

**ROSS TOWNSHIP, PENNSYLVANIA
OUTDOOR WOOD-FIRED BURNER/FURNACE
ORDINANCE**

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Section 1. – Title.

This Ordinance shall be known as the “Ross Township Outdoor Wood-Fired Burner/Furnace Ordinance.”

Section 2. – Legislative Intent.

Although outdoor wood-fired burners/furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This Ordinance is intended to ensure that outdoor wood-fired burners/furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of Ross Township.

Section 3. – Authority

BE IT ORDAINED AND ENACTED by the Supervisors of Ross Township, Ross Township, Pennsylvania, pursuant to the general powers permitted by the Second Class Township Code Sections 1601 and 1529, (53 P.S. Section 66601) and (53 P.S. Section 66529 – Nuisances), the following:

Section 4. – Definitions and Word Usage.

CLEAN WOOD – wood that does not have paint, stains, or other types of coatings, and wood that has not been treated with substances, including but not limited to, copper arsenate, creosote, or pentachlorophenol, and wood pellets made from clean wood.

CODE ENFORCEMENT OFFICER – The Code/Zoning Officer or other person appointed by the Ross Township Supervisors to administer and enforce this Ordinance whose duties shall include responding to resident questions and complaints and performing other tasks as the Supervisors may assign.

EXISTING OUTDOOR WOOD-FIRED BURNER/FURNACE – An Outdoor Wood-Fired Burner/Furnace that was purchased and installed prior to the effective date of this Ordinance.

OUTDOOR WOOD-FIRED BURNERS/FURNACES – a fuel burning device designed to (1) burn wood or other manufacturer approved fuel products (i.e. corn and coal); (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

PERSON – Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, governmental entity or agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

STACK or CHIMNEY – Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired heating device or structure, including that part of the structure extending above a roof.

Section 5. – Permit Required.

Any person desiring to install an outdoor wood-fired burner/furnace within Ross Township shall obtain a permit from the Code/Enforcement Officer and shall pay a permit fee set by the Supervisors by resolution.

Section 6. – Existing Outdoor Wood-Fired Burners/Furnaces.

Any Outdoor Wood-Fired Burners/Furnaces in existence on the effective date of this Ordinance shall be permitted to remain, provided that the owner applies for and receives a permit from the Code/Enforcement Officer within one (1) year of the effective date of this ordinance. If the owner of an existing Outdoor Wood-Fired Burner/Furnace does not receive a permit within one (1) year of the effective date of this Ordinance, the Outdoor Wood-Fired Burner/Furnace shall be removed and is subject to the regulations provided for in Section 7 of this Ordinance. Said permit shall for any such pre-existing burner/furnace, constitute a certificate of non-conforming use.

Section 7. – Installation of Outdoor Wood-Fired Burners/Furnaces.

Any person desiring to install an outdoor wood-fired burner/furnace within the municipality shall obtain a permit from the Code/Enforcement Officer. The applicant for such a permit shall meet the following requirements:

1. Present a plan showing all property lines, the locations and distances of all dwellings or occupied buildings on adjoining properties, and the proposed location of the outdoor wood-fired burner/furnace.
2. Locate the outdoor wood-fired burner/furnace at least 200 feet (200') from any occupied structure not located on the lot on which the outdoor wood-fired burner/furnace will be located.
3. Locate the outdoor wood-fired burner/furnace at least 100 feet (100') from all property lines.
4. If there are any residential structures within 200 feet of the subject Outdoor Wood-Fired Burner/Furnace, the stack or chimney shall extend at least as high above the ground surface as the height of the roof peaks of all such residences plus two (2) feet. The maximum height of the outdoor wood-fired burner/furnace stack or chimney shall not

exceed fifty (50) feet and shall not exceed the maximum height requirement in that specific zoning district. Should a new residential structure be built, or an existing residential structure be modified within the 200 foot radius, the Outdoor Wood-Fired Burner/Furnace stack or chimney height shall be raised to match the height of the new or modified structure, up to the maximum height indicated above.

