

EAST BAY CHARTER TOWNSHIP FIRE PREVENTION ORDINANCE

Ordinance No. 2015-1

The Township has previously adopted a Township Fire Prevention Code adopting the *International Fire Code 2003 Edition*, which was subsequently amended to adopt the *International Fire Code 2009 Edition* as Ordinance Nos.

2008-18 and 2012-1. The Township

wishes to replace the original and amended ordinance with this new updated Township Fire Prevention Ordinance. This new ordinance repeals the original and amended ordinances, adopts provisions that were not contained in the original or amended ordinances and also adopts the *International Fire Code 2012 Edition* with all appendices, as well as all future editions or revisions to the *International Fire Code* or its appendices.

The purpose of this ordinance is to safeguard life and property from fire and explosion hazards to protect property and persons within the Township by regulating the storage, handling and use of hazardous substances, materials and devices and regulating conditions hazardous to life or property relating to the occupancy of buildings and premises in the Township; and providing for the issuance of permits and the collection of fees.

East Bay Township ordains as follows:

SECTION 1. Adoption of International Fire Code 2012 Edition. The International Fire Code 2012 Edition, first published in May 2011, including Appendices, as published by the International Code Council, is adopted as the Township Fire Prevention Ordinance and are made a part of this ordinance as if fully set forth in this ordinance or any amendment to this ordinance; subject, however, to the additions, insertions, deletions, and changes prescribed in Section 2 of this ordinance. The regulations, provisions, penalties, conditions and terms of the Township Fire Prevention Ordinance are on file in the office of the Township Clerk and are available for public use and inspection.

SECTION 2. International Fire Code 2012 Edition changes. The following sections of the *International Fire Code 2012* edition or any subsequent edition, adopted pursuant to section 1, are changed as follows:

Uniform General Reference. All references in the International Fire Code 2012 to the International Building Code shall be deleted and replaced with the Michigan Stille-Derossett-Hale Single State Construction Code Act ("Michigan Building Code").

101.1 Title. These regulations shall be known as the *East Bay Township Fire Prevention Ordinance*, referred to below as "this code" or "this ordinance."

103.1 General. The department of fire prevention is established within the jurisdiction of Township. This ordinance shall be implemented, administered, and enforced by the fire code official appointed as set forth herein.

103.2 Appointment. A fire code official shall be appointed by the Fire Chief of the Grand Traverse Metro Emergency Services Authority with approval by the Board of the Grand Traverse Metro Emergency Services Authority (the "Board"), unless those duties are to be

performed by another governmental entity as provided below. If a fire code official is appointed by the Board, the fire code official shall be an employee or agent of the Grand Traverse Metro Emergency Services Authority. The fire code official shall not be removed from office without full opportunity to be heard on specific and relevant reasons by and before the appointing authority. The Grand Traverse Metro Emergency Services Authority is authorized to enter into a contract with another governmental entity or agent, including an Authority created by one or more units of government or a municipal corporation created by one or more units of government, to perform some or all of the duties of a fire code official that otherwise would be performed by an employee or agent of the Grand Traverse Metro Emergency Services Authority.

108. Board of Appeals. Section 108 is modified as follows:

108.1 Board of Appeals established. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official, there shall be and is hereby created a board of appeals. The Township hereby assigns all its authority in regards to the appeals process of this ordinance to Grand Traverse Metro Emergency Services Authority. All reference to the term "Board of Appeals governing body" shall refer to Grand Traverse Metro Emergency Services Authority. The Township retains authority to enforce the ordinance, ticket violations, and collect fines for this Ordinance. This Ordinance adopts Appendix A in its entirety except as modified herein. Added Sections 108.4 and 108.5 as set forth below shall control the Board of Appeals Procedure and the Basis for Appeals.

108.4 Basis for Appeals. An appeal shall be based on a claim that this code or the rules adopted pursuant to this code have been incorrectly applied, the provisions of the code or its rules do not apply, or the fire code official has denied a request for a modification, as authorized by this code, and that the denial was without a rational basis. As noted in the preceding sentence, an appeal regarding a denial of a modification must claim that the fire code officer failed to have a rational basis upon which to deny the modification. There shall be a rebuttal presumption that the fire code official's decision was correct and the burden of proof in the appeal shall be on the appellant. Appeals are not "de novo," but shall be based on the record of information contained in the file of the Fire Code Official, the provisions of this ordinance and other applicable law. The Board of Appeals shall have no authority to waive requirements of this Code.

