

ORDINANCE NO.

AN ORDINANCE OF THE BOROUGH OF BLOSSBURG, TIOGA COUNTY, PENNSYLVANIA, REGULATING BURNING, REFUSE BURNING AND CERTAIN HEATING DEVICES, ESTABLISHING THE REQUIREMENTS OF OBTAINING A PERMIT BEFORE INSTALLING AN OUTDOOR FURNACE, REGULATIONS FOR OUTDOOR FURNACES AND EMISSIONS, APPEAL AND VARIANCE PROCEDURES, AND CRIMINAL AND CIVIL PENALTIES.

PURPOSE:

WHEREAS, the use of alternative fuels has increased in recent years due to the general availability of outdoor furnaces with the use of renewable fuels and to the rising costs of more traditional non renewable petroleum based fuel and fossil fuels; and,

WHEREAS, the Borough Council of the Borough of Blossburg, now determines that exposure to the pollutants contained in smoke generated by open burning, outdoor burning, refuse burning and certain heating devices can cause or contribute to health problems and can exasperate existing health problems; and,

WHEREAS, it is the intention of the Borough of Blossburg to establish and impose regulations upon the construction and operation of outdoor furnaces within the limits of the Borough for the purpose of securing and promoting the public health, comfort, convenience, safety and welfare of the Borough and its inhabitants.

NOW THEREFORE it is hereby enacted and ordained as follows;

SECTION 1. APPLICATIONS AND EXCEPTIONS

This Ordinance applies to all burning and refuse burning and certain heating devices within the Borough of Blossburg. This Ordinance does not apply to burning which does not create a nuisance or a fire hazard and which is attended by a responsible person at all times until completely extinguished and is done for the following purposes:

1. Outdoor grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances;
2. Burning in a stove, fireplace and those furnaces not regulated herein, unless the material being burned includes refuse as defined herein;
3. The use of propane, acetylene, natural gas, heating oil, gasoline or kerosene in a device intended for heating, construction, manufacturing or maintenance activities.

SECTION 2. DEFINITIONS

For purposes of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1. "Campfire" means small outdoor fire intended for recreation or cooking, not including a fire intended for disposal of waste wood or refuse.
2. "Refuse" means any waste material except clean wood.
3. Outdoor Furnaces: Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuels 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 boiler or outdoor wood-fired hydronic heater. The term outdoor furnaces shall cover any furnace or boiler which utilizes fuels recommended by the manufacturer. This specifically would include wood, wood pellets, biomass pellets, corn products, coal and waste petroleum products.
4. Chimney: Flue or flues that carries off exhaust from an outdoor furnace firebox or burn chamber.
5. EPA OWHH Phase 1 Program: EPA OWHH (Outdoor Wood-fired Hydronic Heater Program) Phase 1 Program administered by the United States Environmental Protection Agency.
6. EPA OWHH Phase 1 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 hangtag.
7. Existing Outdoor Furnace: An outdoor furnace that was purchased and installed prior to the effective date of this Ordinance.
8. 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.
9. Nuisance: Nuisance shall be defined as conduct tending to cause danger, discomfort or undue annoyance or undue unpleasantness to persons.

10. New outdoor furnace: An outdoor furnace that is first installed, established or constructed after the effective date of this Ordinance.
11. Wood Furnace: A furnace, stove, boiler or similar device or any part thereof, designated for burning wood, but which is only used as a short-term heating source.

SECTION 3. GENERAL PROHIBITION ON OUTDOOR BURNING AND REFUSE BURNING

Open burning and refuse burning are prohibited in the Borough of Blossburg unless the burning is specifically permitted by this Ordinance.

SECTION 4. MATERIALS THAT MAY NOT BE BURNED

Unless a specific written approval has been obtained from state or federal agencies, the following materials may not be burned in an open fire, incinerator, burn barrel, furnace, stove or other indoor or outdoor incineration or heating device;

1. Rubbish or garbage, including, but not limited to, food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris, or other household or business wastes.
2. Waste oil or other oily wastes (Unless furnace is designed and manufactured for waste oil).
3. Asphalt and products containing asphalt.
4. Treated or painted wood including, but not limited to, plywood, composite wood products or other wood products that are glued, painted, varnished or treated with preservatives.
5. Any plastic material including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, synthetic fabrics, plastic films and plastic containers.
6. Rubber including tires and synthetic rubber like products.
7. Newspaper, corrugated cardboard, container board and paper products. Notwithstanding the foregoing provisions, small quantities of newspapers, paper and cardboard products may be used as starter fuel for any fire that is permitted under this Ordinance.
8. Leaves, weeds, brush, stumps, trees and other vegetative debris, except as specifically permitted by this Ordinance.