5. Present evidence that the applicant has obtained a Uniform Construction Code permit for the installation of the outdoor wood-fired burner/furnace and its connection to the mechanical system of the structure it will serve.
6. Provide a copy of the manufacturer's specification and instructions, which the applicant agrees to comply with and not alter at any time.
7. Demonstrate that the outdoor wood-fired burner/furnace has been laboratory tested and listed to comply with appropriate safety standards such as UL (Underwriters Laboratories) or ANSI (American National Standards Institute) standards.
8. All outdoor wood-fired burners/furnaces shall be equipped with properly functioning spark arrestors.

The application shall be signed by all owners of the lot on which the outdoor wood-fired burner/furnace will be located and the contractor installing the outdoor wood-fired burner/furnace.

Section 8. – Replacements.

If an Outdoor Wood-Fired Burner/Furnace is replaced or upgraded, a permit shall be required pursuant to Section 5 of this Ordinance and shall comply with all sections of this Ordinance.

Section 9. – Use of Outdoor Wood-Fired Burner/Furnace.

1. The only substance that may be burned in an Outdoor Wood-Fired Burner/Furnace is clean wood (see definition, Section 4 of this Ordinance).
2. No person shall burn any of the following in an Outdoor Wood-Fired Burner/Furnace:
 - a. Any wood that does not meet the definition of clean wood.
 - b. Tires.
 - c. Lawn clippings or yard waste.
 - d. Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps.
 - e. Materials containing plastic.
 - f. Materials containing rubber.
 - g. Waste petroleum products, unless unit is fitted and thereafter equipped with an injection system approved and certified by the maker of the unit.
 - h. Paint and paint thinners.
 - i. Any type of paper/cardboard.

- j. Construction and demolition debris (such as shingles).
 - k. Plywood or other composite wood products.
 - l. Particleboard.
 - m. Manure.
 - n. Animal carcasses.
 - o. Asphalt products.
 - p. Used cooking oils, unless unit is fitted and thereafter equipped with an injection system approved and certified by the maker of the unit.
3. The Outdoor Wood-Fired Burner/Furnace shall at all times be operated and maintained in accordance with the manufacturer's specifications.
 4. The Outdoor Wood-Fired Burner/Furnace shall be maintained and operated in compliance with all emissions and air quality standards promulgated by the United States Environmental Protection Agency, the Pennsylvania Department of Environmental Protection or other relevant state or federal agency.
 5. Any ash or other by-products from the operation of the Outdoor Wood-Fired Burner/Furnace shall be disposed of in accordance with all applicable laws.

Section 10. – Operation Schedule.

Outdoor Wood-Fired Burners/Furnaces shall be operated only between October 1st and May 15th, except that any Outdoor Wood-Fired Burners/Furnaces located on lots of ten (10) acres or more may be operated throughout the calendar year.

Section 11. – Enforcement and Penalties.

11.1 Enforcement Officer

The Ross Township Supervisors shall appoint an individual, agency or firm to serve as the Code Enforcement Officer who shall be responsible for enforcing the terms of this ordinance.

11.2 Duties of Enforcement Officer

- A. Inspection – The Code Enforcement Officer, and any other individual representing the Township whose presence is necessary to complete the inspection, may inspect any premises, building or structure in accordance with Section 11.3 of this ordinance to determine whether or not a violation of this Ordinance exists.

- B. Action – Whenever an inspection discloses a violation of this ordinance, the Code Enforcement Officer shall prepare a report detailing the violation and a recommendation regarding how the violation can be corrected. The Code Enforcement Officer shall issue a written notice to the owner and/or the occupant of the premises as set forth in Section 11.4 along with a copy of the report.
- C. Hearing Appearance – The Code Enforcement Officer shall appear at all hearings conducted in accordance with Section 12.6 and testify as to the violation.

