

BOROUGH OF WHITE OAK
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE NO. 2019-19

AN ORDINANCE OF THE BOROUGH OF WHITE OAK, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING CHAPTER 15, "FIRE PREVENTION," IN THE CODE OF THE BOROUGH OF WHITE OAK, TO ADOPT THE 2015 EDITION OF THE INTERNATIONAL FIRE CODE, REGULATING AND GOVERNING THE SAFEGUARDING OF LIFE AND PROPERTY FROM FIRE AND EXPLOSION HAZARDS ARISING FROM THE STORAGE, HANDLING AND USE OF HAZARDOUS SUBSTANCES, MATERIALS AND DEVICES, AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE OCCUPANCY OF BUILDINGS AND PREMISES IN THE BOROUGH OF WHITE OAK; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; CREATING THE FIRE SAFETY ADVISORY COMMITTEE; PROVIDING FOR THE ENFORCEMENT OF THE FIRE PREVENTION CODE; REPEALING ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, Section 1202(5) of the Borough Code, 8 Pa.C.S. §1202(5), grants the Borough of White Oak the specific power to make such regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and the beauty, convenience, comfort and safety of the Borough; and

WHEREAS, Section 1202(15) of the Borough Code, 8 Pa.C.S. §1202(4), grants the Borough of White Oak the specific power to adopt and enforce a fire prevention code; and

WHEREAS, The Council of the Borough of White Oak has previously repealed Ordinance No's. 1149 and 1150 which established the Fire Prevention Code for the Borough of White Oak as adopted by BOCA National Fire Prevention Code;

WHEREAS, Council wishes to establish the International Fire Code as the Fire Code for the Borough of White Oak;

WHEREAS, Council seeks to safeguard and protect the life and property of the citizens of the Borough;

WHEREAS, the Borough Council desires to amend and restate Part 15 of the Codified Ordinances of the Borough of White Oak, "Fire Prevention Code," to adopt the 2015 International Fire Code, and any subsequent edition(s), as the Borough Fire Prevention Code and to revise the regulations related thereto in order to maintain, preserve and protect the public health, safety and welfare.

WHEREAS, the subsequent edition(s) of the International Fire Code shall take effect on the date the matching year edition of the International Building Code takes effect with respect to the Pennsylvania Uniform Construction Code.

WHEREAS, this Ordinance shall have no effect on White Oak's enforcement of the International Fire Code that are adopted in the Pennsylvania Uniform Construction Code

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by Council of the Borough of White Oak at a meeting assembled, and it is hereby enacted and ordained by and with the authority of the same as follows:

ARTICLE 1. ADOPTION.

A certain document, three (3) copies of which are on file in the office of the Borough Secretary of the Borough of White Oak, being marked and designated as the International Fire Code, 2015 edition, including Appendix Chapters B through M (see International Fire Code Section 101.2.1, 2015 edition) as published by the International Code Council, be and is hereby adopted as the Fire Prevention Code of the Borough of White Oak, in the Commonwealth of Pennsylvania for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Fire Prevention Code on file in the office of the Borough Secretary of the Borough of White Oak are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Article 2 of this Chapter.

The Borough of White Oak hereby adopts, for the purpose of establishing rules and regulations for regulating and governing the safe-guarding of life and property from fire and explosion hazard arising from the storage, handling and use of hazardous substances, materials, and devices and from conditions hazardous to life or property in occupancy of building and premises in White Oak, including administration, enforcement and penalties, the following provisions of the International Fire Code, 2015 Edition, or any subsequent edition(s), if any, save and except such portions as are herein after deleted, modified, or amended and the same is hereby adopted and incorporated by reference as fully as if set out at length herein:

Adopted Provisions of the International Fire Code.

All chapters with the amendments below;

Appendices B through M

ARTICLE 2. AMENDMENTS

The following sections and subsections of the International Fire Code, 2015 edition, are hereby added, inserted, deleted, restated or changed as set forth below:

A. Section 101.1 is restated as follows:

101.1 Title. These regulations shall be known as the Fire Prevention Code of the Borough White Oak (hereinafter referred to as “this code”).

