

Comstock Charter Township
Kalamazoo County, Michigan

Ordinance No. 493

Adopted: _____

Effective: _____

An Ordinance to amend Section 164.00 et seq of the Comstock Charter Township Code of Ordinances regulating outdoor burning, including open fires and burning in incinerators/waste burners; and to provide for sanctions for violation of this Ordinance.

THE CHARTER TOWNSHIP OF COMSTOCK, KALAMAZOO COUNTY, MICHIGAN ORDAINS

SECTION 1

**AMENDMENT TO OPEN BURNING CHAPTER OF THE COMSTOCK CHARTER TOWNSHIP
CODE OF ORDINANCES**

Chapter 164.00 et seq of the Charter Township of Comstock Code of Ordinances is hereby amended to read as follows:

“164.001 - Purpose.

Sec. I. The purpose of this Ordinance is to protect the health and safety of the people and property within Comstock Charter Township from fire hazards caused by outdoor burning.

164.002 - Definitions.

Sec. II.

1. Chief: Shall mean the Fire Chief of the Comstock Charter Township Fire Department or his/her designee.

2. Cooking Fire: The noncommercial, residential burning of materials, other than rubbish, not exceeding three feet in diameter and two feet in height in which the fuel burned is contained in an outdoor fireplace, a barbecue grill, or a barbecue pit for the purpose of preparing food.

3. Incinerator/Waste Burner: A non-combustible masonry or metal container, no larger than 55 U.S. gallons or 7.35 cubic feet in good condition and containing no openings larger than one-half square

inch, used for residential burning of combustible wood and paper products. An incinerator/waste burner shall have a cover or spark arrester with openings no larger than one-half square inch.

4. Open Fires: The burning of combustibles, other than paper products, or other fires involving the burning of natural products, in an outdoor location where the fuel (combustibles) being burned is not contained in an approved incinerator/waste burner, outdoor fireplace, barbecue grill or barbecue pit. Open fires do not include recreational fires. 5. Recreational Fires: The noncommercial burning of materials, other than rubbish, for pleasure, religious, ceremonial, cooking, or similar purposes in which the fuel burned is not contained in an incinerator/waste burner, a barbecue grill or a barbecue pit and the total fuel area does not exceed three feet in diameter and two feet in height.

164.003 - Permits.

Sec. III.

1. A permit issued by the Chief or his/her designee(s) is required and shall be obtained by any party desiring to kindle or maintain any open fire and shall be obtained prior to the kindling of any open fire.

2. Permits shall not be required for cooking and recreational fires.

3. Where burning is conducted on public property or the property of someone other than the permit applicant, the permit applicant shall demonstrate that permission has been obtained by the appropriate government agency, the owner, or owner's authorized agent.

4. The Chief shall have the authority to prohibit any or all open fires when atmospheric conditions or local circumstances make such fires hazardous.

5. The Chief shall have the authority to prescribe the days and hours that open fires are permitted.

6. Open fires shall be established and conducted in full compliance with the terms of any permit issued for such fire.

7. The Township Board of the Charter Township of Comstock is hereby given the authority to establish by Resolution at any regular or special public meeting a fee schedule for permits issued hereunder, provided that the same are reasonable and bear a reasonable relationship to the cost and expense of the administration of this Ordinance. The Township Board shall further have the right to amend the aforementioned Resolution from time to time within the foregoing limits of reasonableness.

164.004 - General provisions.

Sec. IV.

1. Recreational fires shall not be located within 25' of a structure or combustible material unless contained in a container approved as safe for such purpose by the Chief.

2. Incinerator/waste burner fires shall not be located within 15' of a structure or other combustible materials.

3. No materials shall be burned that create a foul or offensive odor or that cause smoke emissions that are reasonably offensive to occupants of surrounding property.

4. The Chief shall be authorized to require any fire to be immediately discontinued if the fire is determined to constitute a hazardous condition, to create a foul or offensive odor, or to cause smoke emissions that are reasonably offensive to occupants of surrounding property.

5. For other than one and two family dwellings, no hibachi gas-fired grill, charcoal grill or other similar devices used for cooking, heating or any other purpose, shall be used or kindled on any balcony or under any overhanging portion or within ten feet of any structure. Listed electric ranges, grills or similar electrical apparatus shall be permitted.

6. Every commercial incinerator and commercial barbecue fireplace shall be equipped and maintained with a spark arrester and shall be maintained in good condition, working order and repair at all times.

164.005 - Open fires.

Sec. V.

1. Combustible materials that may be burned in an open fire are limited to leaves, brush, tree limbs not exceeding 6" in diameter and non-hazardous lumber. Burning of grass clippings, garbage, building materials other than lumber, and plastic and rubber products shall be specifically prohibited.

EXCEPTION: These limitations may be modified by the Chief if the Chief determines after an inspection of the site that necessary safeguards have been or will be taken that will allow the burning of additional specified materials in a safe and non-offensive manner. Any exception granted hereunder shall be specified in the open fire permit.

2. Open fires shall not be conducted within (1) 50 feet of any structure or other combustible materials, (2) ten feet of any public roadway, or (3) 75 feet of any adjoining side or rear property line. Conditions that could cause an open fire to spread within 50 feet of a structure shall be eliminated prior to ignition of the fire. Open fires shall not be greater than eight feet in diameter. No open fires shall be permitted on commercially zoned or used property. No open fires shall be permitted on multiple-family

zoned or used property (more than two adjoining residential units) including apartments, tri-plexes and in mobile home parks unless approved by the fire chief or a designee and only for the specific purpose authorized by the chief, such as for clearing the land or during development.

EXCEPTION: The minimum required distance from any building or combustible materials shall be reduced from 50 feet to 25 feet if the pile size of the open fire is three feet or less in diameter and two feet or less in height.

3. Open fires and cooking fires shall be constantly attended by a competent person until such fire is extinguished. A person shall have a garden hose connected to a reliable water supply or other fire-extinguishing equipment readily available for use. 4. Open fires shall only be permitted during daylight hours (sunrise to sunset). Recreational fires are permitted after dark.

164.006 - Sanctions.

Sec. VI. 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:

	Minimum	Maximum
	Fine	Fine
1st Offense within 3-year period*	\$ 150.00	\$500.00
2nd Offense within 3-year period*	250.00	500.00
3rd Offense within 3-year period*	350.00	500.00
4th or More Offense within 3-year period*	500.00	500.00

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

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Charter Township of Comstock has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10.00 nor more than \$500.00 be ordered. In addition, the Township 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 exist shall constitute a separate violation of this Ordinance.

164.007 - Severability.

Sec. VII. The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, section or subsection is declared void or inoperable for any reason, it shall not affect any other part or portion thereof.

164.008 - Effective date and repeal of conflicting ordinances.

Sec. VIII. This Ordinance shall take effect immediately following its publication after adoption. All ordinances or parts of ordinances in conflict herewith are hereby repealed.”

SECTION 2

EFFECTIVE DATE, REPEAL AND SAVINGS CLAUSE

This Ordinance is effective on the day after publication, after adoption. Conflicting Ordinance provisions are repealed. Currently pending and existing prosecutions on any part of provision of this Ordinance which is hereby repealed are saved.

COMSTOCK CHARTER TOWNSHIP
MICHELLE MOHNEY, CLERK