

**ORDINANCE NO. 6 of 2008**

**AN ORDINANCE OF THE BOROUGH OF SUMMIT HILL, COUNTY OF CARBON, COMMONWEALTH OF PENNSYLVANIA DEFINING "OUTDOOR FUEL BURNING APPLIANCES"; REGULATING THESE APPLIANCES AND THE REQUIRED CONDITIONS OF MAINTENANCE AND OPERATION; ESTABLISHING THE PENALTIES FOR VIOLATIONS OF THE ORDINANCE; AND SETTING FORTH AN EFFECTIVE DATE FOR THE ORDINANCE.**

**WHEREAS**, Section 53 P.S. 46202 (6) of the Borough Code permits Boroughs to make regulations as may be necessary for health, safety, morals, general welfare and cleanliness and the beauty, convenience, comfort and safety of the Borough; and

**WHEREAS**, The Borough Council of Summit Hill wishes to regulate outdoor fuel burning appliances for purposes of health, safety, general welfare and cleanliness of the Borough and its residents.

**NOW THEREFORE**, be in enacted and ordained by the Borough of Summit Hill hereby authorizing the following:

**SECTION 1. Purpose and Scope**

**A.** Residences, commercial and industrial establishments situated within the Borough are entitle 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 fuel in adjacent or exposed exterior areas within densely populated area.

**B.** Outdoor fuel burning appliances may 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 penetrate 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.

**C.** All outdoor burning is strictly regulated because of the adverse effects on the environment and the detrimental impact on the health, safety, general welfare and cleanliness of the residents of Summit Hill Borough.

**SECTION 2. Definitions**

**Outdoor fuel burning appliance** – a device including any furnace, stove or boiler designed and constructed to burn oil, wood, coal or other fuels manufactured for placement outdoors for the heating of the living are of a structure.

**Chimney** – any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired outdoor heating device, especially that part of such structures extending above a roof.

**Clean Wood** – wood that has no 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; also defined as wood pellets made from clean wood.

**Code Enforcement Officer** – a person appointed by council to administer and enforce this ordinance

**Borough** – The Borough of Summit Hill

**Person** – Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, government entity or agency, or other legal entity recognized by law.

### **SECTION 3. Application for and Installations of Outdoor Fuel Burning Appliances**

Any person desiring to apply for and install an outdoor fuel burning appliance shall obtain a permit from the Code Enforcement Officer. The application for such a permit shall include:

1. A plan showing all property lines, the locations of all dwellings or occupied buildings on adjoining properties, and the proposed location of the outdoor fuel burning appliance. The minimum lot area of the lot on which the outdoor fuel burning appliance may be located is (3500) square feet.
2. The location of the outdoor fuel burning appliance in such a location so as to comply with the Summit Hill Zoning Ordinance for setback and distances between buildings, both principal and necessary in nature.
3. Evidence that the applicant has obtained a zoning permit for the proposed outdoor fuel burning appliance, if applicable.
4. Evidence that the applicant has obtained a Uniform Construction Code permit for the installation of the outdoor fuel burning appliance and its connection to the mechanical system of the structure it will serve.
5. Evidence that the chimney of the outdoor fuel burning appliance is no less than manufacturer's specifications in height or five (5) feet in excess of the height of any occupied structure within three hundred (300) feet not located on the lot on which the outdoor fuel burning appliance will be located.

6. A copy of the manufacturer's specification and instructions, which applicant agrees to comply with and will not alter at or anytime.
7. Evidence that the outdoor has been laboratory tested and listed to appropriate safety standards such as UL (Underwriters Laboratories) or ANSI (American National Standards Institute) standards.
8. Evidence that the outdoor fuel-burning appliances are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emission standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.
9. Evidence that the outdoor fuel burning appliances will be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.

The application shall be signed by all owners of the lot on which the outdoor fuel burning appliance will be located and the contractor installing the outdoor fuel burning appliance.

#### **SECTION 4. Regulations for New Outdoor Fuel Burning Appliances**

- A.** Any new outdoor fuel-burning appliance must have a:
  - 1) Chimney that shall extend at least two (2') feet above the peak of any residence not served by an outdoor fuel burning appliance located within 300 feet of such chimney.
- B.** No homemade outdoor fuel burning appliances will be allowed.
- C.** Only natural wood, coal, heating oil, natural gas, kerosene or wood specifically permitted by the manufacturer in writing may be burned in outdoor furnaces. The burning is outside furnaces of processed wood products and non-wood products, household or other garbage, recyclable material, rubber tires, railroad ties, leaves, laminated wood wet or soggy wood, painted or treaded wood and any item not specifically and in writing permitted by the manufacturer is prohibited.
- D.** A permit must be acquired prior to the installation of any outdoor furnace appliance, and an inspection completed prior to the operation of subject appliance. The permit fee is \$75.00 and the inspection will be completed by the Borough Code Enforcement Officer.

**E.** 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.

**F.** All outdoor fuel-burning appliances may only be utilized for the sole purpose of furnishing heat to a residence and hot water during the period of October 1 through April 30; and only if the outdoor fuel-burning appliance meets the requirements of this Ordinance.

**G.** If an outdoor fuel-burning appliance is more than fifty (50%) percent torn down, physically deteriorated or decayed, the appliance must be removed and/or replaced with a new unit.

**H.** All storage of materials being burnt in the outdoor fuel burning appliance shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.

