

POCONO TOWNSHIP
MONROE COUNTY, PENNSYLVANIA

ORDINANCE NO. 140

AN ORDINANCE OF POCONO TOWNSHIP, MONROE COUNTY, PENNSYLVANIA, TO PROVIDE REGULATIONS FOR THE INSTALLATION AND OPERATION OF OUTDOOR FURNACES AND PRESCRIBE PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Pocono, Monroe County, Pennsylvania, that the following is adopted as the *Outdoor Furnace Ordinance* of the Township of Pocono:

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§ 1 Short Title

This Ordinance shall be known and may be cited as *THE POCONO TOWNSHIP OUTDOOR FURNACE ORDINANCE*.

§ 2 Purpose

The purpose of this Ordinance is to protect and promote the health, safety and general welfare of the citizens of Pocono Township and the public at large by regulating outdoor furnaces to minimize their public health effect and environmental impacts, and to abate public nuisances associated with the same.

§3 Authority

This Ordinance is ordained and enacted under the authority granted by § 1506, § 1529 and § 1601 of the Pennsylvania Second Class Township Code, 53 P.S. § 66506, §66529 and §66601.

§4 DEFINITIONS

Chimney: A flue (or flues) that carries off exhaust from an outdoor furnace firebox or burn chamber.

Chimney Height: The distance between the top of the chimney and the bottom-most part of the furnace to which it is attached.

Enforcement Officer: The individual(s), agency or firm appointed by the Pocono Township Board of Supervisors to enforce the provisions of this Chapter.

EPA OWHH Phase I Program: EPA OWHH (Wood-fired Hydronic Heater Program) Phase I Program administered by the United States Environmental Protection Agency.

EPA OWHH Phase I Program Qualified Model: An Outdoor Wood-fired Hydronic Heater that has been EPA OWHH

Phase 1 Program qualified. The model has met the EPA OWHH Phase 1 emission level and has the proper qualifying label and hang tag.

Existing Outdoor Furnace: An outdoor furnace that was purchased and installed prior to the effective date of this Ordinance.

Natural Wood: 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 as in plywood or other composite wood products.

New Outdoor Furnace: An outdoor furnace that is installed, established or constructed after the effective date of this Ordinance.

Outdoor Furnace: Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An outdoor furnace may also be referred to as an Outdoor Wood Boiler or Outdoor Wood-fired Hydronic Heater.

§5 REGULATIONS FOR OUTDOOR FURNACES

- A. Applicability - No person shall, from the effective date of this Ordinance, construct, install, replace, establish, operate or maintain an outdoor furnace other than in compliance with the applicable sections of this Ordinance.
- B. Permit; Fee - A permit shall be required for the installation, construction or replacement of an outdoor furnace, and application shall be made to the Enforcement Officer in the form prescribed by the Township. The application shall be accompanied by the proper fee amount as established by Resolution of the Board of Supervisors.
- C. Registration of Existing Outdoor Furnaces - Any outdoor furnace in existence on the effective date of this Ordinance shall be permitted to remain provided that the owner registers the furnace with the Enforcement Officer within one (1) year of the effective date of this Ordinance. No fee shall be charged for the registration.
- D. Operation - No person shall, from the effective date of this Ordinance operate an outdoor furnace unless such operation conforms with the manufacturer's instructions regarding such operation and the requirements of this Ordinance.
- E. Manufacturer's Standards - All new outdoor furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's specifications and instructions and the requirements of this Ordinance. In the event of a conflict, the more restrictive shall apply.
- F. Manufacturer's Manual/Instructions - The owner of any new outdoor furnace shall produce the manufacturer's owner's manual or installation instructions to the Enforcement Officer for review prior to installation.
- G. Laboratory Certification - All new outdoor furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, CAN/CSA, ANSI or other applicable safety standards.
- H. UCC Compliance - The installation of all new outdoor furnaces shall comply with the Pennsylvania Uniform Construction Code.

§6 SUBSTANTIVE REQUIREMENTS

Outdoor furnaces shall be constructed, established, installed, operated and maintained pursuant to the following conditions:

- A. EPA Qualified - All new outdoor furnaces shall be EPA OWHH Phase 1 Program qualified and carry the *orange tag* which states: *This model has been tested by an accredited independent laboratory according to EPA Method 28 OWHH and meets the emissions level for U.S. EPA's Phase I Voluntary Program.*
- B. Fuels Permitted - Fuel burned in any new or existing outdoor furnace shall be only natural wood, wood pellets, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas or propane backup.
- C. Fuels Prohibited - The following fuels are strictly prohibited in new or existing outdoor furnaces:
1. Wood that has been painted, varnished or coated with similar material and/or has been pressure treated with preservatives and contains resins or glues as in plywood or other composite wood products.
 2. Trash, rubbish or garbage, including, but not limited to, food wastes, food packaging, food wraps, grass clippings, lawn waste, or manure.
 3. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
 4. Rubber including tires or other synthetic rubber-like products.
 5. Newspaper, cardboard, or any paper with ink or dye products.
 6. Any other items not specifically allowed by the manufacturer or this provision.
- D. Setbacks for New Outdoor Furnaces - New outdoor furnaces shall:
1. Be not less than one hundred fifty (150) feet from property lines and road rights-of-way.
 2. Be not less than two hundred (200) feet from any occupied building not located on the lot on which the outdoor furnace will be located.
 3. Be located in compliance with manufacturer's recommendations and or testing and listing requirements for clearance to combustible materials but in no case less than twenty (20) feet from any building.
- E. Chimney Height Chimney height shall comply with each of the following subsections:
1. The chimney of any new outdoor furnace shall extend at least two (2) feet above the peak of the building it serves and any occupied principal building not served by the outdoor furnace located within three hundred (300) feet of such outdoor furnace.
 2. The height of the chimney shall not exceed the manufacturer's specification or thirty-five (35) feet, whichever is less.
- F. Spark Arresters - All new outdoor furnaces shall be equipped with properly functioning spark arresters in accord with the manufacturer's specifications.
- G. Concrete Base - The outdoor furnace shall be placed on a solid concrete slab not less than four (4) inches thick and extending not less than six (6) inches on each side of the furnace. If manufacturer's specifications and instructions require more robust standards such standards shall apply.