108.5 Appeal Procedure. A written appeal with all supporting documentation must be filed within 30 days from the date of the written decision of the fire code official's decision that is the subject of the appeal. The appeal shall be filed with the Fire Code Official of the Grand Traverse Metro Emergency Services Authority. The appeal must specify the decision from which the appeal is being taken, the relief that is being requested and the reasons why the appellant's position should be adopted by the board of appeals. If the appeal is because the fire code officer denied a modification request, the appeal shall also specify the reasons why the decision of the fire code officer was without a rational basis. After receiving the appeal, the Fire Code Official shall examine the appeal and all supporting materials to determine whether the information required by this section has been provided. If the required information has not been provided, then the appeal materials shall be deemed incomplete and no hearing on the appeal shall be set. If the appeal materials are incomplete, then the appellant shall be informed in writing of the missing information. Such notification may be delivered personally to the appellant or the appellant's representative or may be sent by first class mail to the last known address of the applicant. The applicant shall have until the end of the 30 day filing period to supply the missing information. If the missing information is not supplied as provided above, then the application shall be deemed

incomplete, no appeal shall be allowed and no new appeal on the same subject matter shall be allowed unless the missing information is provided and the appeal materials are deemed complete by the Fire Code Official within the 30 day time period for filing an appeal. Once the Fire Code Official determines that the appeal materials are complete, then the Fire Code Official shall set with due diligence a public meeting for the hearing of the appeal. The appellant shall be given not less than 14 business day's written notice of the hearing date and such notice may be given by first class mail. When service is given by first class mail as permitted in this ordinance, the appellant shall be deemed served on the date of the mailing. The board of appeals shall adopt rules of procedure regarding the conduct of its meetings.

108.6 Appeals Board Meetings. All meetings shall be subject to Michigan's Open Meetings Act and all findings and decisions shall be in writing and provided to the appellant with a copy to the Fire Code Official.

Appendix A is modified as follows:

Section A101.3 Any member appointed following adoption of these amendments shall be appointed annually and shall serve one year terms.

A101.3.1 Initial appointments. This section is deleted in its entirety. All

other provisions of Section 101.3 shall remain the same.

Section A101.7, A101.9 and A101.10 set forth in Appendix A are removed in their entirety.

105.6.30 Open burning. Open burning is prohibited except as set forth in Section 307.0.

105.6.43a Illustrations. *See Attachment A Illustrations.*

105.6.47 Special Events. A person shall not hold a special event, defined as a fair, festival, trade show, exhibit, public outdoor gathering, concert, sporting event other than at an established sport arena or stadium or any other event that is different from the normal intended use of the property, building or structure significantly impacting the need for emergency services or the accessibility of the property to emergency services without obtaining a permit from the fire code official. This provision shall not apply to private functions not open to the public held entirely on non-commercial, private property.

109.4 Penalties.

A. Municipal Civil Infraction. A person who violates any provision of this code is responsible for a municipal civil infraction, punishable by a maximum fine of \$500.00 plus court costs. Each day that a violation continues after due notice has been served in accordance with this ordinance shall be deemed a separate offense.

B. Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, is responsible for a municipal civil infraction, punishable by a maximum fine \$500.00 plus court costs. Each day that a violation of the stop work order continues after due notice has been served shall be deemed a separate offense. The issuance of a

municipal civil infraction citation under this section 109.3.B. does not preclude the issuance of a citation under section 109.3.A.

109.4.1. Abatement of Violation. In addition to the penalties described above, the fire code official is authorized to institute civil litigation in a court of competent jurisdiction to prevent unlawful construction in violation of this code; or to restrain, correct or abate a violation of this code; or to prevent illegal occupancy of a structure or premises; or to stop the conduct of business or the occupancy of a structure which is in violation of this code; or to seek such other relief as may be necessary to force compliance with this code.

SECTION 202 GENERAL DEFINITIONS

Sky Lantern. An unmanned device with a combustible fuel source that incorporates an open flame in order to make the device airborne.

307: OPEN BURNING, RECREATIONAL FIRES AND PORTABLE OUTDOOR FIREPLACES

307.1 General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this section 307. The burning of yard waste, grass or wood debris, development clearing, or for lot and land improvements is prohibited.

