

**PENN TOWNSHIP, BERKS COUNTY, PENNSYLVANIA**

**ORDINANCE NO 2018- 02**

**AN ORDINANCE OF THE TOWNSHIP OF PENN, BERKS COUNTY, PENNSYLVANIA, REGULATING AND RESTRICTING OUTDOOR FIRES IN THE TOWNSHIP**

**WHEREAS**, the Township of Penn is a Second Class Township in the Commonwealth of Pennsylvania; and

**WHEREAS**, the Township of Penn is governed by the Second Class Township Code of the Commonwealth of Pennsylvania; and

**WHEREAS**, under Section 1506 of the Second Class Township Code, 53 P.S. §66506, the Board of Supervisors may enact ordinances necessary for the proper management, care and control of the Township and the maintenance of peace, good government, health and welfare of the Township and its citizens; and

**WHEREAS**, per Section 1527 of the Second Class Township Code, 53 P.S. §66527, the Board of Supervisors may enact ordinances to secure the safety of persons within the Township; and

**WHEREAS**, pursuant to Section 1529 of the Second Class Township Code, 53 P.S. §66529, the Board of Supervisors may enact ordinances prohibiting nuisances; and

**WHEREAS**, pursuant to the authority granted it under the Second Class Township Code, the Board of Supervisors of Penn Township enacted Ordinance Number 2003-02 on May 13, 2003 establishing regulations for burning in the Township; and

**WHEREAS**, by Ordinance 2008-01 enacted on March 31, 2008, the Board of Supervisors of Penn Township amended Ordinance 2003-02 and the regulations for burning within the Township; and

**WHEREAS**, the Board of Supervisors of Penn Township desires to enact an Ordinance amending, revising and restating regulations for open fires and burning in the Township and repeal Ordinance 2003-02 and amendments thereto.

**NOW THEREFORE, BE IT ENACTED AND ORDAINED** by the Board of Supervisors of the Township of Penn, Berks County, Pennsylvania, and it is hereby enacted and ordained as follows:

**SECTION 1. Purpose.** The purpose of this Ordinance is to prevent public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained within Penn Township and to avoid unnecessary calls and false alarms to the Fire Company.

**SECTION 2. Title.** This Ordinance shall be known and may be referred to and cited as the "Penn Township Open Fire and Burning Ordinance".

**SECTION 3. Definitions.** Certain words and phrases used herein shall have the following meanings:

- A. **CONTAINED FIRE** – Any fire contained in an incinerator, in a fireplace used for outdoor cooking, or in a fireproof container.
- B. **GARBAGE** - All animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.
- C. **FIRE** – Any fire set or maintained outside of a building.
- D. **INCINERATOR** - An apparatus for burning waste material, especially industrial waste, at high temperatures until it is reduced to ash.
- E. **LEAF WASTE** - Leaves, garden residues, shrubbery and tree trimmings and similar materials, but not including grass clippings.
- E. **PERSON** – Any individual, partnership or corporation.
- F. **REFUSE** - Garbage, rubbish and trade waste.
- G. **RUBBISH** - Solids not considered to be highly flammable or explosive, including but not limited to rags, old clothes, leather, rubber, carpets, wood, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials.
- H. **TOWNSHIP** – Penn Township, Berks County, Pennsylvania.
- I. **UNCONTAINED FIRE** – Any fire except a “Contained Fire”.

**SECTION 4. General Restrictions.**

- A. No fire shall be set or maintained within fifty feet (50') of any building or property line within the Township, except for cooking or appliances designed for the purpose of preparing foods (gas, electric or charcoal grills or stoves, etc.).
- B. No fire shall be set or maintained on any public road or public property, within the Township, except where a designated area has been set aside for this purpose and an appropriate container has been provided to contain such fire.
- C. No fire shall be set or maintained that may endanger any building or property, except where such building or property is used by the Fire Department for training purposes.
- D. No fire shall be set or maintained at any time on a Sunday, a legal holiday or between dusk and dawn on any other day.
- E. No pressurized can or other pressurized container shall be burned.

F. No rubber, synthetic rubber, plastic, synthetic fabric, of any other material which produces offensive smoke and/or odor when burned shall be burned.

G. No fire shall be set, ignited, fed, allowed or permitted for the destruction of refuse, rubbish or garbage.

H. No hazardous materials or hazardous wastes including but not limited to roof shingles, tires, paint or paint cans, aerosol or spray cans, plastic, fiberglass or any other polymers, pressure treated wood or any wood treated with CCA, creosote or OSMOSE, human or animal waste shall be burned within the Township.

I. No burning that shall be hazardous to human or animal health, otherwise dangerous or objectionable, from which smoke or ash permeates or crosses neighboring properties and/or falls on buildings, vehicles or vegetation shall be allowed in the Township.

J. All fires shall be supervised by a responsible adult person at all times.

K. No fire shall be set or allowed to burn when conditions exist to make said fire a hazard.

L. No items generated from a property other than that which the fire is occurring shall be burned in the Township.

M. No fire shall be set on any lot less than two (2) acres except ones for outdoor cooking, smoking and curing of food for residential purposes and small campfires as provided for herein.

