

ORDINANCE NO. 135

ADAMS TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA

AN ORDINANCE OF ADAMS TOWNSHIP, BUTLER COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE ZONING ORDINANCE BY ADDING ARTICLE IX, SECTION 9.10 PROHIBITING THE USE OF OUTDOOR FUEL BURNING BOILERS, EXCEPT WOOD BURNING BOILERS SUBJECT TO THE ZONING RESTRICTIONS AND REQUIREMENTS SET FORTH HEREIN; PROVIDING RULES FOR EXISTING (NON CONFORMING) OUTDOOR FUEL BURNING APPLIANCES; PROVIDING FOR ENFORCEMENT ORDERS, RESPONSIBILITIES OF OWNERS AND OPERATORS; CRIMINAL PENALTIES AND PUBLIC NUISANCES.

1. Article IX of the Adams Township Zoning Ordinance is hereby amended by adding Section 9.10, which states as follows:

**CHAPTER 1**  
**OUTDOOR WOOD FIRED-BOILERS ZONING REQUIREMENTS**

9.10.1. Applicability.

This Ordinance and all Chapters herein apply to the installation and use of all outdoor fuel burning boilers within Adams Township.

- a. This Ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- b. This Ordinance does not apply to burning in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- c. This Ordinance does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

9.10.2. Purpose and Scope.

Whereas, the Board of Supervisors has determined that air pollution from outdoor fuel burning boilers may be detrimental to the health, comfort, living conditions, welfare and safety of the citizens of Adams Township, it is hereby declared to be the policy of Adams Township to safeguard the citizens of Adams Township from such air pollution.

### 9.10.3. Definitions.

The following words, terms and phrases, when used in all Chapters of this Ordinance, 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, including but not limited to, copper chromium arsenate, creosote, or pentachlorophenol.

*Outdoor fuel burning boiler* – a device including any furnace, stove or boiler designed and constructed to burn oil, wood, coal or other fuels manufactured for placement outdoors for the heating of the living area of a structure.

*Outdoor wood-fired boiler* – 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.

*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 British Thermal Units output and is labeled accordingly. Phase 2 outdoor wood-fired boiler models will be identified with a white hang tag.

*Person* – Any individual, public or private corporation for profit or not for profit, association, partnership, firm, 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.

*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.

### 9.10.4. Regulations.

4.1 On or after the effective date of this Ordinance, only an outdoor wood-fired boiler may be installed, used or operated in Adams Township and only in accordance with the following provisions, all other types of outdoor fuel burning boilers are hereby expressly prohibited.

4.2.a. Zoning Requirements for New Outdoor Wood-Fired Boilers. No person shall install an outdoor wood-fired boiler except in the following zoning districts: Rural Conservation, Industrial.

4.2.a.1 Minimum Lot Size. The minimum lot size for the installation of an outdoor wood-fired boiler is five (5) acres.

4.2.b. Particulate Standard Requirements for New Outdoor Wood-Fired Boilers. No person shall install an outdoor wood-fired boiler that is not a Phase 2 Outdoor Wood-fired Boiler.

4.2.c. Setback Requirements for New Outdoor Wood-fired Boilers. No person shall install an outdoor wood-fired boiler unless it is installed at least 150 feet from the nearest property line.

4.2.d. Stack Height Requirements for New Outdoor Wood-fired Boilers. No person shall install an outdoor wood-fired boiler unless it has a permanent attached stack with a minimum stack height of 20 feet above the ground that also extends at least two feet above the highest peak of any residence located less than 500 feet from the outdoor wood-fired boiler.

4.2.e. Fuel Requirements for Wood-fired Boilers. No person that operates a new or existing outdoor wood-fired boiler shall use a fuel other than the following:

- Clean wood
- Wood pellets made from clean wood

4.2.f. Prohibited Fuels for Wood-fired Boilers. No person shall burn any of the following items in an outdoor wood-fired boiler:

- Any material not listed in 4.2.e
- Treated or painted wood
- Furniture
- Garbage
- Tires
- Lawn clippings or yard waste
- Material containing plastic
- Material containing rubber
- Waste petroleum products
- Paints and paint thinners
- Chemicals
- Any hazardous waste
- Coal
- Glossy colored paper
- Construction and demolition debris
- Plywood
- Particleboard
- Salt water driftwood
- Manure
- Animal carcasses
- Asphalt products

4.2.g. Prohibition of Operation for New and Existing Outdoor Wood-fired Boilers. No person shall use or operate a new or existing outdoor wood-fired boiler between the dates of April 1 and November 1.

4.2h. Regulatory Requirements for New and Existing Outdoor Wood-fired Boilers. No person shall use or operate a new wood-fired boiler unless it complies with all existing state regulations, including:

- 25 Pa. Code Section 121.7 – Prohibition of Air Pollution
- 25 Pa. Code Section 123.1 – Fugitive Emissions
- 25 Pa. Code Section 123.31 – Odor Emissions
- 25 Pa. Code Section 123.41 – Visible Emissions

**CHAPTER 2**  
**REGULATIONS FOR EXISTING (NON CONFORMING)**  
**OUTDOOR FUEL BURNING APPLIANCES**

9.10.21. All outdoor fuel burning appliances in existence at the effective date of the Ordinance (hereinafter “non conforming outdoor fuel burning appliances”) shall be operated and maintained in strict conformance with the manufacturer’s instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer’s instructions are stricter, in which case the manufacturer’s instructions shall apply.

9.10.22. All non conforming outdoor fuel burning appliances shall have or must erect a stack which has a minimum termination height of twenty (20) feet above the natural ground level upon which the appliance is located; or two (2) feet above the highest adjacent structure’s ridgeline within a five hundred (500) foot radius of the stack.