§7 SUSPENSION OF OPERATION

The Enforcement Officer may require the suspension of the operation and/or revoke the permit of any outdoor furnace as necessary to protect the public health, safety and welfare if any of the following conditions occur. The suspension may be lifted by the Enforcement Officer once the condition which resulted in suspension/revocation is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension and/or revocation shall be considered a violation of this Ordinance subject to the penalties provided within this Ordinance.

- A. Malodorous air contaminants are detectable outside the property on which the outdoor furnace is located;
- B. The emission interferes with the reasonable enjoyment of life on neighboring property.
- C. The emissions cause damage to vegetation on neighboring property.
- D. The emissions are or may be harmful to human or animal health.
- E. The burning of any material referenced in §6,C.
- F. Any other condition which constitutes a public nuisance.

§8 ENFORCEMENT

- A. Enforcement Officer - The Board of Supervisors shall appoint an individual, agency or firm to serve as the Enforcement Officer, who shall be responsible for enforcing the terms of this Ordinance. The terms of the Ordinance may also be enforced by a Pocono Township Police Officer.
- B. Compliance - Failure to comply with any provision of this Ordinance, and/or failure to comply with an order to abate a nuisance, shall constitute a violation of this Ordinance.
- C. Violations and Penalties - This Ordinance shall be enforced by action brought before a District Magisterial Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this Ordinance shall, upon conviction in a summary proceeding, pay a fine of not less than \$500 nor more than \$1,000 per violation, plus all Court costs and reasonable attorneys fees incurred by Pocono Township in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Each section of this Ordinance that is violated shall also constitute a separate violation. Further, the appropriate officers or agents of Pocono Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance with this Ordinance. All fines, penalties, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid to Pocono Township for its general use.
- D. Other Remedies - In addition to the fines, judgments, and/or imprisonment remedies of §8,C, the Board reserves the right to pursue independent and cumulative remedies at law or equity including a demand for reimbursement of all court costs and reasonable attorney fees.
- E. Abatement by Township and Recovery of Costs - In addition, if the owner or person in control of any premises at which an act or condition constituting a violation of this Ordinance is occurring, fails to respond to an order of compliance, the Enforcement Officer and/or the Police Officer shall be empowered to cause such work of compliance to be commenced and/or completed by the Township, and the Township may enter a municipal lien upon the premises to recover the cost and expense thereof.

§9 REPEALER

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

§10 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 affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of Pocono Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§11 MUNICIPAL LIABILITY

Pocono Township, and its agents, officials and representatives shall not under any circumstances be liable or legally responsible for activities or conditions which constitute a nuisance under the terms of this Ordinance. Any liability or damages resulting from activities or conditions constituting a nuisance are the sole responsibility of the owner of the property, or the person or persons responsible for said activity or condition. The failure to enforce the terms of this Ordinance shall not constitute a cause of action against Pocono Township or its agents, officials or representatives.

§12 EFFECTIVE DATE

This Ordinance shall become effective five (5) days after the date of enactment.

ENACTED AND ORDAINED into law by the Board of Supervisors of Pocono Township, Monroe County, Pennsylvania, this 6th day of April of 2009.

Jane Alusio
Chairman

Donald W. ...
Vice-Chairman

John T. Ramsey
Supervisor

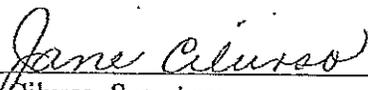
ATTEST: Jane Alusio, Secretary

IN RE: AN ORDINANCE OF POCONO TOWNSHIP, MONROE COUNTY,
PENNSYLVANIA, TO PROVIDE REGULATIONS FOR THE INSTALLATION AND
OPERATION OF OUTDOOR FURNACES AND PRESCRIBE PENALTIES FOR
VIOLATIONS.

CERTIFICATION

I hereby certify that the attached Ordinance is a true and correct copy of the Ordinance
enacted by the Board of Supervisors of Pocono Township, Monroe County, Pennsylvania, on the

16th day of April, 2009.



Jane Cilurso, Secretary
Pocono Township Supervisors

(TOWNSHIP SEAL)