#### SECTION 5. Exceptions

A. A fire may be set for burning leaf waste in an approved container or barrel on lots of two (2) acres or more.

B. A fire may be set for burning leaf waste uncontained on lots of three (3) acres or more.

C. Fires within a fire pit, outdoor brick oven, outdoor fireplace or smoker may set for the express purpose of outdoor cooking, smoking and curing of food for residential purposes only provided the appliance is at least fifteen feet (15') from any structure, vertically or horizontally, and ~~fifty~~ thirty feet (~~50~~ 30') from any property boundary line.

D. Open fires for burning for agricultural purposes may be set for controlled burning on primarily agricultural lots.

E. Small campfires with a fire with flames not to exceed eighteen inches (18") in height and property contained.

F. This Ordinance shall not apply to gas or charcoal fires used for cooking purposes.

G. A fire may be set for burning leaf waste in an approved container or barrel on lots of not less than one (1) acre nor larger than two (2) acres during the months of April, May, September and October upon application for, including payment of the fee, and approval of a permit from the Township Fire Marshal for such burning. The application shall be on a form provided by the Township. The permit shall be conditioned on the owner or occupant contacting the Fire Marshal at least forty-eight (48) hours prior to the time of their intent to burn. The permit would be an annual permit subject to a fee of Twenty-Five and 00/100 Dollars (\$25.00). The fee may be amended from time to time by resolution of the Board of Supervisors.

#### **SECTION 6. Uncontained Fires.**

A. No uncontained fire shall be permitted to burn whenever drought or extreme weather conditions exist or when a ban on burning has been put into effect by the Commonwealth of Pennsylvania, County or Berks or the Township Supervisors. Notice of such restriction shall be given by notice in a newspaper of general circulation and by posting a notice at the Township office or by giving such other notice as the Township shall deem appropriate.

B. The Fire Marshal must be notified in the event a fire continues to burn after sunset.

C. In the event it is necessary to have an uncontained fire at times other than permitted under this Ordinance, special permission must be secured from the Fire Marshal.

D. No uncontained fire shall be maintained unless constantly attended by at least one (1) adult person.

E. An uncontained fire shall not be permitted unless it occurs at least one hundred feet (100 ') from the property line.

F. Any uncontained fire which is permitted to burn in an unsafe manner under adverse weather conditions, or which is unsupervised or which is determined to be unsafe by an official of the Fire Company, shall be extinguished immediately upon demand by such official.

#### **SECTION 7. Violations and Penalties.**

A. A property owner shall be responsible for violation of provisions of this Ordinance by an authorized occupant or invitee of the authorized occupant of the property along with the occupant and/or person igniting the fire.

B. A person, property owner, occupant or representative, who violates or allows violation of any provisions of this Ordinance shall be guilty of a summary offense and, upon conviction in a summary proceeding in accordance with the Pennsylvania Rules of Criminal Procedure shall be sentenced to pay a fine of not more than One Thousand Dollars (\$1,000.00) and costs. Each day a violation continues shall constitute a separate offense. If the violation requires the attendance of the Fire Company, the District Justice shall take account of the costs

incurred by the Fire Company in responding to the violation in determining the amount of fine to be levied.

C. Any fire set, maintained or permitted to smolder in violation of this Ordinance is hereby declared to be a nuisance and shall be abatable as such by the appropriate means including as necessary appropriate legal action.

D. Any person, partnership, corporation or other entity who or which starts or maintains or is aware of or allows a fire in the Township shall be fully liable to any person or property owner which sustains personal or property damage to themselves or their property as a result of the negligence of said person, partnership or corporation.

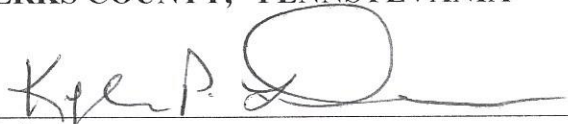
**SECTION 8. Severability.** If any section, subsection, clause, sentence, paragraph or part of this Ordinance shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, such invalidity, illegality or unconstitutionality shall not affect, impair or invalidate the remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the Board of Supervisors that this Ordinance would have been adopted had such provisions not been included herein.

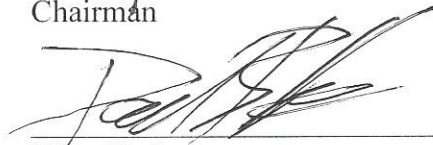
**SECTION 9. Repealer.** All Ordinances or parts of ordinances inconsistent herewith, specifically Ordinance 2003-02 and Ordinance 2008-01, are hereby repealed.


**SECTION 10. Effective Date.** This Ordinance shall become effective five (5) days after enactment, as provided by law.

ENACTED AND ORDAINED as an Ordinance of Penn Township, Berks County, Pennsylvania, this 17<sup>th</sup> day of December, 2018.

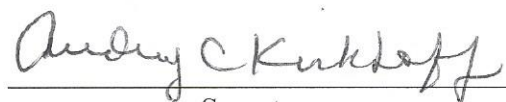
**BOARD OF SUPERVISORS OF  
PENN TOWNSHIP,  
BERKS COUNTY, PENNSYLVANIA**

  
Chairman

  
Vice Chairman

  
Member

ATTEST:

  
Secretary

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2018-\_\_\_\_ adopted by the Board of Supervisors of Penn Township, Berks County, Pennsylvania at a public meeting held on December 17, 2018, pursuant to notice as required by law.

Dated: December 17, 2018

Audrey C. Kerkhoff  
Township Secretary