

**TOWNSHIP OF BLAIR
BLAIR COUNTY, PENNSYLVANIA
ORDINANCE NO. 2016-01**

**AN ORDINANCE OF THE TOWNSHIP OF BLAIR, COUNTY OF BLAIR AND
COMMONWEALTH OF PENNSYLVANIA, PROVIDING REGULATIONS
GOVERNING OUTDOOR BURNERS/FURNACES**

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

SECTION 1 – TITLE

This Ordinance shall be known and may be cited as the “Blair Township Outdoor Burners/Furnaces Ordinance.”

SECTION 2 – LEGISLATIVE INTENT

Although outdoor 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 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 Blair Township.

SECTION 3 – DEFINITIONS AND WORD USAGE

In this Ordinance the following terms shall have the following meanings:

APCA – Air Pollution Control Act

BOARD – Blair Township Board of Supervisors, Blair County, Pennsylvania

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 chromium arsenate, creosote, or pentachlorophenol, and wood pellets made from clean wood.

ENFORCEMENT OFFICER – the Code Enforcement Officer, or other person appointed by the Board of Supervisors of Blair Township 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.

EPA – United States Environmental Protection Agency

EXISTING OUTDOOR BURNER/FURNACE – an outdoor burner/furnace that was purchased and installed prior to the effective date of this Ordinance.

OUTDOOR BURNER/FURNACE – 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 open-sided, covered structures; 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.

PHASE 1/PHASE 2 OUTDOOR BURNERS – Outdoor Burners qualifying for the Phase 1 emission standard of 0.60 pounds of particulate matter (PM) per million British thermal units (BTUs) of heat input are labeled with an orange tag. Outdoor Burners qualifying for the Phase 2 emission standard of 0.32 pounds of PM per million BTU of heat output are labeled with a white tag. Any Outdoor Burners sold, distributed or installed for use in the Commonwealth after October 2, 2010, must meet the EPA voluntary program Phase 2 emission standard of 0.32 pounds particulate matter per million BTU output (or lower) and be labeled accordingly

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.

TOWNSHIP – Blair Township, Blair County, Pennsylvania

WOOD PELLETS – a pelletized form of fuel made of ground, dried wood and other biomass wastes that are compressed to form pellets.

SECTION 4 – PERMITS REQUIRED

Any person desiring to install an outdoor burner/furnace within Blair Township shall obtain a Certificate of Use permit from the Enforcement Officer and shall pay a permit fee set by the Township Board of Supervisors.

New installations must have the installation inspected by a Uniform Construction Code inspector and obtain a Uniform Construction Code compliance permit for the installation of the outdoor burner/furnace and its connection to the mechanical system of the structure it will service.

SECTION 5 – SUSPENSION OF PERMIT

A Certificate of Use permit issued pursuant to this Ordinance may be suspended as the Enforcement Officer may determine to be necessary to protect the public health, safety and welfare of the residents of Blair Township if any of the following conditions may occur:

1. Malodorous air contaminants from the outdoor burner/furnace are detectable outside the property of the person on whose land the outdoor burner/furnace is located;
2. The emissions from the outdoor burner/furnace interfere with the reasonable enjoyment of life on the neighboring property;
3. The emissions from the outdoor burner/furnace cause damage to vegetation on neighboring property;
4. The emission from the outdoor burner/furnace are or may be harmful to human or animal health; or
5. The burning of any material referenced in Section 9.2 of this Ordinance.

A suspended permit may be reinstated once the condition that resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition that has previously resulted in suspension of a permit shall be considered a violation of this Ordinance subject to the penalties provided in this Ordinance.

SECTION 6 – EXISTING OUTDOOR BURNERS/FURNACES

Any Non-Phase 2 outdoor burner/furnace in existence prior to the adoption of this Ordinance shall be permitted to remain, provided that the owner registers the device with the Enforcement Officer within 60 days of the effective date of this Ordinance. Upon registration, the Enforcement Officer shall issue the owner a Certificate of Use permit to operate the existing Non-Phase 2 outdoor burner/furnace provided the installation meets the following requirements.

1. A plan is presented showing all property lines, the locations of all dwellings or occupied buildings on adjoining properties, and the proposed location of the outdoor burner/furnace.
2. Unless otherwise expressly prohibited by the manufacturer, due to anticipated resulting operational problem and/or manufacturer safety concerns, the existing outdoor burner/furnace shall have a stack or chimney that extends to a minimum height of the residential structure roof peak of which the outdoor burner/furnace is servicing plus two (2) feet. If there are any residential structures within 200 feet, the stack or chimney shall extend at least as high above the ground surfaces as the height of the roof peaks of all such residences plus two (2) feet.

The maximum height of the outdoor burner/furnace stack or chimney shall not exceed 50 feet.

3. Should a new residential structure be built, or an existing residential structure be modified within the 100 foot radius, the outdoor 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 in Paragraph 2.
4. Present evidence that the owner of the existing burner/furnace has obtained a Uniform Construction Code permit for the installation of the outdoor burner/furnace and its connection to the mechanical system of the structure it will service.
5. Provide a copy of the existing burner/furnace manufacturer's specification and instructions, which the applicant agrees to comply with and not alter at any time.
6. Demonstrate that the outdoor 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.
7. The existing outdoor burner/furnace shall be equipped with properly functioning spark arrestors.

