

ORDINANCE # 4-1100.

AN ORDINANCE TO PROHIBIT THE OPEN BURNING OF DESIGNATED MATERIALS WITHOUT A SPECIAL PERMIT. AND PROHIBITING UNUSUAL SMOKE OR ODOR CONDITIONS CREATING A PUBLIC NUISANCE FROM ANY TYPE OF BURNING AND OR FROM WOOD FIRED FURNACE/BOILERS.

Section 4-110.1: Definitions. As used in the Ordinance, the following definitions shall apply.

- (a). "Open burning" shall mean the burning of materials such as paper, cardboard, trees, branches or limbs of trees, brush, grass, leaves, logs, rubbish, trash, rags, furniture, construction materials, cloth of any kind, food containers, or any other combustible material whatsoever, where smoke or other emissions are released.
- (b). "Fire Chief" shall mean the Chief of the City of Ishpeming Volunteer Fire Department and his or her designated representative. Designated representatives are: Any Fire Department Officer or Law Enforcement Officer employed by the City of Ishpeming.
- (c). "Permit" shall mean a written permit, issued by the Fire Chief, authorizing a specific open burning event. The written permit request shall be made 7 business days prior to the requested specific open burning event.

Section 4-1102. Open Burning Prohibited:

Open burning anywhere in the City of Ishpeming is hereby prohibited, unless the open burning is done pursuant to a permit issued by the Fire Chief. No person shall engage in, participate in, or start an open burning fire without a permit issued by the Fire Chief.

- (a). Open burning of any refuse as described in Section 4-110.1, specifically, burn barrels of any construction are not permitted within the city limits.

Section 4-1103. Permit Authorizing Open Burning:

- (a). Upon written application to the Fire Chief, open burning may be approved by issuance of a permit, provided that the Fire Chief is satisfied that the open burning will be in compliance with Michigan Department of Environmental Quality guidelines and will not be unsafe, and will not pose a threat or a hazard to persons or property. The open burning may be revoked or withdrawn at any time if the Fire Chief determines that the open burning event would be or is a reasonably likely to become unsafe due to the particular circumstance involved including, but not limited to, unfavorable weather conditions.
- (b). In the issuance of a permit, the Fire Chief may impose reasonable conditions for the open burning event, such as limitations as to the type of materials to be burned, and limitations or conditions with respect to time of day, duration, quantity of materials, location, and manner of burning.

Section 4-1104. Exceptions:

- (a). This ordinance shall not apply to campfires in designated campgrounds, to small enclosed fire pits or fireplaces, or to outdoor barbecues where food preparation is the sole purpose of the fire generating materials. The Fire Chief/Fire Department Officer or Law Enforcement Officer is authorized to order any property owner, resident, or any other person to extinguish any fire, including those listed above within the City of Ishpeming if, smoke, odor, local or state issued ban on open burning or any other condition such as, a public nuisance is created, health, safety or welfare is potentially jeopardized or put in danger including any of the above mentioned conditions. And will be subject to any and all penalties described in the ordinance.

(b). Bonfires may only be lighted after issuance of a permit in accordance with the provisions of Section 4-1103 above.

(c). Fire Department live fire training, all live fire suppression will conform to the guidelines established by the National Fire Protection Association (NFPA) Standard on Live Fire Training Evolutions (NFPA 1403). And the Michigan Department of Environmental Quality, Air Quality Division.

Section 4-1104.1. Unusual Smoke or Odor Conditions:

(a). **Wood fired furnace/boiler.** The Fire Chief/Fire Department Officer or Law Enforcement Officer is authorized to order any property owner, resident, or any other person to extinguish any fire within the City of Ishpeming if, due to smoke, odor, fire, or any other condition, a public nuisance is created or if the public, health, safety or welfare is potentially jeopardized or put in danger. **Including, fire pits, campfires, fireplaces, wood fired furnace/boiler, regardless of their location, including stand alone outdoor wood fired furnace/boiler or wood fired furnace/boiler located within a structure on the property.** It shall be the Fire Chief/Fire Department Officer or Law Enforcement Officer that will make the determination if the smoke or odor is a public nuisance. Or if the public, health, safety or welfare is potentially jeopardized, or put in danger. And will be subject to any and all penalties described in the Ordinance.

Section 4-1105. Conditions:

(a). All open burning allowed by permit shall be constantly attended by the permit holder until the fire is extinguished.

(b). The Fire Chief is authorized to order any property owner, resident, or any other person to extinguish any fire within the City of Ishpeming if, due to smoke, odor, fire, or any other condition, a public nuisance is created or if the public health, safety, or welfare is potentially jeopardized, or put in danger.

(c). Right of entry and inspection. The Fire Chief/Fire Department Officer or Law Enforcement Officer is authorized to inspect any property or structure for the purpose of ascertaining compliance with the provisions of this Ordinance.

Section 4-1106. Civil Liability:

Every person who engages in open burning, or creates a public nuisance with unusual smoke or odor is in violation of the term of this Ordinance shall be liable to the City of Ishpeming for reimbursement of all costs and expenses incurred by the City of Ishpeming in dispatching fire apparatus and personnel to extinguish the fire or open burning event, or to investigate the unusual smoke or odor. The rate of reimbursement to the City of Ishpeming shall be:

- A. \$100/hour (or fraction thereof for the first hour or less) for each piece of fire department apparatus dispatched to extinguish the open burning, or to investigate the unusual smoke or odor: plus
- B. The current hourly rate, plus FICA and Worker's Comp, for the first hour or fraction thereof, for each firefighter responding to the alarm.
- C. Charges after the first hour shall be billed in no less than one hour increments, at the above rates, for the fire department apparatus and fire department personnel.

all of which charges shall be computed on a portal-to-portal basis.

Section 4-1107. Penalty:

Any person who shall violate any of the provisions of this Ordinance shall be guilty of municipal civil infraction and shall be subject to payment of a civil fine as provided in the schedule below. The legal owner of the property or structure, will be responsible for all civil fines and Fire Department charges as outlined in Section 4-1106. and Section 4-1107.

- A. First violation. Any person who is found in violation of any Section in Ordinance 4-1100 shall be subject to a civil fine of \$50.
- B. Second violation. Any person who is found in violation of any Section in Ordinance 4-1100 for a second violation in any 12-month period shall be subject to a civil fine of \$100.
- C. Third violation. Any person who is found in violation of any Section in Ordinance 4-1100 for a third violation in any 12-month period shall be subject to a civil fine of \$500.

In addition to Civil fines in Section 4-1107, persons found to be in violation of Ordinance 4-1100 may be subject to reimbursement to the City of Ishpeming as outlined under Section 4-1106.

Adopted as an Emergency Ordinance: May 3, 2006

Amended: February 4, 2009

Amended: January 7, 2015

Amended: February 5, 2020