

**AN ORDINANCE OF UPPER ALLEN TOWNSHIP, CUMBERLAND COUNTY,
COMMONWEALTH OF PENNSYLVANIA, AMENDING THE CODE OF UPPER ALLEN
TOWNSHIP, CHAPTER 138 (FIRE PREVENTION AND PROTECTION), ARTICLE IX
(FIRE HYDRANTS), ARTICLE X (OUTDOOR WOOD-FIRED BOILER (OWB)), AND
ARTICLE XI (INVESTIGATIONS; ENFORCEMENT; PENALTIES)**

ORDINANCE _____

BE IT ENACTED AND ORDAINED by the Board of Commissioners of Upper Allen Township, Cumberland County, Pennsylvania, and it is hereby enacted and ordained by authority of the same as follows:

SECTION 1: The Code of Upper Allen Township, Chapter 138 (Fire Prevention and Protection) Article IX (Fire hydrants), shall hereby be added as follows:

138-41. General Requirements.

- A. The location and installation of fire hydrants shall meet the requirements of § 220-5.9 within Chapter 220, Subdivision Land Development Ordinance.
- B. All fire hydrants shall provide one five-inch Storz adapter connection.

138-42. Time of Compliance.

- A. The owner of each hydrant installed after the effective date of this article and subject to this article shall ensure provision of one five-inch Storz adapter connection for each hydrant that they are responsible for.
- B. The owner of each hydrant in existence on the effective date of this article and subject to the requirement of this article shall have one year from the effective date of this article to have one five-inch Storz hydrant adapter connection installed and operational for each hydrant that they are responsible for.
- C. All costs associated with the purchase, installation, inspection, and maintenance of private fire hydrants shall be the responsibility of the property owner.

SECTION 2: The Code of Upper Allen Township, Chapter 138 (Fire Prevention and Protection) Article X (Outdoor wood-fired boiler (OWB)) shall hereby be added as follows:

138-43. Definitions.

The following words, terms, and phrases when used in this Article, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

CLEAN WOOD

Natural wood that has no paint, stains, or other types of coatings, and natural wood that has not been treated with substances, including but not limited to, copper chromium arsenate, creosote, or pentachlorophenol.

DEP

Pennsylvania Department of Environmental Protection.

EPA

United States Environmental Protection Agency.

NON-PHASE 2 OUTDOOR WOOD-FIRED BOILER

An OWB that has not been certified or qualified by the EPA as meeting a particulate matter emission limit of 0.32 pounds per million British Thermal Units (Btu) output or lower and is labeled accordingly.

OUTDOOR WOOD-FIRED BOILER (OWB)

Also known as outdoor wood-fired furnaces, outdoor wood-burning appliances, or outdoor hydronic heaters, water stoves, etc. A fuel-burning device:

- (1) Designed to burn clean wood or other approved solid fuels;
- (2) That the manufacturer specifies for outdoor installation or for installation in structures not normally intended for habitation by humans or domestic animals, including structures such as garages and sheds; and
- (3) Which heats building space and/or water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

PERSON

Any individual, public or private corporation for profit or not for profit, association, firm, partnership, trust, estate, department, board, bureau, or agency of the commonwealth or the federal government, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

PHASE 2 OUTDOOR WOOD-FIRED BOILER

An outdoor wood-fired boiler that has been certified or qualified by the EPA as meeting a particulate matter emission limit of 0.32 pounds per million Btu output and is labeled accordingly. Phase 2 outdoor wood-fired boiler models will be identified with a white hang tag.

SPARK ARRESTER

A device (located at the top of a chimney) to prevent sparks, embers or other ignited material above a given size from being expelled into the atmosphere.

STACK

Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a furnace, especially that part of a structure extending above a roof.

TOWNSHIP

The Township of Upper Allen, Cumberland County, Pennsylvania. The Township also includes the Board of Commissioners (Township Commissioners), its agents or authorized representatives.

138-44. Applicability.

A. Except as otherwise provided herein, this chapter shall not apply to:

- (1) Grilling or cooking using charcoal, wood, propane, or natural gas in cooking or grilling appliances.
- (2) Burning in a stove, furnace, fireplace, fire pit, or other heating device within a building used for human or animal habitation.
- (3) The use of propane, acetylene, natural gas, gasoline, or kerosene in a device intended for heating, construction or maintenance activities.

138-45. Requirements for outdoor wood-fired boiler.

A. OWBs are permitted as an accessory use in the following zoning districts as defined in Chapter 245, Zoning Ordinance: Agricultural (Ag) and Low-Density Residential (R-1) Districts.

B. Only one OWB is permitted per lot.

C. OWBs shall only be utilized on lots or parcels of land five acres in size or larger.

D. Emission standards. All outdoor wood-fired boilers must meet EPA Phase 2 emission standards. Non-Phase 2 OWBs acquired through real estate transactions are exempt from this requirement.

E. Setbacks. OWBs shall be installed in accordance with the following setbacks:

- (1) Front yard: 200 feet. No OWB shall be in the front yard between the principal building and a public or private street, regardless of the setback distance.
- (2) Side yard: 150 feet.
- (3) Rear yard: 150 feet.
- (4) Nearest residential structure not on the lot where the OWB is located: 500 feet.

F. Stack height. OWBs must have a permanently installed stack that extends at least ten (10) feet above the ground, as measured from grade to chimney top, and is installed according to manufacturer's specifications.

