

ORDINANCE NO 2010-04

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, LEHIGH COUNTY, PENNSYLVANIA, AMENDING ORDINANCE 2009-02 DEFINING “OUTDOOR FUEL BURNING APPLIANCES”; REGULATING THESE APPLIANCES AND THE REQUIRED CONDITIONS OF MAINTENANCE AND/OR OPERATION; ESTABLISHING THE PENALTIES FOR VIOLATION OF THE ORDINANCE.

WHEREAS, in reviewing the existing outdoor fuel burning ordinance, Ordinance 2009-02, the Township has determined that certain modifications should be made to said Ordinance to clarify some points and to address concerns with the public health safety and welfare; and

WHEREAS, the Board of Supervisors has determined the appropriate amendments would address the need for clarification.

WHEREAS, the statutes of the Commonwealth of Pennsylvania provide to Townships the authority to make regulations necessary for the health, safety, morals, and general welfare and cleanliness and the beauty, convenience, comfort and safety of the Township; and

WHEREAS, the Board of Supervisors of Washington Township wishes to regulate outdoor fuel burning appliances for purposes of health, safety, morals and general welfare and cleanliness of the Township and its residents.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE TOWNSHIP OF WASHINGTON AS FOLLOWS:

SECTION 1. Title.

This Ordinance shall be known and made be cited as the Washington Township Outdoor Fuel Burning Appliance Ordinance.

SECTION 2. Declaration of Purpose.

It is hereby declared that the policy of the Washington Township, Lehigh County, as a matter of public health, safety and welfare, desires to regulate and control the use of outdoor burning appliances within Washington Township for the purpose of controlling air pollution, and to protect buildings, housing, property and the well-being of its citizens.

Outdoor fuel burning may cause emission problems that cross property lines because the smoke stays close to the ground; it can easily reach humans working or playing outdoors and/or may permeate neighboring buildings. The smoke may also cause

problems with visibility. In addition, low lying smoke can worsen cardiovascular problems such as angina, irritate eyes and lungs, trigger headaches, worsen respiratory disease such as asthma, emphysema, and bronchitis.

This regulation is intended to insure that exterior furnaces or exterior burning devices, the primary purposes of which is to convert solid combustible fuel into a heat or energy source for interior spaces for all residences, commercial and industrial establishments, are utilized in a manner that does not create a nuisance and are not detrimental to the health, safety and general welfare of the residents of Washington Township.

SECTION 3. Definitions.

- A. **OUTDOOR FUEL BURNING APPLIANCE**-A device including any furnace, stove, or boiler designed and/or constructed to burn solid fuels including, wood, coal, or other solid fuels manufactured for placement outdoors for the heating of the living area of a structure. An outdoor fuel burning appliance utilizing a heat pump or that uses the following fuel sources: solar energy, electric, oil, propane gas, or natural gas will not be included in this definition and are exempt from the regulation provided in this Ordinance.
- B. **STACK**-Any vertical structure enclosing a flue or flues or chimney that carry off smoke or exhaust from an outdoor fuel burning appliance.

SECTION 4. Regulations for New Outdoor Fuel Burning Appliances.

- A. Any outdoor fuel-burning appliance must have or meet the following:
 - 1. The stack if located fifteen (15) feet or less to any structure, including, but not limited to a residence served by the outdoor fuel burning appliance, the stack must be at least three (3) feet higher than the highest point of the structure.
 - 2. The stack if located two hundred (200) feet or less to any residence not served by the outdoor fuel burning appliance, the stack must be at least two (2) feet higher than the peak of the roof of that residence.
 - 3. Notwithstanding the foregoing, in no even shall the stack height for any outdoor fuel burning appliance be less than the manufacturer's guidelines.
 - 4. The stack shall be located not less than 100 feet from any property line.

- B. All outdoor fuel-burning appliances are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emissions standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.
- C. All outdoor fuel-burning appliances shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
- D. The owner of the outdoor fuel-burning appliance shall produce the manufacturer's instructions for all devices that do not conform to the requirements of this Ordinance.
- E. No homemade outdoor fuel-burning appliance will be allowed.
- F. Only those solid fuels that are recommended by the appliance's manufacturer are permitted to be burned in any outdoor fuel burning appliance. The burning of any and all other materials in an outdoor fuel burning appliance is prohibited.
- G. A permit must be acquired prior to the installation of any outdoor furnace appliance and an inspection completed prior to the operation of subject appliance. The permit fee can be revised at any time and shall be set by the Resolution by the Board of Supervisors.
- H. The inspection shall be completed by the Township Code Enforcement Officer, a Township employee or its designee.
- I. Ashes or waste cannot be accumulated in a large area on the property. They may be disbursed on the property as long as no accumulation can be seen (for example: spread in a driveway). Any large accumulation of ash or waste must be disposed of weekly with your trash.
- J. All outdoor fuel burning appliances may only be utilized for the sole purposes of furnishing heat to a residence and hot water during the period of October 1 through April 30; and only if the outdoor fuel-burning appliance meets the requirements of this Ordinance.
- K. If an outdoor fuel-burning appliance is more than fifty (50%) percent torn down, physically deteriorated or decayed, the appliance must be removed and/or replaced with a new unit.

- L. All storage of materials being burnt in the outdoor fuel-burning appliance shall be neatly stacked and/or stored undercover and free from insects (termites, ants, etc.) or any type of disease carrying rodent.

SECTION 5. Regulations for Existing Outdoor Fuel-Burning Appliances.

