

**CATAWISSA BOROUGH**  
**ORDINANCE NO. 001 2009**

Catawissa Borough Council deems it to be in the best interest of the health, maintenance, and welfare of the citizens of Catawissa Borough to regulate the installation, use, and maintenance of outdoor wood fired boilers and institutes the following:

**I. Purpose.**

1. The Constitution of the Commonwealth of Pennsylvania, Article 1, Section 27, provides in pertinent part, that “the people shall have a right to clean air”; and
2. In response to the enactment by the Congress of the United States of the Clean Air Act, 42 U.S.C. §7401 et seq., and in recognition of the mandate of the Constitution of the Commonwealth of Pennsylvania, the Legislature of the Commonwealth of Pennsylvania has enacted the Air Pollution Control Act, Act 1992-95, §14, as amended, 35 P.S.§4001 et seq., which, in Section 4012 thereof, provides that a Borough may enact an ordinance(s) in respect to air pollution, so long as the provisions of such ordinance(s) will not be less stringent than the provisions of the “Air Pollution Control Act”; and
3. The Council of the Borough of Catawissa has considered with care certain publications, studies, reports and advisories prepared by international, national and state research and regulatory agencies and organizations inquiring into the effects and impact of the types of fuel used in and the scale and duration of the emissions produced by outdoor solid fuel furnaces. Upon that basis, the Council of the Borough of Catawissa, while recognizing the economical alternatives to conventional heating systems provided by outdoor solid fuel furnaces, has determined that such appliances may create uncontrolled offensive emissions of smoke, fumes, and odor into the ambient air, which can be potentially detrimental to the health and safety of the residents of the Borough and can deprive neighboring residents of the rightful use and enjoyment of their property. Accordingly, the Council of the Borough of Catawissa, upon the enactment of this part, does hereby establish and impose various restrictions upon the installation, maintenance, use, and operation of outdoor solid fuel furnaces within the Borough of Catawissa, so that such appliances do not create a private or public nuisance and, further, for the purpose of securing and promoting the health, comfort, convenience, safety and welfare of the person and property of the residents of the Borough.

**II. Definitions.**

The following words or phrases, as the same are used herein or as the same appear in the context hereof, unless otherwise indicated, shall have the following meaning(s) ascribed to them in this part:

APPLIANCE – an outdoor wood fired boiler and all appurtenances thereto, including, but not limited to, all equipment and all components necessary to and used in connection with the installation, use and maintenance of the outdoor solid fuel furnace.

EXISTING APPLIANCE – an appliance that has been installed, constructed, used and maintained on or before the effective date of this part.

NEW APPLIANCE – an appliance that has been installed, constructed, used and maintained after the effective date of this part.

OUTDOOR SOLID FUEL FURNANCE – any equipment, structure, device or associated apparatus and related appurtenances, which is installed, affixed, or situated outdoors for the primary purpose of the combustion of approved solid fuels to produce heat or energy by the distribution, through pipes, of a fluid heated in the device and used as the primary or secondary or supplementary heating system, which provides heat for interior space and/or domestic water within a structure located on residential premises and is not located within the structure to be heated or to be provided with hot water.

PERSON – any individual, firm, partnership, corporation, association, institution, governmental entity or agency, enterprise or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

SETBACK – the minimum horizontal distances between the front right-of-way line or rear or side lines of any lot of parcel of land. When two or more lots under one ownership are used, the exterior property line so grouped shall be used in determining a setback.

STRUCTURE – a building constructed and used for human habitation, housing of farm animals or storage of equipment or materials of whatever nature.

### **III. Requirements for Installation, Maintenance and Use of Outdoor Solid Fuel Furnaces.**

1. All existing appliances shall be inspected within 90 days of the effective date of this part to determine compliance with the manufacturers' installation specifications and use instructions in respect to its electrical and plumbing equipment and components only. If the existing appliance is determined as being used and maintained in compliance with such manufacturer's electrical and plumbing installation specifications and use instructions, the existing appliance shall be registered and recorded in a registry permanently maintained by the Borough of Catawissa. Such registry shall duly and accurately note the appliance's owner(s), street location, the placement of the appliance on the lot of the owner, the manufacturer, the date of installation, the date of inspection, and the date of the registration of the appliance. Such registry shall be available for public inspection upon request.

