

FREEMAN TOWNSHIP ORDINANCE NO. 33

OUTSIDE ALTERNATE HEATING ORDINANCE

THE TOWNSHIP OF FREEMAN ORDAINS:

Section 1: Purpose.

This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of Freeman Township by regulating the use of outdoor or outside wood-fired boilers, stoves, or furnaces.

Section 2: Applicability.

This ordinance applies to all outdoor wood-fired boilers, stoves, or furnaces within Freeman Township.

- 2.1 This ordinance does not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- 2.2 This ordinance does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- 2.3 This ordinance does not apply to use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

Section 3: Definitions.

- 3.1 "Outdoor wood-fired boiler, stove, or furnace" means a structure that:
 - A. Is designed, intended, or used to provide heat and/or hot water to any residence or other structure; and
 - B. Operates by the burning of wood or other solid fuel; and
 - C. Is not located within a structure used for human or animal habitation.
- 3.2 "Refuse" means any waste material, garbage, animal carcasses, and trash or household materials except trees, logs, brush and stumps.

Section 4: Outdoor or Outside Wood-Fired Boilers, Stoves, or Furnaces.

The following provisions shall apply to outdoor wood-fired boilers, stoves and furnaces in Freeman Township:

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- 4.1 Outdoor wood-fired boilers, stoves and furnaces shall be prohibited on any land zoned R-1 and in all platted subdivisions in Freeman Township.
- 4.2 In all unplatted areas of Freeman Township which are not zoned R-1, an outdoor wood-fired boiler, stove or furnace may be installed with the issuance of a zoning permit before installation.
- 4.3 The outdoor wood-fired boiler, stove or furnace shall not be used to burn refuse, leaves, green vegetative matter and noxious plants.
- 4.4 The outdoor wood-fired boiler, stove or furnace shall be located at least three hundred (300) feet from the nearest occupied dwelling which is not on the same property as outdoor wood-fired boiler, stove or furnace.
- 4.5 The outdoor wood-fired boiler, stove or furnace shall be located at least fifty (50) feet from the side and rear lot lines of the property on which it is located and shall not be located within any front yard.
- 4.6 Setback for an outside wood-fired boiler located on a state highway is five hundred (500) feet.
- 4.7 The outdoor wood-fired boiler, stove or furnace shall have a chimney that extends at least fifteen (15) feet above the ground surface. If there are any residences within five hundred (500) feet the chimney shall also extend at least as high above the ground surface as the peak of the roofs of all such residences. The Zoning Administrator may approve or require a lesser or greater height on a case-by-case basis if necessary:
 - A. to comply with manufacture's recommendations or
 - B. to obtain a sufficient height to effectively disperse smoke or
 - C. if the smoke from the lower chimney height does not create a nuisance for neighbors.
- 4.8 Only products designed and manufactured to be utilized in the outdoor wood-fired boiler, stove or furnace may be burned in the unit.
- 4.9 Existing outdoor wood-fired boilers, stoves or furnaces which are located less than three hundred (300) feet away from a dwelling which is not on the same property as the outdoor wood-fired boiler, stove or furnace may not be operated during the months of May, June, July, August and September.
- 4.10 Outdoor wood-fired boilers, stoves or furnaces existing at the time of the adoption of this ordinance but which are not in compliance with the provisions of this ordinance may continue but cannot be relocated, attached to new buildings, expanded or replaced with a new unit unless they are brought into compliance with the provisions of this ordinance. However, existing outdoor

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wood-fired boilers, stoves or furnaces which are not in compliance with this ordinance must adhere to **subsection 4.9**.

- 4.11 Outdoor wood-fired boilers, stoves or furnaces and any electrical , plumbing, mechanical or other apparatus or device in connection with an outdoor wood-fired boiler, stove or furnace shall be installed, operated, and maintained in conformity with the manufacture’s specifications and recommendations and all local, state, and federal codes, laws, rules, and regulations.
- A. All “self-made” or “home-made” types of outdoor wood-fired boilers, stoves or furnaces and any electrical , plumbing, mechanical or other apparatus or device in connection with an outdoor wood-fired boiler, stove or furnace shall be installed, operated, and maintained in conformity with the manufacture’s specifications and recommendations and all local, state, and federal codes, laws, rules, and regulations.
- 4.12 Whenever any provision of this ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other township law or ordinance, then the provisions of this ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this ordinance, then the provisions of such ordinance shall govern. Where any provision of this ordinance differs from any other provision of this ordinance, the more restrictive requirement shall prevail.

Section 5: Right of Entry and Inspection.

- 5.1 Upon receipt of a report or complaint that there has been a violation of this ordinance, the Zoning Administrator or any authorized officer, agent, employee or representative of Freeman Township who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance in the interest of health, safety and welfare of the public.

