

ORDINANCE NO. 2017-4

AN ORDINANCE OF THE TOWNSHIP OF LOWHILL, LEHIGH COUNTY, PA, REGULATING OUTDOOR FUEL-BURNING APPLIANCES; DEFINING VIOLATIONS THEREOF; PROVIDING PENALTIES THEREFORE; AND PROVIDING FOR AN EFFECTIVE DATE AND A GENERAL REPEALER.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Lowhill Township, Lehigh County, Pennsylvania, in lawful session and duly assembled as follows:

Section 1 SHORT TITLE. This ordinance shall be known as the "Outdoor Fuel-Burning Appliance Ordinance of the Township of Lowhill."

Section 2 PURPOSE AND SCOPE.

- A. Residences, commercial and industrial establishments situated within the Township are entitled to clean air and environmental circumstances free of unreasonable dust, obnoxious fumes and smells, as well as an environment free of stored debris and storage of combustible solid fuels in adjacent or exposed exterior areas within populated areas.
- B. Research indicates outdoor fuel-burning appliances cause emissions 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. They also cause 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. This regulation is intended to ensure that exterior furnaces or exterior burning devices, the primary purpose of which is to convert solid combustible fuel into a heat or energy source for interior spaces for all residences, commercial and industrial establishments, are utilized in a manner that does not create a nuisance and are not detrimental to the health, safety and general welfare of the residents of Lowhill Township.

Section 3 DEFINITION. An outdoor fuel-burning appliance is a device including any furnace, stove or boiler designed and constructed to burn solid fuels including, wood, coal or other solid fuels manufactured for placement outdoors for the heating of the living area of a structure. An outdoor fuel-burning appliance utilizing a heat pump or that uses the following fuel sources: solar energy, electric, oil, propane gas, or natural gas will not be included in this definition and are exempt from the regulations provided in this Ordinance. A stack is any vertical structure enclosing a flue or flues that carry off smoke from an outdoor fuel-burning appliance.

Section 4 PERMIT REQUIRED. No person shall cause, allow or maintain the use of an outdoor fuel-burning appliance within Lowhill Township without first having obtained a permit from the Township Administrator. The application for a permit shall be made on forms provided by Lowhill Township and include the following: (i) the manufacturer make and model of the outdoor fuel-burning appliance; (ii) a listing of all of the solid fuels that will be burned by the outdoor fuel-burning appliance; (iii) the street address of the property where the outdoor fuel-burning appliance will be used; and (iv) all such other information that the Township Administrator deems necessary in order to determine whether use of an outdoor fuel-burning device would create a nuisance or be detrimental to the health, safety and general welfare of the residents of Lowhill Township.

Section 5 GENERAL REGULATIONS. Use of any outdoor fuel-burning appliance shall be subject to the following General Regulations:

- A. Permitted Solid Fuels. Only those solid fuels that are recommended by the appliance's manufacturer are permitted to be burned in any outdoor fuel-burning appliance. The burning of any and all other materials in an outdoor fuel-burning appliance is prohibited.
- B. Permitted Zones. Outdoor fuel-burning appliances shall be permitted in the (RV) Rural Village, (R) Rural, (RC) Rural Conservation zoning districts as shown on the Official Zoning Map of Lowhill Township.
- C. Setbacks. Outdoor fuel-burning appliances shall be set back not less than one hundred (100) feet from the nearest lot line.
- D. Months of Operation. Outdoor fuel-burning appliances shall be used only between September 1 and May 31 of each year.
- E. Stack Location. Any stack must be in compliance with the following requirements:
 - (1) If located fifteen (15) feet or less to any structure, including, but not limited to, a residence served by the outdoor fuel-burning appliance, the stack must be at least three (3) feet higher than the highest point of the structure.
 - (2) If located two hundred (200) feet or less to any residence not served by the outdoor fuel-burning appliance, the stack must be at least two (2) feet higher than the peak of the roof of that structure.

Notwithstanding the foregoing, in no event shall the stack height for any outdoor fuel-burning appliance be less than the manufacturer's guidelines.

Section 6 SUSPENSIONS OF PERMIT. A permit issued pursuant to this Ordinance may be suspended as the Township Administrator may determine to be necessary to protect the health, safety, and general welfare of the residents of Lowhill Township if any of the following conditions occurs:

- A. Malodorous air contaminants from the outdoor fuel-burning appliance are detectable outside of the property on which said appliance is located;
- B. The emissions from the outdoor fuel-burning appliance interfere with the reasonable enjoyment of life or property;
- C. The emissions from the outdoor fuel-burning appliance cause damage to vegetation or property; or
- D. The emissions from the outdoor fuel-burning appliance are or have the potential to be harmful to human or animal health.

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 occur. Reoccurrence 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 7 PENALTIES. Any person in violation of any provision of this Ordinance, shall, upon conviction thereof, be sentenced to pay a fine or penalty. The fine or penalty shall not be less than \$300. Nor more than \$1,000 plus costs, and in default of the payment of the fines, penalties and costs, the defendant may be

sentenced to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this Ordinance continues, shall constitute a separate offense. This penalty section is enacted pursuant to the Second Class Township Code, 53 P.S. § 66601, for health, fire and safety and for air and water pollution purposes.

Section 8 SEVERABILITY. If any sentence, clause, section or part of this Ordinance is for any reason be 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 the Ordinance. It is hereby declared as the intent of Lowhill Township that this Ordinance would have then adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

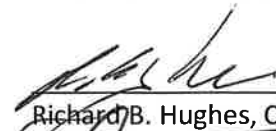
Section 9 GRANDFATHER CLAUSE. This Ordinance shall not be construed to be retroactive and shall not require the removal of any outdoor fuel-burning appliance in existence within the Township at the effective date of this Ordinance. All outdoor fuel-burning appliances in existence at the effective date of this Ordinance shall have or must erect a stack which has a height at least (i) three (3) feet higher than the highest point of any structure that is located within fifteen (15) feet of said appliance; and (ii) two (2) feet higher than the peak of the roof of any residence not served by the outdoor fuel-burning appliance that is located within Two Hundred (200) feet of said appliance. The existing appliance may not be replaced and if it is not utilized for a period of (1) year, it will be deemed abandoned and must be removed. If an existing outdoor fuel-burning appliance is more than fifty (50%) percent torn down, physically deteriorated, or decayed, any rebuilding or restoration of said outdoor fuel-burning appliance shall be a violation of this Ordinance.

Section 10 REPEALER. All ordinances and parts of ordinances which are inconsistent herewith, are hereby repealed.

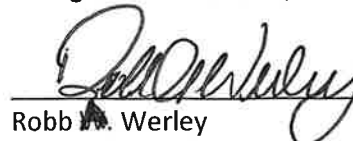
Section 11 EFFECTIVE DATE. This Ordinance shall become effective five (5) days from the date of enactment.

APPROVED BY the Board of Supervisors of Lowhill Township, Lehigh County, Pennsylvania, and ENACTED this 7 day of December 2017.

LOWHILL TOWNSHIP


Richard B. Hughes, Chairman


George W. Wessner Jr., Vice Chairman


Robb Werley

I hereby certify that the foregoing Ordinance was duly enacted and approved as set forth at the regular meeting of the Board of Supervisors of Lowhill Township held on 12/17, 2017.


Jill Seymour, Secretary