

**OFFICIAL**

**MUNICIPALITY OF [NAME]  
ALLEGHENY COUNTY, PENNSYLVANIA**

**ORDINANCE No. [No.]**

**AN ORDINANCE OF THE MUNICIPALITY OF [NAME],  
ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING ORDINANCE  
[NO.], THE OFFICIAL MUNICIPALITY OF [NAME] CODE, BY  
ADDING A CHAPTER: WOOD FUELED APPLIANCES.**

WHEREAS, because of the more recent occurrences of unregulated wood fueled appliances in the Municipality and the direct adverse effect that activity has on a person's mental and physical health, normal use, maintenance and enjoyment of property, quality of life, comfort, and normal living conditions, and the safety and welfare of individuals, families and the community as a whole, the [Council][Board of Commissioners] of the Municipality of [Name], after study and consultation with Municipal planning, zoning and fire officials, deems it to be in the best interests of the Municipality to regulate wood fueled appliances. In order to regulate said activity, it shall, after the enactment of this chapter, become necessary to register with the designated Municipal agents before operating wood fueled appliances in any manner as designated in this chapter; and

WHEREAS, the [Council][Board of Commissioners] of the Municipality of [Name] directed the preparation of an amendment to the Ordinance to accomplish this purpose and directed the required consideration of the proposed amendment by the Planning and Zoning Commission and conducted the required public hearings; and

WHEREAS, a meeting of the said [Council][Board of Commissioners] of the Municipality of [Name] was held on the [No.] day of [Month], 19[Year], at the Municipal Building, [Street Address], [City], Pennsylvania, at which meeting the majority of the [Council][Board of Commissioners] of the Municipality of [Name] cast votes in favor of the adoption of said Ordinance amendment.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by [Council][Board of Commissioners] of the Municipality of [Name], in meeting assembled, and it is hereby ordained and enacted by and with the authority of the same, as follows:

SECTION 1: THAT the following new Chapter be added:

**24.1 Definitions.**

24.1.1 The following definitions shall apply to the interpretation of the

provisions of this Ordinance:

24.1.2 AQI FOR PARTICLE PM2.5 POLLUTION – Shall mean the EPA Air Quality Index for reporting current air quality that tells how uncontaminated or polluted the air is as to particulate matter PM 2.5, and what associated health effects apply.

24.1.3 HEAT-TREATED WOOD - Shall mean commercially available heat-treated and sterilized natural hardwood with a moisture content of less than 18% that contains no paint, stains or other types of coatings, and has not been treated with preservatives or chemicals, including copper, chromium arsenate, creosote and pentachlorophenol, is devoid of added petroleum or chemical binders, resins or glues and bears a USDA Heat Treatment Certification Label on packaging and a USDA APHIS seal.

24.1.4 KILN DRIED WOOD - Shall mean commercially available kiln dried natural hardwood with a moisture content of less than 18% that contains no paint, stains or other types of coatings, and has not been treated with preservatives or chemicals, including copper, chromium arsenate, creosote and pentachlorophenol, is devoid of added petroleum or chemical binders, resins or glues and bears a USDA Kiln Dried Certification Label on packaging and a USDA APHIS seal.

24.1.5 PARTICLE PM2.5 POLLUTION – Shall mean fine, inhalable airborne particulate matter that is a mixture of liquid and solid material 1 to 2.5  $\mu\text{m}$  in diameter.

24.1.6 PERSON - Shall mean an individual, family, partnership, firm, association, corporation or other legal entity.

24.1.7 PROHIBITED MATERIALS - Shall mean:

1. Paper, cardboard or other similar refuse
2. Leaves, grass, weeds, brush, trimmings, timber, yard waste, roots, rootballs, stumps, logs, limbs, branches or other organic materials
3. Wood pallets, railroad ties
4. Flammable liquids, oil grease and gasoline
5. Building materials, scrap lumber, and construction waste and debris of any kind
6. Rigid foam, batt and wire insulation

7. Vegetable waste or garbage
8. Solid waste
9. Tires, rubber
10. Plastics
11. Furniture
12. Glass, crocking
13. Metals
14. Tar, tar products, asphalt, asphalt products
15. Waste from mill or production operations
16. Electronics, batteries
17. Carcasses of any kind
18. Any other kind of materials except as per 24.3