SECTION 5. RESTRICTIONS ON BURNING EXEMPTIONS

All burning conducted shall be subject to the following:

1. Only natural wood shall be burned unless otherwise stated.
2. All exposed and non-contained fires shall be attended at all times until completely extinguished.
3. All permitted farm and maintenance burning shall occur only from dawn to one hour prior to dusk; and all burning material must be consumed during these hours and the fire extinguished.
4. No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, drought, and similar circumstances, when so declared by the Fire Chief, the Mayor, County Emergency Management or other designated Officials.
5. All burning shall comply with all other applicable federal or state laws, rules and regulations.
6. In the event a fire creates a pollution problem, threat to public health, a nuisance or a fire hazard, as determined by the Fire Chief or Police Chief, the fire shall be immediately extinguished.

SECTION 6. REGULATIONS - FOR OUTDOOR FURNACES

- A. No person shall, from the effective date of this Ordinance, construct, install, establish, operate or maintain an outdoor furnace other than in compliance with the applicable sections of this Ordinance.
- B. 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 local law regarding fuels that may be burned in an outdoor furnace as set forth in Sections 7.A and 7.B of this Ordinance and chimney height as set forth in Section 7.C of this Ordinance.
- C. All outdoor furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this Ordinance. In the event of a conflict, the requirements of this Ordinance shall apply unless the manufacturer's instructions are more strict, in which case the manufacturer's instructions shall apply.
- D. The owner of any outdoor furnace shall produce the manufacturer owner's manual or installation instructions to the Building Codes Permit Office to review prior to installation.

- E. All outdoor furnaces shall be laboratory tested and listed to appropriate safety standards, such as UL, CAN/CSA, ANSI or other applicable safety standards.
- F. If an existing outdoor furnace is, through the course of a proper investigation by local authorities, creating a verifiable nuisance, as defined by the Borough's Ordinance or state laws, the Borough may issue a cease and desist order stopping operation of said furnace until reasonable steps can be taken to be sure the wood furnace will not be a nuisance. In addition, natural wood shall be wood that does not have moisture content either internal or external which would cause said natural wood, during combustion, to discharge an excess amount of water vapor. The Borough may issue an intent to cease and desist the operation of said furnace until reasonable steps can be taken to make sure the wood furnace will not be a nuisance.
- G. Once an intent to cease and desist is issued, the home owner shall have five (5) days to file for a hearing before the Municipality to determine if a cease and desist order should be enforced. If the homeowner fails to file an Appeal or fails to have the Borough Official lift the intent to issue a cease and desist order, the homeowner shall stop using the furnace.
- H. In the event a Municipality issues a cease and desist order as outlined above, the owner shall be allowed to make modifications to the unit to eliminate the nuisance. For example, extending the chimney or relocating the outdoor furnace or both.
- I. Outdoor furnaces shall not be operated during the months of June, July and August unless specifically authorized by Resolution of Council due to emergency situations.
- J. All existing outdoor furnaces which are located within the Borough of Blossburg prior to the effective date of this Ordinance, shall be upon application, granted a permit. The permit shall be issued without fee and shall be documentation that the outdoor furnace predated the Ordinance. Owners and/or operators of existing outdoor furnaces shall not be required to abide by the provisions of this Ordinance concerning installation or location. All existing outdoor furnaces shall however, abide by the same terms and conditions of new installations in regards to the type of fuel used or prohibited, seasons of operations and quality of operation as it effects the Community due to smoke, pollution and nuisance.
- K. In the event that an outdoor furnace, a wood furnace or existing outdoor furnace is determined to be 50% torn down, physically deteriorated, rusted or decayed, the appliance must be removed and/or replaced with a new unit. In the event of replacement of a new unit, all the requirements of

Section 9 must be followed. However, the replacement stove shall be considered an existing outdoor furnace pursuant to Section 6. J.

