

**VILLAGE OF ROSCOMMON**  
**Ordinance No. *12* of 2020**

AN ORDINANCE PURSUANT TO ACT 3 OF THE PUBLIC ACTS OF 1895, AS AMENDED, TO PROTECT THE HEALTH, SAFETY AND GENERAL WELFARE OF THE PERSONS AND PROPERTY WITHIN VILLAGE OF ROSCOMMON BY REGULATING OPEN BURNING, TO PROVIDE PENALTIES FOR VIOLATIONS OF THE ORDINANCE, AND TO REPEAL THE CURRENT VILLAGE OF ROSCOMMON BURNING ORDINANCE

THE VILLAGE OF ROSCOMMON ORDAINS:

**Section 1. Title.**

This Ordinance shall be known as the Village of Roscommon Burning Ordinance.

**Section 2. Purpose.**

The purpose of this Ordinance is to protect the people and property within the Village against health and safety hazards caused by the open burning of combustible material near public roads, streets, and other public places, and near buildings and structures, both public and private, and to promote the health and general welfare of the community by regulating the methods of and permitted areas in which open burning will be allowed.

**Section 3. Definitions.** As used in this Ordinance,

"Approved container" means a metal or masonry enclosure with openings no larger than  $\frac{3}{4}$  of an inch covered by a spark arrester with openings no larger than  $\frac{3}{4}$  of an inch constructed so as to prevent the blowing about of any pieces of burning material, ashes or cinders.

"Burning permit" means written or oral authorization from the Village Manager to conduct open burning as specified in this Ordinance.

"Campfire" means a fire whose combustible material consists of wood or wood by-products, including branches, logs, and other non-treated and non-painted wood materials, used for outdoor cooking and other recreational purposes or ceremonial occasions.

"Commercial waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, including but not limited to solid waste from multiple residences, hotels and motels, campgrounds, picnic grounds, and day-use recreation areas.

"Construction and demolition waste" means waste building materials, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on houses, commercial or industrial buildings, and other structures, including trees and stumps which are more than four (4) feet in length and two (2) inches in diameter and which are removed from property during construction, maintenance, or repair. Construction and demolition waste, however, does not include any of the following, even if it results from the construction, remodeling, repair, and demolition of structures: (i) asbestos waste; (ii) household waste; (iii) corrugated containerboard; (iv) appliances; (v) drums and containers; (vi) any aboveground or underground tank and associated piping, except septic tanks; (vii) solid waste that results from any processing technique which renders individual waste components unrecognizable, such as pulverizing or shredding, unless the type and origin of such waste is known not to contain the wastes listed in paragraphs (i) to (vi) of this definition.

"Village Manager" means the Village of Roscommon Village Manager, or other village officials designated by resolution of the Roscommon Village Council.

"Household waste" means any solid waste that is derived from single households, but does not include any of the following: (i) commercial waste; (ii) industrial waste; or (iii) construction and demolition waste.

"Industrial waste" means solid waste which is generated by manufacturing or industrial processes or originates from an industrial site.

"Nuisance" means any open burning that because of dense smoke, noxious odors, or other factors naturally tends to create danger to persons or property or naturally tends to disturb the comfort of, or inflict injury on, a reasonable person of normal sensitivities.

"Open burning" means a fire from which the products of combustion are emitted directly into the outer air without passing through a stack or chimney.

"Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

#### **Section 4. Burning Permit Required; Regulations.**

- (a) Except as authorized by Section 5 below, no person shall start or maintain a fire that results in open burning without first obtaining a burning permit from the Village Manager.
- (b) A person who start or maintains a fire that results in open burning, either with or without a burning permit, shall comply with all of the following regulations:
  - (1) No commercial waste, construction and demolition waste, and industrial waste shall be used as combustible material in the open burning.

- (2) No tires, plastics, paints, treated lumber, and similar materials shall be used as combustible material in the open burning.
- (3) No open burning shall occur under any of the following circumstances:
  - (i) Within twenty (20) feet from any building or structure;
  - (ii) Within twenty (20) feet from an adjoining property line;
  - (iii) Within twenty (20) feet from or within any public right-of-way;
  - (iv) Within twenty (20) feet from any lake, river, or stream.
- (4) No open burning of any nature shall occur when a ban on open burning is in effect as provided in Section 7 below.
- (5) All open burning shall be constantly supervised and attended by a person over the age of 18 years in such a manner as to insure that the open burning is maintained fully under control and in compliance with this Ordinance.

