

**LINCOLN TOWNSHIP
NEWAYGO COUNTY, MICHIGAN
ORDINANCE NO. 06-01**

At a regular meeting of the Township Board of Lincoln Township, held at the Township Hall on August 17, 2006, beginning at 7:00 p.m., the following Ordinance was offered for adoption by Township Board Member T. Worden and was seconded by Township Board Member D. Dickinson:

**AN ORDINANCE TO PROMOTE THE PUBLIC HEALTH,
SAFETY, AND WELFARE BY REGULATING FREE STANDING
WOOD BURNING FURNACES**

Lincoln Township hereby Ordains:

Section 1. Statement of Legislative Intent and Authority.

Lincoln Township (the "Township") finds that free standing wood burning furnaces, as hereinafter defined, are a potential source of unhealthy amounts of particulate matter and may emit unhealthy amounts of air pollution, including carbon monoxide and other toxic air pollutants. The Township further finds that the unregulated use and placement of free standing wood burning furnaces may result in public and private nuisances and be a threat to the public health, safety, and welfare by the emission of smoke and sparks. Therefore, under the authority granted by MCL 41.181 *et seq.*, the Township Board for Lincoln Township hereby adopts this Ordinance for the protection of the public health, safety, and general welfare of persons and property within the Township.

Section 2. Definitions.

A. The term, phrase, or word(s) "free standing wood burning furnace," or "furnace" as used in this Ordinance shall mean any device or structure that (1) is designed, intended, or used to provide heat and/or hot water to any residence, building, or other structure; (2) operates by the burning of wood, coal, corn, or other solid fuel; and (3) is not located entirely within a residential dwelling or other building for which it provides heat and/or hot water.

B. The terms and words "parcel," "lot line," "side yard," and "rear yard" shall have the meanings assigned to them in the Lincoln Township Zoning Ordinance, as amended.

C. The term "person" shall mean any natural person, corporation, entity, partnership, limited liability company, limited liability partnership, or other incorporated or unincorporated voluntary association.

Section 3. Regulations.

All persons owning, controlling, leasing, operating, or using a property or parcel with a free standing wood burning furnace thereon shall comply with all of the following regulations:

- (1) No free standing wood burning furnace shall be located or utilized on any platted lot (*i.e.*, a lot within a platted subdivision) or on or within any condominium development or condominium unit. Furthermore, no free standing wood burning furnace shall be located on any property or parcel located or utilized within the LDR – Low Density Residential or CR – Commercial Resort zoning districts pursuant to the Lincoln Township Zoning Ordinance, as amended.
- (2) No free standing wood burning furnace shall be installed or located in the front yard of a parcel or between a dwelling and the public road right-of-way or private road or access easement. Where the lot or parcel involved has frontage on a lake, river, or stream, a free standing wood burning furnace may be located between lake, river or stream and the dwelling (so long as all other setbacks and requirements of this Ordinance are met) and shall not be located between the dwelling and the public road right-of-way or private or access easement. No free standing wood burning furnace shall be located on a parcel, lot, or property less than three (3) acres in size or within one hundred (100) feet of a public road right-of-way or a private road or access easement. Furthermore, no free standing wood burning furnace shall be located in a side yard except where there is not sufficient room or it is not feasible to place the free standing wood burning furnace in the rear yard and a location in a side yard is approved by the Lincoln Township Zoning Administrator (or such other Township agent, official, or employee as may be designated from time to time by resolution of the Lincoln Township Board). In no event shall a free standing wood burning furnace be located within twenty-five (25) feet of any lot line of the parcel on which it is located. Finally, no free standing wood burning furnace shall be located within two hundred (200) feet from any house or residential dwelling on any parcel, lot, or property which adjoins the property on which the free standing wood burning furnace is located unless the Township Zoning Administrator (or such other Township agent, official, or employee as may be designated from time to time by resolution of the Lincoln Township Board) approves a location which is closer to any house or residential dwelling on any adjoining property.
- (3) No free standing wood burning furnace shall be installed or located within twenty-five (25) feet of the principal residence or structure for which it is intended to supply heat and/or hot water. Furthermore, all trees, brush, and shrubbery shall be cleared within a twenty-five (25) foot radius of the location of any free standing wood burning furnace, and such twenty-five (25) foot cleared area shall be maintained free of trees, brush, and bushes at all times. Any fire wood or other fuel stored within such twenty-five (25) foot radius shall either be covered or otherwise reasonably protected against accidental ignition or combustion.

(4) Every free standing wood burning furnace shall have a smoke stack or chimney that shall not be less than 20 tall (as measured from ground level) and shall include a spark arrester.

(5) Every free standing wood burning furnace shall only be used to burn fuel designed or intended to be burned in the furnace. No garbage, household trash, petroleum products, rubber, construction waste, or other solid waste shall be burned in such a furnace regardless of design or manufacturer's intended fuel source.

(6) Every free standing wood burning furnace shall be kept in good condition and reasonable repair at all times and shall also always comply with all state, federal, and local laws, ordinances, and regulations applicable to furnaces.

Section 4. Enforcement.

The Lincoln Township Zoning Administrator (together with such other Township agents, officials, or employees as may be designated from time to time by resolution of the Lincoln Township Board) is hereby authorized to enforce this Ordinance, including having the authority to issue and pursue municipal civil infraction citations or tickets. Any violation of this Ordinance shall be deemed to be a nuisance *per se*.

Section 5. Violations/Civil Infractions.

A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the Court, in addition to all other costs, damages, expenses, and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

Section 6. Other Remedies.

In addition to the remedies provided in Sections 4 and 5 above, the Township may also institute a nuisance, injunction, equitable, mandamus, abatement, or other appropriate action or proceeding in court to prevent, enjoin, abate, or remove any free standing wood burning furnace that has been installed or used in violation of this Ordinance and to procure such other orders or remedies as the court deems appropriate. The rights and remedies provided herein are deemed cumulative and shall be in addition to all other remedies provided by law.

Section 7. Severability.

If any part of this Ordinance is declared to be invalid by a court of competent jurisdiction, such ruling shall not affect any other provisions of this Ordinance, which shall remain in full force and effect.

Section 8. Effective Date.

This Ordinance shall become effective thirty (30) days after a notice of adoption of this Ordinance or a summary of this Ordinance is published in the newspaper as provided by law.

YEAS: D. Dickinson, T. Worden, G. Dickinson, S. Noggle, and B. Geno

NAYS: None

ABSENT/ABSTAIN: None

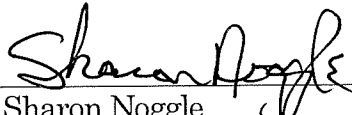
ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above is a true copy of an ordinance adopted by the Township Board for Lincoln Township at the time, place, and date stated above, pursuant to the required statutory procedures.

Respectfully submitted,

Dated: August 17, 2006

By  _____
Sharon Noggle
Lincoln Township Clerk

03173 (001) 311259.01