

Outdoor and Open Burning Ordinance for Curwensville Borough, PA

Chapter 79

Ordinance No. 455

SECTION 1: PURPOSE

79.1 Purpose.

This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of Curwensville Borough due to the air pollution and fire hazards of open burning and outdoor burning.

SECTION 2: APPLICABILITY

79.2 Applicability.

This ordinance applies to all outdoor burning and open burning within the Curwensville Borough.

2.1. This ordinance does not apply to grilling or cooking using charcoal, propane or natural gas in cooking or grilling appliances.

2.2. 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.

2.3. This ordinance does not apply to the use of propane, acetylene, natural gas, petroleum fuel in a device intended for heating, construction or maintenance activities.

SECTION 3: SEVERABILITY

79.3 Severability.

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

SECTION 4: DEFINITIONS

79.4 Definitions.

4.1. "Campfire" means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.

4.2. "Clean wood" means natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.

4.3. "Construction and demolition waste" means building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.

4.4. "Fire Chief" means the Chief of the Rescue Hose & Ladder Co. Fire Department or other person designated by the Fire Chief.

4.5. "Municipality" means a county, township, city, or village.

4.6. "Outdoor burning" means open burning or burning in an outdoor wood-fired boiler or patio wood burning unit.

4.7. "Open burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

4.8. "Outdoor wood-fired boiler" means a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.

4.9. "Patio wood-burning unit" means a chimnea, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.

4.10. "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

4.11 Nuisances – upon a verbal request, resident must extinguish the fire completely in compliance with the ordinance.

SECTION 5: GENERAL PROHIBITION ON OPEN BURNING, OUTDOOR BURNING, AND REFUSE BURNING

79.5 General prohibition on outdoor burning and open burning.

Open burning and outdoor burning are prohibited in the Curwensville Borough unless the burning is specifically permitted by this ordinance.

SECTION 6: OPEN BURNING OF REFUSE

79.6 Open burning of refuse.

6.1. Open burning of refuse from a commercial or industrial establishment is prohibited.

6.2. Open burning of refuse from and at a one or two family dwelling is allowed if all of the following conditions are met:

6.2.1. The burning does not create a nuisance

6.2.2. The burning is conducted in a container constructed of metal or masonry that has a metal covering device that does not have an opening larger than ¾ inch.

6.2.3. The material being burned is not prohibited under subsection 6.3.

6.2.4. A permit issued in accordance with section 12 of this ordinance has been obtained.

6.3. Open burning of the following materials is prohibited.

6.3.1. Construction and demolition waste.

6.3.2. Hazardous substances including but not limited to batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents.

6.3.3. Furniture and appliances.

6.3.4. Tires.

6.3.5. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.

6.3.6. Newspaper.

6.3.7. Corrugated cardboard, container board, office paper.

6.3.8. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

SECTION 7: PROHIBITED – OPEN BURNING OF TREES, LOGS, BRUSH, STUMPS, LEAVES, AND GRASS CLIPPINGS

79.7 Burning trees, logs, brush, stumps, leaves, and grass clippings.

7.1. Open burning of leaves and grass clippings is prohibited.

7.2. Except for campfires, a permit issued in accordance with Section 12 of this ordinance must be obtained prior to open burning under this Section when the ground is not snow covered.

7.2.1. Open burning of trees, logs, brush, and stumps must be conducted at least 1,400 feet from an incorporated city or village limit.

7.2.2. Except for barbecue, gas, and charcoal grills, no open burning shall be undertaken during periods when Governor of Pennsylvania has issued a burning ban applicable to the area.

7.2.3. All allowed open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways, railroads or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.

7.2.4. Outdoor campfires and small bonfires for cooking, ceremonies, or recreation are allowed if the fire is not located in a residential development.

7.2.5. Open burning under this section shall only be conducted at a location at least 50 feet from the nearest building which is on the same property for small campfires and 50 feet from the nearest building which is not on the same property for all other fires.

7.2.6. Except for campfires, open burning shall only be conducted between the hours of 6 PM and 9 PM. Year round burning with a 30 day permit. No burning shall be conducted on "weekends or federally designated holidays". Burning shall be conducted according to the DEP and Federal Clean Air Act regulations.

7.2.7. Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

7.2.8. No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream, or water body.

7.2.9. Except for barbecue, gas, and charcoal grills, no burning shall be undertaken within 25 feet from any combustible material, combustible wall or partition, exterior window opening, exit access or exit unless authorized by the Fire Chief.

7.2.10. No open burning may be conducted on days when the Department of Environmental Quality has declared an air quality action day applicable to the County of Clearfield.

SECTION 8: AGRICULTURAL BURNING

79.8 Agricultural burning.

Open burning of weeds, brush, and crop stubble on agricultural lands is allowed if conducted in accordance with other applicable provisions of this ordinance.

SECTION 9: OUTDOOR WOOD-FIRED BOILERS

79.9 Outdoor wood-fired boilers.

Already existing furnaces, at the end of their usability/functionality, must be replaced with Phase 2 outdoor wood-fired boiler specifications.