24.1.8 UNNECESSARY WOOD FUELED APPLIANCE SMOKE, ODOR OR PARTICULATE MATTER (PM<sub>2.5</sub>) – Shall mean smoke or odor or particulate matter emissions from a wood fueled appliance that: cross the boundary of the premises at the source onto another person's land; interfere with a person's enjoyment of life or property; directly affect or change a person's mental or physical health, quality of life, comfort, living conditions, use and maintenance of property, safety and welfare; constitute an offensive, invasive, irritating, incursive, threatening, annoying or aggravating condition or nuisance; or discourage, interfere with or disrupt the conduct or enjoyment of another person's basic human activities inside or outside including conversation, reading, sleep, study, eating, work, play or hobby.

24.1.9 WOOD-FUELED APPLIANCE (DEVICE) - Shall mean any wood-burning stove or heater, pellet-fueled device, fireplace, or any device used to burn wood fuel for space-heating, aesthetic or food preparation purposes.

## **24.2 Prohibition.**

24.2.1 Effective the date of enactment of this Ordinance, it shall be unlawful to operate a wood-burning device in an existing building unless the device is registered with the {Municipality] of [Name].

24.2.2 Effective the date of enactment of this Ordinance, it shall be unlawful to install a new or used indoor wood-burning device in any new construction, reconstruction, alteration, or addition, save for a Limited Exception, Sole Source of Heat.

## 24.3 Fire Regulations.

24.3.1 In order to register a Device, the applicant shall be required to meet all of the following criteria in order to be eligible for registration and shall agree to abide by these rules and regulations:

1. Only heat treated or kiln dried hardwood products with a moisture content less than 18% shall be burned; Prohibited Materials shall not be burned.
2. Only smokeless fuels, if any, shall be used to start the fire.
3. The size of the fire in Device, including the flames and the materials being burned shall be no larger than the manufacturer's specifications allow and fully enclosed in Device.
4. The installation of Device shall be as per the manufacturer's specifications with current registration; failure to meet these requirements shall require retrofit or replacement of Device if/as desired with an alternate gas/propane fueled or electric powered device in accordance with the manufacturer's installation instructions and Chapter [No.] [Building].
5. The fire in Device shall combust/burn no longer than twelve hours in any twenty-four-hour period and may be ignited only between the hours of 10 am and 10:00 pm.
6. Use of a Device is prohibited on days when the current or forecasted AQI for Particle PM2.5 Pollution in the Municipality as per the PA DEP is above [50][78] in "code yellow", "code orange", "code red", "code purple", or "code maroon".
7. The Device shall not emit unnecessary smoke as seen at or beyond the property line nearest the source which is clearly visible and distinguishable from the customary and ordinary background sky as seen at or beyond the property line nearest the source which is clearly visible and distinguishable from the customary and ordinary background sky in the Municipality.
8. The Device shall not emit unnecessary malodorous matter (odor) as smelled at or beyond the property line nearest the source which is clearly odorous and distinguishable from the customary and ordinary background odor as smelled or detected at or beyond the property line nearest the source which is clearly odorous and distinguishable from the customary and ordinary background odor in the Municipality
9. The Device shall not emit unnecessary fine particulate matter as measured by a laser particle counter at or beyond the property line nearest the source which is clearly measurable and distinguishable from the customary and ordinary ambient background particulate PM2.5 level as measured at or beyond the property line nearest the source which is clearly measurable and distinguishable from the customary and ordinary or current ambient

background PM2.5 particulate level in the Municipality.

