

**VILLAGE OF ELBERTA
BURN ORDINANCE**

AN ORDINANCE PROHIBITING THE USE OF BURNING BARRELS, THE BURNING OF LEAVES, BUILDING MATERIAL AND BRUSH, AND REGULATING RECREATIONAL FIRES WITHIN THE VILLAGE AND PRESCRIBING PENALTIES THEREOF.

THE VILLAGE OF ELBERTA, BENZIE COUNTY, ORDAINS:

SECTION 1. NAME. This Ordinance shall be known and cited as the Village of Elberta Burn Ordinance.

SECTION 2. PURPOSE. The purpose of this Ordinance is to prohibit burning barrels, the burning of leaves, building material and brush, and to regulate recreational fires within the Village of Elberta as is necessary for the public health, safety and welfare.

SECTION 3. PROHIBITED BURNING. No person shall cause, allow or maintain any open burning of any waste materials or rubbish in any incinerator, barrel, can, ~~pit~~, or similar container or enclosure; and no person in charge of or in possession of any premises upon which such burning occurs or any premises immediately adjacent to any public place upon which such burning occurs, shall fail to extinguish the fire; if he has knowledge of the fire and it is within his power to extinguish it.

SECTION 4. PERMITTED BURNING. Burning under the following conditions shall be permitted:

A. Burning under the following conditions does not require a permit from the City:

- A.1. Fire places;
- B.2. Controlled fires for training firefighters;
- C.3. Person use of smoking materials;
- D.4. Use of matches for lighting authorized fires;
- E.5. Burning of charcoal, kiln-dried, lumber scraps or non-ash producing fuel for the heating of building materials at construction sites;
- F.6. Burning of charcoal when used for the exclusive preparation of food for human consumption;
- G.7. Burning of fire wood and commercially produced fuel projects in connection with indoor fires and stoves or fireplaces designed for food preparation, heating or decorative purposes;
- H.8. Outdoor cooking fires that are confined to a barbecue grill, barbecue pit or other fire proof structure; and
- 9. Controlled brush fire at Village staging area supervised by Village Superintendent or designee.

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B. Burning under the following conditions requires a special permit be issued by the Village Superintendent. Fees for such permits will be set by Village Council.

1. Burning of logs, brush, charcoal and other similar materials for the purposes of food preparation or recreation in an approved open fire pit on private property.

Approved open fire pits must be excavated a minimum of two (2) foot into the ground with fire retardant sides a minimum of one (1) foot high above non disturbed ground and a diameter of not more than three (3) feet. Material allowed to burn must be in its natural form. Burning of grass clippings, leaves, household, construction or demolition waste is prohibited.

Such fires shall not be within 25 feet of any structure or within 25 feet of any Village right of way or public place. A water hose or operable fire extinguisher must be on site.

Fire pits on private property must be inspected by the Fire Chief. After the Fire Chief's determination that no fire hazard is present, a special permit must be obtained before any burning can occur.

Special permits for burning in fire pits on private property must be renewed annually for each calendar year.

2. Burning of logs, brush, charcoal and other similar materials for the purposes recreational special events in a Village Park or on the Village Beach shall be permitted if the plans for the event are pre-approved by the Village Superintendent, reviewed by the Fire Chief in advance, and supervised by the Village Superintendent or his/her authorized representative.

Special permits for recreational events on Village Property shall be issued for one-time use only.

SECTION 5. INCINERATORS. No person shall install, alter, operator or construct a commercial or industrial incinerator any other refuse burning equipment without first obtaining a permit from the Air Quality Division of the Michigan Department of Environmental Quality.

SECTION 6. NUISANCE. Any violation of the provisions of this Ordinance is hereby declared to be a public nuisance and a nuisance per se which may be enjoined or which may subject the violator to municipal civil infraction fines and penalties which are provided for herein.

SECTION 7. SAVINGS CLAUSE. The provision of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of the Ordinance other than said part or portion thereof.

SECTION 8. PENALTY. Any person, firm, or corporation who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction. Every day that any such violation continues shall constitute a separate and distinct offense. Nothing in this section shall exempt such person from compliance with the provision of this ordinance.

The fine for a municipal civil infraction shall be \$50.00 plus costs for each infraction and \$250.00 plus costs for any repeat offense.

The issuing of a municipal civil infraction pursuant to this Ordinance will be governed by Section 8 of the Village of Elberta Zoning Ordinance, including the civil infraction of enforcement policy resolution passed on 07-18-02, 2000.

SECTION 9. EFFECTIVE DATE. This Ordinance shall take effect twenty days after adoption. All ordinance or parts of ordinances in conflict with any of the provisions of the Ordinance are hereby repealed.

Adopted: 07-08-02

(signed) Sharyn Bower, Village Clerk

Posted: 07-31-02

Motion by D. Jenks

Support by K. Holmes

Yeas – 5 Nays – 1, Ness