

**ORDINANCE TO REGULATE THE INSTALLATION
AND USE OF OUTDOOR FURNACES**

The Board of the Town of Excelsior, Sauk County, Wisconsin, does hereby ordain as follows:

SECTION I. PURPOSE

It is the purpose of this ordinance to establish and impose restrictions upon the construction and operation of outdoor furnaces in areas of the Town of Excelsior where an outdoor furnace is within two hundred (200) feet of another residence for the purpose of securing and promoting the public health comfort, convenience, safety, welfare and prosperity of the Town 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 other products of combustion that can be detrimental to citizens health, and can deprive neighboring residents of the enjoyment of their property or premises.

SECTION II. DEFINITION

(1) Outdoor furnace shall mean, but is not limited to, any device, appliance, equipment apparatus or structure that is designed, intended and or used to provide heat and or hot water to any associated structure, that operates by burning wood or any other solid fuel, including, but not limited to paper pellets and agriculture products, is not located within the structure to be heated, and includes, but not limited to, devices referred to as wood furnaces, outdoor boilers and outdoor stoves.

(2) “Chimney” means a vertical structure or stack enclosing a flue or flues that carry off smoke or exhaust from an Outdoor Solid Fuel Heating Device.

SECTION III. PERMITS

(1) No person shall install, use, replace or maintain an outdoor furnace in the Town of Excelsior if the outdoor furnace is within two (200) hundred feet of another residence without a permit issued by the building inspector. The fee shall be set by the Town Board. The applicant shall submit an application for an outdoor furnace to the Town Clerk on a form prepared by the town building inspector. Upon review of the application and approval by the building inspector the clerk shall issue a permit.

(2) Outdoor furnaces existing at the time this ordinance is enacted will be issued a permit at no charge upon application. Property owners with existing outdoor furnaces will have sixty (60) days from the date of enactment of the ordinance to obtain a permit. Property owners with existing outdoor furnace whose outdoor furnaces are not permitted on or before the expiration of the sixty (60) days will be subject to fines until compliance occurs.

SECTION IV. REGULATIONS

(1) Outdoor furnaces minimum setback requirements will be: front yard setback as follows, one hundred ten (110) feet from the center line of a state highway, seventy-five (75) feet from the center line on a county highway and sixty three (63) from the center line on a town road, at least fifty (50) feet from the back lot line, and at least seventy-five (75) feet from side yard lot line of said subject property.

(2) Outdoor furnaces existing at the time of the enactment of this ordinance do not need to comply with setback provisions contained in number one (1) of this section.

(3) Outdoor furnaces shall have a chimney stack of at least twenty (20) feet (measuring from the base of unit) or a chimney stack that measures at least three (3) feet above the roof line of the highest residence within two (200) hundred feet, whichever is higher.

(4) Outdoor furnaces existing at the time of the enactment of this ordinance are exempted from the requirements of subsection (3) except that if the outdoor furnace is located within two hundred (200) feet of a residence on adjoining property, the property owner must install a twenty (20) foot chimney stack (measured from base of unit). The property owner shall install a chimney stack that is taller than any residence located within two hundred (200) feet, if required to alleviate adverse conditions due to use of the outdoor furnace as determined by the Town.

(5) In the event a residence is constructed within two hundred (200) feet of an existing outdoor furnace, the property owner shall install a chimney stack that is taller than the newly constructed residence if required to alleviate adverse conditions due to use of the outdoor furnace as determined by the Town.

(6) Every chimney stack will also have a spark arrestor installed on top.

(7) An area of twenty (20) feet around the outdoor furnace structure shall be free of vegetation except grass not exceeding four (4) inches.

(8) No fuel other than (a) natural wood, (b) wood pellets, and (c) agricultural seeds that are not chemically treated and are without additives or in their natural state, may be burned. Owners using natural wood should season or age the wood for at least one (1) year.

(9) Outdoor furnaces shall not be used to burn any of the prohibited materials in Section V.

(10) Outdoor furnaces and associated installation shall be subject to inspection by the Building Inspector at any reasonable time to assure compliance with terms hereof.

(11) Those applying for an outdoor furnace shall provide the following information:

- (a) A drawing identifying all of the information necessary to assure compliance herewith, including, but not limited to, distance to property boundaries and adjoining owners residences if any are present and heights of all buildings or residences within two hundred (200) feet of the proposed location of the outdoor furnace.
- (b) The property owner shall accurately mark the property lines for inspection by the Building Inspector.
- (c) Manufacture's specifications for the outdoor furnace.

(12) All outdoor furnaces shall comply with all applicable State and Federal statutes, including any Federal or State guidelines adopted after the enactment of this ordinance.

(13) Nothing contained in this ordinance shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.

(14) This ordinance shall not constitute a defense to any civil claims.

SECTION V. MATERIALS THAT MAY NOT BE BURNED

The following materials may not be burned in outdoor wood furnaces unless a specific written approval has been obtained from the Department of Natural Resources and the Town Board:

- 1. Coal
- 2. Petroleum products
- 3. Rubbish or garbage including, but not limited to, food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
- 4. All chemicals and asbestos.
- 5. Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to the restrictions in chapter NR 590, Wisconsin Administrative Code.
- 6. Treated or painted wood including, but not limited to, plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
- 7. Green, unseasoned wood.
- 8. Any plastics material including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabric, plastic films and plastic containers.
- 9. Rubber including tires and synthetic rubber-like products.
- 10. Newspaper, corrugated cardboard, container board, office paper and other materials that must be recycled.
- 11. Any and all chemically treated agriculture seeds.

SECTION VI. ENFORCEMENT

Before commencing prosecution under this ordinance, the Town Building Inspector shall give notice to the person charged with violating this ordinance. Such notice shall be in writing, and shall be served upon said person or, at the option of the Town Building Inspector, by posting a copy of this notice on the land or attaching a copy of the notice on the outdoor furnace or a surrounding building or structure likely to provide notice to the property owner. In addition, a copy of the notice shall be sent by mail to the owner of the land at the owner's last known address. The notice shall specify that failure to remedy the violation within ten (10) days of the date if personal service or twelve (12) days from the date of mailing shall result in the issuance of a penalty.

SECTION VII. PENALTY

Failure to comply with the provisions of this ordinance, shall, upon conviction, pay a forfeiture of not less than \$100.00 nor more than \$250.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered a separate offense under this ordinance. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

SECTION VIII. SEVERABILITY

If any provisions of this ordinance or its application to any person or circumstances are held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION IX. EFFECTIVE DATE

This ordinance is effective upon publication or posting. The Town Clerk shall properly post and publish this ordinance as required under section 60.80 of the Wisconsin Statutes.

Date Adopted: _____

Ordinance No: _____

Date Effective: _____