#### **Section 5. Authorized Open Burning without a Burning Permit.**

Except when a total ban on open burning is in effect as provided in Section 7 below, a person may start and maintain a fire that results in open burning without a burning permit in the following circumstances and as provided herein:

- (a) The open burning of household waste is permitted if such open burning is within an approved container, does not create a nuisance, and is otherwise in compliance with state law.
- (b) The open burning of a campfire is permitted if such campfire is no larger than thirty-six (36) inches in diameter and the campfire is either in a depression no less than six (6) inches in depth or the campfire is completely encircled by non-combustible material.
- (c) The open burning is purposely set by a member of the fire department under the supervision of the Fire Chief, or his or her designee, for the sole purpose of fire suppression/prevention training.

**Section 6. Issuance of Burning Permit; Time Limitation for a Burning Permit; Record of Burning Permits Issued.**

- (a) The Village Manager shall issue a burning permit to a person making a request for a burning permit if he or she finds that all of the following standards have been met:
  - (1) The person requesting the burning permit is the owner of the property on which the open burning will occur, or the owner of the property has given written consent for the open burning to occur on his or her property.
  - (2) The proposed open burning will satisfy all of the requirements of this Ordinance.
  - (3) A total ban on open burning is not in effect as provided in Section 7 below.
- (b) A burning permit issued under this Ordinance shall authorize open burning for one day only.
- (c) The Village Manager shall maintain a written record of all burning permits issued under this Ordinance. The written record shall include the name and address of the person requesting the burning permit, the name and address of the owner of the property on which the open burning will occur, the authorized date of the open burning, the location of the property on which the open burning will occur, and a general description of the open burning.

**Section 7. Ban on Open Burning; Revocation of Issued Burning Permits.**

- (a) Whenever the Village Manager finds that conditions of extreme fire hazard exist and that it is necessary in the public interest and for the preservation of the public peace, health, and safety, he or she may declare a ban on open burning within the Village. The declaration shall be in full force and effect 24 hours after notice of the ban is given by the Village Manager utilizing means calculated to provide reasonable notice to the public, including but not limited to publication in a newspaper of general circulation within the Village or posting of a notice in no less than five (5) conspicuous, public locations within the Village.
- (b) Any burning permits issued and remaining in effect at the time a ban on open burning is declared shall be revoked during the period of the ban. Notice of the revocation shall be delivered personally or sent by first class mail to the person obtaining the burning permit at the address given at the time the burning permit was requested.



## **Section 8. Violations and Penalties.**

- (a) Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to the following fines:
  - (1) For a first offense, the offender shall pay a fine of One Hundred and 00/100 (\$100.00) Dollars.
  - (2) For a second offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Two Hundred Fifty and 00/100 (\$250.00) Dollars.
  - (3) For a third or subsequent offense within two (2) years of the date on which the person was found responsible for the first violation, the offender shall pay a fine of Five Hundred and 00/100 (\$500.00) Dollars.
- (b) Each day this Ordinance is violated shall be considered a separate violation.
- (c) Violations of this Ordinance may be reported to Village President and/or the Village Manager.

## **Section 9. Enforcement Officials.**

The Village President or other village officials named by the Village Council are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

## **Section 10. Nuisance Per Se.**

A violation of this Ordinance is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

## **Section 11. Separate Court Action.**

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding or a criminal prosecution, the village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

## **Section 12. Repeal.**

The Village of Roscommon Ordinance 33, enacted on April 27, 1995, is hereby repealed in its entirety.

**Section 13. Severability.**

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not effect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

**Section 14. Effective Date.**

This Ordinance shall become effective twenty (20) days after its enactment.

Ordinance No. 33 was adopted on the 14th day of December, 2020, by the Roscommon Village Council as follows:

Motion by: ROEMER  
Seconded by: Ruddy  
Yeas: MILLER, FISHEL, RUDDY, COOK, ROEMER  
Nays: MEDINA  
Absent: 0

Frances Dawson  
Frances Dawson, Clerk

Michael Miller  
Michael Miller, President

I certify that this is a true copy of Ordinance No. 33 that was adopted at a regular meeting of the Roscommon Village Council on December 14th 2020 and published in the Houghton Lake Reporter on 12-15-20 to 12-29, 2020.

Dated: 1-5-2021

Frances Dawson  
Frances Dawson, Clerk