

TOWNSHIP OF FRANKENLUST  
COUNTY OF BAY, MICHIGAN  
ORDINANCE 82

**OUTDOOR BURNING ORDINANCE**

An Ordinance to establish outdoor burning for the Township; to provide for exemptions therefrom; and to repeal all ordinances or parts of ordinances in conflict herewith.

**THE TOWNSHIP OF FRANKENLUST ORDAINS:**

**SECTION 1:**

**1.0 Purpose and Title.**

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 Township of Frankenlust by regulating the air pollution and fire hazards of outdoor burning. This ordinance shall be known as the Frankenlust Township Outdoor Burning Ordinance.

**SECTION 2: APPLICABILITY**

**2.00 Applicability.**

This ordinance applies to all outdoor burning within the Township of Frankenlust, except:

- 2.1** This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances (campfire, as defined).
- 2.2** 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.
- 2.3** 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.

**SECTION 3: SEVERABILITY**

**3.00 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.

## **SECTION 4: DEFINITIONS**

### **4.00 Definitions.**

**4.1** "Campfire" means a small outdoor fire (no greater than 3 feet in diameter and less than 2 feet in height) intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.

**4.2** "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.

**4.3** "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.

**4.4** "Fire Chief" means the Chief of the Frankenlust Township Fire Department or other person designated by the Fire Chief.

**4.5** "Municipality" means the Township of Frankenlust.

**4.6** "Nuisance" means a thing or circumstance causing inconvenience or annoyance.

**4.7** "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. This does not include a campfire as regulated by this ordinance.

**4.6** "Outdoor burning" means open burning or burning in an outdoor wood furnace or patio wood-burning unit.

**4.7** "Outdoor wood furnace" also known as an outdoor wood-fired boiler, outdoor wood-burning appliance, or hydronic heater, means a fuel-burning device that is designed to burn clean wood or other approved solid fuels and is not located within a building intended for habitation by humans or domestic animals; and heats building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

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

**4.9** "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

## **SECTION 5: GENERAL PROHIBITION ON OPEN BURNING**

### **5.00 General prohibition on open burning.**

Open burning is prohibited in the Township of Frankenlust unless the burning is specifically permitted by this ordinance.

## **SECTION 6: OPEN BURNING OF REFUSE**

### **6.00 Open burning of refuse.**

Open burning of refuse as defined herein or garbage, rubbish or refuse as defined in Frankenlust Township Solid Waste Disposal Ordinance 8-B is prohibited.

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

### **7.00 Burning trees, logs, brush, stumps, leaves, and grass clippings (including yard waste as defined in Frankenlust Township Solid Waste Disposal Ordinance 8-B)**

**7.1** Open burning of trees, logs, brush, stumps, leaves, and grass clippings is allowed only in accordance with all of the following provisions:

- 7.1.1.** Except for campfires, a permit issued in accordance with Section 12 of this ordinance must be obtained prior to open burning under this section when the ground is not snow-covered.
- 7.1.2.** Open burning of trees, logs, brush, and stumps must be conducted at least 1,400 feet from an incorporated city or village limit.
- 7.1.3.** Except for barbecue, gas, and charcoal grills, no open burning shall be undertaken during periods when the Governor of Michigan has issued a burning ban applicable to the area.
- 7.1.4.** All allowed 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 hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.
- 7.1.5.** Open burning shall be conducted only on the property on which the materials were generated.
- 7.1.6.** Campfires-for cooking, ceremonies, or recreation are allowed provided they do not cause a nuisance and shall not be conducted within 25 feet of a structure or combustible material.

- 7.1.7. Open burning under this section shall only be conducted at a location at least 100 feet from the nearest building which is not on the same property.
- 7.1.8. Except for campfires, open burning shall only be conducted during daylight hours
- 7.1.9. Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.
- 7.1.10. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or waterbody.
- 7.1.11. Except for barbecue, gas, and charcoal grills, no burning shall be undertaken within 50 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.
- 7.1.12. No open burning may be conducted on days when the Department of Environment, Great Lakes and Energy has declared an "air quality action day" applicable to the Township of Frankenlust.

## **SECTION 8: AGRICULTURAL BURNING**

### **8.00 Agricultural burning.**

Prescribed burning of weeds, brush, and crop stubble to manage agricultural and natural lands as part of a farm operation on agriculturally zoned property where generally accepted agricultural and management practices (GAAMP's) are followed as defined by the Michigan Right to Farm Act is allowed if conducted in accordance all applicable State and Federal regulations. No permit is necessary for this burning if done in compliance with State and Federal regulations.

## **SECTION 9: PATIO WOOD-BURNING UNITS**

### **9.00 Patio wood-burning units.**

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

- 9.1 The patio wood-burning unit shall not be used to burn refuse.
- 9.2 The patio wood-burning unit shall burn only clean wood.
- 9.3 The patio wood-burning unit shall be located at least 25 from the nearest structure which is not on the same property as the patio wood-burning unit.

**9.4** The patio wood-burning unit shall not cause a nuisance to neighbors.

## **SECTION 10: BURNING PERMITS**

### **10.0 Burning Permits.**

**10.1.** No person shall start or maintain any open burning covered under this section without a burning permit issued by Frankenlust Township. Permits will be issued by the Township Fire Department.

**10.2** Any person responsible for burning leaves, brush, clean wood or other vegetative debris under Section 7 of this ordinance shall obtain a one-time burning permit before starting the fire. There shall be no fee for each one-time burning permit.

**10.3** A campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.

**10.4** When weather conditions warrant, the Fire Chief may temporarily suspend issuing burning permits and may temporarily suspend previously issued burning permits for open burning.

**10.5** A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.

**10.6** Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

## **SECTION 11: LIABILITY**

### **11.00 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.

## **SECTION 12: RIGHT OF ENTRY AND INSPECTION**

### **12.00 Right of entry and inspection.**

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

## **SECTION 13: ENFORCEMENT AND PENALTIES**

### **13.00 Enforcement and penalties.**

**13.1** The Fire Chief and Frankenlust Township Board are authorized to enforce the provisions of this ordinance.

**13.2** Any person, firm, association, partnership, or corporation 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.

**13.3** In addition to the imposition of cost recovery expenses and fines, 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 exists shall constitute a separate violation of this Ordinance.

### **SECTION 14: COST RECOVERY EXPENSES**

Any person utilizing or maintaining an outdoor fire in violation of this ordinance shall be responsible for the payment of cost recovery charges as authorized by the Township's Fire and Emergency Services Cost Recovery Ordinance in such amounts as are periodically adopted by Resolution of the Frankenlust Township Board.

### **SECTION 15: REPEAL**

All resolutions, ordinances, orders or parts thereof in conflict in whole or in part with any provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

### **SECTION 16: EFFECTIVE DATE**

This ordinance shall, upon adoption, be published in a newspaper circulated within the Township of Frankenlust, Bay County, Michigan, and shall take effect immediately upon publication.

*(ord. no. 82 eff. August 29, 2019)*

### **SECTION 17. ADOPTION**

The above ordinance was adopted at a regular meeting of the Township Board on the 13th day of August, 2019.