

~~35.300A~~ AN ORDINANCE TO AMEND the Code of the Village of Shepherd in Isabella County, In the State of Michigan by adding a new chapter, to be entitled "**Outdoor Wood Furnaces**", which chapter provides for the same.
Effective: January 19, 2011

Be it enacted by the Village Council of the Village of Shepherd as follows:

Adding thereto a new chapter Outdoor Wood Furnaces, to read as follows, hereby amends the Code of the Village of Shepherd:

OUTDOOR WOOD FURNACES (Referred to as: OUTDOOR WOOD BOILERS OR HYDRONIC HEATERS)

Section 1.0 Definitions

- A. **Outdoor Wood Furnace:** Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors and is hand loaded or continuously fed (automatically fueled) for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An outdoor wood furnace may also be referred to as an outdoor wood boiler, or hydronic heater.
- B. **Outdoor Wood-Pellet Furnace:** An outdoor wood-pellet furnace that is specifically designed to burn wood pellet fuel, corn, or other biomass pellets with metered fuel and air feed and controlled combustion engineering, which burns only wood pellets, corn or other biomass pellets.
- C. **Chimney:** Flue or flues that carries off exhaust from an outdoor wood furnace firebox or burn chamber.
- D. **EPA HH (Hydronic Heater) Phase 2 Program** – EPA HH Phase 2 Program is administered by the United States Environmental Protection Agency and has a particulate matter emission limit of 0.32 pounds per million British Thermal Output Units output.
- E. **EPA HH (Hydronic Heater) Phase 2 Program Qualified Model** – A hydronic heater that has been EPA HH Phase 2 Program qualified. The model has meet the EPA HH Phase 2 emission level and is labeled accordingly.
- F. **Non-qualified Outdoor Wood Furnace Model** – An outdoor wood furnace that is not EPA Hydronic Heater Phase 2 Program qualified.
- G. **Existing Outdoor Wood Furnace:** An outdoor wood furnace that was purchased and installed prior to the effective date of this local law.

Public Hearing Aug 16, 2010

- H. **New Outdoor Wood Furnace:** An outdoor wood furnace that is first installed, established, or constructed after the effective date of this local law.
- I. **Natural Wood:** 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.

Section 2.0 Regulations for Outdoor Wood Furnaces

- A. No person shall, from the effective date of this local law, construct, install, or establish, an outdoor wood furnace other than in compliance with the applicable sections of this local law.
- B. All new outdoor wood furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and be a EPA HH (Hydronic Heater) Phase 2 Program Qualified Model the requirements of this local law. In the event of a conflict, the requirements of this local law shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- C. The owner of any new outdoor wood furnace will be required to produce the manufacturer's owner's manual or installation instructions to the Village Clerk for review.
- D. All new outdoor wood furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards.
- E. Outdoor wood-pellet furnaces that are specifically designed to burn wood pellet fuel, corn, or other biomass pellets with metered fuel and air feed and controlled combustion engineering shall be installed per the manufacturers' recommendations.

Section 3.0 Substantive Requirements

Outdoor Wood Furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions:

- A. Fuel burned in any new or existing outdoor wood furnace shall be only natural wood, wood pellets, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas or propane backup.

B. The following fuels are strictly prohibited in new and existing outdoor wood furnaces:

- 1) Wood that has been painted, varnished, or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products.
- 2) Rubbish or garbage, including but not limited to food wastes, food packaging, and food wraps.
- 3) Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
- 4) Rubber including tires or other synthetic rubber-like products.
- 5) Newspaper, cardboard, or any paper with ink or dye products.
- 6) Any other items not specifically allowed by the manufacturer or this provision.

C. Setbacks for any new qualified outdoor wood furnace model:

- 1) The outdoor wood furnace shall be located at least 50 feet from the property line. And be on the property served by the unit.
- 2) The outdoor wood furnace shall be located at least 100 feet from any residence that is not served by the outdoor wood furnace.
- 3) The outdoor wood furnace shall be located on the property in compliance with the manufacturer's recommendations and or testing and listing requirements for clearance to combustible materials.

