ORDINANCE NO. 2009-02

FRANKLIN TOWNSHIP, CARBON COUNTY, PENNSYLVANIA OUTDOOR WOOD-FIRED BURNER/FURNACE ORDINANCE

Section 1. – Title.

This Ordinance shall be known as the Franklin Township, Carbon County, Pennsylvania 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 provide 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 Franklin Township.

Section 3. – Authority

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Franklin Township, Carbon County, 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 Zoning Officer or other person appointed by the Board of Supervisors to administer and enforce this Ordinance whose duties shall include responding to resident questions and complaints and performing other tasks as the Board of 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.

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 Franklin Township shall obtain a permit from the Code Enforcement Officer and shall pay a permit fee set by the Board of Supervisors by resolution.

Section 6. – Suspension of Permit.

To protect the public health, safety and welfare of the residents of Franklin Township, a permit issued pursuant to this Ordinance may be suspended by the Code Enforcement Officer, if any of the following conditions occur:

A. Malodorous air contaminants from the Outdoor Wood-Fired Burner/Furnace are detectable outside the property of the person on whose land the Outdoor Wood-Fired Burner/Furnace is located;

B. The emission from the Outdoor Wood-Fired Burner/Furnace interferes with the reasonable enjoyment of life on neighboring property.

C. The emissions from the Outdoor Wood-Fired Burner/Furnace cause damage to vegetation on neighboring property.

D. The emissions from the Outdoor Wood-Fired Burner/Furnace are or may be harmful to human or animal health.

E. The burning of any material referenced in Section 10.2 of this ordinance.

A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur.

Section 7. – 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 its reinstallation or replacement is subject to the regulations provided for in Section 8 of this Ordinance.

Section 8. – 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 250 feet (250') 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 150 feet (150') from all property lines.

4. The chimney of any new outdoor wood-fired burner/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 wood-fired burner/furnace located within two hundred and fifty (250) feet of such outdoor wood-fired burner/furnace and shall comply with the manufacturer's specifications.

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, if required.

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 9. – 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 10. – 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.
   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.

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 11. – Operation Schedule.

Outdoor Wood-Fired Burners/Furnaces shall be operated only between October 1st and May 31st.

Section 12. – Enforcement and Penalties.

12.1 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.

12.2 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 sentenced 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/or shall be committed to the Carbon County prison for a period not to exceed thirty (30) days. Each day of violation shall be a separate offense, for which a separate conviction 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.

Section 13. – Municipality Exempt from Liability.

Franklin 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 14. – 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 15. – Repealer.

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

Section 16. – 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 Board of Supervisors of Franklin Township, Carbon County, Pennsylvania, this 20th day of October, 2009.

BOARD OF SUPERVISORS OF
FRANKLIN TOWNSHIP

ATTEST:

Secretary

RESOLUTION NO. 2009-12

RESOLUTION ESTABLISHING THE PERMIT FEE FOR INSTALLING AN OUTDOOR WOOD-FIRED BURNER/ FURNACE.

WHEREAS, Franklin Township is a township of the second class located in Carbon County, Pennsylvania; and

WHEREAS, on October 20, 2009 the Board of Supervisors of Franklin Township enacted Ordinance No. 2009-02 entitled "FRANKLIN TOWNSHIP, CARBON COUNTY, PENNSYLVANIA OUTDOOR WOOD-FIRED BURNER/FURNACE ORDINANCE" (hereinafter "Ordinance"); and

WHEREAS, Section 5 of the Ordinance provides that, "Any person desiring to install an outdoor wood-fired burner/furnace within Franklin Township shall obtain a permit from the Code Enforcement Officer and shall pay a permit fee set by the Board of Supervisors by resolution."; and

WHEREAS, by this Resolution the Board of Supervisors of Franklin Township desire to set the permit fee required by Section 5 of the Ordinance.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the permit fee for an outdoor wood-fired burner/furnace shall be $25.00.

RESOLVED this 17th day of November, 2009.

FRANKLIN TOWNSHIP
BOARD OF SUPERVISORS

ATTEST:

Secretary