

ALAMO TOWNSHIP
KALAMAZOO COUNTY, MICHIGAN
ORDINANCE 59-M

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE FROM EXCESSIVE SMOKE POLLUTION AND OFFENSIVE ODORS; TO IMPOSE RESTRICTIONS ON THE INSTALLATION AND USE OF ANY NEW OUTDOOR FURNACE, AS DEFINED IN THIS ORDINANCE; TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; TO PROVIDE FOR SEVERABILITY AND THE REPEAL OF ORDINANCES INCONSISTENT HEREWITH AND TO SET AN EFFECTIVE DATE.

ALAMO TOWNSHIP ORDAINS:

Section 1. Title.

This Ordinance may be known and referred to as the "Alamo Township Outdoor Furnace Ordinance".

Section 2. Definitions.

The following terms, as used in this Ordinance, shall have the meanings herein ascribed to them:

"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.

"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.

"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 Alamo Township Building Department or its designee.

"Owner" means all of the following: the owner of the property upon which an outdoor furnace is located, the owner of an outdoor furnace and the occupant of the property or the person in control of the property.

"Township" means the Township of Alamo, Kalamazoo 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 3. General Prohibition.

Except as specifically authorized by and in conformance with this Ordinance, outdoor furnaces are prohibited in Alamo Township.

Section 4. Requirements to Operate an Outdoor Furnace.

- A. All outdoor furnaces shall meet the minimum Phase II EPA Emission Standards, or any successors, applicable at the time of installation of the outdoor furnace and shall be listed to and/or comply with appropriate safety standards, including, but not limited to, 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 and ordinances and the manufacturer's specifications.
- B. 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), as suggested or required by manufacturer's specifications, are permitted to be burned in any outdoor furnace. Burning of any and all other materials, including coal, in an outdoor furnace is prohibited.
 - 2. Setbacks - Outdoor furnaces shall be setback not less than 100 feet (100') from the nearest lot line or public right-of-way, 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 200 feet (200'). If the chimney height required by this Ordinance exceeds the manufacturer's specifications, then the outdoor furnace shall not be permitted.

3. Spark Arrestors - All outdoor furnaces shall be equipped with properly functioning spark arrestors.
- D. Failure to comply with 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, but is not required to, 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)(1) and (3).
 2. The owner shall register with the Township, as provided in Section 6, and comply with all Sections of this Ordinance within six (6) months of the effective date of this Ordinance. If the Owner of an existing outdoor furnace does not register within six (6) months of the effective date of this Ordinance, the existing outdoor furnace shall be removed immediately, the Owner shall be subject to penalties pursuant to Section 8 of this Ordinance and any outdoor furnace hereinafter reinstalled shall comply with the requirements for new outdoor furnaces.
 3. 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 outdoor furnace without first obtaining an applicable permit from the Township and all other permits required for installation and operation of an outdoor furnace. Existing outdoor furnaces must obtain an Outdoor Furnace Permit within six (6) months of the effective date of this Ordinance.

- A. Application for an Outdoor Furnace Permit shall be made on the form(s) provided by the Township.
- B. In addition to any other requirement, an application for an Outdoor Furnace Permit shall include:
 - 1. A detailed and dimensioned scaled drawing 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.
- C. A copy of all applicable Kalamazoo 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. Nuisance Declared.

If any outdoor furnace (permitted or otherwise) is installed and/or operated contrary to the requirements of this Ordinance, such installation and use shall constitute 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.

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. 48-M, 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, compliance 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. Severability Clause.

Any and all sections, terms, provisions and/or clauses herein shall be deemed independent and severable. Should any court or competent jurisdiction hold any section, term, provision or clause void and/or invalid, all remaining sections, terms, provisions and/or clauses not held void and/or invalid shall continue in force and effect.

Section 10. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed and shall be of no further force or effect upon the effective date of this Ordinance.

Section 11. Effective Date.

This Ordinance shall take effect on October 11, 2010.