

**BOROUGH OF KULPMONT,
NORTHUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2021-04

**AN ORDINANCE OF THE BOROUGH OF KULPMONT,
NORTHUMBERLAND COUNTY, PENNSYLVANIA, TO ESTABLISH
RULES AND REGULATIONS FOR OUTDOOR BURNING WITHIN THE
BOROUGH**

SECTION 1. TITLE: This article shall be known and may be cited as the “Borough of Kulpmont Outdoor Wood Fired Boiler Ordinance”.

SECTION 2. AUTHORITY: The Borough Council of the Borough of Kulpmont, under and by virtue of and pursuant to the authority granted by Section 1202(16) of the Commonwealth of Pennsylvania Borough Code (Act of 1965, No. 581 as amended) [1] do hereby enact and ordain this article.

SECTION 3. APPLICABILITY: This article applies to the installation and use of all outdoor wood fired boilers within the Borough of Kulpmont.

- A. This article does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking and grilling appliances.
- B. This article 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 article 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 4. PURPOSE AND SCOPE: Whereas the Borough Council of the Borough of Kulpmont 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 Borough of Kulpmont, it is hereby declared to be the policy of the Borough of Kulpmont to safeguard the citizens of the Borough of Kulpmont from such air pollution.

SECTION 5. 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:

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

- COUNCIL - the Borough Council of the Borough of Kulpmont, Northumberland County, Pennsylvania.

- MUNICIPALITY - a city, incorporated town, township, borough, county, municipal authority, or other public body created under commonwealth law having jurisdiction over the disposal of sewage, industrial waste or other waste.

- OUTDOOR WOOD FIRED BOILER -

A. A fuel burning device that:

- 1) Is designated to burn or is capable of burning clean wood or other fuels listed under Section 5 (relating to outdoor wood fired boilers).
- 2) Has a rated thermal output of less than 350,000 BTU per hour.
- 3) The manufacture designs or specifics for outdoor installation or installation in structures not normally intended for habitation by humans or domestic animals, including structures like garages and sheds.
- 4) Heats building space or fluid or both, through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

B. The fuel burning device may also be known as an:

- 1) Outdoor wood fired furnace.
- 2) Outdoor wood burning appliance.
- 3) Outdoor hydronic heater.

- 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 of 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 particular matter emission limit of 0.32 pounds per million BTU output or lower and its

labeled accordingly.

- RESPONSIBLE OFFICIAL - person designated by the Borough Council to be responsible for the administration and enforcement of this article. Unless another person is designated by the Borough Council by resolution, the Code Enforcement Officer shall be the responsible official.
- YARD WASTE - leaves, grass clippings, garden residue, tree trimmings, clipped shrubbery and other vegetative material.

SECTION 6. REGULATIONS: After the effective date of this article an outdoor wood fired boiler may be installed or used in the Borough of Kulpmont only in accordance with the following provisions:

- A. A person that owns, leases, uses or operates an outdoor wood fired boiler in the Borough shall use only one or more of the following fuels:
 - 1. Clean wood;
 - 2. Wood pellets made from clean wood;
 - 3. Home heating oil, natural gas, or propane that:
 - A. Complies with all applicable sulfur limits;
 - B. Is used as a starter or supplements fuel for dual fired outdoor wood fired boilers.
- B. The outdoor wood fired boiler shall not be used to burn any fuels other than those identified in Section 6, above. Specifically, and without limitation, the outdoor wood fired boiler shall not be used to burn any of the following prohibited materials:
 - 1. Any material that does not meet the definition of clean wood;
 - 2. Furniture;
 - 3. Garbage;
 - 4. Tires;
 - 5. Lawn clippings or yard waste;
 - 6. Material containing plastic;
 - 7. Material containing rubber;
 - 8. Waste petroleum products;
 - 9. Paints and paint thinner;

10. Chemicals;
11. Any hazardous waste;
12. Coal;
13. Glossy colored paper;
14. Construction and demolition debris;
15. Plywood;
16. Particleboard;
17. Saltwater driftwood;
18. Manure;
19. Animal carcasses;
20. Asphalt products.

C. Setback requirements.

1. A non-Phase 2 outdoor wood fired boiler must be installed at least 100 feet from the nearest building that is not located on the same property as the outdoor wood fired boiler. Further, the non-Phase 2 outdoor wood fired boiler shall be located at least 150 feet from the nearest property line.
2. A Phase 2 outdoor wood fired boiler shall be located 100 feet from the nearest building that is not located on the same property as the outdoor wood fired boiler. The Phase 2 outdoor wood fired boiler shall be located at least 50 feet from the nearest property line.

D. The outdoor wood fired boiler shall have a permanent chimney that extends at least 15 feet. If there are any residences within 500 feet of the wood fired outdoor boiler, the chimney shall also extend at least five feet above the ridge line of the roofs of all such residences.