9.10.23. All non conforming outdoor fuel burning appliances in existence at the effective date of this Ordinance shall have or must install a “scrubber” or filter type system attached to the appliance.

9.10.24. All non conforming outdoor fuel burning appliances in existence at the effective date of this Ordinance shall have or must install a fan or blower to increase the efficiency of the appliance.

9.10.25. Only natural wood, coal, heating oil, natural gas, kerosene or wood specifically permitted by the manufacturer in writing may be burned in non conforming outdoor fuel burning appliances. No person shall burn any of the following items in an outdoor wood-fired boiler:

- Treated or painted wood
- Furniture
- Garbage
- Tires
- Lawn clippings or yard waste
- Material containing plastic
- Material containing rubber
- Waste petroleum products
- Paints and paint thinners
- Chemicals
- Any hazardous waste

- Glossy colored paper
- Construction and demolition debris
- Plywood
- Particleboard
- Salt water driftwood
- Manure
- Animal carcasses
- Asphalt products

9.10.26. No person shall use or operate a non conforming outdoor fuel burning appliance between the dates of April 1 and November 1.

9.10.27. If an outdoor fuel burning appliance is more than fifty (50%) percent torn down, physically deteriorated or decayed, the appliance must be removed and/or replaced with a new unit and the new unit must comply with all of the regulations listed in Chapter 1 of this Article.

9.10.28. Ashes or waste cannot be accumulated in a large area on the property. They may be dispersed on the property as long as no accumulation can be seen. Any large accumulation of ashes or waste must be disposed of weekly with the trash.

9.10.29. All storage of materials being burnt in the outdoor fuel burning appliance shall be neatly stacked and/or stored under cover and free from insects (termites, ants, etc.) or any type of disease carrying rodents.

### CHAPTER 3 ADMINISTRATION

9.10.31. Enforcement.

31.a. The Adams Township Code Enforcement Officer shall have the power and duty to administer and enforce the provisions of this Ordinance.

31.b. The Code Enforcement Officer may issue such orders as are necessary to aid in the enforcement of the provisions of this ordinance. These orders shall include, but not be limited to: orders requiring persons to cease unlawful use of outdoor fuel burning appliances; orders to take corrective action or to abate a public nuisance; or orders requiring production of information. Such an order may be issued if the Code Enforcement Officer finds that any person is in violation of any provision of this ordinance.

31.c. The Code Enforcement Officer may, in his or her order, require compliance with this ordinance.

31.d. An order issued under this section shall take effect upon notice, unless a timely appeal is filed with the Zoning Hearing Board.

31.e. The authority of the Code Enforcement Officer to issue an order under this section is in addition to any remedy or penalty that may be imposed pursuant to this ordinance. The failure to comply with any such order is hereby declared to be a public nuisance.

#### 9.10.32. Responsibility of Owners and Operators

Whenever the Code Enforcement Officer finds that illegal operation of an outdoor boiler is occurring in contravention of the requirements of Chapter 1 or Chapter 2 above, the Code Enforcement Officer may order the owner or operator to take corrective action in a manner satisfactory to the Code Enforcement Officer, or the Code Enforcement Officer may order the owner or operator to allow access to the land by the Code Enforcement Officer or a third party to take such action.

#### 9.10.33. Criminal Penalties.

Any person who violates any provision of this ordinance or any order Adams Township issued pursuant to this ordinance commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than two hundred fifty (\$250.00) nor more than one thousand dollars (\$1,000.00) for each separate offense, plus costs of prosecution (including attorney's fees) and, in default of the payment of such fine, may be sentenced to imprisonment for ninety (90) days for each separate offense. Employees of Adams Township authorized to conduct inspections or investigations are hereby declared to be law enforcement officers authorized to issue or file citations for summary violations under this ordinance, and the Township Solicitor is hereby authorized to prosecute these offenses. For purposes of this section, a summary offense may be prosecuted before any district justice in Adams Township. Each day, or portion thereof, in which a violation is found to exist shall constitute a separate offense.

#### 9.10.34. Unlawful Conduct.

It shall be unlawful to fail to comply with or to cause or assist in the violation of any of the provisions of this ordinance or to fail to comply with any order or other requirement of the Code Enforcement Officer; or to cause a public nuisance; or to hinder, obstruct, prevent or interfere with the Code Enforcement Officer or its personnel in their performance of any duty hereunder, including denying the Code Enforcement Officer access to the source or facility.

#### 9.10.35. Public Nuisances.

A violation of this ordinance or of any order issued by Adams Township under this ordinance shall constitute a public nuisance. Adams Township shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, when abating a public nuisance, Adams Township may recover the expenses of abatement. Whenever the nuisance is maintained or continued contrary to this ordinance or any order issued pursuant to this ordinance, the nuisance may be abatable in the manner provided by this ordinance. Any person who causes the public nuisance shall be liable for the cost of abatement in the manner provided for by law.

2. This Ordinance shall not act as a repealer of the Adams Township Zoning Ordinance, except to the specific extent set forth herein above.

3. The provisions of this ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this ordinance. It is hereby

declared to be the intent of the Adams Township Supervisors that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part or provision had not been included herein.

4. This ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED this 9th day of November, 2009.

ADAMS TOWNSHIP SUPERVISORS:

Donald E. Curtis  
Chairman

Thomas J. Franceschini  
Vice-Chairman

[Signature]  
Supervisor

[Signature]  
Supervisor

[Signature]  
Supervisor

ATTEST:

Janet L. Lubbert  
Janet Lubbert, Secretary