

TOWNSHIP OF HARTLAND

ORDINANCE NO. 66

OUTDOOR FURNACE ORDINANCE

An Ordinance to protect the public health, safety and general welfare from excessive smoke pollution, soot contamination, other toxic air pollutants and offensive odors emanating from outdoor furnaces fueled by wood, coal, corn, and other types of fuels; to impose restrictions on the installation and use of any new outdoor furnaces as defined in the ordinance; to provide penalties or sanctions for the violation of the ordinance provisions, to repeal any ordinances or parts of ordinances in conflict herewith and to provide for an effective date.

TOWNSHIP OF HARTLAND ORDAINS:

SECTION 1 TITLE

This Ordinance shall be known and cited as the “Outdoor Furnace Ordinance.”

SECTION 2 PURPOSE

It is generally recognized that Outdoor Furnaces and burning the types of fuel used create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles, and other byproducts that can be detrimental to public health, and can deprive neighboring residents of the enjoyment of their property or premises. Research summarized in several publications, including but not limited to United States Environmental Protection Agency (EPA) reports, indicates that there exist certain potentially severe negative health effects of Outdoor Furnace emissions on humans when Outdoor Furnaces are installed and used in non-rural settings. At this time, there are no applicable and mandated state or federal standards for determining which, if any, Outdoor Furnaces would not produce such likely and unacceptable risks to humans. The purpose of this Ordinance is to protect the public health, safety and general welfare of the residents of the Township from offensive odors, noxious fumes, smoke, ashes, soot or other toxic air pollutants emanating from Outdoor Furnaces in such quantities as to render occupancy of property dangerous or uncomfortable to a person of ordinary sensibilities and to regulate the location and use of Outdoor Furnaces.

SECTION 3 DEFINITIONS

“Existing” or “In Existence” means an Outdoor Furnace that is completely and correctly installed and operational pursuant to the manufacturer's specifications prior to the effective date of this Ordinance.

“Firewood” means trunks and branches of trees and bushes but does not include leaves, needles, and vines or brush smaller than three inches (3”) in diameter.

“Fire Marshal” means the Fire Marshal of the Township, Hartland Deerfield Fire Authority or other person designated by the Fire Marshal.

“Grade Plane” means the average level of the finished grade at the Outdoor Furnace or the structure within which the Outdoor Furnace is located, with four (4) or more corner points utilized for determining the average.

“Nuisance” as defined in the Township of Hartland Nuisances Ordinance, Ordinance No. 49, as amended.

“Outdoor Furnace” means a boiler or furnace, fueled by wood, coal, corn or any other type of fuel, located outside the structure it is used to heat with the designated purpose of providing heat for water and/or air for a residence or any other structure. Outdoor Furnace does not include boilers or furnaces fueled by natural gas, propane, or fuel oil if the boiler or furnace has been inspected and approved by the Livingston County Building Department.

"Owner" means the owner of the lot or parcel upon which an Outdoor Furnace is located or the owner of an Outdoor Furnace or both.

"Township" means the Township of Hartland, Livingston County, Michigan.

“Untreated Lumber” means dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

“Warning Letter” means written correspondence prepared by an authorized Township official advising the recipient of the violation and directing the person to correct the alleged violation.

SECTION 4 GENERAL PROVISIONS

- A. Outdoor Furnaces are prohibited in the Township, except as specifically authorized in this Ordinance.

- B. All Outdoor Furnaces shall be laboratory tested and listed to comply with appropriate safety standards such as UL (Underwriters Laboratories) or ANSI (American National Standards Institute) and constructed, used and maintained so as to be in compliance with the provisions of the State Construction Code and all applicable statutes, rules, regulations, codes, ordinances and the manufacturer's specifications.
- C. All Outdoor Furnaces shall comply with all of the following provisions:
1. Permitted Fuel – Only Firewood, Untreated Lumber, and materials that are designed and manufactured for use in Outdoor Furnaces (such as wood pellets and corn) are permitted to be burned in any Outdoor Furnace. Burning of any and all other materials in an Outdoor Furnace is prohibited.
 2. Permitted Zones – Outdoor Furnaces shall only be permitted in the CA, Conservation Agricultural District as shown on the Township Zoning Map on a lot or parcel the area of which is ten (10) acres or more.
 3. Setbacks – Outdoor Furnaces shall be setback not less than 100 feet (100') from the nearest lot line, and shall have a chimney (also referred to as a “stack”) that extends at least 15 feet above the grade plane and at least 2 feet (2') higher than the height of the highest roof peak of any dwelling (owned by one other than the Owner of the outdoor furnace and in existence on the effective date of this Ordinance) located within 500 feet (500'). If the chimney height required by this Ordinance exceeds the manufacturer’s specifications, then the Outdoor Furnace shall not be permitted.
 4. Months of Operation – The use of Outdoor Furnaces shall only be permitted from October 1st to April 30th of each year. The use of Outdoor Furnaces is prohibited between May 1st and September 30th of each year.
 5. Spark Arrestors – All Outdoor Furnaces shall be equipped with properly functioning spark arrestors.
- D. Failure to comply any provision of this Ordinance shall subject the Owner to penalties as provided in Section 8 of this Ordinance. However, prior to issuing a municipal civil infraction citation or initiating any court proceeding, the Township may issue a Warning Letter advising the recipient of a violation of this Ordinance and ordering corrective action be taken. The Township may permit a reasonable amount of time for correcting the violation, but in no event shall the correction period be longer than thirty (30) days.

