

**Amendment to the Zoning Ordinance**

**Of Pinconning Township**

**Bay County, Michigan**

**ORDINANCE # 12 – 02**

**August 14<sup>th</sup>, 2012**

An Ordinance to amend the Zoning Ordinance of Pinconning Township by adding an amendment to the Zoning Ordinance (OUTDOOR FURNANCES), which is as follows:

**OUTDOOR FURNACES**

**A. PURPOSE AND INTENT.**

The general purpose and intent of these regulations is to regulate the establishment of outdoor furnace systems (solid fuel external heating devices) with regard to the development and location requirement for an outdoor furnace, a self-contained unit designed to provide heat to a building or structure, located outside of that building or structure. Also, it is the purpose and intent of these regulations to insure safety of such devices and that the environmental impacts are taken into consideration, particularly concerning the production of offensive odors and potential health effects of uncontrolled emissions. Furthermore, it is the intent to ensure that outdoor furnaces are utilized in a manner that does not create a nuisance and are not detrimental to the health, safety and general welfare of Township residents, It is the further purpose and intent of these regulations to:

1. Provide for the appropriate location and development criteria for outdoor furnace system within the township; and
2. Allow the location of outdoor furnace system within restricted areas; and
3. Minimize the adverse effects of such facilities through careful design and location criteria; and
4. Protect the character of individual properties throughout the Township from the effects of outdoor furnace system facilities; and
5. Promote the public health, safety, and welfare.

**B. Definitions:**

**CHIMNEY:** Flue or stack that carries off exhaust from an Outdoor Furnace firebox or burn chamber.

**EPA:** The United States environment protection agency.

**EPA OWHH PHASE 1 PROGRAM:** EPA OWHH (Outdoor Wood-fired Hydronic Heater Program) Phase 1 Program administered by the United States Environmental Protection Agency.

**EPA OWHH PHASE 1 PROGRAM QUALIFIED MODEL:** An Outdoor Wood-fired Hydronic Heater that has been EPA OWHH Phase 1 qualified. The model has the EPA OWHH Phase 1 emission levels and has the qualifying label and hangtag.

**EXTERIOR (OUTDOOR) FURNACE:** Any device, contrivance or apparatus or any part thereof which is installed, affixed or situated out-of-doors for the primary purpose of the combustion of fuel from which heat or energy is derived and intended to be directed by conduit or other mechanism into any interior space for the supply of heat or energy, including but not limited to combination fuel furnaces or boilers which burn solid fuel. An Outdoor Furnace may also be referred to as an Outdoor Wood Furnace, Outdoor Boiler or Outdoor Wood-fired Hydronic Heater.

**FIREWOOD:** Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three (3) inches in diameter, including untreated lumber.

**FUEL (SOLID):** The material used for combustion purposes in an outdoor furnace which may include, coal, corn, firewood and wood pellets.

**UNTREATED LUMBER:** 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, varnishes, resins or other substance.

**TREATED LUMBER:** Lumber/wood that has been milled, and treated, or combined with a preservative product.

#### **C. OUTDOOR FURNACE SYSTEM,**

Outdoor Furnace System may be permitted, subject to the conditions hereinafter required and to any and all reasonable conditions which may be imposed in accordance with all applicable Township construction codes and zoning requirements except as imposed herein: the U.S. Environmental Protection Agency (EPA); state and county regulations; and all applicable codes and requirements.

#### **D. OUTDOOR FURNACE REGULATION.**

1. No person shall construct, install, establish, operate or maintain an Outdoor Furnace other than in compliance with this Ordinance.
2. No person shall operate an Outdoor Furnace unless such operation conforms to manufacturer's instructions regarding such operation and the requirements of this Ordinance regarding fuel that may be burned in and Outdoor Furnace as set forth in E.4. of this Section and the chimney height as set forth in E. 3. Of this section.

3. All new Outdoor Furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and requirements of this Ordinance shall apply unless the manufacturers are stricter, in which case the manufacturer's instructions shall apply.
4. The owner of any new Outdoor Furnace shall include a copy of the manufacturer's manual or instructions to the Township with the owner's applications for a Zoning permit and construction permits.
5. All new Outdoor Furnaces shall be laboratory tested and listed to the appropriate safety standards such as UL (Underwrites Laboratories), CAN/CSA (Canada National Standard/Canada Standards Association), ANSI (American National standard Institute) or other appropriate safety standards.

