

Village of Muir

Ordinance # 50

AN ORDINANCE TO BAN THE INSTALLATION AND USE OF OUTDOOR FURNACES DESIGNATED FOR STRUCTURE HEAT:

The Village of Muir hereby Ordains:

Section 1 Purpose.

It is the purpose of this ordinance to ban the construction and operation of outdoor furnaces within the limits of the Village of Muir for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the village and its inhabitants. It is generally recognized that the types of fuel used, and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles, and the products of combustion that can be detrimental to citizens health, and can deprive neighboring residents of the enjoyment of their property or premises. It is generally recognized that these units are designed for long burn times between loadings and typically have chimney heights less than 10 feet. It is generally recognized that the designed restricted airflow, low operating temperatures, lack of emission controls, and large fuel loads frequently result in excessive smoke.

Section 2. Definition.

The words "Free-standing Outdoor Furnace" shall mean, but is not limited to any device, appliance, equipment, apparatus, or structure, which shall include but is not limited to those devices referred to as outdoor furnaces, outdoor boilers, and outdoor stoves.

- a) Is designed, intended and/or used to provide hot water heat and/or hot water To any associated structure.
- b) Operates by burning wood or any other solid fuel including but not limited to: Coal, paper pellets, and agricultural products.
- c) Is not located within the structure to be heated.

Section 3. Existing Outdoor Furnaces

1. All existing outdoor furnaces must be registered within 30 days of the enactment of this ordinance.
2. If an existing outdoor furnace is not operated for 12 consecutive months, it may not be used again and must be dismantled or otherwise be removed from the property.

2. No new or replacement of existing outdoor furnace shall be installed or put into use.

#### Section 4. Banned Installation and Operation in the Village.

1. It shall be unlawful to install or operate a free standing outdoor wood burning furnace, and to cause or permit the installation or operation of a free standing outdoor wood burning furnace, within the Village of Muir.
2. Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.
3. This ordinance shall not be a defense to any civil claims.
4. This section shall not apply to any free standing outdoor wood burning furnace, that was installed, connected, and operating as of the effective date of this section. However, this section shall not be deemed as specific authorization for the use of any preexisting free-standing outdoor wood burning furnace and shall not be deemed to bar, limit, or otherwise affect the rights of any person to take private or legal action regarding damage or nuisance caused by the use of a free standing outdoor wood burning furnace.

#### Section 5. Enforcement.

Before commencing prosecution under this ordinance the ordinance committee shall give notice to the person charged with violating this ordinance. Such notice shall be in writing. In addition, a copy of the notice shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address. The notice shall specify that failure to remedy the violation within 12 days from the date of mailing shall result in the issuance of a municipal civil infraction citation.

#### Section 6. Violation Declaration of Nuisance.

Any free-standing outdoor wood burning furnace installed or operated in violation of this section is hereby declared to be nuisance per se.

#### Section 7. Penalty

Failure to comply with the requirements of this ordinance shall constitute a Municipal Civil Infraction, which shall be processed in accordance with MCLA 600.8701.

The assessment and collection of fines and costs shall be in accordance with MCLA 600.8701 et seq. Each day's continued violation shall constitute a separate and distinct offense.

Any person violating this ordinance shall be deemed to have committed a civil infraction, subject to the payment of civil fines of \$75.00 plus costs, for the first violation.

Any repeat offense shall be subject to increased fines as follows:

First repeated offense shall be no less that \$150.00 plus costs.

A fine for a second repeated offense or any subsequent repeated offense shall be no less that \$250.00 plus costs.

Section 8 Severability.

The section and provision of this ordinance are declared to be severable and any portion which is declared inoperative or invalid for any reason by a court of competent jurisdiction shall in no way affect the remaining sections or provision of this ordinance.

Section 9 Record of Adoption

This ordinance shall become effective 15 days after adoption and publication by the Village of Muir council.

Roll Call

Motion was made by Council member Waterman and supported by Council member Hyland.

Roll Call Vote as follows: Yeas: Davis, Hyland, Saurbek, Walkington, Waterman, Crooke

Nays: Underwood

Absent: -0-

Motion declared adopted August 5, 2008

Date\_August 5, 2008



Laura Stewart  
Clerk of the Village of Muir