

ORDINANCE NO.: 11-O-01
SPONSOR: MAYOR BOLLAS
INTRODUCED: JANUARY 5, 2011 (EXHIBIT AMENDED 5-4-2011)
(EXHIBIT AMENDED 9-7-2011)
(EXHIBIT AMENDED 10-5-2011)
(EXHIBIT AMENDED 10-26-2011)

AN ORDINANCE TO ADOPT ALTERNATIVE ENERGY SYSTEM REGULATIONS FOR INCLUSION INTO THE NEW FRANKLIN ZONING CODE AND TO AMEND SECTION 1400.02 OF THE NEW FRANKLIN ZONING CODE TO INCORPORATE DEFINITIONS ASSOCIATED WITH THE ALTERNATIVE ENERGY SYSTEM REGULATIONS.

WHEREAS, it is the intent of New Franklin to regulate the construction and operation of alternative energy source facilities within the City, such that the regulations will protect the environment, public health, safety, and welfare; and

WHEREAS, the New Franklin Planning and Zoning Commission has prepared proposed alternative energy regulations for the New Franklin Zoning Code and has recommended their adoption; and

WHEREAS, the alternative energy regulations will be incorporated into the New Franklin Zoning Code as Section 800.12; and

WHEREAS, it is also necessary to amend Section 1400.02 of the New Franklin Zoning Code to incorporate additional definitions for the alternative energy regulations; and

WHEREAS, New Franklin Council deems it necessary to adopt the regulations and definitions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW FRANKLIN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE:

Council hereby adopts the attached AMENDED alternative energy regulations and hereby incorporates them as Section 800.12 of the New Franklin Zoning Code.

SECTION TWO:

New Franklin Council hereby adopts the definitions necessary for the implementation of the alternative energy system regulations and hereby amends Section 1400.02 of the New Franklin Zoning Code to incorporate those definitions. The definitions are attached to this ordinance.

SECTION THREE:

The City of New Franklin finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and

any deliberation of this Council and any other Committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION FOUR:

Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of New Franklin. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: October 26, 2011

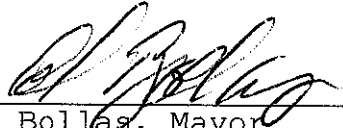


Tami Stefan, Clerk



Joseph Parsons, President

APPROVED: October 26, 2011



Al Bolles, Mayor

ENACTED EFFECTIVE: October 26, 2011

ON ROLL CALL: Adamson, Yes. Hess, Yes. Jones, Yes.
Kaderly, N/A Kalapodis, Yes. Parsons, Yes.
Stock, Yes.

Publications in the Leader on November 4, 2011 and November 11, 2011.



Tami Stefan, Clerk

Proposed alternative energy regulations as modified during 10-5-11. NOTE: Additions in bold and deletions in double strikethrough.

800.12 ALTERNATIVE ENERGY SYSTEM REGULATIONS

(3A.) Outdoor Wood-Fired Boilers.

- (1) Outdoor wood-fired boiler or outdoor wood-fired hydronic heater or outdoor wood heater or outdoor wood burning furnace means a fuel burning device specified by the manufacturer for outside installation and designated to heat interior building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.
- (2) Outdoor wood-fired boilers are conditionally permitted ~~on a minimum three (3) acre lot~~ in C-D, R-1 and R-2 zoning districts only.
- (3) No person shall construct, install, establish, modify, operate or use an outdoor wood-fired boiler unless all of the following conditions are met:
 - (a) Outdoor wood-fired boilers ~~installed after September 1, 2010~~ must be US EPA Phase 2 Program Qualified Models, or better;
 - (b) Outdoor wood-fired boilers may be located only in a rear yard;
 - (c) Minimum setback to all property lines shall be one hundred and fifty (150) feet;
 - (d) Except for the principal residence being serviced, an outdoor wood-fired boiler shall be placed at least two hundred and fifty (250) feet from the nearest building intended for human habitation, place of assembly, education, or occupancy by the public on the surrounding properties;
 - (e) The maximum height for the outdoor wood-fired boiler and/or enclosure shall not exceed fifteen (15) feet, measured from the average grade at the base of the furnace to the top, not including the chimney stack;
 - (f) The property owner shall obtain all required building permits from the Summit County Department of Building Standards prior to construction;
 - (g) Operation of outdoor wood-fired boilers is permitted only during the established burning season, from September 15 through May 1;
 - (h) Outdoor wood-fired boilers shall have a chimney stack that is recommended by the manufacturer's specifications. ~~If there are any residences within five hundred (500) feet of the outdoor wood-fired boiler,~~ **The chimney stack of the boiler shall be extended to height higher than the highest roof peak of the principal residence and any other such residence within 500 feet of the outdoor wood-fired boiler,** but in no event may the chimney stack exceed fifty-five (55) feet in height.
 - (i) The outdoor wood-fired boiler shall be located at least fifty (50) feet from the residential structure on the same lot;

Proposed alternative energy regulations as modified during 10-5-11. NOTE: Additions in bold and deletions in double strikethrough.

quality standards or emission limits, this prohibition applies to, but is not limited to, any particulate, fume, gas, mist, odor, smoke, toxic, or deleterious emission, either alone or in combination with others.

~~D. All existing and installed outdoor wood-fired boilers that do not meet the conditions set forth above shall be brought into compliance with said conditions in a timely manner, but not later than sixty (60) days following notice of non-compliance the City, except that conditions relative to minimum setbacks and distances from other residences/buildings may be waived upon application for a variance to the BZA.~~

(4) All wood fire boilers, existing and installed on or before the effective date of this ordinance chapter Section shall be subject to the following:

(a) All wood fire boilers, existing and installed on or before the effective date of this ordinance chapter Section, shall be operated in an environmentally safe manner.

(b) All wood fire boilers, existing and installed on or before the effective date of this ordinance chapter Section, shall at all times be operated according to the manufacturer's specifications and shall only use environmentally safe fuels. Failure to operate a wood fire boiler in such a manner or the failure to use environmentally safe fuels shall constitute a nuisance.

(c) Any wood fire boiler, existing and installed on or before the effective date of this ordinance chapter Section, that is operated in a manner as to constitute a nuisance to surrounding properties, as determined by New Franklin officials, shall, after notice from the New Franklin Planning and Zoning Department, be brought into compliance with the requirements of this ordinance chapter in a timely manner. Requirements relative to minimum setbacks and distances from other residences/buildings may be waived upon the granting of a variance by the New Franklin Board of Zoning Appeals.

(d) In enacting this ordinance chapter Section, New Franklin Council determines that without adequate regulation, existing wood fire boilers can constitute a nuisance as that term is generally used in the Ohio Revised Code and associated case law. New Franklin, pursuant to its police powers found in the Ohio Revised Code, has the authority to abate a preexisting use that has become a nuisance.

(5) Penalties/Remedies

(a) It shall be unlawful for any property owner to fail to comply with the terms of this chapter Section, or create a nuisance condition for neighboring property owners.

(b) If the New Franklin Planning and Zoning Department determines that a violation of the Code or permit has occurred, the property owner shall be notified of the violations, in writing.

(c) If the alleged violation does not pose an immediate threat to the public health or safety, the parties shall engage in good faith negotiations to resolve the issues at hand. Such negotiations shall be conducted within thirty (30) days of the notice of violation.