

CITY OF MARSHALL

ORDINANCE NO. 2016-0- 06

AN ORDINANCE AMENDING CHAPTER 8. FIRE PREVENTION AND PROTECTION.
ARTICLE I. OPEN BURNING. SECTIONS 8-1 THROUGH 8-4.

ADOPTED BY THE
CITY COUNCIL
OF THE
CITY OF MARSHALL

Published in pamphlet form by authority of the City of Marshall, Clark County, Illinois, this
9 day of May, 2016.

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AN ORDINANCE AMENDING CHAPTER 8. FIRE PREVENTION AND PROTECTION.
ARTICLE 1. OPEN BURNING. SECTIONS 8-1 THROUGH 8-4.

BE IT ORDAINED by the City Council of the City of Marshall, Illinois:

Section 1. That Article 1, Section 8 of the Code of Ordinances, City of Marshall, Illinois are hereby amended to read as follows:

Sec. 8-1 Purpose and Applicability.

This article is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the city due to air pollution and fire hazards of open burning, outdoor burning and refuse burning. Open burning, outdoor burning and refuse burning are prohibited in the city unless the burning is specifically permitted by this section. This section applies to all outdoor burning and refuse burning within the city. This section does not apply to:

- (1) Grilling, or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances;
- (2) Burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation unless the material being burned includes refuse as defined in this section;
- (3) The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

Sec. 8-2. Definitions.

Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Campfire. A small outdoor fire, no larger than 4 feet wide by 4 feet deep by 4 feet high, intended for recreation or cooking not including a fire intended for disposal of waste wood or refuse.

Clean Wood. Natural dry 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.

Class A. Reference to the type of chimney pipe, which is approved by the Underwriters Laboratory (UL) and can be installed in walls, ceilings and floors. It is formally called "Stainless Steel Class A Insulated Chimney." The basic insulated pipe is constructed of two walls, which simply means there are two pipes in one.

EPA Phase II Qualified. An outdoor wood burning furnace that has been certified by the U.S. Environmental Protection Agency as being EPA Phase II qualified. The furnace has met the Phase II emission requirements and is labeled accordingly.

Outdoor Burning. Open burning or burning in an outdoor furnace.

Open Burning. Kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or chimney.

Outdoor Furnace. A fuel burning device designed to (1) burn wood or other manufacturer approved fuel products (i.e. corn and coal); (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

Stack or Chimney. Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired heating device or structure, including that part of the structure extending above a roof.

Refuse. Any waste material except clean wood.

Sec. 8-3. Prohibitions.

- (a) No person shall cause or allow open burning, except as provided in this article.
- (b) No person shall cause or allow the burning of any refuse in any chamber or apparatus unless such chamber or apparatus is designed for the purpose of disposing of the class of refuse being burned.

Sec. 8-4. Exemptions.

The following activities are not in violation of this article unless they cause air pollution as defined in the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.):

- (a) The open burning of landscape waste, but only:
 - 1. By the City of Marshall;
 - 2. When atmospheric conditions will readily dissipate contaminants; and
 - 3. That such burning does not create a visibility hazard on roadways, railroad tracts or air fields.
- (b) The setting of fires to combat or limit existing fires, when reasonably necessary in the judgment of the responsible government official.

- (c) The burning of fuels for legitimate campfire, recreational and cooking purposes, or in domestic fireplaces, in areas where such burning is consistent with other laws, provided that no garbage shall be burned in such cases.
- (d) The burning of waste gases, provided that in the case of refineries all such flares shall be equipped with smokeless tips or comparable devices to reduce pollution.
- (e) Small open flames for heating tar, for welding, acetylene torches, highway safety flares and the like.

Sec. 8-5. Materials that may not be burned.

Unless a specific written approval has been obtained from the Illinois Environmental Protection Agency, the following materials may not be burned in an open fire, incineration, burn barrel, furnace, stove or any other indoor or outdoor incineration or heating device;

(1) Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.

(2) Green grass, green leaves or other green vegetation.

(3) Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to appropriate Illinois Environmental Protection Agency Restrictions.

(4) Asphalt and products containing asphalt.

(5) Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

(6) Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

(7) Rubber including tires and synthetic rubber-like products.

(8) Newspaper, corrugated cardboard, container board, office paper or other paper products.

(9) Any wood that does not meet the definition of clean wood.

(10) Paint and paint thinners.

(11) Construction and demolition debris (such as shingles).

(12) Manure.

(13) Animal carcasses.

(14) Used cooking oils.

Sec. 8-6. Outdoor furnaces.

An outdoor furnace may be installed and used in the city only in accordance with the following provisions:

(1) The outdoor furnace shall not be used to burn any of the prohibited materials listed in Section 8-5 of this article.