B. Section 102.4 is restated as follows:

102.4 Application of building code. The design and construction of new structures shall comply with the procedures and provisions of Chapter 17 of the Code of the Borough of White Oak, “Construction Code, Uniform,” as amended (hereinafter referred to as the “Borough Construction Code”). Any alterations, additions, changes in use or changes in structures required by this code, which are within the scope of the Borough Construction Code, shall be made in accordance therewith. Nothing in this code shall be construed to cancel, modify or set aside any provisions of Chapter 13 of the Code of the Borough of White Oak, “Zoning,” as amended.

C. Section 102.5 is amended by inserting “Borough Construction Code” in place of the reference to “International Building Code.”

D. All references to “International Building Code” shall be deemed to be a reference to the “Borough Construction Code” within this code.

E. Section 103 is amended by changing the title of the Section to “Code Enforcement.”

F. Section 103.1 is restated as follows:

103.1 General. The office of Fire Official is hereby created and the executive official(s) in charge thereof shall be known as the Fire Official (hereinafter fire code official), who shall have the duty of implementation, administration and enforcement of the provisions of this code.

G. Section 103.2 is amended to provide:

103.2 Appointment. The fire code official shall be the Code Enforcement Officer of the Borough of White Oak and the fire code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

H. Substitute “Fire Official” in all relevant Sections for all references to the “department of fire prevention.”

H. All references to “fire department” shall be deemed to be a reference to the “White Oak Volunteer Fire Company No. 1” and/or the “Rainbow Volunteer Fire Company” within this code.

I. Section 104.3 is restated as follows:

104.3 Right of entry. Whenever it is necessary to make an inspection to enforce the provisions of this code, or whenever the fire code official has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of this code, the fire code official shall have the right and the power to enter upon and inspect the building or premises at all reasonable hours and in a reasonable manner for the administration and enforcement of this code. If such building or premises is occupied, the fire code official shall present credentials to the occupant and request entry. If such building or premises is unoccupied, the fire code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. In the event that entry upon any building or premises is refused by an owner, an agent of an owner or a tenant, the fire code official shall obtain an administrative search warrant from any magisterial district judge within the judicial district where the building or premises to be inspected is located. It shall be sufficient to support the issuance of a warrant for the fire code official to provide to the magisterial district judge evidence of any of the following:

1. Reasonable standards and an administrative plan for conducting inspections.
2. The condition of the building, premises or general area and the passage of time since the last inspection.
3. Facts, supported by oath or affirmation, alleging that probable cause exists that a law, regulation or ordinance subject to enforcement by the fire code official has been violated.

J. Section 108, Board of Appeal, is deleted in its entirety and restated as follows:

SECTION 108 MEANS OF APPEAL

108.1 Application for appeal. Any person directly aggrieved by an order, decision, or determination made by the fire code official relative to the application and interpretation of this code shall have the right to appeal to the Building Board of Appeals established under the Borough Construction Code provided that a written application for an appeal on a form provided by the Borough is filed within ten (10) days after receipt or posting of such order, decision, or determination, along with the payment of an appeal hearing fee in an amount set from time to time by resolution of the Borough Council. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder has been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The Building Board of Appeals shall have no authority to waive requirements of this code.

108.2 Regulations and procedures for appeals. All appeals under this code shall proceed under the regulations and procedures of the Building Board of Appeals.

K. Section 109.2.3 is restated as follows:

109.2.3 Prosecution of violation. If the person does not comply with the notice of violation within the time period set forth in the notice, the fire code official, a Borough police officer, or the Borough Solicitor shall institute the appropriate proceedings at law or in equity to restrain, correct or abate such violation, or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any person failing to comply with a notice of violation or order served in accordance with the code shall be prosecuted by action brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Borough Solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 454 (relating to trial in summary cases).

L. Section 109.3 is restated as follows:

109.3 Violation penalties. Any person who shall violate any provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a summary offense, punishable by a fine not to exceed \$1,000.00 per violation, plus court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings, and in default of payment of such fine and costs to imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion of a day in which a violation is found to exist or for each section of this code which is found to have been violated. All fines, costs, penalties, and fees collected for the violation of this Chapter shall be paid to the Borough Treasurer.

M. Section 109.3.1 is amended by adding a last sentence as follows:

“Any action taken by the Borough in the prosecution or abatement of any violation shall be charged against the real estate upon which the violation exists and shall be a municipal claim and lien upon such real estate.”

