

CHAPTER 5
CODE ENFORCEMENT

PART 1

CODE ENFORCEMENT

- §101. Title
- §102. Code Enforcement
- §103. Enforcement Authority
- §104. Duties and Powers of Code Enforcement Officer

PART 2

UNIFORM CONSTRUCTION CODE

- §201. Election to Enforce Pennsylvania Construction Code Act
- §202. Uniform Construction Code Adopted
- §203. Administration and Enforcement
- §204. Board of Appeals
- §205. Savings and Repeals
- §206. Fees

PART 3

OUTDOOR BOILER

- §301. Title
- §302. Authority
- §303. Applicability
- §304. Purpose and Scope
- §305. Definitions
- §306. Regulations
- §307. Enforcement Orders
- §308. Responsibility of Owners and Operators
- §309. Criminal Penalties
- §310. Civil Penalties
- §311. Unlawful Conduct
- §312. Public Nuisances

PART 1

CODE ENFORCEMENT

§101. TITLE.

This Part shall be known and may be cited as the "Code Enforcement Ordinance of the Township of North Centre."

(Ord. 1999-01, 1/21/1999)

§102. CODE ENFORCEMENT.

1. Code Enforcement Officer. The official(s) appointed by the Board of Supervisors shall have the responsibility for administration and enforcement of the provisions of codes and/or ordinances of the Township, herein referred to as the "applicable codes and ordinances," which designate said Code Enforcement Officer as their official administrative and enforcement authority. If a Code Enforcement Officer has not been appointed by the Board of Supervisors, the responsibilities of the position will be fulfilled by the Board of Supervisors.
2. Relief from Personal Liability. The Code Enforcement Officer, other officials or employees charged with the enforcement of this Part, and those other codes and/or ordinances of the Township, who act in good faith and without malice in the discharge of their duties shall not thereby be rendered liable personally and the Code Enforcement Officer is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act, required or permitted or any omission in the discharge of official duties. Any suit instituted against the Code Enforcement Officer, other official or employee because of an act performed by that person in the lawful discharge of duties shall be defended by the Township Solicitor or his designee until final termination of the proceedings. The Code Enforcement officer shall not be liable for costs in any action, suit or proceedings.
3. Official Records. An official record shall be kept of all business and activities of the Code Enforcement Officer and all such records shall be open to the public for inspection at all appropriate times, except that no individual, owner, operator, occupant or other person shall be subject to unwarranted invasion of privacy, and except that all evidence or information shall not be disclosed except as may be necessary in the judgment of the Code Enforcement Officer for the proper and effective administration and enforcement of the provisions of this Part and shall not otherwise be made public without the consent of the owner, occupant, operator or other person in charge of the unit, structure or premises inspected. Such records shall be retained in the official records so long as the building or structure to which they relate remains in existence unless otherwise provided by other regulations.

CODE ENFORCEMENT

4. Annual Report. At least annually, the Code Enforcement Officer shall submit to the Board of Supervisors a written statement of operations in the form and content as shall be prescribed thereby.

(Ord. 1999-01, 1/21/1999)

§103. ENFORCEMENT AUTHORITY.

1. Approved Inspection Agencies. The Code Enforcement Officer shall make all the required inspections or may accept reports or inspections by authoritative and recognized inspection agencies or individuals, which satisfy requirements as to qualifications and reliability. All inspection reports shall be in writing and shall be certified by the approved authority or responsible officer of the agency of the individual when expert inspection services are accepted. The Code Enforcement Officer may engage such expert opinion as may be deemed necessary to report upon unusual technical issues that may arise subject to the approval of the Board of Supervisors. When required by the provisions of the code or by the approved rules, materials or assemblies shall be inspected at the point of manufacture or fabrication.

(Ord. 1999-01, 1/21/1999)

§104. DUTIES AND POWERS OF CODE ENFORCEMENT OFFICER.

1. Duties. The duties of the Code Enforcement Officer shall include the receipt of applications and issuance of permits as specified in applicable codes and ordinances; the issuance of all necessary notices and orders to abate illegal or unsafe conditions to insure compliance with applicable codes and/or ordinances for the safety, health and general welfare of the public; the making of inspections to determine compliance with the applicable codes and ordinances; the undertaking of investigations and other activities as may be required.

