

VILLAGE OF CASS CITY
TUSCOLA COUNTY, MICHIGAN
OUTDOOR FURNACE ORDINANCE
ORDINANCE NO. 168

THE VILLAGE OF CASS CITY ORDAINS:

SECTION 1 - TITLE

This Ordinance shall be known as the Outdoor Furnace Ordinance.

SECTION II - PURPOSE

The purpose of this Ordinance is to provide guidelines, review, and regulation of outdoor heating devices for residential and commercial structures located in the Village of Cass City.

AN ORDINANCE TO AMEND the Code of the Village of Cass City in Tuscola County, Michigan by adding an ARTICLE to Chapter 6, to be entitled Outdoor Wood Furnaces, which ARTICLE provides for the same.

Be it enacted by the Village Council of the Village of Cass City, as follows:

The Code of the Village of Cass City is hereby amended by adding thereto a new ARTICLE, to be Chapter 6, ARTICLE IV Outdoor Wood Furnace, to read as follows:

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

- 1 Definitions
- 2 Regulations for Outdoor Wood Furnaces
- 3 Substantive Requirements
- 4 Appeals/Variances
- 5 Violations and Penalties
- 6 Civil Proceedings
- 7 Severability
- 8 Effective Date

SECTION III – DEFINITIONS

A. Outdoor Wood Furnace: Any equipment, device, appliance or apparatus, or any part thereof, which is installed 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. An Outdoor Wood Furnace may also be referred to as an Outdoor Wood Boiler or Outdoor Wood-fired Hydronic Heater.

B. Chimney: Flue or flues that carries off exhaust from an Outdoor Wood Furnace firebox or burn chamber.

C. EPA OWHH Phase 1 Program – EPA OWHH (Outdoor Wood-fired Hydronic Heater Program) Phase 1 Program administered by the United States Environmental Protection Agency.

D. EPA OWHH Phase 1 Program Qualified Model – An Outdoor Wood-fired Hydronic Heater that has been EPA OWHH Phase 1 Program qualified. The model has met the EPA OWHH Phase 1 emission level and has the proper qualifying label and hangtag.

E. Existing Outdoor Wood Furnace: An Outdoor Wood Furnace that was purchased and installed prior to the effective date of this local law.

F. 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.

G. New Outdoor Wood Furnace: An Outdoor Wood Furnace that is first installed, established or constructed after the effective date of this local law.

SECTION IV - 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. No person shall, from the effective date of this local law operate a new Outdoor Wood Furnace unless such operation conforms with the requirements of this local law regarding fuels that may be burned in an Outdoor Wood Furnace as set forth in Sections 3.A and 3.B of this local law and chimney height as set forth in Section 3.D and 3.F of this local law.

C. All new Outdoor Wood Furnaces shall be constructed, established, installed, operated, and maintained in conformance with the manufacturer's instructions and 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.

D. The owner of any new Outdoor Wood Furnace shall produce the manufacturer's owner's manual or installation instructions to the Village Manager or his/her designate to review prior to installation.

E. 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.

SECTION V - 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, untreated wood, wood pellets, corn products, biomass pellets, or other listed fuels specifically permitted by the manufacturer's instructions, such as natural gas or propane backup.

B. The following fuels are strictly prohibited in new or 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, 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 Outdoor Wood Furnace (models not EPA OWHH Phase 1 Program Qualified):

- (1). The Outdoor Wood Furnace shall be located at least 25 feet from the property line;
- (2). 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;
- (3). The Outdoor Wood Furnace shall be located at least 50 feet from any residence that is not served by the Outdoor Wood Furnace.

D. Chimney heights for new and existing Outdoor Wood Furnaces.

- (1). The chimney of any new Outdoor Wood Furnace shall extend at least two (2) feet above the peak of the nearest permanent building.

E. Setbacks for new EPA OWHH Phase 1 Program qualified models.

- (1). The Outdoor Wood Furnace shall be located at least 25 feet from the property line.

(2). 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 new EPA OWHH Phase 1 Program qualified models.

(1). The EPA OWHH Phase 1 Program qualified model chimney shall extend at least two (2) feet above the peak of the nearest permanent building.

G. Outdoor Furnaces that use corn, wood pellets, or other palletized biomass shall meet the same setback and stack height requirements as EPA OWHH Phase 1 Program Qualified models.

SECTION VI - Appeals

Appeals from any actions, decisions, or rulings of the Village of Cass City 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 Cass City Board of Appeals. Requests for all appeals shall be made in writing to the Board of Appeals not later than 30 days of the act, decision, or ruling from which relief is sought.

A. Appeals Fees: Appeals fees shall be established by Village of Cass City yearly fee schedule resolution.

B. Public Hearing: Within 60 days after receiving the written request, the Board of Appeals shall hold a Public Hearing on the appeal, with prior notice published in a newspaper of general circulation in the Village at least 14 days before the date of the hearing and specifying the date, place, time, and purpose of the hearing.

C. Decision of the Board of Appeals. Within 60 days of the final adjournment of a Public Hearing, the Board of Appeals shall affirm, modify, or deny the action, decision, or ruling of the Village of Cass City or correct any omission by the Village Manager or his/her designate, or approve, approve with conditions, or disapprove the application. The decision of the Board of Appeals 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 Board of Appeals. As part of any decision, the Board of Appeals 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.

D. Criteria for Variances. In making its determination, the 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 VII - Violations and Penalties.

Any person who shall violate any provision of this local law shall be guilty of a violation as defined in Chapter 6 ARTICLE IV and shall, upon conviction, be subject to a fine of not more than fee set in yearly budget. Each week's continued violation shall constitute a separate and distinct offense.

SECTION VIII - 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, to be recovered by the Village of Cass City in a civil action, and each week's continued violation shall be, for this purpose, a separate and distinct violation.

SECTION IX - Severability.

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

SECTION X - EFFECTIVE DATE

This Ordinance shall take effect 30 days after adoption. This Ordinance shall be published in the manner provided by law.

This proposed ordinance shall entertain public input and Council consideration at a time to be set by the Village Council of Cass City.

This Ordinance is hereby declared to have been adopted by the Village of Cass City Council at a regular meeting thereof duly called and held on the 26th day of April, 2010.

Village President/Date

Village Clerk/Date

Notice of adoption published in the Cass City Chronicle on _____.

This ordinance shall be effective immediately after adoption and publication as required by law.

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 168, Outdoor Furnace Ordinance, duly adopted by the Village Council of Cass City at a regular meeting held on Monday, April 26, 2010 at 7:00 pm at the Cass City Municipal Building, 6506 Main Street, Cass City, Michigan 48726.

Village Clerk/Date