(2) No person shall install an outdoor furnace unless it has been qualified through the U.S. Environmental Protection Agency's voluntary outdoor hydronic heater program to meet the Phase 2 particulate matter limits. Each installed unit shall have a U.S. EPA white tag signifying that it meets the Phase 2 emission limit affixed in a readily visible or accessible location. Existing outdoor furnaces installed in accordance with the then City of Marshall ordinances will be allowed to remain in place as long as their operation does not cause environmental or nuisance issues as determined by the City of Marshall Health Officer.

(3) The owner or occupant of the property shall obtain an outdoor furnace permit from the City Clerk in accordance with Section 8-7 of this article.

The owner or occupant of the property shall obtain a permit for an outdoor furnace when the furnace is first installed or, in the case of units installed prior to the effective date of this section, within 30 days of adoption. No outdoor furnace may be installed without obtaining a permit from the city and paying the permit fee established by the Marshall City Council. This section shall apply to all outdoor furnaces installed within the city.

(1) A permit issued under this section shall require compliance with all applicable provisions of this article.

(2) Installation of an outdoor furnace without obtaining a permit shall be a violation of this section.

(3) Any violation of this section shall void the permit.

(4) No outdoor furnace already in operation prior to the effective date of this section may be extended, enlarged, or restored beyond 75% of its original value without being brought into full compliance with this section.

Liability. A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability from damage caused by the fire.

Right of entry and inspection. The Fire Chief, Code Compliance Officer, or any authorized officer, agent, employee or representative of the city who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this section. If the owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with Illinois statutes.

Permit fees. The fee for a permit required for the installation of an outdoor furnace in division (F) of this section shall be \$15.00.

Enforcement and penalties.

(1) The Fire Chief, Police Chief, The Code Enforcement Officer and their representatives are authorized to enforce the provisions of this section.

(2) Any person who shall violate any provisions of this section for which no other penalty is provided shall, upon conviction, be subject to penalties as provided ins Sec. 10.99.

Sec. 8-7. Accessory structures and uses.

(1) INSTALLATION AND USE OF OUTDOOR WOOD-FIRED FURNACES. Outdoor wood-fired furnaces, except as otherwise permitted in this ordinance, shall be subject to the regulations in section 12.1

(a) An EPA Phase 2 Qualified outdoor wood-fired furnace shall be located at least 50 feet from any residence which is not on the same property as the outdoor wood-fired furnace. All other wood-fired furnaces shall be located at least 300 feet from any residence which is not on the same property as the outdoor wood-fired furnace and both shall follow the same provisions in section 12.2.

(b) The outdoor wood-fired furnace shall have a stack/chimney constructed of "Class A" pipe that extends at least 20 feet above the ground surface.

(c) All requirements for installation and maintenance shall be met including, but not limited to, local, state and federal regulations and manufacturer's specifications.

(2) PERMITS

(a) No Outdoor Wood-Fired Furnace may be erected within a residential, business or industrial district not utilized for agricultural uses unless a permit is obtained from the office of the zoning officer for a fee of fifteen dollars (\$15.00). The individual or agency actually installing the Outdoor Wood-Fired Furnace shall be responsible for obtaining the permit. No work shall start until the permit has been obtained. The fee for each permit shall be triple the above amount if the construction commences prior to the submission of the proper application and issuance of a permit.

(b) A permit will become null and void after ninety (90) days from the date of issuance if the Outdoor Wood-Fired Furnace authorized by said permit has not been completed.

(3) EXISTING NONCONFORMING OUTDOOR WOOD-FIRED FURNACES. The lawful use of a nonconforming outdoor wood-fired furnace existing at the time of the adoption or

amendment of this ordinance may be continued if the stack/chimney is raised to a minimum of 20 feet above the ground surface by August 1, 2016.

Section 2. If any provision of this Ordinance, or application thereof, is held invalid by any Court, other provisions or applications of this Ordinance which can be given effect without the invalid provision or application shall not be affected, and to this end the provisions of this Ordinance are declared to be severable.

Section 3. That this Ordinance shall be published in pamphlet form and shall take effect ten (10) days after its passage, approval and publication in pamphlet form as provided by law.

	<u>AYES</u>	<u>NAYS</u>	<u>ABSENT</u>
Cathy Macke	✓	✓	
Mark Strait		✓	
Warren J. Le Fever		✓	
James McKittrick			
Cheryl A. Raisner	✓		
Tim J. Sanders	✓		
Vickie Wallace	✓		
Michael Smitley	✓		

PASSED this 9th day of May, 2016.

APPROVED this 9th day of May, 2016.

Ramin Sanders
MAYOR

ATTESTED, filed in my office,
and published in pamphlet form
this 9th day of May, 2016

(SEAL) CITY CLERK
[Signature]