DEFINITIONS

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.

DEP – Pennsylvania Department of Environmental Protection

EPA – United States Environmental Protection Agency

Non-Phase 2 outdoor wood-fired boilers – 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.

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 to the atmosphere.

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

REQUIREMENTS FOR OUTDOOR WOODFIRED BOILERS

Outdoor wood-fired boilers are permitted subject to the following conditions and requirements:

1. Recommendation for approval by the Curwensville Planning Commission.
2. Curwensville Borough
 - a. OWBs are permitted as an accessory use in Curwensville Borough.

OR

 - b. OWBs are permitted as an accessory use in Curwensville Borough until the end of their usability/functionality.
3. Emissions 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.

***Note: DEP mandates all OWBs bought, sold, distributed, leased or installed must meet EPA Phase 2 emission standards.**

4. Number of OWBs – The number of OWBs shall be limited to (one, XX) per lot.
4. Lot Size – OWBs shall only be utilized on lots or parcels of land (1-3+, XX) acre(s) or larger.
5. Setbacks – OWBs shall be installed in accordance with the following setbacks:

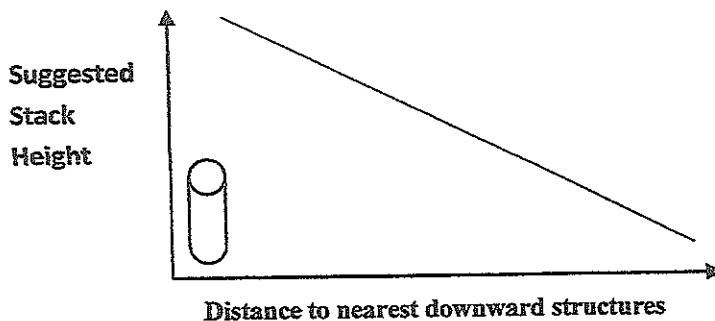
Front	(50*, 100, 200, XX) feet
Side	(50*, 100, XX) feet
Rear	(50*, 100, XX) feet
Nearest Residential Structure not on lot where the OWB is located	(25, 100, 500, XX) feet

***Note:** DEP mandates all Phase 2 OWBs be installed at least 50 feet from the property line.

6. Location

- a. OWBs shall not be located in the front yard.
- OR**
- b. OWBs shall not be located in the front yard between the principal building and a public street.

7. Stack Height –OWBs must have a permanently installed stack that extends at least 10 feet above the ground and is installed according to manufacturer’s specifications.



******Any residence serviced by an outdoor furnace must always use the minimum stack height of at least the existing building eave height plus an additional two feet for the building being served. However, all other stack height calculations as set forth above pertaining to surrounding residences in this ordinance must always take preference. Proper stack height is always taken in the worst-case scenario pertaining to nearby residences not serviced by these furnaces.

***Note:** DEP mandates all Phase 2 OWBs have a permanently installed stack that extends at least 10 feet above the ground.

8. Types of Fuel Permitted* – All OWBs shall operate using only the following fuels:

- a. Clean Wood
- b. Wood pellets made from clean wood
- c. 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
- d. Other types of fuel approved in writing by DEP upon receipt of a written request.

***Note:** DEP mandates type of fuel permitted to be burned in OWBs.

9. Solid Waste Disposal - During the entire period of use, every owner of an OWB shall have a current contract with a licensed solid waste hauler and shall use its services for disposal of all household trash. Upon request, every owner and user of an OWB shall present proof of current waste disposal contract to the (insert municipality).
10. An OWB shall not be used as a waste incinerator.
11. Use of Starter Fluids – Use of starter fluids such as lighter fluid, gasoline and other chemicals to ignite an OWB is prohibited.
12. Safety – All OWBs should be equipped with a properly functioning spark arrestor.
13. Months of Operation – Use of OWBs shall be permitted year round.
14. 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 operator 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.
15. Nuisance – The use of an OWB shall not cause a nuisance, as defined by the (insert appropriate code) to neighboring or other property, as determined by the (insert appropriate code official).
16. All storage of materials to be burned in the OWB shall be kept (5, XX) feet away from the OWB.
17. Vegetation – An area not less than 20 feet in any direction around the OWB shall be kept free of any vegetation with the exception of grass no higher than 4 inches in height.
18. Installation, use and operation of an OWB must comply with manufacturer's specifications as well as all applicable local, county, state and/or federal laws, regulations and codes.
19. Administration
 - a. An applicant shall obtain a (zoning/ building) permit prior to installation of an OWB.
 - b. Owners of Non-Phase 2 OWBs shall register the device with the (insert appropriate code official) within 60 days of the effective date of this ordinance.
20. Permit Requirements
 - a. Zoning/building permit applications shall document compliance with this ordinance and shall be accompanied by drawings showing the location of the OWB on the property, including property lines and setbacks. Permits shall be kept on the property where the OWB is located.
 - b. The zoning/building permit shall be suspended or revoked if the 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.

