

TOWN OF MORGANTOWN, INDIANA

ORDINANCE NO. 2021-10

**ORDINANCE AMENDING ORDINANCE 2015-08 TO
ALLOW LIMITED RESIDENTIAL OPEN BURNING**

WHEREAS, pursuant to Indiana Code Chapter 36-8-2, the Town of Morgantown Town Council (the "Town Council"), may, among other things, regulate conduct, or use, or possession of property, that might endanger the public health, safety, or welfare;

WHEREAS, pursuant to 326 Indiana Administrative Code Section 4, as authorized by Indiana Code Chapter 13-17-9, with limited exceptions, open burning is prohibited everywhere in Indiana;

WHEREAS, the Town Council, by its adoption of Ordinance 2015-08 incorporated as part of the Morgantown Town Code, the rules and exceptions of 326 IAC 4 and Indiana Code Chapter 13 and prohibited residential open burning;

WHEREAS, the Town Council has reconsidered restricted residential open burning in Town, especially, as it relates to the disposal of resident's leaves, and has decided to allow restricted residential open burning.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MORGANTOWN, INDIANA, AS FOLLOWS:

Section 1. 326 IAC 4 and Indiana Code Chapter 13-17-9, and the separate definitions, prohibitions, rules, and exceptions, are hereby incorporated in and made a part of this Ordinance and the Morgantown Town Code.

Section 2. Except as expressly permitted by Sections 3 and 4 of this Ordinance, all open burning everywhere in the Town of Morgantown is prohibited.

Section 3. For maintenance purposes only and without first obtaining a permit or other authorization, a person may openly burn the following:

- (1) Vegetation from:
 - (A) a farm;
 - (B) an orchard;
 - (C) a nursery;
 - (D) a tree farm;
 - (E) a cemetery; or
 - (F) a drainage ditch.

(2) Wood products derived from pruning or clearing a roadside by a county highway department.

Section 4. Subject to and in strict compliance with the conditions of Section 5 of this Ordinance, and other applicable conditions as set forth in this Section, the following types of fires are permitted in Morgantown:

(1) Recreational or ceremonial fires, such as fires for scouting activities, and fires used for cooking purposes, such as camp fires, subject to the following conditions:

(A) Only the following may be burned:

- (i) Clean wood products.
- (ii) Paper.
- (iii) Charcoal.
- (iv) Clean petroleum products.

(B) Any person conducting recreational or ceremonial fires shall notify the local fire department and health department at least twenty-four (24) hours prior to any burning if the size of the pile being burned is more than one hundred twenty-five (125) cubic feet and include the date, time, and location of the burning.

(C) Fires shall:

- (i) not be ignited more than two (2) hours before the recreational activity is to take place; and
- (ii) be extinguished upon conclusion of the activity.

(D) The pile to be burned shall be less than or equal to one thousand (1,000) cubic feet and only one (1) pile may be burned at a time.

(E) The fires shall not be used for disposal purposes.

(F) Fires shall not be located within five hundred (500) feet of any fuel storage area or pipeline.

(2) Burning, for the purpose of heating, using clean wood products or paper in a noncombustible container that is sufficiently vented to induce adequate primary combustion, and has enclosed sides and a bottom, subject to the following conditions:

(A) Burning shall only occur between October 1 and May 15.

(B) Burning shall not be conducted for the purpose of disposal.

(3) Private residential burning, where the building contains four (4) or fewer dwelling units. Burning is prohibited in apartment and condominium complexes and mobile home parks.

(A) Burning shall be in a noncombustible container that:

- (i) is sufficiently vented to induce adequate primary combustion; and
- (ii) has enclosed sides and a bottom.

(B) Only clean wood products and paper may be burned. "Clean wood products" includes brush and leaves.

(4) Burning of vegetation by fire departments and firefighters to create fire breaks for purposes of extinguishing an existing fire. Such burning is not subject to the conditions of Section 5 of this Ordinance.

(5) Burning of clean petroleum products, natural gas, methane, or propane for fire extinguisher training, including mobile or stationary training units, subject to the following conditions:

(A) The local fire department and health department must be notified at least twenty-four (24) hours in advance of the date, time, and location of the burning.

(B) Except as provided in clause (C), daily fuel volume amounts burned are limited to one (1) of the following:

(i) Fourteen (14) gallons of clean petroleum products.

(ii) Two hundred twelve (212) gallons of propane.

(iii) Twenty-nine thousand seven hundred (29,700) cubic feet of natural gas or methane.