307.2 Permit Required. A permit shall be obtained from the Fire Code Official prior to kindling a fire for recognized silviculture practices, tree and fruit farming operations, or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled. No permit shall be issued prior to 10 am on each day. A permit shall be valid for a period of 24 hours, except permits for tree and fruit farming operations may be issued for a period of up to three (3) days if the Fire Code Official determines that atmospheric conditions or local circumstances would not make an extended period hazardous. A separate permit must be obtained for each period and for each location a fire is kindled.

307.3 Extinguishment authority. The fire code official is authorized to order the extinguishment by the permit holder, a person responsible for a fire, or the fire department of any open burning that creates or adds to a hazardous or objectionable situation.

307.6 Fire Department training. Notwithstanding any provision in this section to the contrary, open burning shall be allowed without a permit for the purpose of firefighter training or practice, training of the public by a fire department, or for demonstrations by a fire department when done in accordance with normally accepted practices. The fire code official shall be provided with notice of such training or demonstration prior to conducting any open burning pursuant to this subsection.

308.1.6.3 Sky Lanterns. No person shall release or cause to be released an untethered sky lantern.

408.12 Strip malls and other multi-tenant occupancies (tenant identification). Each occupied tenant space provided with a secondary exit to the exterior or exit corridor shall be provided with tenant identification by business name and address. Letters and numbers shall be posted on the exterior or corridor side of the door, be plainly legible, and contrast with their background.

506.1 Access - Key Box. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The key box shall be a Knox Box brand; of a size dictated as appropriate by the fire code official; and contain items as deemed necessary for emergency response operations at the facility, including keys to gain access as required by the fire code official.

907.6.3.1. Location. A Zoning indicator panel and the associated controls shall be provided at the main entrance of any occupancy unless otherwise approved by the fire code official. The visual zone indication shall lock in until the system is reset and shall not be canceled by the operation of an audible alarm-silencing switch.

5704.2.9.6.1 Locations where above-ground tanks are prohibited. Storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited except where authorized by the Township Zoning Ordinance.

5706.2.4.4 Locations where above-ground tanks are prohibited. The storage of Class I and II liquids in above-ground tanks is prohibited except where authorized by the Township Zoning Ordinance.

5806.2 Limitation (Outdoor Storage) Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited except where authorized by the Township Zoning Ordinance.

6104.2 Liquefied petroleum gas storage - Maximum capacity within established limits. Unless a different capacity is specified in the Township Zoning Ordinance, the aggregate capacity of any one installation shall not exceed the lesser of a water capacity of 2,000 gallons (7570 L).

SECTION3. Deletion and Substitution, Electrical Code. Any reference to the International Electrical Code appearing in the International Fire Code is deleted and such references therein shall be substituted with the *State of Michigan Electrical Code*.

SECTION4. Fee Schedule. The Grand Traverse Metro Emergency Services Authority shall establish by motion or resolution a fee schedule for the implementation and enforcement of this ordinance and is authorized to amend the fee schedule periodically. A copy of said fee schedule shall be provided to the Clerk of the Township upon approval by the Grand Traverse Metro Emergency Services Authority and shall be adopted by Resolution of the Township.

SECTION5. Prior Ordinances. All other ordinances or parts of ordinances in conflict with or superseded by this ordinance, including the prior Township Fire Prevention Ordinance and any amendment thereto, are repealed except to the extent that any project, condition, violation or prosecution that was subject to the prior Ordinance shall continue.

SECTION 6. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, unlawful or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 7. Publication. The Township clerk shall publish this ordinance within 30 days after passage of this ordinance.

SECTION 8. Effective Date. This ordinance and any rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect 30 days after the date of publication of this ordinance as provided in Section 7.

This ordinance was adopted by East Bay Township on the following date:
August 10, 2015.

CERTIFICATION

I, Susanne M. Courtade, being the duly elected and acting Clerk of East Bay Township, Grand Traverse County, Michigan, hereby certify that (1) the foregoing is a true and complete copy of an Ordinance duly adopted by the Township Board at a Regular meeting held on August 10, 2015, at which meeting a quorum was present and remained throughout, (2) that an original thereof is on file in the records of the Township, (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan, 1976), and (4) minutes of such meeting were kept and will be or have been made available as required thereby.

Susanne M. Courtade CMMC/CMC, Clerk

Adopted: August 10, 2015
Published: August 14, 2015
Effective: September 13, 2015