Ordinance shall be construed, if possible, to be consistent with relevant State regulations and statutes. If any part of this Ordinance is found to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision. Such holding shall not affect the validity of the remaining portions thereof, and the remainder of the Ordinance shall remain in force. Rights and duties which have matured, penalties which have been incurred, proceedings which have begun and prosecutions for violations of law occurring before the effective date of this Ordinance are not affected or abated by this Ordinance.

Section 185.12. Repeal

All ordinances or parts of an ordinance in conflict with this ordinance are hereby repealed. The existing Ordinance No. 105, being an ordinance for the regulation of burning in the Township effective August 31, 1989 and amended effective November 3, 2008 and January 17, 2012 is hereby repealed. The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation or prosecution of any right established, occurring prior to the effective date hereof.

Section 185.13. Effective Date; Publication

This Ordinance shall be published pursuant to Section 8 of the Charter Township Act, being MCL 42.8(b), by posting in the Office of the Clerk, 3040 N. Prospect Rd., Ypsilanti, 48198, and on the Township website – www.superior-twp.org – with notice of such in the

Ypsilanti Courier, a newspaper of general circulation in the Township, qualified under state law to publish legal notices within 30 days following the final adoption thereof. This Ordinance shall become effective immediately upon said publication and the same shall be recorded in the Ordinance Book of the Township, and such recording authenticated by the signatures of the Supervisor and Clerk.

CERTIFICATION

I, David Phillips, the duly qualified Clerk of the Charter Township of Superior, Washtenaw County, Michigan, do hereby certify that the foregoing is a true and correct copy of Ordinance 185 adopted at a regular meeting of the Superior Charter Township Board held on March 18, 2013.

David Phillips, Superior Charter Township Clerk

William McFarlane, Superior Charter Township Supervisor