(C) A combination of the fuels listed in clause (B) may be burned each day. The amount of each fuel that can be burned each day shall be determined as follows:

(i) The volume of each fuel to be burned each day shall be calculated as a percentage of the maximum volume allowed in clause (B) for that fuel.

(ii) The sum of the percentages for each fuel burned each day shall not exceed one hundred percent (100%).

(D) All burning of clean petroleum products shall take place in a noncombustible container or enclosure that has enclosed sides and a bottom.

(E) All burning shall be conducted in such a manner so as to prevent any possibility of soil contamination or uncontrolled spread of the fire.

(F) Only one (1) fire may be allowed to burn at a time.

(6) Burning of two (2) single family, nondemolished structures per calendar year by municipal fire departments for purposes of live fire training, subject to the following conditions:

(A) Written notification must be submitted to the Indiana Department of Environmental Management, Office of Air Quality, at least thirty (30) days prior to the burning with the date, time, and location of the burning included. A copy of the notification shall be made available at the burning site to state and local officials upon request.

(B) The fire department conducting the fire training must provide written notification to each interested party or person owning or renting property within five hundred (500) feet of the structure to be burned at least fifteen (15) days prior to the training activity or publish a notice of intent to burn in the local newspaper at least fifteen (15) days prior to the training activity.

(C) The fire department must notify the county health department and county sheriff's department at least twenty-four (24) hours prior to the burning and include the date, time, and location of the burning.

(D) All asbestos-containing materials, asphalt roofing including backer paper, and vinyl siding including Styrofoam backer insulation must be removed before the intentional burning of any structure. These materials may not be burned and must be handled or disposed of in accordance with the applicable rules of the solid waste management board at 329 IAC 10 and 329 IAC 11.

(E) Mercury containing equipment and fluorescent bulbs must be removed from the house and properly recycled or disposed of in accordance with the applicable rules of the solid waste management board at 329 IAC 10.

(F) No burning shall take place within one hundred (100) feet of a structure or power line or three hundred (300) feet Indiana Administrative Code Page 4 BURNING REGULATIONS of a frequently traveled road, fuel storage area, or pipeline.

(G) All burning must comply with other federal, state, or local laws, regulations, or ordinances, including 40 CFR 61, Subpart M* (National Emissions Standards for Asbestos).

(7) Ceremonial burning of United States flags, subject to the following conditions:

(A) Any person conducting ceremonial burning of United States flags shall notify the local fire department and health department at least twenty-four (24) hours prior to any burning if the size of the pile being burned is more than one hundred twenty-five (125) cubic feet and include the date, time, and location of the burning.

(B) Fires shall:

(i) not be ignited more than two (2) hours before the activity is to take place; and

(ii) be extinguished upon conclusion of the activity.

(C) The pile to be burned shall be less than or equal to one thousand (1,000) cubic feet, and only one (1) pile may be burned at a time.

(D) Fires shall not be located within five hundred (500) feet of any fuel storage area or pipeline.

Section 5. Unless specifically excepted, the following conditions, in addition to the conditions applicable to certain types of fires as set forth in Section 4 of this Ordinance, shall apply to all permitted fires and open burning in the Town of Morgantown:

(1) Fires must be attended at all times and until completely extinguished.

(2) A fire shall be extinguished if at any time it creates a:

(A) pollution problem;

(B) threat to public health;

(C) nuisance; or

(D) fire hazard.

(3) No burning shall be conducted during unfavorable meteorological conditions such as any of the following:

(A) High winds.

(B) Temperature inversions.

(C) Air stagnation.

(D) When a pollution alert or air quality action day has been declared.

(4) All burning shall comply with other federal, state, and local laws, rules, and ordinances.

(5) Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.

(6) Open burning shall be conducted during daylight hours only, and all fires, except for recreational or ceremonial fires, such as campfires, shall be extinguished before sunset.

Section 6. Any person violating this Ordinance may be fined, by the Town, up to \$300 per occurrence.

Section 7. This Ordinance repeals and replaces all ordinances and parts thereof with which it may be in conflict.

Section 8. This Ordinance shall be effective upon its final adoption and publication as required.


Introduced and adopted on first reading by the Town Council of the Town of Morgantown on the 8th day of November, 2021.

Adopted, upon suspension of rule, on second and final reading by the Town Council of the Town of Morgantown on the 8th day of November, 2021.



Penny Anderson, President

ATTEST:



Sharon McIntosh, Clerk-Treasurer