E. The owner or operator of the outdoor wood fired boiler shall obtain a permit for installation and operation of an outdoor wood fired boiler from the Kulpmont Borough Code Officer or other responsible official.

1. Each owner of an outdoor wood fired boiler must obtain a permit for

installation and operation prior to installation of the device.

2. The cost of said permit shall be \$50.00. This permit fee may be amended from time to time by resolution by the Borough Council.
 3. The penalty for not obtaining the required permit shall be \$500.00.
 4. Any violation of the conditions of the permit to install and operate an outdoor wood fired boiler shall constitute a violation of this article.
- F. The outdoor wood fired boiler (non-Phase 2) shall have an orange hang tag that signifies that it meets the EPA's standards for Phase 1 air emission levels of 0.60 pounds of fine particles per million BTU heat input and qualified for the EPA's voluntary program.

SECTION 7. ENFORCEMENT ORDERS:

- A. This responsible official of the Borough of Kulpmont shall have the power and duty to enforce the provisions of this article.
- B. The Borough of Kulpmont may issue such orders as are necessary to aid in the enforcement of the provisions of this article. These orders shall include but not be limited to: orders requiring persons to cease unlawful use of outdoor wood fired boilers, which is in violation of any provision of this article; orders to take corrective action or to abate a public nuisance; or orders requiring production of information.
- C. The Borough of Kulpmont may, in its order, require compliance with this article.

SECTION 8. RESPONSIBILITY OF OWNERS AND OPERATORS: Whenever the responsible official finds that illegal operation of an outdoor wood fired boiler is occurring within the Borough of Kulpmont, in contravention to the requirements of Section 6 above, the responsible official may order the owner or operator to take corrective action in a manner satisfactory to the Borough of Kulpmont 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.

SECTION 9. APPLICATION FOR APPEAL:

- A. Any person directly affected by a decision of the Borough Code Enforcement Office, Borough employee or designee who makes a determination pursuant to the terms of this article, shall have the right to appeal to the Borough Council, provided that a written application for appeal is filed within twenty days after the day the decision is made, notice or order was served. An application for appeal shall be based on a claim that the true intent of this article or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this article do not fully apply, or the requirements of this article are adequately satisfied by other means. The Borough Council will be permitted to grant a modification or

variance from the terms of this article, provided that the person filing the appeal can prove that the true intent of this article will be followed by granting the modification or variance. Any person filing an appeal must pay an appeal fee to the Borough Council as set by the Borough Council. If no fee is set by resolution, the fee shall be the same as the fee for applying to the Zoning Hearing Board of the Borough for a variance.

- B. Criteria for variances. In making this determination the Borough Council shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment of the neighborhood or community by such grant. In making such determination, the Board shall also consider:
1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
 2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;
 3. Whether the requested variance is substantial;
 4. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Borough Council but shall not necessarily preclude the granting of the variance.

SECTION 10. VIOLATIONS AND PENALTIES: Any person, firm or corporation who shall violate any provision of this article shall upon conviction thereof, be sentenced to pay a fine of not less than \$500.00 nor more than \$1,000.00, plus cost of prosecution. Cost of prosecution shall include but not be limited to, oversight, moderating, sampling, testing and investigation related to any corrective action, as well as attorney fees and court costs.

SECTION 11. PUBLIC NUISANCES: A violation of this article or of any order issued by the Borough of Kulpmont under this article shall constitute a public nuisance. The Borough of Kulpmont 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 Borough of Kulpmont may recover the expenses for abatement following the process for assessment and collection of a civil penalty contained in Section 10, above. Whenever the nuisance is maintained or continued contrary to this article or any order issued pursuant to this article, the nuisance may be abatable in the manner provided in this article. Any person who causes the public nuisance shall be liable for the cost of abatement.

SECTION 12. STATE OR COUNTY REGULATIONS: To the extent that Commonwealth of Pennsylvania or Northumberland County, Pennsylvania (hereinafter "County") has in place laws and/or regulations which are addressed by this article, the Commonwealth's or County's laws and/or regulations shall supersede this Borough Ordinance where the Commonwealth's or County's laws and/or regulations are more restrictive.

SECTION 13. This ordinance shall take effect five days after its enactment.

Enacted and Ordained this 12th day of May 2021.

This ordinance shall become effective five (5) days after the adoption hereof.

DULY ENACTED AND ORDAINED BY Borough Council, of the Borough of Kulpmont, Northumberland County, Pennsylvania, this _____ day of _____, 2021, in lawful session duly assembled.

ATTEST:

BOROUGH OF KULPMONT:

SECRETARY

BY:
NICHOLAS BOZZA, MAYOR

SECRETARY

BY:
ROBERT SLABY, PRESIDENT