SECTION 7. SUBSTANTIVE REQUIREMENTS

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

- A. Fuel burned in any new or existing outdoor furnace shall be only natural untreated wood, wood pellets, coal, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions.
- B. 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, including but not limited to particleboard.
 - 2. Rubbish or garbage including, but not limited to, food wastes, food packaging and food wraps.
 - 3. Any plastic materials including, but not limited to, nylon, PVC, ABS, Polystyrene or urethane foam and synthetic fabrics, plastic films and plastic containers. This provision is in addition to all other provisions of this section.
 - 4. Rubber including tires or other, synthetic rubber-like products.
 - 5. Newspaper, cardboard or any paper with ink or dye products.
 - 6. Paints or paint solvents.
- C. Setbacks for any new outdoor furnace (models not EPA OWHH Phase 1 Program Qualified):
 - 1. All outdoor furnaces shall have a chimney that extends at least nine (9) feet above the ground of the furnace. An outdoor furnace in existence on the effective date of this Ordinance shall, within one hundred twenty (120) days of the adoption of this Ordinance, install a chimney that extends at least nine (9) feet in height above the ground surface. The chimney heights of new outdoor furnaces shall be determined by the distance from the nearest residence. It is further recommended that the outdoor furnace be located with due consideration to the prevailing wind direction.

2. Outdoor furnaces shall be located no less than one hundred (100) feet from any residence that is not served by the outdoor furnace or seventy-five (75) feet from any vacant lot property lines.
3. If the outdoor furnace is located within one hundred (100) feet to three hundred (300) feet to any residence not served by the outdoor furnace, the stack shall be at least two (2) feet higher than the peak of the residence not being served by the outdoor furnace.
4. All outdoor furnaces shall be equipped with properly functioning spark arresters to be in conformity with manufacturer's specification with regard to the release of sparks.
5. Installation shall be in accordance with specifications attached hereto as Exhibit A and incorporated by reference as Exhibit A.

SECTION 8. APPEALS/VARIANCES

- A. Any decision of a building inspector or Borough Official in regard to the enforcement of this Ordinance may be appealed to Borough Council by filing a Notice of Appeal with the Borough Secretary. Appeals must be filed within thirty (30) days of notice of violation or decision of the Borough Official except for appeal of a cease and desist order in the operation of an outdoor furnace which must be appealed within five (5) days pursuant to Section 6. This shall include, but not be limited to, the denial of a permit to install an outdoor furnace.
- B. If a decision of the Borough Official is appealed to the Borough Council, the Borough Council shall schedule a Hearing as soon as practically possible and render a decision. A Hearing before the Borough Council shall be governed by the Local Agency Act. A ruling of the Borough Council may be appealed to the Court of Common Pleas within thirty (30) days after the grieved party has received a copy of a decision pursuant to the Local Agency Act.
- C. In the event a party appeals to the Court of Common Pleas, the Court of Common Pleas shall have jurisdiction over the use of the outdoor furnace during the pendency of the Appeal. For example, it is within the jurisdiction of the Court to allow the home owner to utilize the outdoor furnace during the pendency of Appeal or to set restrictions or prohibition on the use of an outdoor furnace during the pendency of the Appeal. A ruling by the Borough Council may be appealed to the Court of Common Pleas within thirty (30) days after the grieved party has received a copy of the decision pursuant to the Local Agency Act.

Appeal Fees: Appeal fees shall be established by a Resolution of the Borough of Blossburg.

SECTION 9. PERMITS, VIOLATIONS AND PENALTIES

- A. No person shall cause, allow or maintain the use of an outdoor furnace within the Borough of Blossburg without first having obtained a permit from the Borough Codes Office, excepting however, that all operators or owners with outdoor furnaces shall have ninety (90) days from the effective date of this Ordinance to obtain a permit conforming to the regulations herein stated. Permit fees shall be established by the Borough Council of the Borough of Blossburg.

- B. Right of Entry and Inspection: The Borough Manager, Police Chief, Codes Enforcement Officer and/or any authorized officer who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this Ordinance.

- C. Enforcement and Penalties:
 - 1. The Borough Manager, Police Chief and/or Code Enforcement Officer are authorized to enforce the provisions of this Ordinance.