SECTION 10: PATIO WOOD-BURNING UNITS

79.10 Patio wood-burning units.

A patio wood-burning unit may be installed and used in the Curwensville Borough only in accordance with all of the following provisions:

- 10.1. The patio wood-burning unit shall not be used to burn refuse.
- 10.2. The patio wood-burning unit shall burn only clean wood.
- 10.3. The patio wood-burning unit shall be located at least 50 feet from the nearest structure which is not on the same property as the patio wood burning unit.
- 10.4. The patio wood-burning unit shall not cause a nuisance to neighbors.

SECTION 11: FIRE SUPPRESSION TRAINING

79.11 Fire suppression training.

Notwithstanding sections 5 and 6 of this ordinance, structures and other materials may be burned for fire prevention training only in accordance with all of the following provisions.

- 11.1. The burn must be exclusively for fire prevention training. The burning shall not be used as a means to dispose of waste material including tires and other hazardous materials.
- 11.2. Any standing structure that will be used in a fire suppression training must be inspected and should be inspected by a licensed asbestos inspector. A notification of this inspection must be submitted to the Pennsylvania Department of Environmental Quality, Air Quality Division at least ten business days prior to burning a standing structure. The notification must be submitted using Form EQP 5661 "Notification of Intent to Renovate/Demolish."
- 11.3. All asbestos must be removed prior to conducting the fire suppression training. If the structure is a residential dwelling, the owner may remove the asbestos or have it removed by a licensed abatement contractor. If it is a commercial building, all asbestos must be removed by a licensed abatement contractor.
- 11.4. All ash shall be disposed of in an approved landfill or at an alternate location approved by the Pennsylvania Department of Environmental Quality.
- 11.5. Asphalt shingles and asphalt or plastic siding shall be removed prior to the practice burn unless the Fire Chief determines that they are necessary for the fire practice.
- 11.6. At least seven days before a planned practice burn, residents within 2,000 feet of the site of the proposed burn shall be notified.
- 11.7. All fire suppression training should conform to the guidelines established by the National Fire Protection Association (NFPA) Standard on Live Fire Training Evolutions (NFPA 1403).

SECTION 12: BURNING PERMITS

79.12 Burning Permits.

12.1. No person shall start or maintain any outdoor burning or open burning covered under this section without a burning permit issued by the Curwensville Borough Secretary.

12.2. Any person responsible for burning leaves, brush, clean wood or other vegetative debris under Section 7 of this ordinance shall obtain a one-time burning permit before starting the fire.

12.3. An outdoor campfire does not require a permit provided that the fire complies with all other applicable provisions of this ordinance.

12.4. The owner or occupant of the property shall not use a burn barrel.

12.5. When weather conditions warrant, the Fire Chief may temporarily suspend issuing burning permits and may temporarily suspend previously issued burning permits for open burning.

12.6. A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.

12.7. Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation of this ordinance or the burning permit shall void the permit.

SECTION 13: LIABILITY

79.13 Liability.

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

SECTION 14: ENFORCEMENT AND PENALTIES

79.14 Enforcement and penalties.

14.1. The Fire Chief, Curwensville Police Department and the Code Enforcement Officer are authorized to enforce the provisions of this ordinance.

14.2. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this ordinance or fails to comply with a duly authorized order issued pursuant to this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Pennsylvania Statute which shall be punishable by civil fine determined in accordance with the following schedule:

Minimum Fine/ Maximum Fine

1st Offense within 3-year period* \$75.00 / \$500.00

2nd Offense within 3-year period* \$150.00/ \$500.00

3rd Offense within 3-year period* \$325.00 / \$500.00

4th or More Offense within 3-year period* \$500.00/ \$500.00

*Determined on the basis of the date of commission of the offense(s)

14.3. The violator shall pay costs which may include all expenses, direct and indirect, which the Borough of Curwensville has incurred in connection with the municipal infraction. In no case, however, shall costs of less than \$10.00 nor more than \$500.00 be ordered. In addition, the Borough shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance exists shall constitute a separate violation of this Ordinance.

SECTION 15. MEANS OF APPEAL

15.1 Any person directly affected by a decision of the municipal entity's authorized representative or a notice or order issued under this ordinance shall have the right to appeal to the board of the municipal entity, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this ordinance or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of ordinance do not fully apply, or the requirements of this ordinance are adequately satisfied by other means. This appeal provision shall not be used to challenge a violation under this ordinance.

Section 16. REPEALER

This Ordinance repeals any prior Ordinances and Resolutions, which are inconsistent herewith.

Section 17. EFFECTIVE DATE

This Ordinance shall be effective immediately upon the approval of the Council of Curwensville Borough.

ENACTED AND ORDAINED this 8 day of June, 2015.

Curwensville Borough Council

Mary Ellen Reed, President

Ron Kuch

Tommy A. Wingerd V.P.

Mayor

Neil Simon

Van O'Rourke

Sara K. Councila

ATTEST:

Thomas E. Dylly

Antwan Morris
Borough Secretary