If the owner of an existing Non-Phase 2 outdoor burner/furnace does not register the device with the Code Enforcement Officer within 60 days of the effective date of this Ordinance, or within 30 days of notification by the Enforcement Officer, whichever is later, the Non-Phase 2 outdoor boiler shall be removed.

SECTION 7 – INSTALLATION OF NEW OUTDOOR BURNERS/FURNACES

Any person desiring to install an outdoor burner/furnace within the Township shall obtain a Certificate of Use permit from the Enforcement Officer. The applicant for such a Certificate of Use Permit shall satisfy the following requirements:

1. Present a plan showing all property lines, the locations of all dwellings or occupied buildings on adjoining properties, and the proposed location of the outdoor burner/furnace. The minimum required contiguous lot size is 43,560 square feet, i.e. a complete acre.
2. Locate the outdoor burner/furnace at least 100 feet from any occupied structure not located on the lot on which the outdoor burner/furnace will be located.
3. Locate the outdoor burner/furnace at least 50 feet from all property lines.
4. Unless otherwise expressly prohibited by the manufacturer, due to anticipated resulting operational problem and/or manufacturer safety concerns, the outdoor burner/furnace shall have a stack or chimney that extends to a minimum height of the residential structure roof peak of which the outdoor burner/furnace is

servicing plus two (2) feet. If there are any residential structures within 200 feet, the stack or chimney shall extend at least as high above the ground surfaces as the height of the roof peaks of all such residences plus two (2) feet. The maximum height of the outdoor burner/furnace stack or chimney shall not exceed 50 feet.

5. Should a new residential structure be built, or an existing residential structure be modified within the 100 foot radius, the outdoor 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 in Paragraph 4.
6. Present evidence that the applicant has obtained a Uniform Construction Code permit for the installation of the outdoor burner/furnace and its connection to the mechanical system of the structure it will service.
7. Provide a copy of the manufacturer's specification and instructions, which the applicant agrees to comply with and not alter at any time. Any new Outdoor Burner/Furnace be certified or qualified by the EPA as meeting a Phase 2 particulate matter emission limit of 0.32 pounds per million British Thermal Units output and is labeled accordingly. Phase 2 outdoor boiler models will be identified with a white hang tag.
8. Demonstrate that the outdoor 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.
9. All outdoor burner/furnaces shall be equipped with properly functioning spark arrestors.

The application shall be signed by all owners of the lot on which the outdoor burner/furnace will be located, as well as the contractor installing the outdoor burner/furnace.

SECTION 8 – REPLACEMENTS AND MODIFICATIONS

If an outdoor burner/furnace is replaced, upgraded, or modified in any manner, a Compliance Permit shall be required pursuant to Section 4 of this Ordinance and shall comply with all sections of this Ordinance and any other applicable Township Ordinances.

SECTION 9 USE OF OUTDOOR BURNERS/FURNANCES

The only substances that may be burned in an outdoor burner/furnace are those in compliance with the manufacturer's recommendation. Additionally, no person shall burn any of the following in an outdoor burner/furnace:

1. Any wood that does not meet the definition of clean wood.
2. Tires.

3. Lawn clippings or yard waste.
4. Rubbish or garbage, including but not limited to food wastes, food packaging or food wraps.
5. Material containing plastic.
6. Materials containing rubber.
7. Waste petroleum products.
8. Paint and thinners.
9. Any type of paper/cardboard.
10. Construction and demolition debris.
11. Plywood or other composite wood products.
12. Particle board.
13. Manure.
14. Animal carcasses.
15. Asphalt products.
16. Used cooking oils.
17. Any materials designated by the Township as recyclable.

The outdoor burner/furnace shall at all times be operated and maintained in accordance with manufacturer's specifications.

Outdoor burner/furnaces are NOT intended to be placed inside an enclosed structure and such installation is prohibited. However, installation in a covered, open sided structure, as recommended by the manufacturer, shall be permitted.

The outdoor burner/furnace shall be maintained and operated in compliance with all emissions of air quality standards promulgated by the U.S. Environmental Protection Agency, the Pennsylvania Department of Environmental Protection or other appropriate state or federal agency.

No person shall use or operate a new or existing outdoor burner/furnace unless it complies with all existing state and local regulations. Some regulations of this Commonwealth that may apply include:

- 25 Pa. Code Section 121.7 – Prohibition of Air Pollution
- 25 Pa. Code Section 123.1 – Fugitive Emissions
- 25 Pa. Code Section 123.14 – Allowed Fuels
- 25 Pa. Code Section 123.31 – Odor Emissions
- 25 Pa. Code Section 123.41 – Visible Emissions
- Section 8 of the APCA, 35 P.S. Section 4008 – Unlawful Conduct
- Section 13 of the APCA, 35 P.S. Section 4013 – Public Nuisances

Any ash or other by products of the operation of the outdoor burner/furnace shall be disposed of in accordance with all applicable laws.