2. Any new appliance shall be inspected to determine compliance with its complete manufacturer's installation and use instructions within thirty (30) days of the completion of its installation. If the installation and use of the new appliance are determined to be in full compliance with such complete manufacturer's installation and use instructions, the owner of the new appliance shall be granted a permit, as provided in §V of this part.
3. The location of all appliances shall be in such place on a parcel or lot of land as is recommended in the manufacturer's installation specifications and use instructions in respect to setbacks from the lot lines of adjoining property owners, but in no event shall any new appliance be located less than 50 feet from the lot lines of adjoining property owners.
4. The only fuels permitted to be burned in an existing appliance or a new appliance shall be those fuels recommended in its manufacturer's installation specifications and use instructions. In any event shall not include:
  - Any material that does not meet the definition of clean 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
5. The residue of the spent fuel used in any outdoor solid fuel furnace shall not be disposed of in any manner that would constitute a violation of the rules and regulations of Pennsylvania Department of Environmental Protection or the ordinances of the Borough of Catawissa. The residue of spent fuel and any fuel debris shall not be accumulated on the premises for a period in excess of thirty (30) days.

6. All appliances shall be operated only between September 1 and May 31, annually, unless the appliance is used as the sole source of residential interior heat and/or domestic hot water service.

#### **IV. Emissions From Outdoor Solid Fuel Furnaces as a Public Nuisance.**

1. Notwithstanding full compliance with all of the terms and provisions of this part or, the grant of a permit for the installation, maintenance and use of an existing or new appliance, or full compliance with all air quality control management provisions of any federal, state, regional, or local statutes, ordinances, or rules and regulations, the Borough of Catawissa may suspend a permit and declare the existence of a public nuisance created by emissions from any appliance, upon the grounds that it is necessary to so act to protect the public health, safety and welfare of the residents of the Borough of Catawissa and their property, if any of the following conditions occur:
  - A. Malodorous air emissions from the appliance are detectable by persons or the public generally beyond the property of the owner on whose premises the appliance is located.
  - B. The emissions from the appliance interfere with the rightful use and enjoyment of life and of property of another or cause severe annoyance of discomfort or is offensive or is objectionable, or all of the foregoing conditions, to any person, who lives within the range of the emissions from the appliance into the ambient air.
  - C. The emissions from the appliance cause damage to vegetation or the property of another person.
  - D. The emissions from the appliance are or may be harmful to the health of any person or to the public generally.
2. Nothing contained in this part shall be constructed to authorize any installation, maintenance, or use of any appliance that is or becomes a public or private nuisance, regardless of compliance with the terms and provisions of this part.
3. This part shall not be a defense to any civil claims.

#### **V. Permits and Permit Fees.**

1. No person or entity shall cause, allow, or maintain the installation or use of an appliance without first having it registered as an existing appliance or inspected and having obtained a permit issued by the Borough of Catawissa as a new appliance within the periods of time stated in §III of this part.

2. An application for the registration of an appliance or for a permit for a new appliance or for a permit for any modified or suspended appliance shall be made to the Borough of Catawissa Zoning and Code Enforcement Officer on forms furnished by the Borough of Catawissa. The applicant shall furnish the following information:
  - A. Name and address of the applicant (owner of appliance) and the property owner, if the appliance is installed, maintained and used on premises owned by a person other than the owner of the appliance.
  - B. Legal description of the property.
  - C. A sketch or drawing of the dimensions of the applicant's premises, including locations of all structures thereon and of the appliance's proposed location relative to adjoining property lines and the front street line and the distances from all adjoining property lines measured from the proposed location of the appliance.
  - D. A copy of the appliances manufacturer's installation and specification and use instructions.
3. Prior to the registration of an existing appliance or the issuance of a permit for a new, modified, or suspended appliance, the Borough of Catawissa Zoning and Code Enforcement Officer shall inspect the appliance and all associated equipment thereto to determine compliance with its manufacturer's installation specification and use instructions, as provided in §III and Subsections 4 and 5 of this part. Prior to the registration of an existing appliance or the grant of a permit for a new, modified or suspended appliance, such officer shall issue a written report of such inspection; the original of which shall be maintained as a permanent record of the Borough of Catawissa and a copy thereof shall be delivered to the owner of such appliance.
4. In the event that the maintenance and use of an appliance is suspended for any reason whatsoever for a period of eighteen (18) consecutive months, such appliance must be inspected by the Borough of Catawissa to determine full compliance with all of the manufacturer's installation specifications and use instructions in the manner provided for new appliances in §III of this part. Should such full compliance be determined, a new permit shall be issued in the manner herein provided. A suspended appliance shall be considered as a new appliance hereunder.
5. In the event that an appliance is modified in any way or for any reason whatsoever, such appliance must be inspected by the Borough of Catawissa to determine full compliance with all of the manufacturer's installation specification and use instructions; provided, however, if it is an existing appliance, which has

not been relocated on the premises, the manufacturer's installation and use instructions as to setbacks will not apply. Should such compliance be determined, a permit shall be issued in the manner herein provided.

