

An ordinance to amend the Code of Ordinances, City of Mt. Morris, Michigan by restating Article III of Chapter 38 entitled Open Burning, replacing the existing sections 38.51 - 38.55, inclusive, with new sections 38.51 through 38.56, inclusive. This amendment sets forth a general prohibition on outdoor burning and open burning; provides for burning within a patio wood burning unit as defined in the ordinance; requires a fee for burning in such patio wood-burning units and sets forth applicable definitions and penalties.

THE CITY OF MT. MORRIS ORDAINS:

**ARTICLE III
OPEN BURNING**

- Sec. 38-51 **Applicability.** This ordinance applies to all outdoor burning within the City of Mt. Morris
- a. This ordinance does not apply to grilling or cooking food using charcoal, propane or natural gas in cooking or grilling appliances.
 - b. 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.
 - c. 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.
 - d. A permit must be obtained from the City of Mt. Morris to have an outdoor fire in a patio wood burning unit.
 - (i) The fee for this permit shall be set by resolution of the Mt. Morris City Council. The permit shall be valid for one year from date issued.
 - (ii) Any outdoor fire must be attended by an adult at least 18 years of age.
 - (iii) Any outdoor fire must be extinguished by midnight.
 - (iv) It is the responsibility of the permit holder to have the permit on site and available to present to the Fire Department or the Police Department upon request.
 - (v) Site must be inspected by Fire Officer at the time the permit is issued before burning can begin.
 - (vi) The permit shall be subject to revocation by the Fire Chief upon a finding of more than one event of non-compliance with this ordinance. Appeal of such revocation may be taken, upon 10 days notice, in writing, to the City Manager whose determination shall be final.

Sec. 38-52 **Definitions.**

- a. "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.
- b. "Outdoor burning" means the burning of materials outside.
- c. "Patio wood-burning unit" means a portable wood-burning device used for outdoor recreation that must be an enclosed or screened-in unit with a lid or cover and not larger than 36"high x 36"deep x 36"wide.
- d. "Refuse" means any waste material including construction and demolition waste including but not limited to shingles, insulation, lumber, treated wood, wiring, packaging, plastics and rubble.
- e. "Habitable structure" means any structure constructed for the purpose of a living space.
- f. "Non-habitable structure" means any other structures including, but not limited to, sheds, barns, garages, carports, decks, or fences.

Sec. 38-53 **General Prohibition on Outdoor Burning.**

- a. General prohibition on outdoor burning. All outdoor burning is prohibited in the City of Mt. Morris unless the burning is specifically permitted by this ordinance.

Sec. 38-54 **Patio Wood-Burning Units.** A patio wood-burning unit may be installed and used in the City of Mt. Morris only in accordance with all of the following provisions and a permit therefore shall be obtained and is the only type of burning allowed:

- a. The patio wood-burning unit shall not be used to burn refuse.
- b. The patio wood-burning unit shall burn only clean wood which shall completely fit within the unit.
- c. The patio wood-burning unit shall be located at least 15 feet from the nearest habitable structure on your property and at least 15 feet from your neighbor's non-habitable structures.
- d. The patio wood-burning unit shall be located at least 5 feet from the nearest non-habitable structure.
- e. A method of extinguishment shall be readily available. Attached garden hose or fire extinguisher is preferred.
- f. The patio wood-burning unit shall not cause a nuisance to neighbors.

Sec. 38-55

Right of Entry and Inspection. The Fire Chief or any authorized Fire Officer of the City of Mt. Morris Fire Department who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

Sec. 38-56

Enforcement and Penalties.

- a. The Fire Chief, all Fire Officers and the Police Department are authorized to enforce the provisions of this ordinance.
- b. Any person, firm, association, partnership, 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 and this Code of the City of Mt. Morris, and shall be punishable by civil fine determined in accordance with the civil infraction section of this Code. Each day that a violation of this ordinance exists shall constitute a separate violation of this ordinance. The court shall set the fine in accordance with the following schedule:

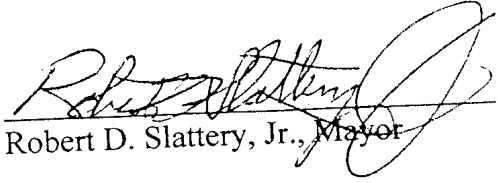
| | <u>Minimum Fine</u> | <u>Maximum Fine</u> |
|--|---------------------|---------------------|
| 1st offense within 3-year period * | \$75.00 | \$500.00 |
| 2nd offense within 3-year period* | \$150.00 | \$500.00 |
| 3rd offense within 3-year period* | \$325.00 | \$500.00 |
| 4th or more offense within 3 year period * | \$500.00 | \$500.00 |

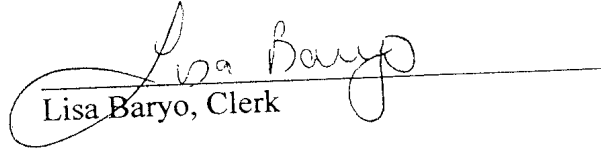
*Determined on the basis of the date of commission of the offense(s)

- c. Cost of extinguishment; recovery of costs; lien upon real estate.
 - (i) The person, firm, association, partnership or corporation found responsible for a civil infraction shall pay costs which may include all expenses, direct and indirect, which the City of Mt. Morris has incurred in connection with the municipal infraction including, but not limited to, the cost of the emergency response and fire fighting services, if needed. The City Manager shall establish the charge based upon the actual cost of equipment utilization and personnel plus a reasonable overhead factor.
 - (ii) In any circumstance where prohibited burning, including burning without a permit in a patio wood burning unit, must be extinguished at City expense, the cost of extinguishing same as set forth in subparagraph (i) together with any other costs of emergency response, shall be borne by the owner of the real estate upon which the prohibited fire occurred.
 - (iii) After failure to respond to an appropriate demand, for the costs as set forth in (i) and (ii), upon the filing of an appropriate affidavit, said costs shall be placed as a lien upon the real estate upon which the burning took place and shall be collectible in the same manner as real estate taxes.

- d. In addition, the City of Mt. Morris shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining a restraining order, or other appropriate remedy to compel compliance with this ordinance.

We the undersigned Mayor and Clerk of the City of Mt. Morris, do hereby certify that the above ordinance was adopted by the City Council at a regular meeting on the 25th day of February, 2008.


Robert D. Slattery, Jr., Mayor


Lisa Baryo, Clerk

APPROVED AS TO FORM
AND LEGALITY

Charles A. Forrest, Jr.

adopted 2-25-08
published 3-5-08
effective 3-6-08