

EAST BAY CHARTER TOWNSHIP FIRE PREVENTION ORDINANCE

Ordinance No.2012-1

The Township previously adopted a Township Fire Prevention Code (the original ordinance) which also adopted the *International Fire Code 2003 Edition*. The Township wishes to replace the original ordinance with this new updated Township Fire Prevention Ordinance. This new ordinance repeals the original ordinance, adopts provisions that were not contained in the original ordinance and also adopts the *International Fire Code 2009 Edition* with all appendices, as well as all future editions or revisions to the International Fire Code or its appendices. This ordinance is intended to safeguard life and property from fire and explosion hazards 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 Charter Township ordains as follows:

SECTION 1. Adoption of International Fire Code 2009 edition. The International Fire Code 2009 Edition, including Appendices, as published by the International Code Council and incorporated in the State of Michigan Construction Code (“Michigan Building Code”), are 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 and Section 3 of this ordinance.

SECTION 2. International Fire Code 2009 edition changes. The following sections of the International Fire Code 2009 edition or any subsequent edition, adopted pursuant to section 1, are changed as follows:

Uniform General Reference. All references in the International Fire Code 2009 to the International Building Code shall be deleted and replaced with the Michigan Construction Code (“Michigan Building Code”).

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

103.1 General. This ordinance shall be implemented, administered and enforced by the Fire Chief or the designee of the Fire Chief which may include, but is not limited to a fire code official of the Grand Traverse Metro Emergency Services Authority or any successor entity to it.

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, 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.

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 through the Township’s ticketing bureau. This Ordinance adopts section A101.2 in its entirety, A101.3 in its entirety, A101.4, A101.5, and A101.8 of Appendix A, Board of Appeals, to the *2009 International Fire Code*. The procedures and basis provided below control the Board of Appeals rather than sections A101.6, A101.7, A101.9 and A101.10.

108.2 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.

108.3 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.

108.4 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 Chief of the Grand Traverse Metro Emergency Services Authority with a duplicate copy to the fire code official. 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 Chief 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 14 days from the date of mailing or the date of personal delivery 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. Once the Fire Chief determines that the appeal materials are complete, then the Fire Chief shall set with due diligence a public meeting for the hearing of the appeal. The appellant shall be given not less than 14 days written notice of the hearing date and such notice may be given by first class mail. When service is permitted by first class mail 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.

109.3 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.

109.3.1. 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.

307: OPEN BURNING, RECREATIONAL FIRES AND PORTABLE OUTDOOR FIREPLACES (Section 307 of the International Fire Code is replaced in its entirety by the following Sections)

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.

307.1.1 Prohibited open burning. Open burning when atmospheric circumstances make such fires hazardous shall be prohibited.

307.2 Permit required. A permit shall be obtained from the fire code official prior to kindling a fire for recognized silvicultural 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.

307.2.1 Authorization. Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.

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

307.4 Location. The location for open burning shall not be less than 50 feet from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure.

Exceptions:

1. Fires in approved containers that are not less than 15 feet from a structure.
2. The minimum required distance from a structure shall be 25 feet where the pile size is 3 feet or less in diameter and 2 feet or less in height.

307.4.1 Bonfires. A bonfire shall not be conducted within 50 feet of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 50 feet of a structure shall be eliminated prior to ignition. *(Defined as any fire that does not qualify as a recreational fire under Section 302 of the 2009 International Fire Code).*

307.4.2 Recreational fires. Recreational fires shall not be conducted within 25 feet of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition. *(As defined in Section 302 of the 2009 International Fire Code).*

307.4.3 Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet of a structure or combustible material.

Exception: Portable outdoor fireplaces used at one- and two-family dwellings.

307.5 Attendance. Open burning, bonfires or recreational fires and portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with Section 906 of the International Fire Code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

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/or address. Letters and numbers shall be posted on the exterior or corridor side of the door, be plainly legible and shall 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.

903.4.2 Alarms. Approved audible and visual devices shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided to the exterior of the building in an approved location. The visual device shall be a white strobe light. Where a fire system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

SECTION 3. International Fire Code Additional Changes. The limits or restrictions referred to in certain sections of the *International Fire Code* are hereby established as follows:

3404.2.9.6.1 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.

3406.2.4.4 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.

3506.2 Locations (Outdoor Storage) Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the limits established by the Zoning Ordinance of the local governmental unit wherein the storage occurs or is proposed.

3804.2 Liquefied petroleum natural gas storage. 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).

SECTION 4. 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*.

SECTION 5. 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.

SECTION 6. Prior Ordinances. All other ordinances or parts of ordinances in conflict with or superseded by this ordinance, including the prior Township Fire Prevention Ordinance, are repealed except to the extent that any project, condition, violation or prosecution that was subject to the prior Ordinance shall continue.

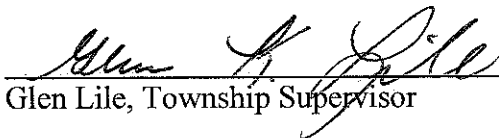
SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, unlawful or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 8. Publication. The Township clerk shall publish this ordinance within 30 days after passage of this ordinance.

SECTION 9. 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.

SECTION 10. Location of Ordinance. Two copies of this Ordinance shall be kept at the Clerk's office for review.


This ordinance was adopted by East Bay Charter Township on the following date: January 9, 2012.


Glen Lile, Township Supervisor

1-10-12
Date

CERTIFICATION

I Susanne M. Courtade CMC, being the duly elected and acting Clerk of the Charter Township of East Bay, Grand Traverse County, Michigan, hereby certifies 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 January 9, 2012, 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, as amended), and (4) minutes of such meeting were kept and will be or have been made available as required thereby.


Susanne M. Courtade CMC, Township Clerk