(Ord. 1999-01, 1/21/1999)

PART 2

UNIFORM CONSTRUCTION CODE

§201. ELECTION TO ENFORCE PENNSYLVANIA CONSTRUCTION CODE ACT.

This Municipality hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P. S. §§7210.101–7210.1103, as amended from time to time, and its regulations.

(Ord. 5/10/2004, §1)

§202. UNIFORM CONSTRUCTION CODE ADOPTED.

The Uniform Construction Code, contained in 34 Pa.Code, Chapters 401–405, as amended from time to time, is hereby adopted and incorporated herein by reference as the municipal building code of this Municipality.

(Ord. 5/10/2004, §2)

§203. ADMINISTRATION AND ENFORCEMENT.

Administration and enforcement of the Code within this Municipality shall be undertaken in any of the following ways as determined by the governing body of this Municipality from time to time by resolution:

- A. By the designation of an employee of the Municipality to serve as the municipal code official to act on behalf of the Municipality.
- B. By the retention of one or more construction code officials or third-party agencies to act on behalf of the Municipality.
- C. By agreement with one or more other municipalities for the joint administration and enforcement of this Act through an intermunicipal agreement.
- D. By entering into a contract with another municipality for the administration and enforcement of this Act on behalf of this Municipality.
- E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

(Ord. 5/10/2004, §3)

CODE ENFORCEMENT

§204. BOARD OF APPEALS.

A Board of Appeals shall be established by resolution of the governing body of this Municipality in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

(Ord. 5/10/2004, §4)

§205. SAVINGS AND REPEALS.

1. All building code ordinances or portions of ordinances which were adopted by this Municipality on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.
2. All building code ordinances or portions of ordinances which are in effect as of the effective date of this Part and whose requirements are less than the minimum requirements of the Code are hereby amended to conform with the comparable provisions of the Code.
3. All relevant ordinances, regulations and policies of this Municipality not governed by the Code shall remain in full force and effect.

(Ord. 5/10/2004, §5)

§206. FEES.

Fees assessable by the Municipality for the administration and enforcement undertaken pursuant to this Part and the Code shall be established by the governing body by resolution from time to time.

(Ord. 5/10/2004, §6)

PART 3

OUTDOOR BOILER

§301. TITLE.

This Part shall be known and may be cited as the “North Centre Township Outdoor Boiler Ordinance of 2011.”

(Ord. 5/9/2011, §I)

§302. AUTHORITY.

The Board of Supervisors of North Centre Township, under, and by virtue of and pursuant to the authority granted by Second Class Township Code, 53 P.S. §65101 *et seq.*, do hereby enact and ordain this Part.

(Ord. 5/9/2011, §II)

§303. APPLICABILITY.

Except where otherwise noted, this Part applies to the installation and use of all outdoor boilers within North Centre Township.

- A. This Part does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- B. This Part 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 Part does not apply to the use of propane, acetylene, natural gas, gasoline, home heating oil, or kerosene in a device intended for heating, construction or maintenance activities.

(Ord. 5/9/2011, §III)

§304. PURPOSE AND SCOPE.

1. Purpose. To safeguard the Township residents from air pollution created by outdoor boilers.
2. Scope. Outdoor boilers.

CODE ENFORCEMENT

(Ord. 5/9/2011, §IV)

§305. DEFINITIONS.

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

APCA - Air Pollution Control Act, 35 P.S. §4001 *et seq.*

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-BOARD - Borough Council, Township Board of Supervisors.

EPA - United States Environmental Protection Agency.

MUNICIPALITY - a city, incorporated town, township, borough, county, municipal authority, or other public body created under State law.

OUTDOOR BOILER - a fuel-burning device:

- (1) Designed to burn clean wood or other approved 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.
- (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 BOILER - an outdoor boiler that has been certified or qualified by the EPA as meeting a particulate matter emission limit of 0.32 pounds per million British thermal units output and is labeled accordingly. Phase 2 outdoor boiler models will be identified with a white hang tag.

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.

RESPONSIBLE OFFICIAL - person designated by the municipality to be responsible for the administration and enforcement of this Part.

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

(Ord. 5/9/2011, §V)

§306. REGULATIONS.

