

ORDINANCE NO. 2008-8

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF NESQUEHONING, CARBON COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF NESQUEHONING, AND REGULATING OUTDOOR FURNACES, REQUIRING CONDITIONS FOR MAINTENANCE AND OPERATION; AND ESTABLISHING THE PENALTIES FOR VIOLATION OF THE ORDINANCE

**BE IT ORDAINED and ENACTED** by the Council of the Borough of Nesquehoning, Carbon County, Pennsylvania and is hereby Ordained and Enacted by authority of the same as follows:

SECTION 1. PURPOSE AND SCOPE

- A. Residence, commercial, and industrial establishments situated within the Borough are entitled to clean air and environmental circumstances free of unreasonable dust, obnoxious odors, noxious fumes and smells, as well as an environment free of stored debris and storage of combustible fuels in adjacent or exposed exterior areas within densely populated areas.
- B. Research indicates that outdoor fuel burning appliances cause emission problems that cross property lines because the smoke stays close to the ground it can easily reach humans working or playing outdoors or penetrates neighboring buildings. It also causes problems with smoke visibility. The low lying smoke can worsen cardiovascular problems such as angina, irritate eyes and lungs, trigger headaches, worsen respiratory diseases such as asthma, emphysema and bronchitis.

SECTION 2. DEFINITIONS

- A. **OUTDOOR FURNANCES:** any equipment, device, apparatus or structure or any part thereof which is installed, affixed or situated outdoors for the purpose of combustion of any type of fuel to produce heat or energy used as a component of a heating system providing heat for an interior space or water source.
- B. **CHIMNEY:** any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired outdoor furnace, especially that part of such structure extending above a roof.

SECTION 3. REGULATIONS

- A. Outdoor furnaces shall not be placed less than one hundred (100) feet from the nearest point of intersection of any other adjacent property owner's structure and shall have a chimney stack of at least twenty (20) feet and /or at least two feet above the roof line of the highest structure within two hundred (200) feet, when installed. Said chimney stack shall also have a spark arrestor installed on top.

- B. Outdoor furnaces shall not be placed less than one hundred (100) feet from the nearest point of intersection of the property line of another property owner.
- C. An area of twenty (20) feet around the outdoor furnace structure shall be free of vegetation, except grass not exceeding four inches in height.
- D. The minimum required lot size for an outdoor furnace is forty thousand (40,000) square feet.
- E. No other fuel other than natural wood without additive, wood pellets without additive and agricultural seeds in their natural state may be burned. Processed wood products and other non-wood products, recyclable materials, plastics, rubber, paper products, garbage and painted or treated wood are prohibited.
- F. Furnaces are prohibited to burn between May 1 and September 30.
- G. Outdoor furnaces which are designed to heat structures 10% greater than the size of the structure(s) are not permitted.
- H. Outdoor furnaces and associated installation shall be subject to inspection by the Zoning Enforcement Officer and Building Codes Enforcement Officer at any reasonable time to assure compliance with the terms hereof.
- I. Outdoor furnace installation is subject to the permit provisions of the zoning and building code ordinances, including furnishing the following information:
  - 1. A drawing providing and identifying all of the information necessary to assure compliance herewith, including property lines, location of neighboring properties and structures, height of nearby buildings, etc.
  - 2. Manufacturer's specifications for the outdoor furnace.
  - 3. Compliance with all applicable State and Federal Statutes, including the Environmental Protection Agency (EPA) and the Underwriter's Laboratory (UL) listing.
- J. Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.
- K. This part shall not be a defense to any civil claims.
- L. All outdoor furnaces shall be operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulation promulgated hereunder shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.

- M. Ashes or waste cannot be accumulated in a large area on the property. They may be dispersed on the property as long as no accumulation can be seen (for example: spread in a driveway). Any large accumulation of ashes or waste must be disposed of weekly with your trash.
- N. All storage of materials being burnt in the outdoor furnace shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.

#### SECTION 4. ENFORCEMENT

- A. If noncompliance with the provisions of this part constitutes a nuisance, or if any condition poses a threat to the health, safety, or welfare of the public, the Police Department shall issue a written notice to be served by registered or certified mail upon the owner of said premises or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.
- B. Said notice shall specify the condition complained of and shall require the owner to commence to remove or otherwise rectify the condition as set forth therein within ten (10) days of mailing or posting of said notice and, thereafter, to fully comply with the requirements of the said notice within a reasonable time.

#### SECTION 5. PENTALTY

Any person who shall violated any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not m ore than six-hundred (\$600) dollars, and default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Ordinance continues constitutes a separate offense.

#### SECTION 6. GRANDFATHER CLAUSE

This ordinance shall not be construed to be retroactive and shall not require the removal of any outdoor furnace in existence within the Borough at the effective date of this Ordinance. All outdoor furnaces in existence at the effective date of this ordinance shall have or must erect a flue or chimney in accordance with the height requirements contained herein. If an outdoor furnace is more than 50% torn down, damaged, deteriorated or otherwise reduced to 50% of its original design, any rebuilding or restoration of said outdoor furnace shall be a violation of this ordinance.

#### SECTION 7. 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 the Borough Council that this Ordinance would

have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

SECTION 8. EFFECTIVE DATE

This ordinance shall take effect on January 1, 2009.

**ORDAINTED and ENACTED** by the Council of the Borough of Nesquehoning this 22<sup>nd</sup> day of October, 2008.

BOROUGH OF NESQUEHONING

By: Donato DeMarco.  
President of Council

ATTEST:

RoniSue Ahner.  
Secretary/Treasurer

**Examined and Approved** this 22nd day of October, 2008.

K. Tony Walck.  
Mayor