

ORDINANCE 2-2014

AN ORDINANCE OF RIMERSBURG BOROUGH, CLARION COUNTY, PENNSYLVANIA, FOR THE PREVENTION AND CONTROL OF AIR POLLUTION FROM THE USE OF OUTDOOR FUEL BURNING APPLIANCES

Witness:

WHEREAS, the Council of Rimersburg Borough has determined that air pollution from outdoor fuel burning appliances may be detrimental to the health, comfort living conditions, welfare, and safety of the citizens of Rimersburg, it is hereby declared to be the policy of Rimersburg Borough to safeguard said citizens from such air pollution and nuisance situations.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, that Outdoor Fuel Burning Appliances are not allowed to be installed or operated within the Borough limits. Said prohibition is as follows:

Section 1: Title

This Ordinance shall be known and may be cited as the “Rimersburg Borough Outdoor Fuel Burning Appliance Ban Ordinance”

Section 2: Applicability

This Ordinance applies to the installation and use of all outdoor fuel burning appliances, with the exception of the following:

- 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;
- 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: Definitions

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

1. APCA-Air Pollution Control Act
2. Borough—The Borough of Rimersburg, Clarion County, Pennsylvania
3. Chimney—any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired outdoor heating device, especially that part of such structures extending above a roof.

4. Council—Borough Council of Rimersburg Borough, Clarion County, Pennsylvania.
5. EPA—United States Environmental Protection Agency
6. 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 wastes, or other wastes.
7. Outdoor Fuel Burning Appliance—a device including any furnace, stove, or boiler designed and constructed to burn oil, wood, coal or other fuels manufactured for placement outdoors for the heating of the living area of a structure.
8. 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.
9. Responsible Official—person designated by the municipality to be responsible for the administration and enforcement of this Ordinance.

Section 4: Regulations

Upon enactment of this Ordinance, no person shall install, use, operate or maintain an Outdoor Fuel Burning Appliance in Rimersburg Borough.

Section 5: Enforcement Orders

1. Rimersburg Borough's designated police department or Code Enforcement Officer shall have the power and duty to enforce the provisions of this Ordinance.
2. Rimersburg Borough 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:
 - a. Orders requiring persons to cease unlawful use of outdoor fuel burning appliances, which are in violation of any provision of this Ordinance;

- b. Orders to take corrective action or to abate a public nuisance; or
- c. Orders requiring production of information.

Such an order may be issued if Rimersburg Borough finds that any person is in violation of any provision of this Ordinance.

- 3. Rimersburg Borough may, in its order, require compliance with this Ordinance.
- 4. An order issued under this section shall take effect upon notice, unless the order specifies otherwise.
- 5. The authority of Rimersburg Borough 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.

Section 6: Responsibility of Owners and Operators

Whenever the responsible official of Rimersburg Borough finds that illegal operation of an outdoor fuel burning appliance is occurring in Rimersburg Borough, in contravention of the requirements of Section 4 above, the responsible official may order the owner or operator to cease and desist use of the appliance in a manner satisfactory to Rimersburg Borough 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 7: Enforcement

It shall be the duty of the Borough's designated Police Department, the Code Enforcement Officer, and/or the designate of the Borough to enforce the terms of this Ordinance and secure compliance with the requirements thereof.

Section 8: Penalties

Any person who shall violate any of the provisions of this Ordinance shall, upon summary conviction, be subject to a penalty of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars per violation. Should such person refuse or neglect to pay such penalty, such person shall be subject to imprisonment to the extent allowed by law for the punishment of summary offenses. In addition to the penalties for said violation, the person so convicted shall be responsible for all costs incurred, including filing and attorney's fees. Every day that a violation of this Ordinance continues, shall constitute a separate offense.

Section 9: Unlawful Conduct

It shall be unlawful to fail to comply with or to cause or assist in the violation of any of the provisions of this Ordinance or to fail to comply with any order or other requirement of Rimersburg Borough; or to cause a public nuisance; or to hinder, obstruct, prevent or interfere with Rimersburg Borough or its personnel in their performance of any duty hereunder, including denying the responsible official access to the source or facility.

Section 10: Repealer

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

Section 11: Severability

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity, shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Rimersburg Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 12: Effective Date

This Ordinance shall be effective immediately upon enactment.

ENACTED and **ORDAINED** into law by the Rimersburg Borough Council this _____ day of _____, 2014.

ATTEST:

RIMERSBURG BOROUGH

, Secretary

BY _____
Roger Crick, President of Council

Approved this _____ day of _____, 2014 by the Mayor of Rimersburg Borough.

, Mayor