Section 6: Enforcement and Penalties.

- 6.1 Authority to enforce this ordinance is hereby given to the Zoning Administrator, the Freeman Township’s Supervisor in the Zoning Administrator’s absence, or in the event of a conflict of interest, or any officer, agent, employee, or representative to whom such authority has been delegated by the Freeman Township Board in the event of absence or a conflict involving both.
- 6.2 Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this ordinance or fails to comply with a duly authorized order issued pursuant to the ordinance shall be deemed to be responsible for a municipal civil infraction as defined by applicable Michigan Statue which shall be punishable by fines and costs as outlined in this ordinance under sections 6.3 and 6.4. In addition, Freeman Township shall have the right to proceed in any court of competent jurisdiction

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for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this ordinance and applicable statute.

6.3. Presumption of Civil Infraction.

A first violation of the Freeman Township Outside Alternate Heating Ordinance shall be deemed to be a municipal civil infraction.

6.4. Violation and Penalties.

- A. The following civil fines shall apply in the event of a determination of responsibility for a municipal infraction, unless a different fine is specified in connection with a particular ordinance provision:

The First Offense. The civil fine for a first offense violation shall be in the amount of three hundred dollars (\$300.00), plus cost and other sanctions, for each offense.

- B. In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses the Judge or Magistrate shall be authorized to issue any judgment, writ or order necessary to enforce or enjoin violation of this ordinance.
- C. Continuing Offense. Each act of violation and each day, upon which any such violation shall occur, shall constitute a separate offense.
- D. Judge or Magistrate.
The Judge or Magistrate shall also be authorized to impose costs, damages and expenses as provided by law.
- E. Default on Payment of Fines and Costs.
A default in the payment of a civil fine, costs, damages or expenses ordered under Subsection A or B or an installment of the fine costs, damages or expenses as allowed by the Court, may be collected by the Township of Freeman by a means authorized for the enforcement of a judgment under Chapters 40 and 60 of the Revised Judicature Act, MCL 600.101, et. Seq. MSA, 101, et. seq, as amended.
- F. Failure to Comply With Judgment of Order.
If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under Subsection I.
- G. Civil Contempt.
1. If a defendant defaults in the payment of a civil fine, costs, damages, expenses, or installment as ordered by the district court, upon motion of

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the Township of Freeman or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.

2. If a corporation or an association is ordered to pay a civil fine, costs, damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, damages or expenses and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
4. If it appears that the default in the payment of a civil fine, costs, damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, damages or expenses.
5. The term of imprisonment on a civil contempt for non-payment of a civil fine, costs, damages or expenses shall be specified in the order of commitment and shall not exceed one day for each thirty dollars (\$30.00) due. A person committed for nonpayment of a civil fine, costs, damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of thirty dollars (\$30.00) per day.
6. A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs damages or expenses shall not be discharged from custody until one of the following occurs.
 - (i) Defendant is credited with an amount due pursuant to Subsection G (5).
 - (ii) The amount due is collected through execution of process or otherwise.
 - (iii) The amount due is satisfied pursuant to a combination of Subsection G (6) (i) and (ii).
7. The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection G (6).

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8. The imposition of any fine and/or jail sentence shall not exempt the defendant from compliance with the provisions of this ordinance.
- I. Second or Subsequent Offenses. Any person, firm, or corporation who violates any of the provisions of this ordinance for a second or subsequent time within one hundred eighty (180) days shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment. Each day that the violation continues to exist shall constitute a separate offense.

Section 7: Severability.

Should any provision or part of the within ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this ordinance which shall remain in full force and effect.

Section 8: Effective Date.

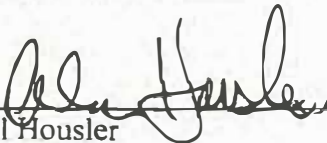
All ordinances or parts of ordinances in conflict herewith are hereby repealed. This ordinance becomes effective thirty (30) days after newspaper publication.

Newspaper publication date: 08/20/2015.

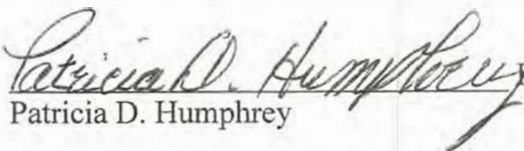
Effective Date: 09/20/2015

Adopted by the Freeman Township Board: 08/13/2015

Al Housler, Freeman Township Supervisor, Clare County, Michigan

 Date 08/13/2015
Al Housler

Patricia Humphrey, Freeman Township Clerk, Clare County, Michigan

 Date 08/13/2015
Patricia D. Humphrey