

ORDINANCE NO. # 1 of 2023

**TOWNSHIP OF WEST PIKE RUN
WASHINGTON COUNTY, PENNSYLVANIA**

AN ORDINANCE OF THE TOWNSHIP WEST PIKE RUN, WASHINGTON COUNTY, PENNSYLVANIA, FOR THE PREVENTION AND CONTROL OF AIR POLLUTION FROM THE USE OF OUTDOOR WOOD-FIRED BOILERS, ALSO KNOWN AS OUTDOOR WOOD-FIRED FURNACES, OUTDOOR WOOD-BURNING APPLIANCES, OR OUTDOOR HYDRONIC HEATERS; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR REGULATIONS, EXCEPTIONS, ENFORCEMENT ORDERS, RESPONSIBILITY OF OWNERS AND OPERATORS, PENALTIES, UNLAWFUL CONDUCT, PUBLIC NUISANCES, AND VALIDITY.

WHEREAS, it is the desire of the Board of Supervisors of West Pike Run Township to provide for the regulation of the use of outdoor wood-fired boilers, outdoor wood-fired furnaces, outdoor wood-burning appliances, and outdoor hydronic heaters, to prevent and control the detrimental impact of air pollution which causes injury, damage, harm, inconvenience, annoyance or discomfort to others in the legitimate enjoyment of their rights of person or property:

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Supervisors of the Township of West Pike Run, Washington Pennsylvania, pursuant to the Second Class Township Code and any other laws of the Commonwealth of Pennsylvania as amended as follows:

SECTION 1: TITLE

This Ordinance shall be known and may be cited as the West Pike Run Township "OUTDOOR WOOD FIRED BOILER ORDINANCE of 2023".

SECTION 2: APPLICABILITY

Except as otherwise provided herein, this Ordinance applies to the installation and use of all outdoor wood-fired boilers within West Pike Run 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, unless the heating device is an outdoor wood-fired boiler installed indoors.
- 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.

SECTION 3: PURPOSE AND SCOPE

The Board of Supervisors has determined that air pollution from outdoor wood-fired boilers may be detrimental to the health, comfort, living conditions, welfare, and safety of the citizens of the Township, it is hereby declared to be the policy of West Pike Run Township to safeguard the citizens of West Pike Run Township from such air pollution.

SECTION 4: DEFINITIONS

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

- A. **APCA** – Air Pollutions Control Act.
- B. **Board** – Board of Supervisors of West Pike Run Township.
- C. **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.
- D. **EPA** – United States Environmental Protection Agency.
- E. **Nuisance** – As defined by other Township Ordinances and emission of air contaminants door atmosphere of such quantity, characteristics or duration that may be injurious to human, plant or animal life or to property, or that unreasonable interferes with the comfortable enjoyment of life or property, including opacity.
- F. **Opacity** – the degree to which emissions other than water reduce the transmission of light and obscure the view of an object in the background.
- G. **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.
- H. **Phase 2 outdoor Wood-Fired Boiler** – an outdoor wood-fired boiler that has been certified or qualified by the Environmental Protection Agency as meeting a particulate matter emission limit of 0.32 pounds per million British Thermal Units output and is labeled accordingly.
- I. **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.

- J. **Responsible Official** – Person designated by the municipality to be responsible for the administration and enforcement of this Ordinance, including, but not limited to, the Code Enforcement Officer.
- K. **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.
- L. **Township** – West Pike Run Township, Washington, Pennsylvania.

SECTION 5: REGULATIONS

On or after the effective date of this Ordinance an outdoor wood-fired boiler may be installed, used or operated in the Township only in accordance with the following provisions:

- A. **Zoning Requirements for New Outdoor Wood-Fired Boilers** – New outdoor wood-fired boilers shall be permitted for residential use only.
- 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 or an outdoor wood-fired boiler manufactured to more restrictive or stringent standards established by federal or state agency.
- 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.
- D. **Stack Height Requirements for New Outdoor Wood-Fired Boilers** – The outdoor wood-fired boiler shall have a stack or chimney that extends to a minimum height of the occupied structure roof peak of which the outdoor wood-fired boiler is servicing plus two (2) feet. If there are any occupied structures within 200 feet of the new outdoor wood-fired boiler, the stack or chimney shall extend at least as high above the ground surface as the height of the roof peaks of all such occupied structures plus two (2) feet. The maximum height of the outdoor wood-fired boiler stack or chimney shall not exceed the maximum building height in that specific zoning district plus two (2) feet.
- E. **Maximum Setback Exclusion** – Any new outdoor wood-fired boiler installed at a minimum of 500 feet from all property lines shall be excluded from the stack height requirements.
- F. **Stack Height Requirements for Existing Outdoor Wood-Fired Boilers** – Should a new occupied structure be built, or the building height of an existing occupied structure be increased within 250 feet of an outdoor wood-fired boiler, the outdoor wood-fired boiler stack or chimney height shall be raised to match the height of the new or modified structure plus two (2) feet, up to the maximum building height plus two (2) feet indicated above. However, if the existing outdoor wood-fired boiler is a Phase 2 outdoor wood-fired boiler, Subsection d above will apply.

G. Fuel Requirements for New and Existing Outdoor Wood-Fired Boilers – No person that operates a new or existing outdoor wood-fired boiler shall use a fuel other than the following:

1. Clean wood;
2. Wood pellets made from clean wood;
3. Home heating oil, natural gas, propane or other manufacturer-approved fuel that complies with all applicable sulfur limits and is used as a starter or supplemental fuel for dual-fired outdoor wood-fired boilers resulting in emissions in compliance with this and does not cause a nuisance in accordance with this Ordinance or other Borough Ordinances.

H. Prohibited Fuels for New and Existing Outdoor Wood-Fired Boilers – No person shall burn any of the following items in an outdoor wood-fired boiler:

1. Any material not listed in Subsection G above;
2. Treated or painted wood;
3. Furniture;
4. Garbage;
5. Tires;
6. Lawn clippings or yard waste;
7. Material containing plastic;
8. Material containing rubber;
9. Waste petroleum products;
10. Paints and paint thinners;
11. Chemicals;
12. Any hazardous waste;
13. Coal;
14. Glossy colored paper;
15. Construction and demolition debris;
16. Plywood;
17. Particleboard;
18. Salt water driftwood;
19. Manure;
20. Animal carcasses;
21. Asphalt products.

I. 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 May 15 and the following September 15.

J. Regulatory Requirements for New and Existing Outdoor Wood-Fired Boilers – No person shall use or operate a new or existing outdoor wood-fired boiler unless it complies with all applicable existing and future federal, state and local regulations. Some regulations of this Commonwealth that could apply include:

1. 25 PA. Code Section 121.7 – Prohibition of Air Pollution
2. 25 PA. Code Section 123.1 – Fugitive Emissions
3. 25 PA. Code Section 123.31 – Odor Emissions
4. 25 PA. Code Section 123.41 – Visible Emissions
5. Section 8 of the APCA, 35 P.S. Section 4008 – Unlawful Conduct
6. Section 13 of the APCA, 35 P.S. Section 4013 – Public Nuisances
7. All outdoor wood-fired boilers shall be equipped with properly functioning spark arrestors and shall be located on the property in compliance with manufacturers recommendations, specifications of requirements for clearance to combustible materials.

K. Permits for New and Existing Outdoor Wood-Fired Boilers – No person shall use or operate an outdoor wood-fired boiler unless a permit is obtained from the Responsible Official.

The application shall be signed by an owner(s) of the lot on which the outdoor wood-fired boiler will be located and the applicant if not a property owner:

1. Permits must be acquired prior to installation;
2. Present evidence that the applicant has obtained building permits for the installation of the outdoor wood-fired boiler and its connections to the mechanical system of the structure it will serve, if applicable;
3. The cost of the permit shall be paid as outlined in the West Pike Run Township Fee Schedule;
4. The penalty for not obtaining a permit is outlined in Section 9;
5. West Pike Run Township reserves the ability to suspend permits if weather conditions warrant in the sole discretion of the council of West Pike Run Township;
6. Violation of permit conditions is a violation of this Ordinance;
7. Any violation of the Ordinance or permit conditions shall void the permit.

