

TOWNSHIP OF MOTTVILLE

ORDINANCE NO. 09-08

OUTDOOR BURNING ORDINANCE

ADOPTED: May 8, 2008

EFFECTIVE: June 13, 2008

An Ordinance to regulate outdoor burning, including open fires and burning in incinerators/waste burners; and to provide for sanctions for violation of this Ordinance.

THE TOWNSHIP OF MOTTVILLE

ST. JOSEPH COUNTY, MICHIGAN

ORDAINS:

SECTION I
PURPOSE

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

SECTION II
DEFINITIONS

1. **Chief:** Shall mean the Fire Chief of the contracted Township Fire Department or his/her designee.
2. **Cooking Fire:** The noncommercial, residential burning of materials, other than rubbish, not exceeding 3' in diameter and 2' 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 1/2 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 1/2 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 3' in diameter and 2' in height.

SECTION III **PERMITS**

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

SECTION IV
GENERAL PROVISIONS

1. Incinerator/waste burner fires shall not be located within 15' of a structure or other combustible materials.
2. 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.
3. 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.
4. 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.

SECTION V
OPEN FIRES

1. Combustible materials that may be burned in an open fire are limited to grass clippings, leaves, brush, tree limbs and non-hazardous lumber. Burning of 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 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.
3. Open fires shall only be permitted during daylight hours (sunrise to sunset). Recreational fires are permitted after dark.

SECTION VI
SANCTIONS

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:

	<u>Minimum</u> <u>Fine</u>	<u>Maximum</u> <u>Fine</u>
1st Offense within 3-year period*	\$ 75.00	\$ 500.00
2nd Offense within 3-year period*	\$ 150.00	\$ 500.00
3rd Offense within 3-year period*	\$ 325.00	\$ 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 Township of Mottville has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 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 exists shall constitute a separate violation of this Ordinance.

This ordinance is not intended to supersede any order of the Michigan State Police regarding burn bans or the like.

SECTION VII
SEVERABILITY

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. The provisions of this Ordinance are supplemental to and are meant to enhance the provisions of the State Fire Prevention Code (Act 207 of 1941). It is not intended to supersede or replace any provision of the same or any order of the State Police or Fire Marshall made pursuant thereto.

SECTION VIII
EFFECTIVE DATE AND REPEAL OF CONFLICTING ORDINANCES

This Ordinance shall take effect 30 days after publication of a summary thereof.
All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Sherry Medford, Clerk
Township of Mottville