SECTION 5 EXISTING OUTDOOR FURNACES

- A. Notwithstanding the required minimum lot or parcel area, location, chimney height and setbacks required by this Ordinance, an Outdoor Furnace in existence prior to the effective date of this Ordinance shall be permitted to remain, but only if it complies with the following requirements:
 - 1. The Existing Outdoor Furnace must meet all of the requirements of this Section 5 and comply with Subsections 4.B and 4.C.1, 4 and 5;
 - 2. The Existing Outdoor Furnace does not constitute a Nuisance; and
 - 3. The Owner applies for and receives all inspections, permits and approvals required pursuant to Section 6 of this Ordinance within one (1) year of the effective date of this Ordinance. If the Owner of an Existing Outdoor Furnace does not apply for and receive all inspections, permits or approvals within one (1) year of the effective date of this Ordinance pursuant to Section 6 of this Ordinance, the Existing Outdoor Furnace shall be removed and the Owner shall be subject to penalty pursuant to Section 8 of this Ordinance.
 - 4. Existing Outdoor Furnaces cannot be (i) relocated, (ii) attached to or to provide heat to new buildings, (iii) expanded in size, or (iv) replaced, unless it complies with every provision of this Ordinance. However, nothing in this Ordinance shall prohibit the regular repair and maintenance of an Existing Outdoor Furnace so that it is operated in a safe manner and according to the manufacturer's specifications.

- B. Outdoor Furnaces that are not completely and correctly installed and operational pursuant to the manufacturer's specifications prior to the effective date of this Ordinance shall not be considered "Existing" or "In Existence" and shall meet all of the requirements of this Ordinance.

SECTION 6 APPLICATION FOR PERMIT

No person shall install or cause, allow or maintain the use of any new or Existing Outdoor Furnace without first obtaining a Land Use Permit from the Township and all other permits required for installation and operation of an Outdoor Furnace.

- A. Application for Land Use Permit shall be made on the form(s) provided by the Hartland Township Planning Department.

- B. In addition to any other requirement, an application for Land Use Permit shall include:

1. A detailed and dimensioned survey of the lot or parcel upon which the Existing or new Outdoor Furnace is located or proposed to be located.
 2. Detailed specifications of the Outdoor Furnace published by the manufacturer.
 3. A statement of intended use of the Outdoor Furnace.
 4. Consent by the Owner for the Township or any other governmental official to enter the lot or parcel upon which the Existing Outdoor Furnace or new Outdoor Furnace is located or proposed to be located for the purpose of inspecting the Existing Outdoor Furnace or the location of the proposed new Outdoor Furnace.
- C. A copy of all Livingston County or other governmental inspections, permits and approvals shall be provided to the Township within sixty (60) days of installation or in the case of an Existing Outdoor Furnace, immediately upon issuance of the inspections, permits or approvals.
- D. Failure to obtain all required inspections, permits and approvals for a new or Existing Outdoor Furnace or failure to provide copies of all required inspections, permits or approvals shall be a violation of this Ordinance and subject to penalty as provided in Section 8 of this Ordinance.

SECTION 7 NUISANCES

If any Outdoor Furnace (permitted or otherwise) constitutes a Nuisance, the Owner shall immediately cease using the Outdoor Furnace and shall abate the Nuisance. Abating the Nuisance shall include, but not be limited to removing the Outdoor Furnace. The Township shall be entitled to abate the Nuisance in the manner set forth in the Township of Hartland Nuisance Ordinance, Ordinance No. 49, as amended.

SECTION 8 PENALTIES

Violations of the provisions of this Ordinance shall constitute a municipal civil infraction. Any person, firm, association, partnership, corporation or entity who is found responsible or admits responsibility for a municipal civil infraction shall be subject to a civil fine and costs. The civil fines are set forth in the Municipal Infractions Ordinance, Ordinance No. 45, as amended, unless otherwise specified. 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 continues to exist shall constitute a separate violation of this Ordinance. The Township shall be entitled to its costs, including reasonable

attorney fees, from any person that has violated or permitted the violation of any provision of this Ordinance.

SECTION 9 VALIDITY AND SEVERABILITY

The provisions of the Ordinance are hereby declared to be severable and if any clause, sentence, word, section, or provision is declared void or unenforceable for any reason, by any court of competent jurisdiction, it shall not affect any other portion of this Ordinance other than said part or portion thereof.

SECTION 10 REPEALER CLAUSE

Any ordinance or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 11 EFFECTIVE DATE

This Ordinance shall be effective thirty (30) days after publication or as otherwise required by law.