

VILLAGE OF AUGUSTA ORDINANCE NO. 194

AN ORDINANCE TO BAN THE INSTALLATION AND USE OF OUTDOOR FURNACES DESIGNED FOR STRUCTURAL HEAT

The Village of Augusta hereby ordains:

Section 1. Purpose

It is the purpose of the ordinance to ban the construction and operation of outdoor furnaces within the limits of the Village of Augusta 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 fuels 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 citizen's 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 of less than 10 feet. It is generally recognized that the designed restrictive airflow, low operating temperatures, lack of emission controls, and large fuel loads frequently result in excessive smoke. Under some conditions smoke can cause both acute and chronic health problems to other residents if they are exposed to the smoke.

Section 2. Definition

The words "free-standing Outdoor Furnace" shall mean, but not be 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.
- 3. No new outdoor furnaces shall be installed or put into use.
- 4. Existing furnaces may be maintained or replaced to keep them in proper working order.

Section 4. Banned Installation and Operation in Village

1. It shall be unlawful to install or operate a free-standing wood burning furnace, and to cause or permit the installation or operation of a free standing wood burning furnace within the Village of Augusta.
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 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 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 wood burning stove.

Section 5. Enforcement

Before commencing prosecution under this ordinance, the Village Enforcement Officer or other such authorized person to enforce ordinances and codes on behalf of the Village shall give notice to the person charged with violating this ordinance. Such notice shall be in writing, and shall be served upon said person charged with violating this ordinance or, at the option of the enforcement officer, by posting a copy of this ordinance on the land or attaching a copy of the notice to the building structure. In addition, a copy of the notice shall be sent first class mail to the owner of the land, building, or structure at the owners last known address. The notice shall specify that failure to remedy the violation within ten (10) days of the date of personal service or twelve (12) days from the date of the mailing shall result in the issuance of a municipal civil infraction citation.

Section 6. Violation. Declaration of Nuisance

Any free-standing wood burning furnace installed or operated in violation of this section is hereby declared a 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 than \$150.00 plus costs

Second repeated offense or any subsequent offense shall be no less than \$250.00 plus costs.

Section 8. Severability

The sections and provisions 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 provisions of this ordinance.

Section 9. Effective Date

This Ordinance shall take effect upon the date of its publication, which shall be within 15 days after its adoption.

James P. Schultz, Village President

Julie C. Glenn, Village Clerk

CERTIFICATE

I hereby certify that the foregoing Ordinance was adopted by the Village of Augusta at a meeting held on Monday August 6, 2007, and that said meeting was conducted and Public Notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, and was published as required by law.

I further certify that a Notice of Adoption of the foregoing Ordinance was published in the County Wide News, a newspaper of general circulation in the Village, within fifteen (15) days of the adoption of the Ordinance.

Julie C. Glenn, Village Clerk