

**TOWN OF NEWTON  
MANITOWOC COUNTY, WISCONSIN**

**ORDINANCE NO.12292010**

**AN ORDINANCE TO REGULATE  
SOLID FUEL-FIRED OUTDOOR HEATING DEVICES**

The Town Board of the Town of Newton, Manitowoc County, Wisconsin, pursuant to its village powers under Sec. 60.10 (2) (c), 60.22 (3), and Secs. 61.34 (1), Wis. Stats., for the public health and safety, does ordain as follows:

**Section 1. DEFINITIONS.**

1.1 “Clean wood” means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues. “Clean wood” does not include, for example, plywood, particle board, chipboard or other composite wood products.

1.2 “Person” means an individual, partnership, corporation, limited liability company, limited liability partnership, government, association, organization, or any other entity.

1.3 “Solid Fuel-Fired Outdoor Heating Device” means any outdoor device, equipment, or structure, or any part thereof, designed for solid fuel combustion to produce heat or energy used as a component of a heating system providing indoor heat, including, but not limited to, combination fuel furnaces or boilers which burn solid fuel.

1.4 “Stacks” or “chimneys” means any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired outdoor heating device; especially that part of such structure extending above a roof.

**Section 2. REGULATION.** A solid fuel-fired outdoor heating device may be installed, operated, and maintained in the Town of Newton, Manitowoc County, Wisconsin only in accordance with the following provisions:

2.1 All solid fuel-fired outdoor heating devices shall meet emission standards required by the Environmental Protection Agency (EPA) which are incorporated herein by reference, together with all amendments or modifications made thereto.

2.2 All solid fuel-fired outdoor heating devices shall be installed, operated, and maintained in strict conformance with the manufacturer's instructions and recommended guidelines, the regulations provided herein, and all other applicable local, state, and federal standards. In the event of any conflict, the terms of this Ordinance shall apply, except that if the manufacturer's instructions or recommended guidelines are more restrictive, then the manufacturer's instructions or recommended guidelines shall apply.

2.3 All solid fuel-fired outdoor heating devices shall be installed by contractors qualified to install the devices in accordance with the terms of this Ordinance and manufacturer's instructions and recommended guidelines.

2.4 All solid fuel-fired outdoor heating devices shall use as fuel only clean wood or the solid fuel specifically permitted by the manufacturer such as corn or other pellets specifically designed for the solid fuel-fired outdoor heating device.

2.5 The following fuels are prohibited to be used for solid fuel-fired outdoor heating devices in all circumstances:

- a. 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 waste.

- b. Waste oil or other oily wastes and petroleum in any form.
- c. Asphalt and products containing asphalt.
- d. 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.
- e. Any plastic material including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, synthetic fabrics, plastic films, and plastic containers.
- f. Rubber including, but not limited to, tires and synthetic rubber-like products.
- g. Newspaper, corrugated cardboard, container board, office paper, and other materials which must be recycled in accordance with the recycling ordinance of the Town.
- h. Pallets and pieces of pallets, except those permitted as solid fuel by the manufacturer.
- i. Any other items not specifically permitted by the manufacturer.

2.6 Any fuel for a fuel-fired outdoor heating device stored on site shall be cut to useable size and stacked, as applicable, and shall be maintained in a neat and orderly manner. All such fuel shall be stored in a form ready to use in the heating device.

2.7 Upon request by the Town, the owner or operator of the solid fuel-fired outdoor heating device shall provide the Town with information in writing from the manufacturer which specifies the solid fuel permitted by the manufacturer and includes the manufacturer's instructions and recommended guidelines.

2.8 A new solid fuel-fired outdoor heating device shall have a chimney that extends fifteen feet (15') above the ground surface.

2.9 The solid fuel-fired outdoor heating device shall be located at least five hundred (500') feet from the nearest residence which is not on the same parcel as the solid fuel-fired outdoor heating device.

2.10 This ordinance applies to all solid fuel-fired outdoor heating devices whether unenclosed or enclosed in any type of structure or enclosure.

2.11 Should any solid fuel-fired outdoor heating device permitted under this ordinance become hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood as determined by the enforcement officer and/or fire chief, then the owner shall correct, improve or abate the nuisance using whatever means are necessary in accordance with this Section. If the nuisance cannot be abated, then operation of the device shall be discontinued until a solution to the nuisance can be found.

**Section 3. EXISTING SOLID FUEL-FIRED OUTDOOR HEATING DEVICE:**

3.1 A solid fuel-fired heating device existing and installed in the Town of Newton prior to the effective date of this Ordinance is a preexisting device. A preexisting device which does not comply with Sections 2.1, 2.2, 2.3, 2.8 and 2.9 is a nonconforming preexisting device.

3.2 A preexisting device may be continued, provided that the owner and operator of a preexisting device shall comply with Sections 2.4, 2.5, 2.6 and 2.7 of this Ordinance.

3.3 A preexisting device may be repaired, maintained, and replaced, provided that a nonconforming preexisting device may be replaced only by a device of the same or smaller size and meet the requirements of Section 2.8 and obtain a new permit.

3.4 The lawful use of a nonconforming pre-existing device (existing at the time of the adoption or amendment of this ordinance) may be continued as provided in Sections 3.2 and 3.3. However, the use of a nonconforming pre-existing device shall not be a public nuisance or cause a human health hazard. The provisions of Section 2.11 shall apply to a nonconforming pre-existing device.

**Section 4. PERMIT REQUIRED:**

(a) No person shall install an outdoor solid fuel-fired heating device in the Town of Newton after the effective date of this ordinance without first obtaining a permit from the Zoning Administrator on forms prescribed by the Town and paying any permit fee per schedule adopted by the Town Board.

(b) The owner or operator of a preexisting device shall obtain a permit for the preexisting device within sixty (60) days from the effective date of this ordinance from the Zoning Administrator on forms prescribed by the Town. No permit fee is required for a preexisting device.

**Section 5. NONCOMPLIANCE; PENALTY:**

(a) Any person who violates this Ordinance, upon conviction thereof, shall forfeit \$25.00 together with the costs of prosecution and all costs and expenses allowed or required by law. Each day of violation shall be a separate offense.

(b) A permit issued under Section 4 of this ordinance may be suspended or revoked in the event of a violation of this ordinance.

(c) The Town shall have any and all other remedies afforded by the Wisconsin Statutes or Town Ordinances in addition to the forfeiture and costs above.

**Section 6. SEPARATE NUISANCE ACTION:** Nothing contained in this ordinance shall limit the right of the Town to enforce the Town of Newton Nuisance Ordinance, including requiring the abatement of a nuisance, for any nuisance caused by the operation of a Solid Fuel-Fired Outdoor Heating Device.

**Section 7. VARIANCE:** The Town Board may vary the regulations contained herein to afford substantial justice upon a finding by the Town Board that extraordinary hardship will occur from the enforcement of this Ordinance. Application for a variance shall be made in writing to the Town Board. No variance shall have the effect of nullifying the intent and purpose of this Ordinance.

**Section 8. SEVERABILITY:** If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such finding shall not affect the remaining provisions of this Ordinance which shall remain in full force and effect.

**Section 9. REPEAL OF CONFLICTING ORDINANCES:** This Ordinance hereby repeals and replaces Ordinance Number 071410 adopted July 14, 2010.

Adopted this 29th day of December, 2010.

TOWN OF NEWTON

Attest: \_\_\_\_\_  
Barbara Pankratz, Clerk

By: \_\_\_\_\_  
Kevin Behnke, Chairperson