 - 2. Any person, firm, association, partnership, corporate or governmental entity who violates any of the provisions of this Ordinance or fails to comply with a duly authorized Order issued pursuant to this Ordinance shall be deemed to be responsible for a municipal civil infraction which shall be punishable by civil fines determined in accordance with the following schedule:

Offense	Minimum Fine	Maximum Fine
1 st Offense within 3 year period *	\$75	\$500
2 nd Offense within 3 year period *	\$150	\$500
3 rd Offense within 3 year period *	\$325	\$500
4 th or more Offense within 3 year period *	\$500	\$500

**Determined on the basis of the date of commission of the offense(s).

3. The violator shall pay costs which may include all expenses, direct and/or indirect, which the Borough of Blossburg has incurred in connection with the infraction. In no case, however, shall costs of less than \$10.00 or more than \$500.00 be ordered. In addition, the Borough shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance exists shall constitute a separate violation this Ordinance.

D. Emissions

A permit issued pursuant to this Ordinance may be suspended as the Borough Manager, Police Chief or Codes Enforcement Office may determine to be necessary to protect the public health, safety and welfare of the residents of the Borough of Blossburg, if any of the following conditions occur:

1. The emissions from the outdoor furnace interfere with the reasonable enjoyment of life, safety or property.
2. The emissions from the outdoor furnace cause damage to vegetation or property.
3. The emissions from the outdoor furnace are unreasonably malodorous.

E. Reinstatement of Permit

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. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this Ordinance subject to the penalties provided herein.

SECTION 10. SUBSTANTIVE REQUIREMENTS CIVIL PROCEEDINGS

Compliance with this Ordinance may also be compelled and violations restrained by Order or by injunction of a Court of competent jurisdiction. Any person who violated any provision of this law shall also be subject to a civil penalty of not more than \$500.00, to be recovered by the Borough of Blossburg, a civil action, and each day's continued violation shall be for this purpose a separate and distinct violation. In the event the Borough of Blossburg is required to take legal action to enforce this Ordinance, the violator shall be responsible for any and all necessary costs relative thereto, including Attorney's fees and expenses and such expense shall be charged to the violator so affected.

SECTION 11. SEVERABILITY

The provisions of this Ordinance are severable and the invalidity of a particular provision shall not invalidate any other provision.

1. This Ordinance shall repeal any Ordinances which are inconsistent with this Ordinance.
2. This Ordinance shall be effective within five (5) days from the date of adoption.

ORDAINED AND ENACTED this _____ day of _____, 2008.

By: _____
Jerome L. Ogden, Council President

Examined and approved this _____ day of _____, 2008.

By: _____
John E. Backman, Mayor

Attested by:

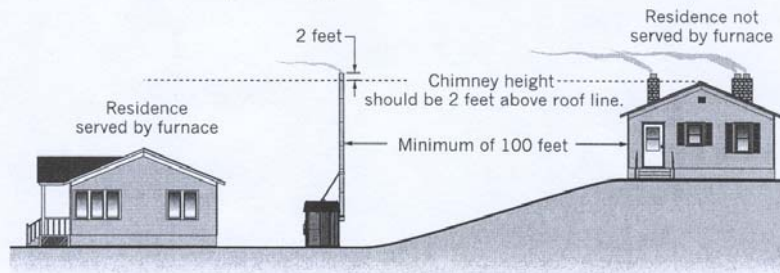
Borough Secretary

EXHIBIT A

OUTDOOR WOOD FURNACE BEST BURN PRACTICES

1. Read and follow all operating instructions supplied by the manufacturer.
2. **FUEL USED:** Only those listed fuels recommended by the manufacturer of your unit. Never use the following: trash, plastics, gasoline, rubber, naphtha, household garbage, material treated with petroleum products (particle board, railroad ties and pressure treated wood), leaves, paper products, and cardboard.
3. **LOADING FUEL:** For a more efficient burn, pay careful attention to loading times and amounts. Follow the manufacturer's written instructions for recommended loading times and amounts.
4. **STARTERS:** Do not use lighter fluids, gasoline, or chemicals.
5. **LOCATION:** It is recommended that the unit be located with due consideration to the prevailing wind direction.
 - Furnace should be located no less than 100 feet from any residence not served by the furnace.
 - If located within 100 feet to 300 feet to any residence not served by the furnace, it is recommended that the stack be at least 2 feet higher than the peak of that residence:

Chimney Height Installation Scenario



6. Always remember to comply with all applicable state and local codes.



OUTDOOR FURNACE MANUFACTURERS CAUCUS