

35.500

**OUTDOOR AND OPEN BURNING ORDINANCE
CITY OF GAYLORD, MICHIGAN
Ord. Eff. May 2, 2010**

35.501 SECTION 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 City of Gaylord by regulating the air pollution and fire hazards of open burning and outdoor burning.

35.502 SECTION 2: APPLICABILITY

This ordinance applies to all outdoor burning and open burning within the City of Gaylord.

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

35.503 SECTION 3: SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

35.504 SECTION 4: DEFINITIONS

1. "Campfire" means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.
2. "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. "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.
4. "Fire Chief" means the Chief of the Otsego County Fire Department or other person designated by the Fire Chief.

5. "Municipality" means a county, township, city, or village.
6. "Outdoor burning" means open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.
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. This includes burning in a burn barrel.
8. "Outdoor wood-fired boiler" means a wood-fired boiler, stove or furnace that is not located within a building designed or intended for habitation by humans.
9. "Patio wood-burning unit" means a chimenea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.
10. "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

35.505 SECTION 5: GENERAL PROHIBITION ON OUTDOOR BURNING AND OPEN BURNING

Open burning and outdoor burning are prohibited in the City of Gaylord unless the burning is specifically permitted by this ordinance.

35.506 SECTION 6: OPEN BURNING OF REFUSE

Open burning of refuse is prohibited.

35.507 SECTION 7: OPEN BURNING OF TREES, LOGS, BRUSH, STUMPS, LEAVES, AND GRASS CLIPPINGS

Open burning of trees, logs, brush, stumps, leaves, and grass clippings is prohibited.

35.508 SECTION 8: OUTDOOR WOOD-FIRED BOILERS

No person shall install, use, or maintain an outdoor wood-fired boiler in the City of Gaylord. Provided, however, that the City Council may in its discretion, allow an outdoor wood-fired boiler in the M-1 Zoning District on a case by case basis and only when it is determined that the use of such outdoor wood-fired boiler will not cause or be an undue annoyance or nuisance to surrounding properties.

35.509 SECTION 9: PATIO WOOD-BURNING UNITS

A patio wood-burning unit may be installed and used in the City of Gaylord only in accordance with all of the following provisions:

1. The patio wood-burning unit shall not be used to burn refuse.
2. The patio wood-burning unit shall burn only clean wood.

3. The patio wood-burning unit shall be located at least 15 feet from each property line and 25 feet from the nearest structure which is not on the same property as the patio wood-burning unit.
4. The patio wood-burning unit shall not cause a nuisance to neighbors.

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SECTION 10: OUTDOOR STORAGE OF WOOD

1. Stored wood shall be adequately secured against rolling or falling and may not be stacked or placed higher than five (5) feet.
2. Stored wood must be located in the side or rear of the property. The stored wood shall not be located within the area of the front yard setback nor located in front of the principal structure. If a property has double frontage along a street, as in the case of corner lots, the required front yard setback shall apply on both streets.
3. No wood shall be stored or placed upon any property within 10 feet of the shoulder of an alley or stored or placed so as to interfere with the clear vision from a street or alley.

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SECTION 11: FIRE SUPPRESSION TRAINING

Notwithstanding sections 5 and 6 of this ordinance, structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions.

1. The burn must be exclusively for fire prevention training conducted and supervised by the Otsego County Fire Department or other official fire department approved by the Otsego County Fire Chief. The burning shall not be used as a means to dispose of waste material including tires and other hazardous materials.
2. Any standing structure that will be used in fire suppression training must be inspected by a licensed asbestos inspector. A notification of this inspection must be submitted to the Michigan Department of Environmental Quality, Air Quality Division at least ten business days prior to burning a standing structure. The notification must be submitted using Form EQP 5661 "Notification of Intent to Renovate/Demolish."
3. All asbestos must be removed prior to conducting the fire suppression training. If the structure is a residential dwelling, the owner may remove the asbestos or have it removed by a licensed abatement contractor. If it is a commercial building, all asbestos must be removed by a licensed abatement contractor.
4. All ash shall be disposed of in an approved landfill or at an alternate location approved by the Michigan Department of Environmental Quality.
5. Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.

6. At least 7 days before a planned practice burn, residents within 1,000 feet of the site of the proposed burn shall be notified.
7. All fire suppression training should conform to the guidelines established by the National Fire Protection Association (NFPA) Standard on Live Fire Training Evolutions (NFPA 1403).

35.512 SECTION 12: 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.

35.513 SECTION 13: RIGHT OF ENTRY AND INSPECTION

The Fire Chief or any authorized officer, agent, employee or representative of the City of Gaylord who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

35.514 SECTION 14: ENFORCEMENT AND PENALTIES

1. The Fire Chief and/or the Chief of Police, or their designee, are authorized to enforce the provisions of this ordinance.
2. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this ordinance or fails to comply with a duly authorized Order issued pursuant to this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
1 st Offense	\$75.00	\$500.00
2 nd Offense within 3-year period*	\$150.00	\$500.00
3 rd Offense within 3-year period*	\$325.00	\$500.00
4 th or More Offense within 3-year period*	\$500.00	\$500.00

*Determined on the basis of the date of commission of the offense(s)

3. In addition to the fine specified above, the violator shall pay costs which may include all expenses, direct and indirect, which the City of Gaylord or the Otsego County Fire Department has incurred in connection with the municipal infraction. In no case, however, shall costs of more than \$500 be ordered. In addition, the City of Gaylord shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance exists shall constitute a separate violation of this Ordinance.

Ordinance Effective May 2, 2010