G. Types of fuel permitted. All OWBs shall operate using only the following fuels:

- (1) Clean wood.
- (2) Wood pellets made from clean wood.

- (3) Home heating oil, natural gas or propane that complies with all applicable sulfur limits and is used as a starter or supplemental fuel for dual fired outdoor wood-fired boilers.
 - (4) Other types of fuel approved in writing by DEP upon receipt of a written request.
- H. An OWB shall not be used as a waste incinerator. This includes any material not listed in **Subsection G** above.
- I. Use of starter fluids. Use of starter fluids such as lighter fluid, gasoline, and other chemicals to ignite an OWB is prohibited.
- J. Safety. All OWBs should be equipped with a properly functioning spark arrestor.
- K. Decommissioning. All OWBs shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by the owner or upon termination of the useful life of same. The OWB shall be presumed to be discontinued or abandoned if the unit has not been in operation for a period of twelve (12) months.
- L. Nuisance. The use of an OWB shall not cause a nuisance, as defined by the Ordinances of Upper Allen Township.
- M. Storage. All storage of materials to be burned in the OWB must be kept a minimum of ten (10) feet away from the OWB. No materials shall be stored in the front yard between the principal building and a public or private street.
- N. Vegetation. An area not less than 20 feet in any direction around the OWB shall be kept free of vegetation, with the exception of grass no higher than four (4) inches in height.
- O. Installation, use and operation of an OWB must comply with the manufacturer's specifications as well as all applicable local, county, state and/or federal laws, codes, and regulations.
- P. Administration.
 - (1) No person shall install, construct, modify, operate, or replace any outdoor wood-fired boiler without first submitting and obtaining a zoning and building permit, and any other required permit as determined by the Municipal Fire Official or his/her designee, from the Township prior to installation, construction, modification, replacement, or use of an OWB.
 - (2) Any outdoor wood-fired boiler in existence on the effective date of this ordinance shall be permitted to remain, provided that the owner of the OWB registers the device with the Building Code Official within 90 days

of the effective date of this ordinance. Any new or replaced OWB shall meet the regulations set forth within this article.

Q. Permit requirements.

- (1) Zoning and building permit applications, and/or other required township permits, shall document compliance with this ordinance and all applicable Township ordinances. The applications shall be accompanied by drawings showing the location of the OWB on the property, including property lines and setbacks. Any easements on the property shall be shown on the drawing. All permits shall be kept on the property where the OWB is located.
- (2) The zoning, building, and/or other appropriate permits shall be suspended or revoked if the OWB is not operated in accordance with this ordinance. A suspended permit may be reinstated once the condition resulting in the suspension is remedied and reasonable assurances are given that such condition will not reoccur.

138-46. Enforcement; notice of violation.

- A. Whenever the township finds that a property owner is found to have violated a prohibition or failed to meet a requirement of this article, the township may order compliance by written notice of violation to the responsible person(s).
- B. If abatement of a violation of the affected property is required, the notice shall set forth a deadline within which such remediation must be completed. Said notice shall further advise that, should the property owner fail to correct the violation within the established deadline, the township may have the violation corrected, and the township may recover all costs associated with the correction of the violation and enforcement of this article at the expense of the property owner or assessed as a municipal lien on the property.
- C. Failure to comply within the time specified shall also subject such property owner to the penalty provisions of this chapter. All such penalties shall be deemed cumulative and shall not prevent the township from pursuing any and all other remedies available in law or equity.

138-47. Appeals.

- A. An owner may appeal an order to correct a violation of these regulations. The notice of appeal and all applicable fees, as established from time to time by must be received within 30 days from the date of the notice of violation. A hearing on the appeal before the Board of Commissioners shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the municipal body or its designee shall be final.
- B. In the event of an appeal, within 15 days of the decision of the Board of Commissioners upholding the decision of the municipality, the violations shall be corrected, or else representatives of the municipality shall enter upon the subject

private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the municipality or designated contractor to enter upon the premises for the purposes set for the above.

138-48. Variances.

No variance of any provision of the regulations within this article will be permitted.

138-49. Violations and penalties for OWBs.

- A. In addition to the violations and penalties set forth in Article XI herein, the Township may institute in the name of the municipality any appropriate action or proceeding to prevent, restrain, correct, or abate violations of the provision of this chapter. All costs incurred shall be at the property owner's expense.

SECTION 3: The Code of Upper Allen Township, Chapter 138 (Fire Prevention and Protection) Article IX (Investigations; Enforcement; Penalties) shall hereby be renamed as Article XI (Investigations; Enforcement; Penalties). Section 138-41 (Assignment) and Section 138-42 (Violations and penalties) shall be renumbered sequentially.

SECTION 4: All other ordinances and parts of ordinances inconsistent herewith are hereby repealed.

SECTION 5: The provisions of this Ordinance are severable and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provision shall not affect or impair any other remaining sections, clauses or sentences of the same.

SECTION 6: This Ordinance shall take effect and be in force immediately upon enactment.

ENACTED AND ORDAINED, into an Ordinance this ____ day of _____, 2023, by the Board of Commissioners of Upper Allen Township.

ATTEST:

(Assistant) Secretary

UPPER ALLEN TOWNSHIP

By: _____
Kenneth M. Martin, President
Board of Commissioners