On or after May ___, 2011, an outdoor boiler may be installed, used and/or operated in North Centre Township only in accordance with the following provisions:

- A. Particulate Standard Requirements for New Installation of Outdoor Boilers. No person shall install an outdoor boiler that is not a Phase 2 outdoor boiler or a boiler that does not meet the current EPA standards.
- B. Setback Requirements for New Outdoor Boilers. No person shall install an outdoor boiler unless it is installed at least 75 feet from the nearest property line.
- C. Stack Height Requirements for New or Existing Outdoor Boilers. No person shall operate or install an outdoor boiler unless it has a permanent attached stack with a minimum stack height of 10 feet above the ground that also extends at least 2 feet above the highest peak of any adjacent building which is located less than 100 feet from the outdoor boiler, that is not located on the same property as the boiler.
- D. Fuel Requirements for New and Existing Outdoor Boilers. No person that operates a new or existing outdoor boiler shall use a fuel other than the following:
 - (1) Clean wood.
 - (2) Wood pellets or chips made from clean wood.
 - (3) Home heating oil, natural gas, propane, coal, corn, grass pellets or one that complies with all applicable sulfur limits and is used as a starter or supplemental fuel for dual-fired outdoor boilers.
 - (4) Any fuel other than those specifically permitted by the manufacturer.
- E. Prohibited Fuels for New and Existing Outdoor Boilers. No person shall burn any of the following items in an outdoor boiler:
 - (1) Any material not listed in subsection (D).
 - (2) Treated or painted wood.
 - (3) Furniture.
 - (4) Garbage.

CODE ENFORCEMENT

- (5) Tires.
- (6) Lawn clippings or yard waste.
- (7) Material containing plastic.
- (8) Material containing rubber.
- (9) Waste petroleum products.
- (10) Paints and paint thinners.
- (11) Chemicals.
- (12) Any hazardous waste.
- (13) Glossy colored paper.
- (14) Construction and demolition debris.
- (15) Plywood.
- (16) Particleboard.
- (17) Salt water driftwood.
- (18) Manure.
- (19) Animal carcasses.
- (20) Asphalt products.

F. Operation of New and Existing Outdoor Boilers.

- (1) Permitted operating times for new and existing outdoor boilers will be between the dates of October 1 and April 30.
- (2) If the outdoor temperature drops below 50°F at times other than listed above, the outdoor boiler may be used that day to provide heat.
- (3) Persons wishing to operate their outdoor boilers between the dates of May 1 and Sept 30 for the purpose of heating residential hot water and associated functions may apply for a special off season permit to be approved by the Supervisors at a regular meeting. Notification of adjoining property owners will be sent by the Township so that if the property owners wish to be heard on the matter they may attend the meeting where the request will be addressed.

Stipulations may be set by the Supervisors concerning the amount of use, times of use, etc. Cost of said permit will be per year and listed on the fee schedule.

- G. Regulatory Requirements for New and Existing Outdoor Boilers. No person shall use or operate a new or existing outdoor boiler unless it complies with all existing State and local regulations. Some regulations of this Commonwealth that could apply include:
- (1) 25 Pa.Code §121.7, Prohibition of Air Pollution.
 - (2) 25 Pa.Code §123.1, Fugitive Emissions.
 - (3) 25 Pa.Code §123.31, Odor Emissions.
 - (4) 25 Pa.Code §123.41, Visible Emissions.
 - (5) Section 8 of the APCA, 35 P.S. §4008, Unlawful Conduct.
 - (6) Section 13 of the APCA, 35 P.S. §4013, Public Nuisances.
- H. Permits for New and Existing Outdoor Boilers. No person shall use or operate an outdoor boiler unless a permit is obtained from North Centre Township.

(Ord. 5/9/2011, §VI)

§307. ENFORCEMENT ORDERS.

1. The Code Enforcement Officer for the Township shall have the power and duty to enforce the provisions and require the compliance of this Part.
2. Any person installing an outdoor boiler must first obtain a permit from North Centre Township.
3. The fee for an outdoor boiler permit will be listed on the fee schedule. Permit fees are waived on any boilers existing prior to October 11, 2010.
4. Failure to obtain a boiler permit results in a violation of the North Centre Township Code of Ordinances. Chapter 5, Code Enforcement, Part 3, §306, Regulations, Subsection (H), "Permits for New and Existing Outdoor Boilers."
5. Enforcement Notice. Whenever it appears to the Code Enforcement Officer that there has been a violation of any provision of this Chapter, the Code Enforcement Officer, on behalf of the Township, shall give written notice of such alleged violation as hereinafter provided. Such enforcement notice shall:

CODE ENFORCEMENT

- A. Be served upon the property owner or sent to him by certified mail (return receipt requested), and be sent to any person who has filed a written request to receive enforcement notices regarding the parcel, and to any other person requested in writing by the owner of record.
 - B. Include the name of the owner of record and any other person against whom the Township intends to take action.
 - C. Include the location of the property in violation.
 - D. Identify the specific violation(s) with a description of the requirements which have not been met, citing in each instance the applicable provision(s) of this Chapter.
 - E. Contain an outline of remedial action which, if taken, will effect compliance.
 - F. Specify the date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - G. Notify the recipient of his right to appeal by requesting a hearing before the Board of Supervisors; provided, he files with the Board of Supervisors within 10 days after notice of the Code Enforcement Officer's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds therefore. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause. After such hearing the Board of Supervisors shall sustain, modify or overrule the action of the Code Enforcement Officer.
 - H. Indicate that failure to comply with the notice within the time specified, unless extended by appeal to the Board of Supervisors, shall constitute a violation and will be prosecuted or remedied as provided in this Section. In any appeal of an enforcement notice to the Board of Supervisors, the Code Enforcement Officer shall have the responsibility of presenting their evidence first.
6. A permit may be suspended at any time for any violation of or failure to comply with any of the terms and provisions of this Part and/or to protect the public health, safety, and welfare of the residents of North Centre Township.
 7. A suspended permit may be reinstated when the North Centre Township 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 is given that such condition(s) shall not occur again.
 8. The North Centre Township Code Enforcement Officer may issue such orders as are necessary to aid in the enforcement of the provisions of this Part. These orders shall include, but shall not be limited to:

- A. Orders requiring persons to cease unlawful use of outdoor boilers, which are in violation of any provision of this Part.
 - B. Orders to take corrective action or to abate a public nuisance.
 - C. Orders requiring production of information.
9. An order issued under this Section shall take effect immediately, unless the order specifies otherwise.
10. The authority of the Code Enforcement Officer to issue an order under this Section is in addition to any remedy or penalty that may be imposed pursuant to this Part. The failure to comply with any such order is hereby declared to be a public nuisance.
11. Whenever the North Centre Township Code Enforcement Officer finds that illegal operation of an outdoor boiler is occurring in North Centre Township, in violation of the requirements of §306 above, the Code Enforcement Officer may order the owner or operator to take corrective action in a manner satisfactory to the North Centre Township Supervisors, or the Code Enforcement Officer may order the owner or operator to allow access to the land by the Code Enforcement Officer or a third party to take such action.
12. For purposes of collecting or recovering the costs involved in taking corrective action or pursuing a cost recovery action pursuant to an order or recovering the cost of litigation, oversight, monitoring, sampling, testing, and investigation related to a corrective action, the North Centre Township Supervisors may collect the amount in the same manner as civil penalties are assessed and collected following the process for assessment and collection of a civil penalty contained in §310 of this Part.

(Ord. 5/9/2011, §VII)

§308. RESPONSIBILITY OF OWNERS AND OPERATORS.

Owners/Operators of outdoor boilers shall:

- A. Comply with the regulations set forth in these ordinances.
- B. They shall be respectful of their neighbors and the environment when operating the outdoor boiler.
- C. They shall be required to maintain a properly operating outdoor boiler.
- D. They shall be required to replace or remove an outdoor boiler that is nonfunctional for a period of 12 consecutive months.

(Ord. 5/9/2011, §VIII)

CODE ENFORCEMENT

§309. CRIMINAL PENALTIES.

Any person who violates any provision of this Part or any order of the North Centre Township issued pursuant to this Part commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$100 nor more than \$2,500 for each separate offense and, in default of the payment of such fine, may be sentenced to imprisonment for 90 days for each separate offense. Employees of the North Centre Township authorized to conduct inspections or investigations are hereby declared to be law enforcement officers authorized to issue or file citations for summary violations under this Part, and the North Centre Township Counsel is hereby authorized to prosecute these offenses. For purposes of this Section, a summary offense may be prosecuted before any district justice having authority in this North Centre Township. There is no accelerated rehabilitative disposition authorized for a summary offense.

(Ord. 5/9/2011, §IX)

§310. CIVIL PENALTIES.