SECTION 6: EXISTING OUTDOOR WOOD-FIREDBOILER

Any outdoor wood-fired boiler in existence on the effective date of this Ordinance shall be permitted to remain, provided that the owner applies for and receives a permit from the Responsible Official within one (1) year of the effective date of this Ordinance. If the owner of an existing outdoor wood-fired boiler does not receive a permit within one (1) year of the effective date of this Ordinance, the outdoor wood-fired boiler shall be removed, and the owner will be subject to the regulations in Section 8 of this Ordinance. If an outdoor wood-fired boiler in existence of the effective date of this Ordinance is causing a nuisance as determined by the Responsible Official, the following steps shall be taken by the owner:

- A. Modifications approved by the unit’s manufacturer shall be made to the unit to eliminate the nuisance such as extending the chimney or relocating the outdoor wood-fired boiler or both.
- B. Cease and desist operating the unit until a remedy can be taken to ensure that the use of the outdoor wood-fired boiler will not be a nuisance.

SECTION 7: ENFORCEMENT ORDERS

- A. The Responsible Official shall have the power and duty to enforce the provisions of this Ordinance.
- B. The Responsible Official may issue such orders as are necessary to aid in the enforcement of the provisions of this Ordinance. These orders shall include, but shall not be limited to:
 - 1. Orders requiring persons to cease unlawful use outdoor wood-fired boilers, which is in violation of any provision of this Ordinance;
 - 2. Orders to take corrective action or to abate a public nuisance;
 - 3. Or orders requiring production of information.
 - 4. Such an order may be issued if the Responsible Official finds that any person is in violation of any provision of this Ordinance.
- C. The Responsible Official may, in order, require compliance with this Ordinance.
- D. An order issued under this section shall take effect upon notice unless the order specifies otherwise. An appeal to the Township Board of Supervisors order shall not act as a supersedeas, provided however that upon application and for cause shown, the Township Board of Supervisors may issue such a supersedeas.
- E. The authority of the Responsible Official 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.
- F. The applicant and/or property owner authorizes the Responsible Official to perform inspections related to the application and the permit as deemed necessary regarding proper operation of the outdoor wood-fired boiler. The applicant and/or property owner understands and agrees to comply with this Ordinance and all other applicable laws and regulations.

SECTION 8: RESPONSIBILITY OF OWNERS AND OPERATORS

- A. Whenever the Responsible Official finds that illegal operations of an outdoor wood-fired boiler is occurring in the Township, in contravention of the requirements of this Ordinance, the Responsible Official may order the owner or operator to take corrective action in a manner satisfactory to meet the regulations of this Ordinance, or the Responsible Official may order the owner or operator to allow access to the land by the Responsible Official or a third party to take such action.
- B. For the purposes of collecting or recovering the costs involved in taking corrective action or pursuing a cost recovery action, pursuant to an order or recovering the cost of litigation, oversight, monitoring, sampling, testing and investigation related to a corrective action. The Township may collect the amount in the same manner as civil

penalties are assessed and collected following the process for assessment and collection of a civil penalty contained in Section 9 of this Ordinance.

- C. Any person desiring to install an outdoor wood-fired boiler within the Township shall obtain all applicable permits and shall pay a permit fee set by the Township by resolution. Homemade outdoor wood-fired boilers are not permitted. Failure of a person to operate or maintain an outdoor wood-fired boiler in accordance with manufacturer instructions or requirements or this Ordinance may result in permit suspension or revocation and/or other remedies allowed by law.
- D. The outdoor wood-wired boiler shall be maintained and operated in compliance with all emissions and air quality standards promulgated by the United States Environmental Protection Agency, the Pennsylvania Department of Environmental Protection or other relevant state or federal agency. Notwithstanding compliance with applicable emissions and air quality standards, no outdoor wood-fired boiler shall be operated to cause a nuisance by noxious or hazardous particulate, fume, gas, mist, odor, smoke, vapor, toxic or deleterious emission, either alone or in combination with others.
- E. Any waste material, ash or other by-products from the operation of the outdoor wood-fired boiler shall be disposed of in accordance with all applicable laws and shall not be permitted to be stockpiled on the owner's property for more than ninety (90) days.