6. All appliances, associated equipment and materials and fuel used shall be subject to inspection by the Borough of Catawissa Code Enforcement Officer at any reasonable time to assure compliance with the terms and provisions of this part. The Borough of Catawissa Code Enforcement Officer is authorized to enforce all provisions of this part. In furtherance of his duty and right to such enforcement, he may enter upon and inspect any parcel of land for the purpose of ascertaining compliance with the provisions of this part upon the presentation of his credentials to the occupant(s) of such parcel of land.
7. A registration of a permit may be suspended at any time for a violation by the owner/operator of the appliance and the owner of the premises to comply with all of the terms and provisions of this part or to protect the public health, safety and welfare of the residents of the Borough of Catawissa.
8. A suspended registration or a permit may be reinstated when the Borough of Catawissa Code Enforcement Officer determines that the condition(s), which resulted in the suspension, is/are remedied and written reasonable assurances of the owner/operator of the appliance and the owner of the premises are given that such condition(s) shall not occur again. Recurrence of a condition which has previously resulted in the suspension of a registration or a permit, shall be considered as a violation of this part and shall be subject to the penalties provided herein.
9. The fee for the issuance of permits hereunder shall be the sum of One Hundred Fifty Dollars (\$150.00), upon the enactment of this part, and shall be subject to subsequent amendment from time to time by an ordinance(s) of the Borough of Catawissa.

#### **VI. Effect of Other Regulations.**

Nothing contained herein shall authorize or allow burning and emissions from or burning or combustion associated with or generated by appliances, which acts and conditions are or may in the future be prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Agency, the Pennsylvania Department of Environmental Protection, or any other federal, state, regional or local agency authorized to exercise jurisdiction over air quality control management. All new appliances, and all electrical, plumbing or associated equipment or appurtenances used in connection with existing appliances, shall be installed, operated and maintained in strict conformity with the manufacturers' installation specifications and use instructions and any and all local, state and federal ordinances, codes, laws, rules and regulations.

## **VII. Enforcement.**

Before commencing any action in the nature of a violation of this part, the Borough of Catawissa Zoning and Code Enforcement Officer shall first give notice to the person charged with violating this part. Such notice shall be in writing and shall be served personally upon such person or by posting a copy of such written notice on the premises or attaching a copy of the written notice to each building or structure on the premises. In addition, a copy of the written notice shall be sent by United States Postal Service certified mail, return receipt requested, to the owner of the land, building, structure or premises in or on which the appliances is located at the owner's last known address. The notice shall specify that failure to remedy the violation within ten (10) days of the date of personal service or twelve (12) days from the date of mailing may result in penalties to be levied against the owner of the premises if the specified violations are not remedied.

## **VIII. Violations and Penalties.**

1. A violation of any provision of this part shall constitute a summary offense and shall be enforced by the commencement of an action before a District Justice in the same manner provided for enforcement of summary offenses under the applicable provisions of the Pennsylvania Rules of Civil Procedure. The Solicitor of the Borough of Catawissa may assume charge of the prosecution of such violations in a manner consistent with the Pennsylvania Rules of Criminal Procedure relating to trial of summary cases, as the same may be amended from time to time.
2. Any person, who shall violate any provision of this part, shall, upon conviction thereof, be sentenced to pay a fine of not more than Five Hundred Dollars (\$500.00) and all costs of prosecution, and in default of payment of said fine, be subject to imprisonment to the extent allowed by law for the punishment of summary offenses.
3. In addition to all other remedies provided herein for violations of this part, the Borough of Catawissa 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 the provisions of this part.

## **IX. Borough Exempt From Liability.**

The Borough of Catawissa, and its agents, officers, officials and representatives shall not, under any circumstance, be liable or responsible for damages caused to any person or property by the registration of or the issuance of any permit under the provisions of this part, or by reason of the construction, installation, maintenance, or use of any registered or permitted appliance in compliance with the terms and provisions of this part. The person who owns or uses and maintains such registered or permitted appliances shall bear sole liability for any damages or harm caused as a result thereof. The foregoing shall be an express

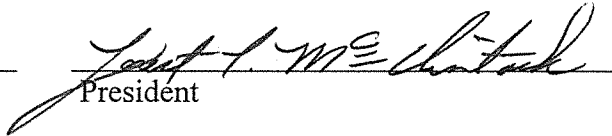
condition of the grant of any permit hereunder, and this statement shall be printed conspicuously on the face of all such registrations and permits, and the owner shall acknowledge in writing this notice of the Borough's exemption from liability and the release of the Borough therefrom.

**X. Savings Clause.**

The provisions of the Borough of Catawissa Code of Ordinances, so far as they are the same as those ordinances and regulations in force immediately prior to the adoption of this part, are intended as a continuation of such ordinances and regulations and not as a new enactment. The provisions of this part shall not affect any suit or prosecutions pending or to be instituted to enforce any of the prior ordinances or regulations except as other wise by law.

Approved this 9<sup>th</sup> day of November, 2009.

  
Secretary

  
President

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