Section 109.4 Insert Summary Offense for [OFFENSE], \$600.00 for [DOLLAR AMOUNT], and 30 for [NUMBER OF DAYS].

N. Section 110.3 is restated as follows:

110.3 Summary abatement. Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code and the Borough may collect the cost of abatement, together with a penalty of ten (10%) percent of the cost, in the manner provided by law for the collection of municipal claims, or by action of assumpsit, or may seek relief by bill in equity.

O. Section 111.4 is amended to insert "\$600.00" in the first reference of [AMOUNT] and "\$1,000.00" in the second reference of [AMOUNT].

P. Section 113.2 is restated as follows:

113.2 Schedule of permit fees. The fees for applications and permits referenced in this code and for the activities and services performed by the fire code official in carrying out his/her responsibilities under this code shall be established, from time to time, by resolution of the Borough Council.

Q. Section 307, Open Burning, Recreational Fires and Portable Outdoor Fireplaces, is amended as follows:

**SECTION 307
OPEN BURNING, RECREATIONAL FIRES
AND PORTABLE OUTDOOR FIREPLACES**

307.1 General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with Chapter 1511, "Burning, Open," in the Code of the Borough of White Oak.

Sections 307.2, 307.2.1, 307.4, 307.4.1, 307.4.2 shall be deleted.

Sections 307.1.1, 307.3, 307.4.3, and 307.5 shall remain.

Section 1103.5.3 Insert "January 01, 2021" is the date by which the sprinkler system must be installed to the end of the text.

R. The geographic limits referred to in certain Sections are hereby established as follows:

Section 5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited): R-1, R-2, R-3, R-4, M-1, and M-2 Zoning Districts.

Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): R-1, R-2, R-3, R-4, M-1, and M-2 Zoning Districts.

Section 5806.2 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): R-1, R-2, R-3, R-4, M-1, and M-2 Zoning Districts.

Section 6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted for the protection of heavily populated or congested areas): R-1, R-2, R-3, R-4, M-1, and M-2 Zoning Districts.

ARTICLE 3 More Restrictive Provisions to Apply.

When the provisions of this Chapter are in conflict with other sections of the Code of the Borough of White Oak or any other Borough ordinances or any other applicable codes, the more stringent code, ordinance or regulation shall apply.

ARTICLE 3 FIRE SAFETY ADVISORY COMMITTEE

A Fire Safety Advisory Committee shall be formed for the purpose of assisting the Fire Code Official in the execution of his duties and his responsibilities through the review of permit applications required in administering of provisions of the Fire Code, the format of required inspection forms, the proper public relations and conduct during inspections, the performance at all fire drill held in educational and institutional occupancies, the enforcement procedures and their effectiveness, and recommend code and procedure changes to the Fire Code Official to improve fire safety in the Borough. The membership of this committee shall be comprised of the fire chief of each volunteer fire company and the Fire Code Official who shall be the permanent chairman and ex-officio member of the committee. Additional member may be added from time to time as determined by the committee.

ARTICLE 4. That nothing in this Ordinance or in the Fire Prevention Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

ARTICLE 5. That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect in accordance with applicable law.

ARTICLE 6. That the Borough Secretary is hereby ordered and directed to cause this ordinance to be published in a newspaper of general circulation within White Oak Borough.

ARTICLE 7. That nothing in this ordinance or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 4 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

ARTICLE 8. All prior Ordinances or Resolutions are hereby repealed in whole or in part to the extent inconsistent herewith.

ARTICLE 9. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, section or parts of this Ordinance. It is hereby declared as the intent of the Borough of White Oak that this section or part thereof not been included herein.

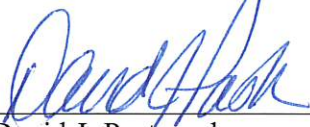
ORDAINED and ENACTED into law this 18th day of November, 2019.

ATTEST:

BOROUGH OF WHITE OAK



John Palyo
Borough Manager

By 

David J. Pasternak
Council President

EXAMINED AND APPROVED by me this 18th day of November, 2019.



Ina Marton
Mayor

APPROVED AS TO FORM:



Krisha A. DiMascio, Esquire
Solicitor