The Enforcement Officer may recommend, or require as necessary, other modifications to the operation of an outdoor burner/furnace as may be reasonably expected to

alleviate or prevent nuisance issues attributable to the operation of an outdoor burner/furnace.

SECTION 10 – OPERATION SCHEDULE

An outdoor burner/furnace may be operated all year long so long as the burner/furnace owner/operator has the appropriate permits as outlined in this Ordinance.

SECTION 11 – ENFORCEMENT AND PENALTIES

11.1 Enforcement Officer

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

11.2 Duties of the Enforcement Officer

- A. Inspection – the 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 the Enforcement Officer determines that a violation of this Ordinance exists, he or she shall issue a non-traffic citation in accordance with the requirement of the Pennsylvania Second Class Township Code.

11.3 Inspections, Permission

The Enforcement Office, and any other agent so authorized by the Board of Supervisors, may inspect any premises to determine whether or not any violations of this Ordinance exist. Prior to entering upon any property to conduct an inspection, the Enforcement Officer shall obtain permission of the owner or the occupant of the property to conduct the inspection. If after due diligence, the Enforcement Officer is unable to obtain such permission, the 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 any costs, including reasonable attorney's fees, incurred in obtaining the warrant. There shall be an immediate revocation of the Compliance Permit and/or Operating Permit if permission to inspect is denied.

11.4 Notice of Violation

Whenever an inspection discloses that a violation of this Ordinance exists, the Enforcement Officer shall, upon authorization by the Township, 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. A copy of the Enforcement Officer's inspection report detailing the conditions constituting the violation;
 - b. An outline of the remedial action required to come into compliance with the Ordinance; and,
 - c. A reasonable time frame within which to rectify the violation, which otherwise shall not exceed ninety (90) days.
- D. Inform the owner of the right to request a hearing before the Township Board of 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 this 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, 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 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 Hearings

- A. Right to Hearing – Any person affected by any Notice which has been issued in accordance with the enforcement of any provision of this Ordinance may request and shall be granted a hearing on the matter before the Township Board of Supervisors, provided that such person file a written request for the hearing within ten (10) days after service of the Notice. The request shall contain a brief statement regarding the reasons for the request.
- B. Scheduling and Conduct of the Hearing – Upon receipt of a request for a hearing, a time and place for the hearing shall be scheduled and advertised in accordance with applicable municipal requirements. All hearings shall be conducted in accordance with the Local Agency Act. The hearing shall be scheduled no later than thirty (30) days after the day on which the request was received. At the hearing, the person requesting the hearing shall be given the opportunity to be heard and show cause why the violation described in the Notice should not be abated.
- C. Blair Township Action – After such hearing, the Township shall issue a written decision sustaining the Notice, modifying the Notice and attaching conditions or withdrawing the Notice. If the Township sustains the Notice, it shall be deemed to be a final order effective immediately.
- D. Right to Appeal – Any aggrieved party may appeal the final order to the Court of Common Pleas of Blair County in accordance with the provisions of the Local Agency Act. Such appeal shall not constitute a stay from the requirements of the final order unless an order to that effect is obtained from the Court.
- E. Fees – The person requesting the hearing shall pay the fee for such hearing as may be established by resolution of the Township which shall cover all costs of the hearing.

11.7 Remedies and Penalties

Any person who has violated or permitted the violation of any provision of this Ordinance shall, upon conviction thereof in an action brought in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) plus costs. Each day that a violation of this Ordinance continues or each section of this Ordinance which shall be found to have been violated shall constitute a separate offense. All judgments, costs, interest and reasonable attorney's fees collected for a violation of this Ordinance shall be paid to the Township and deposited into the general fund.

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

SECTION 12 – TOWNSHIP EXEMPT FROM LIABILITY

The 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. The failure of the Township to promptly enforce any provision of the Ordinance shall not subject the Township to any liability.

SECTION 13 – VARIANCES

The Township Supervisors may grant variances based upon a presentation of the unique factors rendering restrictions set forth herein to be both unnecessary for the protection of the public health, safety, and welfare and impractical or not feasible with which to comply. Such variances, if granted, shall have a term of one year and will be automatically renewed in the absence of complaints or other problems. Any such variance granted may contain such provisions as the Township Board of Supervisors may deem necessary to protect the health, safety, and welfare of Township residents and to prevent a nuisance. Any person granted a variance shall indemnify, defend and hold harmless the Township from any liability that may arise wholly or partially out of the granting of the variance.

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 which are inconsistent herewith are hereby repealed. The following Ordinance is specifically repealed:

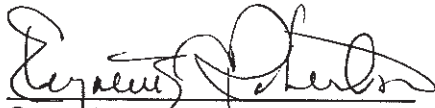
2009-01 – Outdoor Solid Fuel Burning Furnaces or Appliances

SECTION 16 – EFFECTIVE DATE

This Ordinance shall be placed into effect as of April 12, 2016.

ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Supervisors of Blair Township, Blair County, Pennsylvania, this 12th day of April, 2016.

ATTEST:


Secretary

BLAIR TOWNSHIP BOARD OF SUPERVISORS

BY: 

BY: 

BY: 