11.3 Inspections; Permission

The Code Enforcement Officer, and any other agent so authorized by the Supervisors, may inspect any premises to determine whether any violations of this ordinance exist. Prior to entering upon any property to conduct an inspection, the Enforcement Officer shall obtain the permission of the owner or occupant of the property to conduct the inspection. If after due diligence, the Code Enforcement Officer is unable to obtain such permission, the Code Enforcement Officer shall have the authority to conduct the necessary inspection in accordance with this ordinance and the applicable laws of the Commonwealth, and, if necessary, petition a competent court with jurisdiction for a court order authorizing the inspection. If a court orders the inspection, the defendant named in the order shall reimburse the Township for the costs of filing the petition and reasonable attorney's fees.

11.4 Notice of Violation

Whenever an inspection discloses that a violation of this Ordinance exists, the Code Enforcement Officer shall issue a Notice of Violation to the owner and/or occupant of the premises. The Notice shall:

- A. Be in writing.
- B. Include a statement of the reasons why the Notice is being issued.
- C. Contain a copy of the Code Enforcement Officer's inspection report detailing the conditions constituting the violation, contain an outline of the remedial action required to come into compliance with the Ordinance and state a reasonable time to rectify the violation.
- D. Inform the owner of the right to request a hearing before the Supervisors as set forth in Section 11.6.
- E. Inform the owner/occupant that should there be a failure to comply with the Notice or request a hearing, the individual(s) will be subject to the penalties set forth in Section 11.7 of the Ordinance, and the costs and expenses, including attorney's fees, of enforcing the terms of the Ordinance.

Except in emergency cases, the Notice shall be sent by registered mail or by certificate of mailing, or personally delivered to the owner and/or occupant of the premises upon which the violation exists. Where the owner is absent from the Township, all notices shall be deemed to be properly served if a copy of the Notice is served upon the owner personally, or a copy of the Notice is sent by registered mail or by certificate of mailing to the last known address of the owner, regardless of proof of receipt, and is posted in a conspicuous place on or about the premises affected by the Notice or the owner is served with such Notice by any other method authorized under the laws of the Commonwealth of Pennsylvania.

11.5 Emergency Cases

Whenever the Code Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, safety and welfare, he/she may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to correct the violation and eliminate the emergency. Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately.

11.6 Remedies and Penalties

Any person who has violated or permitted the violation of any provisions of this Ordinance shall upon judgment thereof by any Magistrate District Judge be liable to pay a fine of not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1000), for each day the violation exists after notice from the Township together with the costs of suit and actual attorney's fees incurred by the Township. Each day of violation shall be a separate violation, for which a separate fine may be sought. All judgments, costs, interests and reasonable attorney fees collected for a violation of this Ordinance shall be paid over to the Township.

In addition to the fines, judgments, costs and/or imprisonment remedies set forth above, the Township reserves the right to pursue all other available remedies at law or in equity under the laws of the Commonwealth of Pennsylvania.

The Code Enforcement Officer is hereby authorized to commence and prosecute any violations in the court of appropriate jurisdiction and to utilize the services of the Township Solicitor in so doing

Section 12. – Municipality Exempt from Liability.

Ross Township and its agents, officials and representatives, shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the issuance of any permit under the provisions of this Ordinance, or by reason of the conduct of any burning activity in compliance with the terms and provisions of this Ordinance. The person or party responsible for any such burning activity shall bear sole liability of any damages caused as a result thereof.

Section 13. – Severability.

The provisions of this Ordinance are severable. If any sentence, clause or section is for any reason found to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as the legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provisions not been included herein.

Section 14. – Repealer.

All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

Section 15. – Effective Date.

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

Ordained and Enacted into an Ordinance at a regular meeting of the Supervisors of Ross Township, Ross Township, Pennsylvania, this 1 day of Dec., 2008.

ATTEST:

ROSS TOWNSHIP

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By: Howard Bess Jr.

By: Teri L. Mure