

**TOWNSHIP OF JACKSON
CAMBRIA COUNTY, PENNSYLVANIA**

ORDINANCE NO. 182

AN ORDINANCE OF THE TOWNSHIP OF JACKSON, CAMBRIA COUNTY, PENNSYLVANIA, REGULATING THE INSTALLATION AND USE OF OUTDOOR FURNACES AND REGULATING THE EMISSION OF SMOKE FROM BUILDING HEATING SYSTEMS, AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, Section 1527 of the Second Class Township Code authorizes the Supervisors to adopt ordinances to secure the safety of persons or property within the Township and to define disturbances of the peace within the Township; and

WHEREAS, Section 1529 of the Second Class Township Code authorizes the Supervisors to prohibit nuisances within the Township; and

WHEREAS, the Supervisors are aware that certain building heating systems are being installed in surrounding communities that emit smoke at or near ground level causing a nuisance to the general public, which the Supervisors are authorized to prohibit by ordinance under Section 1529 of the Second Class Township Code; and

WHEREAS, the Supervisors are aware that certain building heating systems are being installed in surrounding communities that emit smoke at or near ground level affecting the health and general welfare of the residents of the Township, and the Supervisors are authorized to enact regulations protecting the health and general welfare of the residents of the Township under Section 1527 of the Second Class Township Code; and

WHEREAS, residents of the Township are subject to adverse affects to the residents' health and general welfare from outdoor furnaces.

BE IT ORDAINED AND ENACTED by the Supervisors of the Township of Jackson, County of Cambria and Commonwealth of Pennsylvania, and it is hereby Ordained and Enacted:

Section 1. Authority

This Ordinance is enacted pursuant to the specific powers granted to the municipality in the Second Class Township Code at Section 1527 with respect to health and safety of Township residents. Additionally, this Ordinance is enacted pursuant to the specific powers granted to the municipality with respect to nuisances (Section 1529).

Section 2. Purpose

It is the purpose of this Ordinance to establish and impose restrictions upon the construction and operation of outdoor furnaces within the limits of the Township of Jackson for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the Township and its inhabitants. It is generally recognized that the types of fuel used and the scale and duration of the burning by such furnaces create noxious and hazardous smoke, soot, fumes, odor, air pollution, particles and other products of combustion that can be detrimental to citizens' health and can deprive neighboring residents of the enjoyment of their property or premises.

Section 3. Findings

Smoke emitted from outdoor furnaces, chimneys, smokestacks and/or other sources of smoke as part of building heating systems not meeting the height regulation of this Ordinance shall constitute a nuisance and shall be a danger to the health and general welfare of the citizens of the Township due to the noxious fumes, reduction in breathable air, and risk to asthmatics and those with allergies.

Section 4. Definition

1. Outdoor Wood Furnace (OWF)

An outdoor wood-burning furnace is an accessory structure or appliance, designed to be located outside the buildings they heat, and may be in small sheds with short smokestacks. These units typically burn wood, or other approved fuel sources, to heat liquid (water or a combination of water and antifreeze) that is circulated through pipes to provide heat and hot water to buildings or locations such as homes, barns, pools, hot tubs and greenhouses, or living space ordinarily used for human habitation, spaces other than where the furnace is located or to any other structure or appliance on the premises. OWF excludes fire pits, wood-fired barbecues, Furnaces installed in a single family or commercial structure, heating only that structure and having a chimney.

Section 5. Regulations

1. Outdoor furnaces shall not be placed less than forty (40') feet from the nearest point of intersection of any other adjacent property owner's structure and shall have a chimney stack, smokestack utilized for the purposes of emitting smoke from a building heating system of at least twenty (20') feet and/or at least two (2') feet above the roof line of the highest structure, on neighboring property, within two hundred (200'), when installed. Said chimney stack shall also have a spark arrestor installed on top.

2. Outdoor furnaces shall not be placed less than twenty (20') feet from the nearest point of intersection of the property line of another property owner.

3. The minimum required lot size for an outdoor furnace is 40,000 square feet.

4. No fuel other than natural wood without additive, wood pellets without additive, coal, # 2 heating oil and agricultural seeds in their natural state may be burned in an outdoor furnace. Processed wood products and other non-wood products, recyclable materials, plastics, rubber, , garbage and painted or treated wood are prohibited.

5. Outdoor furnaces and associated installation shall be subject to inspection by the Township Code Enforcement Officer at any reasonable time to assure compliance with the terms hereof.

6. Outdoor furnace installation is subject to the permit provisions of the other Township ordinances including, but not limited to, building code ordinances including furnishing the following information:

a. 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.

b. Manufacturer's specifications for the outdoor furnace.

c. Compliance with all applicable State and Federal statutes including the Environmental Protection Agency (EPA) and the Underwriter's Laboratory (UL) listing.

7. Nothing contained herein shall authorize any installation that is a public or private nuisance, regardless of compliance herewith.

8. This Ordinance shall not be a defense to any civil claims.

Section 6. Enforcement

If noncompliance with the provisions of this Ordinance constitutes a nuisance, or if any condition poses a threat to the health, safety, or welfare of the public, the Police Department or Building Code Enforcement Officer 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.

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 thirty (30) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

Section 7. Penalty

Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than One Thousand and 00/100 (\$1,000.00) Dollars, and in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Ordinance continues shall constitute a separate offense.

Section 8. Grandfather Clause

This Ordinance shall not be construed to be retroactive and shall not require the removal of any outdoor furnace or component thereof in existence within the Township at the effective date of this Ordinance. All outdoor furnaces in existence at the effective date of this Ordinance shall have, or must erect within 90 days, a flue or chimney at least two feet higher than the highest point of the roof of the nearest residential structure. If an outdoor furnace is more than fifty (50%) percent torn down, damaged, deteriorated or otherwise reduced to fifty (50%) percent of its original design, any rebuilding or restoration of said outdoor furnace shall be a violation of this Ordinance.

Section 9. Variances

The Township Supervisors may grant variances based upon a presentation of unique factor rendering restrictions set forth herein, showing the restrictions to be both unnecessary for the protection of the public health safety and welfare and impractical or not feasible to comply with. Such variances, if granted, shall have a term of one year but be automatically renewed in the

absence of complaints or other problems. Persons requesting variances 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 10. Repealer

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

Section 11. 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 Jackson Township Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 12. Effective Date

This Ordinance shall become effective immediately.

ORDAINED AND ENACTED into law by the governing body of the Township of Jackson in lawful session assembled this 31ST day of January, 2019.

TOWNSHIP OF JACKSON

By: Bruce A. Baker
Bruce A. Baker, Chairman

By: John A. Wallet
John A. Wallet, Supervisor

By: Eric W. Dreikorn
Eric W. Dreikorn, Supervisor

ATTEST:

David M. Hirko
David M. Hirko, Secretary
(Seal)

