

NAPOLEON TOWNSHIP COUNTY OF JACKSON, STATE OF MICHIGAN

Napoleon Township Ordinance #75

An Ordinance regulating the installation and use of Outdoor Wood-Fired Hydronic Heaters

THE TOWNSHIP OF NAPOLEON HEREBY ORDAINS:

Section 1. Title

This ordinance shall be known as the “Outdoor Wood-Fired Hydronic Heater Ordinance.”

Section 2. Purpose

The purpose of this Ordinance is to protect the health, safety and welfare of the citizens of Napoleon Township by requiring that all permitted outdoor furnaces and outdoor furnace systems are properly located, installed and maintained consistent with this Ordinance and the manufacturer’s instructions.

Section 3. Definitions

A. “Clean natural wood” means natural wood which: (i) has not been pressure treated, painted, varnished, or coated with a similar material; (ii) does not contain resins or glues, such as plywood or other composite wood products; and (iii) is not particleboard, refuse, or yard waste.

B. The term “nuisance” as used in this Ordinance, shall mean, but is not limited to, the burning of any material of any kind which generates smoke or odor from an outdoor wood-fired hydronic heater in a manner so as to endanger the public; in a manner which constitutes a threat to the safety or health of the public; or in a manner which unreasonably disturbs the comfort or repose of any person residing in the vicinity.

C. “Outdoor wood-fired hydronic heater” means any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary 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. Last sentence deleted.

D. The terms “Refuse” and “Yard Waste” shall mean, for the purposes of this Ordinance, and shall refer to, any waste material, including, but not limited to, leaves, grass, garbage and other, similar, organic material; construction and demolition waste material; automobiles or parts thereof; flammable (excluding clean natural wood), toxic or explosive material; electrical wiring, rubber products, and plastic products.

Section 4. Installation and Use

An outdoor wood-fired hydronic heater may be installed and used in the Township of Napoleon only in accordance with all of the following provisions:

- A. An outdoor wood-fired hydronic heater shall use, as a fuel source, only clean natural wood; provided however, that other fuel sources recommended by the manufacturer of the heater may be utilized if the same are not specifically prohibited by this Ordinance.
- B. Neither refuse, nor yard waste shall be used as a fuel source. Further, no material shall be used as a fuel source that causes any particulate matter which is detrimental to human beings or animals to be released into the atmosphere.
- C. No outdoor wood-fired hydronic heater shall be utilized in a manner which endangers the public, which threatens the safety or health of the public, or which constitutes a nuisance as that term is defined in this Ordinance, or as the same may be otherwise defined in law.
- D. An outdoor wood-fired hydronic heater shall be installed and used only on property which is zoned as AG (agricultural), or RR (rural residential) and on parcels which meet the minimum lot size required by the Napoleon Township Zoning Ordinance.
- E. Outdoor wood-fired hydronic heaters shall be located at least 300 feet from the nearest residence which is not located on the same property as is the outdoor wood-fired hydronic heater.
- F. An outdoor wood-fired hydronic heater shall be located to the rear or to the side of the structure for which it is intended to act as a heat source.
- G. An outdoor wood-fired hydronic heater shall be located at least twenty (20) feet from the nearest structure on the same property, one hundred (100) feet from any structure on an adjoining property, and fifty (50) feet from any property line.
- H. An outdoor wood-fired hydronic heater shall have an attached permanent chimney that extends at least as high above the ground surface as the height of the roofs of all residences which are located within 200 feet of the outdoor wood-fired hydronic heater and which are not on the same property. The Fire Chief and Building Inspector, or their designee(s) may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations, provided the smoke from a lower chimney height shall not create a nuisance for neighbors. This approval shall be issued in writing by the Fire Chief and Building Inspector or their designees. This approval may be revoked by the Fire Chief or Building Inspector, or their designee, if such officials are satisfied that the lower chimney height results in, or creates, a nuisance, as that term is defined in this Ordinance.
- I. An outdoor wood-fired hydronic heater shall be UL listed and have attached an approved U.S. Environmental Protection Agency (EPA) label. The label shall indicate the model being installed including the test results from an independent accredited

laboratory demonstrating that the unit meets the EPA 2007 (Phase 1) voluntary testing program for emissions levels for outdoor wood-fired hydronic heaters (OWHH).

Section 5. Permits

The owner or occupant of the property shall obtain an electrical, mechanical, and zoning compliance permits for each Outdoor wood-fired hydronic heater prior to installation and any required inspections shall be completed and approved prior to use of the outdoor wood-fired hydronic heater.

Section 6. Right of Entry and Inspection

Any authorized officer, agent, employee or representative of the Township of Napoleon who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

Section 7. Outdoor Wood-Fired Hydronic Heaters Installed Prior to the Effective Date of this Ordinance

The lawful use of a nonconforming outdoor wood-fired hydronic heater existing at the time of the adoption or amendment of this ordinance may be continued although such heater does not conform to the provisions of this Ordinance. Notwithstanding the foregoing, a non-conforming outdoor wood-fired hydronic heater shall not be used or operated in such a manner so as to constitute public nuisance or so as to cause a condition which is hazardous to human health or is prohibited by any applicable federal, state or local statutes, ordinances, or regulations. Additionally, such non-conforming outdoor wood-fired hydronic heaters shall be used and maintained in compliance with all the provisions of this Ordinance to the maximum extent to which compliance is reasonably possible.

Outdoor Wood-Fired Hydronic Heaters which are relocated shall be considered “newly installed units” and shall be subject to all of the provisions and requirements of this Ordinance; provided, however, that the Fire Chief and the Building Inspector, or their designee(s), may reduce or may approve set backs which are lesser than those which would otherwise be required if the relocated unit is not located in an area of the Township which is zoned AG (agricultural) or RR (rural residential), and the approved setbacks will not be less than those which applied to the original heater.

Section 8. Enforcement and Penalties

(A) Any person, firm or corporation who violates any of the provisions of this ordinance shall be deemed guilty of a municipal civil infraction and shall be punished by a fine(s) as provided for by Ordinance 72. Each day that a violation continues to exist shall constitute a separate offense.

(B) In addition, any violation of this Ordinance shall be deemed a nuisance per se, permitting the Township Board, its officers, agents, or any private citizen to bring an action in any court of competent jurisdiction to cause the abatement of the nuisance, including injunctive relief.

Section 9. Severability

Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

Section 10. Effective Date

At a regular meeting of the Napoleon Township Board held in the Township Hall on the 13th day of January, 2009, at 7:00 p.m., the foregoing ordinance was offered by member _____, and supported by member _____ .

The foregoing Ordinance, or a synopsis thereof, shall be published in a newspaper of general circulation within the boundaries of the Township of Napoleon and qualified under state law to publish legal notices promptly within its adoption, and shall take effect thirty (30) days after the date of publication.

MEMBERS PRESENT:

MEMBERS ABSENT:

MEMBERS VOTING IN FAVOR OF ADOPTION:

MEMBERS VOTING AGAINST ADOPTION:

Adopted:

Effective:

Denise Butler, Supervisor

Dan Wymer, Clerk