D. Chimney heights for any qualified outdoor wood furnace model:

- 1) The chimney shall extend at least 2 feet above the peak of any residence served and not served by the outdoor wood furnace located within 300 feet of such outdoor wood furnace.

E. Setbacks for EPA HH Phase 2 Program qualified models:

- 1) The outdoor wood furnace shall be located on the property in compliance with manufacturer's recommendations and or testing and listing requirements for clearance to combustible materials.

F. Chimney heights for EPA HH Phase 2 Program qualified models (0.32 lbs/million Btu heat output):

- 1) If located within 300 feet to any residence not served by the furnace, it is recommended that the chimney be at least 2 feet higher than the peak of the residence served.
- 2) If located within 100 feet to any residence not served by the furnace, the chimney must be 2 feet higher than the peak of the residence served or not served, whichever is higher.

Section 4.0 Appeals

Appeals from any actions, decisions, or rulings of the Zoning Administrator or for a variance from the strict application of the specific requirements in Section 2 or 3 of this local law may be made to the Village of Shepherd Zoning Board of Appeals. Requests for all appeals shall be made in writing to the Village Clerk not later than 7 days of the act, decision, or ruling from which relief is sought.

- A. Appeals Fees: Appeals fees shall be established by Village Council resolution.
- B. Public Hearing: Within 30 days after receiving the written request, the Zoning Board of Appeals shall hold a public hearing on the appeal, with prior notice published in a newspaper of general circulation in the Village or posted at key locations at least 14 days before the date of the hearing and specifying the date, place, time, and purpose of the hearing.
- C. Decision of Zoning Board of Appeals within 30 days of the final adjournment of a public hearing, the board shall affirm, modify, or deny the action, decision, or ruling of the board or correct any omission by the inspector, or approve, approve with conditions, or disapprove the application. The decision of the board shall be in writing and shall contain findings and the factual basis for each finding from the record of the hearing, which shall support the decision of the Zoning Board of Appeals. As part of any decision, the board shall direct the officer to issue any appropriate permit in conformity with its ruling and shall state a time by which such permit shall be issued, in conformity with this local law.
 - A. Criteria for Variances. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment of the neighborhood or community by such grant. In making such determination the board shall also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;
3. Whether the requested variance is substantial;
4. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the variance.

Section 5.0 Violations and penalties.

Any person who shall violate any provision of this local law shall be guilty of a civil violation as defined above shall upon conviction be subject to a fine of not more than \$200 dollars. Each week's continued violation shall constitute a separate and distinct offense.

Section 6.0 Civil Proceedings.

Compliance with this law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction. Any person who violates any provision of this law shall also be subject to a civil penalty of not more than \$200 dollars, to be recovered by the Village in a civil action, and each week's continued violation shall be for this purpose a separate and distinct violation. In the event the Village is required to take legal action to enforce this local law, the violator may be responsible for any and all necessary costs relative thereto, including attorneys' fees, and such expense shall be charged to the property so affected by including such expense in the next annual tax levy.

Section 7.0 Severability.

The provisions of this local law are severable and the invalidity of a particular provision shall not invalidate any other provisions.

Section 8.0 Effective date.

This ordinance shall be effective 30 days after adoption by the Village Council of the Village of Shepherd and after publication.

Adopted: December 20, 2010
Published: January 4, 2011
Effective: January 19, 2011

ORDINANCE OFFERED BY: DeGraw

SUPPORTED BY: Clevenger


AYES: Clevenger, yes; DeGraw, yes; Edwards, yes; Myers, yes; Strange, yes; Coughlin, yes

NAYS: None

ABSENT: None

CERTIFICATION

I, the undersigned, the duly qualified and Clerk of the Village of Shepherd, Michigan do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Village Council at a regular meeting held on December 20, 2010 an original of which is on file in my office, and that such meeting was conducted and public notice thereof was given pursuant to and in compliance with Act No. 267, Michigan Public Acts of 1976, as amended, and that minutes of such meeting were kept and are available as required by such Act.


Gina L. Gross, Village Clerk
Dated: December 20, 2010