10. Ignition is prohibited on days when the relative humidity is less than 20%, or when wind speeds exceed 20 mph or when the temperature exceeds 75° Fahrenheit.
11. Ignition is prohibited on days determined to be "Air Quality Action Days" or during an applicable "Air Pollution Episode" as determined by the Allegheny County Health Department.
12. No fire shall be ignited and open burning is prohibited when the U.S. National Weather Service has issued a Special Weather Statement for Elevated Fire Danger.
13. No device shall be left unattended during the time it is combusting and shall be dormant when either it is to be unattended or at the expiration of the burn period of twelve hours. A fire shall be attended by a responsible person 16 years of age or older.
14. No registration shall be granted, nor burning engaged in, unless it is verified that there is at a minimum a 5 Pound Class A B C Dry Chemical extinguisher, its equivalent or better, on the same floor and within four feet of the Device.
15. Exception to the within requirements as to hours of operation shall be as follows:

Limited Exemption, Sole Source of Heat – any person who does not have available to them a permanently-installed natural gas, propane or electric heating device. Qualification for exemption is subject to verification;

Limited Exemption, Non-functional, Permanently Installed Heater - any person whose only non- wood-burning, permanently-installed source of heat is non-functional and requires repair to resume operation. Qualification for this exemption is subject to verification and must be supported by documentation of repair, which must be submitted to the Municipality within 10 days of a receipt of a request for such records;

Limited Exemption, Loss of Natural Gas and/or Electric Power – any person whose dwelling is in an area that has a temporary loss of gas and/or electric utility service and there is no alternate form of heat available. Qualification for exemption is subject to verification

## **24.4. Registration**

- 24.4.1. Registration to operate a wood burning appliance shall be affected by filling out an application at the Permit Applications Office in the Municipal Building

or at the Municipality's website. There shall be a charge of \$10 for Registration. The Registration shall be applicable for one calendar year. Renewal shall be accompanied by the Maintenance Record. Application for renewal must be received by the Permit Applications Office prior to expiration of the one-year term. The Registration, if approved, shall be issued and signed by officials of the Municipality and the Fire Chief.

24.4.2 The applicant must present sufficient written evidence of either ownership, leasehold interest or permission of the owner in the case of a special excepted fire as set forth herein.

## **24.5 Maintenance**

24.5.1 It shall be unlawful to operate a wood-burning device unless it has been maintained and inspected annually, by a qualified hearth industry specialist. The annual maintenance records shall be submitted with Application for Renewal at the Municipal Building or at the Municipality's website for the Permit Applications Office's approval prior to expiration of the one-year term and after the required maintenance/inspection was conducted.

## **24.6 Real Estate Transfer**

24.6.1 It shall be unlawful to sell and/or transfer real estate that contains a wood-burning device that is not registered at the time of a real estate sale/change of ownership. Such wood-burning devices, including all integral inside and outside devices, shall be removed prior to real estate sale/change in ownership and/or title.

## **24.7 Penalty**

24.7.1 Any person violating any provision of the Ordinance shall be fined not more than \$300 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

## **24.8 Court proceedings.**

24.8.1 The Council may, in its sole discretion, and in the name of the Municipality, institute proceedings in courts of equity to restrain the continued violation of this Ordinance.

## **24.9 Similar Ordinances.**

24.9.1 The remedies provided in this Ordinance are cumulative and are not intended to repeal

or replace any ordinance heretofore or hereinafter enacted which prohibits nuisances in general or specific nuisances in particular, and provided further that this Ordinance shall not repeal or affect in any manner whatsoever Ordinance No. [No.].

**24.10 Severability.**

24.10.1 The provisions of this Ordinance are severable, and if any section, sentence, clause or phrase shall be held to be illegal, invalid or unconstitutional, the remaining portions of this Ordinance shall not be affected or impaired thereby.

**24.11 Repealer.**

24.11.1 Any ordinance or parts of ordinance conflicting with the provisions of this Ordinance, except as provided 24.9 are hereby repealed to the extent of such conflict.

SECTION 2: THAT the provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance, but they shall stand notwithstanding the invalidity of any part.

SECTION 3: THAT any Ordinance or part of Ordinance conflicting with the provisions of this Ordinance be, and the same is hereby, repealed to the extent of such conflict.

ORDAINED AND ENACTED in the law by [Council][Board of Commissioners] of the Municipality of [Name] this \_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

MUNICIPALITY OF [NAME]

\_\_\_\_\_

By \_\_\_\_\_

Secretary

President of [Council] ][Board of Commissioners]

[EXAMINED AND APPROVED by me, this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_

Mayor]