SECTION 9: VIOLATIONS AND PENALTIES

- A. No person shall violate any portion of this Ordinance.
- B. Prosecution under this Ordinance shall be instituted by the Responsible Official, or any other Township or law enforcement official authorized by the Township and shall be filed in the Township.
- C. Enforcement shall be by an action brought before a Magisterial District Judge in the same manner as provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pennsylvania Rule of Criminal Procedure No. 454(c) (relating to trial in summary cases), or as amended from time to time.
- D. Any person violating any of the provisions of this Ordinance shall, upon conviction thereof by a Magisterial District Judge, be guilty of a summary offense and shall be sentenced to pay a fine of not less than two-hundred-fifty (\$250.00) dollars nor more than one-thousand (\$1,000.00) dollars, together with costs, for first violation, not less than five-hundred (\$500.00) dollars nor more than one-thousand (\$1,000.00) dollars, together with costs, for the second, and up to one-thousand (\$1,000.00) dollars, together with costs, for subsequent violations. Each day that a violation exists shall constitute a separate offense. In default in the payment of any fine imposed hereunder, the defendant shall be sentenced to undergo imprisonment for a period not exceeding thirty (30) days.

- E. All fines and penalties collected for any violation of this Ordinance shall be paid to the Township.
- F. In addition to or in lieu of an enforcement action before a District Justice, the Township may enforce this Ordinance in equity. In the event an abatement notice has been issued, which is being violated, under the appropriate circumstances, the Responsible Official, or any other Township official, is hereby authorized on behalf of the Township to institute an action in equity for an injunction to enforce compliance herewith and/or to restrain continuous violations of this Ordinance.

SECTION 10: UNLAWFUL CONDUCT

It shall be unlawful to fail to comply with or to 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 Township:

- 1. Or to cause a public nuisance;
- 2. Or to hinder, obstruct, prevent, or interfere with West Pike Run Township or its personnel in their performance of any duty hereunder, including denying the Responsible Official access to the source or facility.

SECTION 11: PUBLIC NUISANCE

A violation of this Ordinance or of any order issued by the Responsible Official under this Ordinance shall constitute a public nuisance. The Responsible Official shall have the authority to order any person causing a public nuisance, to abate the public nuisance. In addition when abating a public nuisance, the Responsible Official may recover the expenses of the abatement following the process for assessment and collection of any civil penalty due hereunder. 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.

SECTION 12: CHALLENGES AND APPEALS

- A. Any person aggrieved by any action of a representative of the Township may appeal to the Township Board of Supervisors within thirty (30) days of that action.
- B. Any person aggrieved by the decision of the Township of Supervisors may appeal to Washington County Court of Common Pleas within 30 days of that action.

SECTION 13: REPEALER

All other Ordinances or parts thereof which are in conflict with this Ordinance are hereby repealed.

SECTION 14: VALIDITY

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 Township Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence or provision had not been included herein.

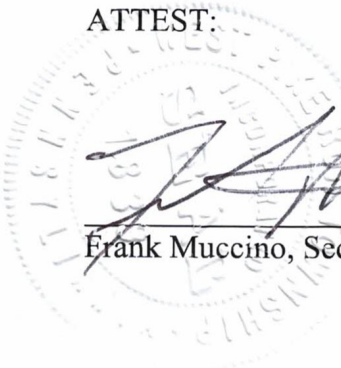
SECTION 15: EFFECTIVE DATE

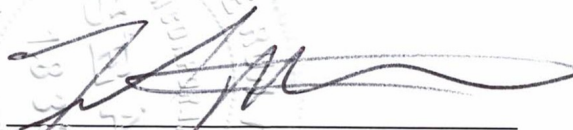
This Ordinance shall become effective five (5) days after its Enactment.

ENACTED AND ORDAINED into an Ordinance and passed by the West Pike Run Township Board of Supervisors on this _____ day of _____, 2023.


ATTEST:

TOWNSHIP OF WEST PIKE RUN
BOARD OF SUPERVISORS






Frank Muccino, Secretary-Treasurer

BY: 

Richard A. Molish, Chairman

BY: _____
Dale Tiberie, Vice-Chairman

BY: 

Walter D. MacFann, Supervisor