

Outdoor Wood Fired Boiler Ordinance for Rome Township Lenawee County, Michigan

Ordinance No. _____

SECTION 1: PURPOSE

1.00 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 the Rome Township by regulating the air pollution and fire hazards associated with the operation of outdoor wood fired boilers.

SECTION 2: APPLICABILITY

2.00 Applicability.

This ordinance applies to all outdoor wood fired boilers in the Township of Rome.

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

2.3. 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: SEVERABILITY

3.00 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

4.00 Definitions.

4.1. "Mechanical Inspector" means an inspector recognized by the State of Michigan in Mechanical Inspection.

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

4.3. "Outdoor burning" means burning in an outdoor wood-fired boiler.

4.4. "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.

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

SECTION 5: OUTDOOR WOOD-FIRED BOILERS

5.00 Outdoor wood-fired boilers.

5.1. Outdoor wood-fired boilers shall be installed and used only in an area zoned for agricultural use.

5.2. Outdoor wood-fired boilers shall not be used to burn refuse.

5.3. Outdoor wood-fired boilers shall be located at least 300 feet from the nearest building which is not on the same property as the outdoor wood-fired boiler.

5.4. Outdoor wood-fired boilers shall have a chimney that extends at least 10 feet above the ground surface. If there are any residences within 500 feet, the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. The Mechanical Inspector may approve a lesser height on a case-by-case basis if the exception is consistent with the manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

5.5 Any variation from this section will require a special use permit from Rome Township.

SECTION 6: LIABILITY

6.00 Liability.

A person utilizing an outdoor wood fired boiler shall be responsible for all fire suppression costs and any other liability resulting from damage caused by fire attributable to the use of an outdoor wood fired boiler.

SECTION 7: RIGHT OF ENTRY AND INSPECTION

7.00 Right of entry and inspection.

The Mechanical Inspector or any authorized officer, agent, employee or representative of the Township of Rome who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

SECTION 8: ENFORCEMENT AND PENALTIES

8.00 Enforcement and penalties.

8.1. The Mechanical Inspector and/ or Rome Township Ordinance Enforcement Officer are authorized to enforce the provisions of this ordinance.

8.2. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50.00 nor more than \$500.00 for the first offense and not less than \$100.00 nor more than \$2,500.00 for subsequent offenses, in the discretion of the Court, and such fine shall be in addition to all other costs, attorney fees, damages, expenses, and other remedies as provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person for the same property within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall be considered separate first offenses.

- A. In addition to pursuing a municipal civil infraction proceeding pursuant to subsection A hereof, the Township may also instate an appropriate action in a court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance or any provision of the Ordinance.
- B. All remedies available to the Township under this Ordinance and Michigan law shall be deemed to be cumulative and not exclusive.
- C. Any use of land that is commenced or conducted, any activity, or any building, item or structure that is erected, moved, used, place, reconstructed, razed, extended, enlarged, altered, maintained, or changed, in violation of any provision of this Ordinance is also hereby declared to be a nuisance per se.
- D. Each and every day during which a violation of this Ordinance shall exist shall be deemed to be a separate offense.
- E. Any person, firm or entity that assists with or enables the violation of this Ordinance shall be responsible for aiding and abetting, and shall be considered to have violated the provision of this Ordinance involved for which such aiding and abetting occurred. Furthermore, any attempt to violate this Ordinance shall be deemed a violation of the provision of this Ordinance involved as if the violation had been successful or completed.

8.3 The violator shall pay costs which may include all expenses, direct and indirect, which the Township of Rome has incurred in connection with the municipal infraction. In addition, the township 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 9: EFFECTIVE DATE

9.1 This ordinance shall become effective thirty (30) days after its publication as required by law.

FINAL #1