

# Trash Burning Enforcement Authority

## Laws

State law pertaining to the open burning of household trash can be found in Michigan Compiled Law (MCL) 324.11539 of the Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended (see Section 324.11539- on the reverse side of this page). This law prohibits the burning of household waste that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials. Many larger municipalities have ordinances that also prohibit such activity from occurring. In those cases, local officials would enforce the ordinance as they deem appropriate. In areas of the state where no such ordinance exists, the state law may be used by local officials to address residential trash burning complaint/issue. Additional information about open burning can be found at [Michigan.gov/OpenBurning](https://Michigan.gov/OpenBurning).

## Ticketing

MCL Section 324.11539 applies to an individual who violates the law by open burning waste from that individual's household. The violation is identified as a state civil infraction. There does not need to be a local ordinance in place for this provision to be enforced at the local level. Enforcement can be done by anyone that has the authority to write a ticket for a state civil infraction. This would be anyone defined as a "peace officer" in MCL 750.215. ([MCL - Section 750.215 - Michigan Legislature](#))

Act 175 of 1927, specifically section 764.9c(2) ([MCL - Section 764.9c - Michigan Legislature](#)), states that "a public servant other than a police officer, who is specially authorized by law or ordinance to issue and serve appearance tickets with respect to a particular class of offenses of less than felony grade, may issue and serve upon a person an appearance ticket if the public servant has reasonable cause to believe that the person has committed an offense."

## Penalties

Local officials or peace officers may enforce the penalties detailed in MCL 324.11539 of Act 451 of 1994;

- a) For a first offense within a 3-year period, a warning by the judge or magistrate.
- b) For a second offense within a 3-year period, a civil fine of not more than \$75.00.
- c) For a third offense within a 3-year period, a civil fine of not more than \$150.00.
- d) For a fourth or subsequent offense within a 3-year period, a civil fine of not more than \$300.00.

## Ordinance

The Michigan Department of Environment, Great Lakes, and Energy encourages townships, villages, and cities to create an ordinance that specifically addresses outdoor burning. A model ordinance can be found at [Michigan.gov/OpenBurning](https://Michigan.gov/OpenBurning).

## **State Law, Section 324.11539**

Open burning of yard waste or leaves; prohibition; effect of local ordinance and Part 55; open burning of household waste, materials; application of subpart 7; violations and penalties; open burning of certain storage bins; disposal of unserviceable flag.

### **Sec. 11539**

- 1) The open burning of yard waste or leaves is prohibited in any municipality having a population of 7,500 or more, unless specifically authorized by local ordinance. Within 30 days after adoption of such an ordinance, the clerk of the municipality shall notify the department of its adoption..
- 2) Subsection (1) does not permit a county or municipality to authorize open burning of yard waste or leaves by an ordinance that would otherwise be prohibited under Part 55 or rules promulgated under Part 55.
- 3) A person shall not conduct open burning of household waste that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals, or hazardous materials.
- 4) Subpart 7 does not apply to an individual who violates subsection (3) by open burning of waste from that individual's household. The individual is responsible for a state civil infraction and is subject to the following:
  - a) For a first offense within a 3-year period, a warning by the judge or magistrate.
  - b) For a second offense within a 3-year period, a civil fine of not more than \$75.00.
  - c) For a third offense within a 3-year period, a civil fine of not more than \$150.00.
  - d) For a fourth or subsequent offense within a 3-year period, a civil fine of not more than \$300.00.
- 5) Notwithstanding section 5512, the department shall not promulgate or enforce a rule that extends the prohibition under subsection (3) to materials not listed in subsection (3).
- 6) Part 115, Part 55, or rules promulgated under this Part or Part 55 do not prohibit a person from conducting open burning of wooden fruit or vegetable storage bins constructed from untreated lumber if all of the following requirements are met:
  - a) The burning is conducted for disease or pest control.
  - b) The burning is not conducted at any of the following locations:
    - i) Within a priority I area as listed in table 33 or a priority II area as listed in table 34 of R 336.1310 of the Michigan administrative code.
    - ii) In a city or village.
    - iii) Within 1,400 feet outside the boundary of a city or village.
- 7) Subsections (5) and (6) do not authorize open burning that is prohibited by a local ordinance.
- 8) A congressionally chartered patriotic organization that disposes of an unserviceable flag of the United States by burning that flag is not subject to regulation or penalty for violating a state law or local ordinance pertaining to open burning.

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