

FILED

OCT 29 2009

CITY CLERK

GENERAL ORDINANCE NO. 16, 2009

AN ORDINANCE AMENDING *TERRE HAUTE CITY CODE* CHAPTER 6 TO BAN THE INSTALLATION, OPERATION, AND USE OF OUTDOOR WOOD OR COAL FIRED BOILERS OR FURNACES.

Whereas, the use of outdoor wood or coal fired boilers and furnaces is declared to be a nuisance due to the large volumes of smoke produced and released low to the ground which will add to the pollutant levels in the air and can cause or contribute to short-term health problems such as eye, nose, throat and lung irritation, coughing and shortness of breath, and may exacerbate asthma and other lung-related illnesses; and

Whereas, the general population density within the City limits means that the negative aspects of low-to-ground wood and coal smoke is more likely to occur causing the health problems listed above and greatly diminishes the use and enjoyment of neighboring property; and

Whereas, to protect air quality and public health, the City of Terre Haute Engineering Department, Building Inspection Division recommends this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Terre Haute, Indiana, as follows:

SECTION 1. *Terre Haute City Code*, Chapter 6, Division III. is hereby amended by inserting the following text:

Division III. Outdoor Wood or Coal Fired Boilers and Furnaces Prohibited.

Sec. 6-104 Definitions.

a. **Outdoor Wood or Coal-fired Boiler.** A fuel burning device designed:

(1) to burn primarily wood or coal by hand-firing;

(2) not to be located inside structures ordinarily occupied by humans; and

(3) to heat spaces or water by the distribution through pipes of a fluid heated in the device. Such fluid is typically water or a mixture of water and anti-freeze.

Examples of common uses include, but are not limited to, residential or commercial space heating, heating of domestic hot water, or heating of water for swimming pools, hot tubs, or whirlpool baths.

b. **Outdoor Wood or Coal-fired Furnace.** A fuel burning device designed:

- (1) to burn primarily wood or coal by hand-firing;
- (2) not to be located inside structures ordinarily occupied by humans; and
- (3) to heat spaces, homes or other buildings through the forced distribution of heated air through ductwork or pipes.

Sec. 6-105 Prohibition.

a. It shall be a violation of this Division of the *Terre Haute City Code* to have installed, install, use or permit the use of an Outdoor Wood or Coal-fired Boiler or Outdoor Wood or Coal-fired Furnace after the effective date of this Ordinance.

b. Outdoor Coal-fired Boilers or Outdoor Coal-fired Furnaces installed or operating prior to the effective date of this Ordinance shall be exempted from this prohibition so long as all of the following criteria are met:

- (1) Documentation is available to verify the date of installation;
- (2) The Outdoor Coal-fired Boiler or Furnace is intended to serve a single family dwelling;
- (3) The Outdoor Coal-fired Boiler or Furnace complies with all applicable laws;
- (4) The Outdoor Coal-fired Boiler or Furnace does not create a public nuisance, as defined in Sec. 10-67;
- (5) The Outdoor Coal-fired Boiler or Furnace is installed in compliance with municipal building codes pertaining to the installation of any primary home heating source;
- (6) The Outdoor Coal-fired Boiler or Furnace is installed and operated in compliance with manufacturer's specifications; and
- (7) The Outdoor Coal-fired Boiler or Furnace uses only coal. No other materials may be burned.

Sec. 6-106 Penalty.

There is hereby imposed a fine of Fifty Dollars (\$50.00) per violation of this Division. Each day a wood or coal-fired boiler or wood or coal-fired furnace is operated in violation of this Division shall constitute a separate violation. In addition to the monetary fine, the City may enforce this Division by obtaining an injunction or other court order directing the removal of the

wood-or coal-fired boiler or wood or coal-fired furnace or ordering the owner or any other person not to operate the device.

SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

WHEREAS, an emergency exists for the immediate taking effect of the Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, Indiana and its approval by the Mayor and publication as required by law.

Introduced by: Neil Garrison Neil Garrison, Councilman

Passed in open Council this _____ day of _____, 2009.

_____ Todd Nation, President

ATTEST: _____ Charles P. Hanley, City Clerk

Presented by me to the Mayor this _____ day of _____, 2009.

_____ Charles P. Hanley, City Clerk

Approved by me, the Mayor, this _____ day of _____, 2009.

_____ Duke A. Bennett, Mayor

ATTEST: _____ Charles P. Hanley, City Clerk