#### **E. OUTDOOR FURNACE REQUIREMENTS.**

1. **Location Requirement:** EPA OWHH Phase 1 Program qualified Outdoor Furnaces shall be expressly prohibited from locating in any zoning district other than the AG, Agricultural District with a minimum parcel size of note less than (2) acres. However, if the applicant can demonstrate that their Outdoor Furnace is a clean burning and equipped with a catalytic converter the Outdoor Furnace may be located in the AG.,SR., and all non-residential districts providing the subject parcel contains not less than (2) acres of land. Outdoor furnaces shall expressly prohibited from locating in a plated subdivision or site condominium development. Outdoor Furnaces shall also be expressly from locating in a front or side yard and are permitted only in a rear yard and shall be located no closer than ten (10) feet from any combustible materials.
2. **Property Setbacks:** The distance between an EPA OWHH Phase 1 Program qualified Outdoor Furnace and the owners lines shall be one hundred (100) feet and not less than fifty (50) feet from the residence and/or structure being served. The distance between an Outdoor Furnace to any residence not being served by the Outdoor Furnace shall not be less than three hundred (300) feet.
3. **Chimney Height:** The height of the chimney and/or emission stack for an EPA OWHH Phase 1 program qualified Outdoor Furnace when located within three hundred (300) feet of any residence shall not be less than two (2) feet above the peak of the residence of fifteen (15) feet, whichever is higher but shall not exceed the manufacturers maximum recommendations. If there is an existing Outdoor Furnace already installed and there is new construction of a residence not served by the Outdoor Furnace within three hundred (300) feet of such Outdoor Furnace, then the owner of such Outdoor Furnace shall conform to the chimney requirements of this regulation within thirty (30) days of the date such construction is completed.
4. **Permitted Fuel:** Only firewood, untreated lumber, coal, corn, and wood pellets are permitted to be burned in any outdoor furnace. The burning of any other material in an outdoor furnace is expressly prohibited, i.e., trash, plastics, rubber, foam, synthetic fabrics and materials, PVC and ABC products, polystyrene products, any flammable liquid or gas

material, household garbage, treated wood and/or wood products, composite wood products, plywood, leaves, paper products, cardboard, etc.

5. **Spark Arrestors:** All outdoor furnaces shall be equipped with properly functioning spark arrestors.
6. **Abandonment/Removal Requirements:** Any Outdoor Furnaces which has reached the end of its useful life or has been abandoned shall be removed. Any Outdoor Furnace shall be considered abandoned when it fails to be operated for one (1) year. Upon a notice issued by the Pinconning Township Zoning Administrator, the Outdoor Furnace owner shall have thirty(30) days to provide sufficient evidence that the system has not been abandoned or the Township shall have the authority to enter the owner's property and remove the system at the owner's expense.
7. **Permit Process and Requirements:** The owner shall obtain the applicable zoning and construction permits (the later pursuant to the Michigan Residential Code: Section 105.2) for applicable building, electrical, mechanical and plumbing permits, which shall be required prior to the installation of an Outdoor Furnace system. The applicable building, electrical, mechanical and plumbing permit applications shall be accompanied by deliverables including the following:
  - (a) An approved site survey showing location, dimensions, and types of existing structures on the owner's property including residences within 300 feet from the Outdoor Furnace location.
  - (b) Outdoor Furnace systems specifications, including manufacture and model, along with a copy of the manufacture's installation and operation manual.

**F. SUSPENSION OF AN OUTDOOR FURNACE APPROVAL**

A Special Use Approval issued to this Section and Section 1702 may be suspended as a Zoning Administrator may determine to be necessary to protect the public health, safety, and welfare of the residents of Pinconning Township if any of the following conditions occur:

1. Malodorous air contaminants from the Outdoor Furnace are detectable outside the property of the person on whose land the Outdoor Furnace is located; and
2. Emissions from the Outdoor Furnace interfere with the reasonable enjoyment of life of property; and
3. The emissions from the Outdoor Furnace cause damage to vegetation of property; or
4. The emissions from the Outdoor Furnace are or may be harmful to human or animal health.

A suspended Special Use Approval may be reinstated once the condition which resulted in the suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a Special Use Approval shall be considered a violation of the Special Use Approval and will result in the permanent suspension of the Special Use Approval and all applicable construction permits, including the removal of the Outdoor Furnace from the owner's land.

A suspended Outdoor Furnace approval may be reinstated once the condition which resulted in the suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of an Outdoor Furnace Approval shall be considered a violation of the required Zoning Permit and will result in the permanent suspension of the Zoning Permit and all applicable construction permits, including the removal of the Outdoor Furnace from the owner's land.

**ORDINANCE; # 12 - 02**

All Township Ordinance in conflict herewith, either in whole or in part, shall be and are hereby repealed.

**EFFECTIVE DATE: AUGUST 12, 2012**

This amendatory Ordinance shall become effective seven (7) days after publication as required by law.

**PUBLICATION: AUGUST 22<sup>ND</sup>, 2012**

This Ordinance shall be published in a general newspaper in a general circulation within the Pinconning Township as required by law.

Adopted at a regular, scheduled meeting of the Pinconning Township, on the 14<sup>th</sup>, day of August, 2012.

**AYES:** Holbrook, Stalsberg, Laframboise, Hribek.

**NAYS** 0

**CERTIFICATION:**

I do hereby certify that the foregoing is a true and correct amendment to the Zoning Ordinance adopted by the Pinconning Township Board, Bay County, and the State of Michigan, at a regular scheduled meeting of the said Board, held at the Pinconning Township Hall, on the 14<sup>th</sup> day of August, 2012.

Beverlene Hribek

Township Clerk