#### **SECTION 5. Regulations for Existing Outdoor Fuel Burning Appliances**

**A.** All outdoor fuel burning appliances in existence at the effective date of this Ordinance shall have or must erect a safe flue or chimney which shall extend at least 2 feet above the peak of any residences not served by an outdoor fuel burning appliance located within 300 feet of such chimney.

**B.** If there is an existing outdoor fuel burning appliance already installed and there is new construction of a residence not served by an outdoor fuel burning appliance within 300 feet of such existing outdoor fuel burning appliance, then the owner of such appliance shall conform to the stack height requirements of this regulation within 30 days of the date this construction is complete and upon written notice from the Borough through its Code Enforcement Officer.

**C.** Only natural wood, coal, heating oil, natural gas, kerosene or wood specifically permitted by the manufacturer in writing may be burned in outdoor furnaces. The burning in outside furnaces of processed wood products and non-wood products, household or other garbage, recyclable material, rubber tires, railroad ties, leaves, laminated wood, wet or soggy wood, painted or treated wood and any item not specifically and in writing permitted by the manufacturer is prohibited.

**D.** All outdoor fuel burning appliances may only be utilized for the sole purpose of furnishing heat to a residence and hot water during the period of November 1 through March 31; and only if the outdoor fuel burning appliances meets the requirements of this Ordinance.

**E.** If an outdoor fuel burning appliance is more than fifty (50%) percent torn down, physically deteriorated or decayed, the appliance must be removed and/or replaced with a new unit and the new unit must comply with all of the regulations listed in Section 3 of this Ordinance.

the detriment of the neighborhood or community by such grant. In making such determination the Board shall also consider:

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- 2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;
- 3) Whether the requested variance is substantial;
- 4) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Borough Council, but shall not necessarily preclude the granting of the variance.

#### **SECTION 7. Enforcement**

It shall be the duty of the Borough Code Enforcement Officer to enforce the terms of this Ordinance and secure compliance with requirements thereof.

#### **SECTION 8. Penalties**

Any person, who shall violate any provision of this Ordinance, shall upon conviction thereof be sentenced to pay a fine of not less than Three Hundred (\$300.00) Dollars nor more than Six Hundred (\$600.00) Dollars and in default of payment of said fine, to imprisonment for a term not to exceed Ninety (90) days. Every day that a violation of this Ordinance continues, shall constitute a separate offense.

#### **SECTION 9. 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, section or parts of the Ordinance. It is hereby declared as the intent of the Borough of Summit Hill that is Ordinance would have been adopted has such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

#### **SECTION 10. Effective Date**

This Ordinance shall take effect five (5) days from the date of enactment.

F. 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.

G. All storage of materials being burnt in the outdoor fuel burning appliance shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.

#### **SECTION 6. Miscellaneous, Nuisance Appliance and Appeals**

A. If an outdoor fuel burning appliance is, through the course of proper investigation by local authorities, creating a verifiable nuisance, as defined by local or state law, the following steps may be taken by the owner and/or the Borough:

- 1) Modification made to the unit to eliminate the nuisance such as extending the chimney, or relocating the outdoor fuel burning appliance, or both.
- 2) Cease and desist operating the unit until reasonable steps can be taken to ensure that the outdoor fuel burning appliance will not be a nuisance.

B. Appeals from any actions, decisions, or rulings of the code enforcement officer from the strict application of the specific requirements of this Ordinance may be made to the Borough Council. Requests for all appeals shall be made in writing to the Borough Council not later than ten (10) days of the act, decision, or ruling from which relief is sought. Issues/Appeals related to the zoning officer's Decision must be applied to the Summit Hill Zoning Hearing Board.

1) Appeal Fees. Appeal fees may be established by Borough Council by resolution. If no fee is established by resolution, the fee shall be \$400.00.

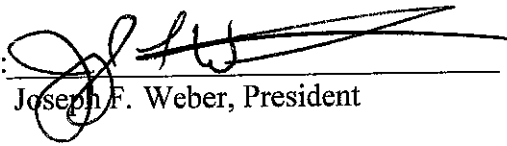
2) Public Hearing. Within sixty (60) days after receiving the written request, the Borough Council shall hold a public hearing on the Appeal, with the prior notice published in a newspaper of general circulation in the Borough at least seven (7) days before the hearing and specifying the date, place, time and purpose of the hearing.

3) Decision of the Borough Council. Within 60 days of the final adjournment of a public hearing, the Borough Council shall affirm, modify or deny the action, decision or ruling of the Code Enforcement Officer, or approve with conditions or disapprove the application. The decision of the Borough Council shall be in writing. As part of the decision the Borough Council shall direct the officer to issue any appropriate permit in conformity with its ruling and shall state a time by which such permit shall be issued, in conformity with this Ordinance.

C. Criteria for Variances. In making this determination the Borough Council shall take into consideration the benefit to the applicant if the variance is granted, as weighted against

**DULY ENACTED AND ORDAINED** this 9<sup>TH</sup> day of DECEMBER , 2008, by the Council of the Borough of Summit Hill, Carbon County, Pennsylvania in its lawful session duly assembled.

BOROUGH OF SUMMIT HILL

By:   
Joseph F. Weber, President

ATTEST:

  
Kira Michalik, Secretary

AND NOW this 9<sup>TH</sup> day of DECEMBER , 2008, the above Ordinance is hereby approved.

  
Paul R. McArdle, Mayor