1. In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this Part or any order issued pursuant to this Part, North Centre Township may assess a civil penalty for the violation. The penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not exceed \$25,000 per day for each violation. In determining the amount of the penalty, the North Centre Township shall consider the willfulness of the violation; damage to air, soil, water, or other natural resources of the North Centre Township or their uses; financial benefit to the person in consequence of the violation; deterrence of future violations; cost to the North Centre Township; the size of the source or facility; the compliance history of the source; the severity and duration of the violation; degree of cooperation in resolving the violation; the speed with which compliance is ultimately achieved; whether the violation was voluntarily reported; other factors unique to the owners or operators of the source or facility; and other relevant factors.
2. When the North Centre Township proposes to assess a civil penalty, it shall inform the person of the proposed amount of the penalty.
 - A. The person charged with the penalty shall then have 30 days to pay the proposed penalty in full; or if the person wishes to contest the amount of the penalty or the fact of the violation to the extent not already established, the person shall forward the proposed amount of the penalty to the North Centre Township Supervisors within the 30-day period for placement in an escrow account with the State Treasurer or any Commonwealth bank, or post an appeal bond to the North Centre Township Supervisors within 30 days in the amount of the proposed penalty, provided that such bond is executed by a surety licensed to do business in the Commonwealth and is satisfactory to the North Centre Township Supervisors.

- B. If, through administrative or final judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the North Centre Township Supervisors shall, within 30 days, remit the appropriate amount to the person with any interest accumulated by the escrow deposit.
 - C. Failure to forward the money or the appeal bond at the time of the appeal shall result in a waiver of all legal rights to contest the violation or the amount of the civil penalty unless the appellant alleges financial inability to prepay the penalty or to post the appeal bond.
3. The North Centre Township Board of Supervisors shall conduct a hearing to consider the appellant's alleged inability to pay within 30 days of the date of the appeal.
- A. The North Centre Township Supervisors may waive the requirement to prepay the civil penalty or to post an appeal bond if the appellant demonstrates and the North Centre Township Board of Supervisors finds that the appellant is financially unable to pay.
 - B. The North Centre Township Board of Supervisors shall issue an order within 30 days of the date of the hearing to consider the appellant's alleged inability to pay.
 - C. The amount assessed after administrative hearing or after waiver of administrative hearing shall be payable to the North Centre Township Supervisors and shall be collectible in any manner provided by law for the collection of debts, including the collection of interest on the penalty amount computed in accordance with §6621(a)(2) of the Internal Revenue Code of 1986 (P.L. 99-514, 26 U.S.C. §1 et seq.) from the date of assessment of the penalty.
 - D. If any person liable to pay any such penalty neglects or refuses to pay the same after demand, the amount, together with interest and any costs that may accrue, shall constitute a debt of such person, as may be appropriate, to the North Centre Township. The debt shall constitute a lien on all property owned by said person when a notice of lien incorporating a description of the property of the person subject to the action is duly filed with the prothonotary of the court of common pleas where the property is located. The prothonotary shall promptly enter upon the civil judgment or order docket, at no cost to the North Centre Township, the name and address of the person, as may be appropriate, and the amount of the lien as set forth in the notice of lien. Upon entry by the prothonotary, the lien shall attach to the revenues and all real and personal property of the person, whether or not the person is solvent. The notice of lien, filed pursuant to this Section, which affects the property of the person shall create a lien with priority over all subsequent claims or liens which are filed against the person, but it shall not affect any valid lien, right, or interest in the property filed in accordance with established procedure prior to the filing of a notice of lien under this Section.

(Ord. 5/9/2011, §X)

CODE ENFORCEMENT

§311. 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 Part or to fail to comply with any order or other requirement of the North Centre Township or to cause a public nuisance; or to hinder, obstruct, prevent, or interfere with the North Centre Township or its personnel in their performance of any duty hereunder, including denying the North Centre Township Code Enforcement Officer access to the source or facility.

(Ord. 5/9/2011, §XI)

§312. PUBLIC NUISANCES.

A violation of this Part or of any order issued by the North Centre Township Code Enforcement Officer under this Part shall constitute a public nuisance. The North Centre Township 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 North Centre Township may recover the expenses of abatement following the process for assessment and collection of a civil penalty contained in §310. Whenever the nuisance is maintained or continued contrary to this Part or any order issued pursuant to this Part, the nuisance may be abatable in the manner provided by this Part. Any person who causes the public nuisance shall be liable for the cost of abatement.

(Ord. 5/9/2011, §XII)