- A. All outdoor fuel-burning appliances are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emission standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.
- B. All outdoor fuel-burning appliances shall be operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter in which case the manufacturer's instructions shall apply.
- C. All outdoor fuel-burning appliances in existence at the effective date of this Ordinance shall have or must erect a safe flue or chimney which shall extend at least two feet above the peak of any residence not served by any outdoor fuel-burning appliance located within 200 feet of such chimney.
- D. If there is an existing outdoor fuel burning appliance already installed and there is new construction of a residence not served by an outdoor fuel-burning appliance within 200 feet of such existing outdoor fuel-burning appliance, then the owner of such appliance shall conform to the stated height requirement of this regulation within 30 days of the date this construction is completed and upon written notice from the Township through its Code Enforcement Officer.
- E. Only natural wood, coal, heating oil, natural gas, kerosene or wood specifically permitted by the manufacturer in writing may be burned in outdoor furnaces. The burning in outdoor furnaces of processed wood products and non-wood products, household or other garbage, recyclable material, rubber tires, railroad ties, leaves, laminated wood, wet or soggy wood, painted or treated wood and any item not specifically and in writing permitted by the manufacturer is prohibited.
- F. All outdoor fuel burning appliances may only be utilized for the sole purposes of furnishing heat to a residence and hot water during the period of October 1 through April 30; and only if the outdoor fuel-burning appliance meets the requirements of this Ordinance.

- G. It an outdoor fuel-burning appliance is more than fifty (50%) percent torn down, physically deteriorated or decayed, the appliance must be removed and/or replaced with a new unit and the new unit must comply with all of the regulations listed in Section 3 of this Ordinance.
- H. Ashes or waste cannot be accumulated in a large area on the property. They may be disbursed on the property as long as no accumulation can be seen (for example: spread in a driveway). Any large accumulation of ash or waste must be disposed of weekly with your trash.
- I. All storage of materials being burnt in the outdoor fuel-burning appliance shall be neatly stacked and/or stored undercover and free from insects (termites, ants, etc.) or any type of disease carrying rodent.

SECTION 6. Miscellaneous Uses and Variances.

- A. If an outdoor fuel-burning appliance is, through the course of proper investigation by local authorities, creating a verifiable nuisance, as defined by local or state law, the following steps may be taken by the owner and/or the Township.
 - 1. Modification made to the unit to eliminate nuisance such as extending the chimney, or relocating the outdoor fuel-burning appliance, or both.
 - 2. Cease and desist operating the unit until reasonable steps can be taken to insure that the outdoor fuel-burning appliance will not be a nuisance.
- B. Variances from any action, decisions or ruling of the Code Enforcement Officer from the strict application of the specific requirements of the Ordinance may be made to the Washington Township Board of Supervisors. Requests for all variances shall be in writing to the Township not later than ten (10) days after the action decision or ruling from which relief is sought.
 - 1. After receiving the written request, the Board of Supervisors at their next regular scheduled meeting shall consider and take action on the variance request.
 - 2. Decision of the Township Board of Supervisors. Within sixty (60) days after the final adjournment of a public hearing, the Township Board of Supervisors shall affirm, modify or deny the action, decision or ruling of the Code Enforcement Officer or correct any omission by the Code Enforcement Officer, or approve with conditions or disapprove the application. The decision of the

Board of Supervisors shall be in writing. As part of the decision, the Board of Supervisors shall direct the officer to issue any appropriate permits and conformity with its rulings and shall state a time by which such permit shall be issued, in conformity with this Ordinance.

- C. Criteria for Variances. In making this determination the Board of Supervisors shall take into consideration the benefit to the applicant if the variance is granted, as weight against the detriment to the neighborhood or community by such grant. In making such determination, the Board shall also consider:
1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
 2. Whether the benefits sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;
 3. Whether the requested variance is substantial;
 4. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Supervisors, but shall not necessarily preclude the granting of a variance.

SECTION 7. Enforcement.

It shall be the duty of the Code Enforcement Officer to enforce the terms of this Ordinance and secure compliance with the requirements thereof.

SECTION 8. Penalties.

Any person, firm or corporation who shall violate any provision of this Ordinance, shall upon conviction thereof be sentenced to pay a fine not less than \$300.00 nor more than \$1,000.00 and in default of payment of said fine, to imprisonment for a term not to exceed ninety (90) days. Everyday that a violation of this Ordinance continues, each shall day shall constitute a separate offense.

SECTION 9. Severability.

If any sentence, clause, section or part of this Ordinance is, for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not effect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Township of

Washington, Lehigh County, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 10. Effective Date

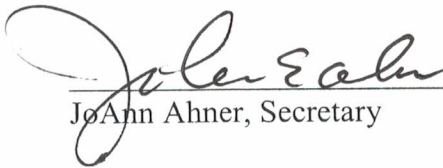
This Ordinance shall take effect five (5) days from the date of enactment.


DULY ENACTED AND ORDAINED this 1ST day of JUNE, 2010, BY THE BOARD OF SUPERVISORS OF WASHINGTON TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA IN ITS LAWFUL SESSION DULY ASSEMBLED.

IN WITNESS WHEREOF, THE BOARD OF SUPERVISORS HAVE SET FORTH THEIR HANDS AND SEALS THIS 1ST DAY OF JUNE, 2010.

ATTEST:

WASHINGTON TOWNSHIP
BOARD OF SUPERVISORS


JoAnn Ahner, Secretary


Josh Friebolin, Chairman Board of Supervisors


Roy Dengler, Member


Gerald Philips, Member