

**TOWNSHIP OF PENN  
BERKS COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2008- 02**

**AN ORDINANCE OF THE TOWNSHIP OF PENN, BERKS  
COUNTY, PENNSYLVANIA, REGULATING OUTDOOR SOLID  
FUEL BURNING FURNACES OR APPLIANCES WITHIN THE  
TOWNSHIP.**

Be it enacted and ordained by the Board of Supervisors of Penn Township, Berks County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

Section 1. Applicability. This Ordinance applies to all outdoor solid fuel burning furnaces, boilers and appliances within the Township of Penn.

(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 or structure 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 2. Definitions.

(a) “Outdoor Solid Fuel Burning Appliance” means any equipment, device or apparatus which is installed, affixed or situated outdoors, and not situated within a building intended for habitation by humans or domestic animals, which is used for the primary purpose of combustion of fuel to produce heat for

energy as a heating system, or component thereof, which provides heat or hot water to the principal structure, to a structure used for human or animal habitation, or to any accessory uses or structures, including, but not limited to, greenhouses, conservatories and swimming pools.

(b) “Chimney” means any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired outdoor heating appliance.

### Section 3. Materials That May Not Be Burned.

(a) The following items are prohibited from being burned within the Township of Penn: roof shingles, tires, paint or paint cans, aerosol or spray cans, plastic, rubber, fiberglass, or any other polymers, pressure-treated wood or any wood treated with CCA, creosote or OSMOSE. No human or animal waste or any other substances which emit noxious or toxic fumes and smoke shall be burned.

### Section 4. Regulations for Existing Outdoor Solid Fuel Burning Furnaces or Appliances.

(a) All owners/operators of existing outdoor solid fuel burning appliances shall apply for a permit for the appliance in accordance with the permit requirements contained in Sections 6 hereof within sixty (60) days of the adoption of this Ordinance.

(b) Any and all existing outdoor solid fuel burning appliances shall be brought into full compliance with the provisions of Section 5 of this Ordinance within ninety (90) days from the effective date of this Ordinance.

Section 5. Outdoor Solid Fuel Burning Furnaces or Appliance. An outdoor solid fuel may be used in the Township of Penn only in accordance with the following provisions:

(a) An appliance shall not be used to burn any of the prohibited materials listed in Section 3 of this Ordinance.

(b) Any outdoor solid fuel burning appliance located within all Zoning Districts of the Township shall be located on a lot of not less than three (3) acres and shall be not less than two hundred feet (200') from any lot line.

(c) Any appliance shall have a minimum chimney height of twenty feet (20') or the maximum height allowable by the manufacturer. If less than twenty feet (20'), you must provide the Township with documentation from the manufacturer confirming the restriction.

(d) All appliances shall comply with emissions standards as required for outdoor solid fuel burning appliances, as promulgated by the Environmental Protection Agency (EPA). For purposes of this Ordinance, all emission standards currently required by the EPA are hereby adopted by reference as well as any amendments or modifications made to them hereafter.

(e) All appliances shall be installed, operated and maintained in strict compliance with the manufacturer's instructions and guidelines for the said appliance. In the event that a conflict arises between the manufacturer's instructions and regulations, and the regulations contained in this Ordinance, the stricter instructions or regulations shall apply.

(f) All ashes or waste may be disbursed on the property where the appliance is located. Any large accumulation of ashes or waste exceeding five (5) yards must be disposed of in a manner approved by the Township of Penn and/or the Pennsylvania Department of Environmental Protection.

(g) All appliances shall be used for the sole purpose of furnishing heat and/or hot water to a dwelling or other structure pursuant to a permit issued hereunder, including residential swimming pools.

(h) In the event that the appliance is damaged more than fifty percent (50%), or it is physically deteriorated or decayed, the said appliance must be removed and/or replaced with a new unit within sixty (60) days of the date that notice is received from the Township of Penn. In such event, all provisions of this Ordinance, including but not limited to permitting procedure, shall be complied with.

(i) Outdoor solid fuel burning appliances on lots less than twenty (20) acres shall not be operated from May 15 to September 15. Any outdoor solid fuel burning appliance on lots of twenty (20) acres or more may be operated throughout the calendar year.

#### Section 6. Permits.

(a) No person shall install, start or maintain any outdoor solid fuel burning appliance without first obtaining a permit issued by the Township of Penn.

(b) Before a permit can be issued hereunder, an inspection of the proposed installation shall be required. In addition, a site plan is required showing the location of the proposed appliance on the property, location and

height of all existing structures on the property, and distances from the appliance to existing structures on the property. The manufacturers' specifications and instructions shall also be furnished to the Township before a permit can be issued.

(c) A permit can only be issued if all requirements contained in this Ordinance are strictly complied with.

(d) Any violation of the aforementioned conditions shall be deemed a violation of this Ordinance. Any violation of this Ordinance or the issued permit shall void the permit.

(e) The fee for a permit shall be determined by resolution of the Board of Supervisors from time to time pursuant to the Township Fee Schedule.

Section 7. Liability. A person utilizing or maintaining an outdoor solid fuel burning appliance shall be responsible for all fire suppression costs and any other liability resulting from damage caused by a fire.

Section 8. Right of Entry and Inspection. Any Zoning and Code Enforcement Officer of the Township may inspect any property for the purpose of ascertaining compliance with the provisions of this Ordinance. If access is denied, access shall be obtained pursuant to applicable laws of the Commonwealth of Pennsylvania.

Section 9. Enforcement and Penalties.

(a) The Zoning and Code Enforcement Officer of the Township of Penn is authorized to enforce any provisions of this Ordinance.

(b) Any person, firm or corporation who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to

pay a fine of not more than Five Hundred and 00/100 Dollars (\$500.00), and in default of payment of said fine, be subject to imprisonment for a term of not more than thirty (30) days. Every day that a violation of this Ordinance continues shall be deemed to be and shall constitute a separate offense hereunder.

(c) This Ordinance shall be governed by the laws of the Commonwealth of Pennsylvania.

Section 10. 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 Board of Supervisors of the Township of Penn that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 11. Effective Date. This Ordinance shall become effective five (5) days after enactment as provided by law.

ENACTED AND ORDAINED this 28th day of April, 2008.

BOARD OF SUPERVISORS OF PENN TOWNSHIP,  
BERKS COUNTY, PENNSYLVANIA

By: Kyle P. Loder  
Chairman

David B. Himmelberger  
Member

Sarah K. Mathias  
Member

ATTEST: Sharon D. Harrison  
Secretary

**CERTIFICATE OF ENACTMENT**

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2008-02 of Penn Township, Berks County, Pennsylvania, which was adopted by the Board of Supervisors of said Township at a regular meeting held pursuant to notice as required by law on April 28, 2008.

WITNESS my hand and seal this 28<sup>th</sup> day of April, 2008.

Sharon D. Harrison  
Secretary, Penn Township