

**PENN TOWNSHIP
OUTDOOR HYDRONIC HEATER ORDINANCE
A.K.A. OUTDOOR WOOD-FIRED FURNACE
WOOD-BURNING APPLIANCES AND/OR
OUTDOOR HYDRONIC HEATERS
ORDINANCE NO. 2015 - 02**

AN ORDINANCE OF THE TOWNSHIP OF PENN, SNYDER COUNTY, COMMONWEALTH OF PENNSYLVANIA, FOR THE PREVENTION AND CONTROL OF AIR POLLUTION FROM THE USE OF OUTDOOR HYDRONIC HEATERS, ALSO KNOWN AS OUTDOOR WOOD-FIRED FURNACES, OUTDOOR WOOD-BURNING APPLIANCES, OR OUTDOOR HYDRONIC HEATERS; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR REGULATIONS, EXCEPTIONS, ENFORCEMENT ORDERS, RESPONSIBILITY OF OWNERS AND OPERATORS, PENALTIES, UNLAWFUL CONDUCT, PUBLIC NUISANCES AND VALIDITY.

SECTION I Title

This ordinance shall be known and may be cited as the PENN TOWNSHIP OUTDOOR HYDRONIC HEATER ORDINANCE OF 2015.

SECTION II Authority

The Board of Supervisors of Penn Township under, and by virtue of and pursuant to the authority granted does hereby enact and ordain this ordinance.

SECTION III Applicability

Except as otherwise provided in Section VI – Regulations #10, this ordinance applies to the installation and use of all outdoor wood-fired boilers within Penn Township.

- 3.1 This ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.
- 3.2 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.
- 3.3 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.
- 3.4 This ordinance does not apply to an Outdoor Hydronic Heater in existence at the time of the adoption of this Ordinance and such existing Outdoor Hydronic Heater shall be *grandfathered in* and may continue, provided the landowner registers the Outdoor Hydronic Heater with Penn Township, in writing and at no cost. Registration shall be in the form of a written document (permit application), with the Township within thirty (30) days after the adoption of this Ordinance. The landowner shall comply with the specific provisions of this Ordinance relating to

Existing Outdoor Hydronic Heaters and shall not operate the same contrary to any federal, state or local regulations.

SECTION IV Purpose and Scope

Whereas the Board of Supervisors of Penn Township have determined that air pollution from Outdoor Hydronic Heaters may be a detriment to the health, comfort, living conditions, welfare, and safety of the citizens of Penn Township it is hereby declared to be the policy of Penn Township to safeguard the citizens of Penn Township from such air pollution.

SECTION V 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:

APCA – Commonwealth of Air Pollution Control Act (35 P.S. §4001, et esq.)

Clean Wood – Natural wood that has no paint, varnish or coated with a similar material nor has been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

EPA – United States Environmental Protection Agency

Outdoor Hydronic Heater – Also known as outdoor wood-fired furnaces, outdoor wood-burning appliances, or outdoor hydronic heaters, water stoves, etc. A fuel-burning device:

1. Designed to burn clean wood or other approved solid 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; and
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.

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.

Phase 2 Outdoor Hydronic Heaters – an outdoor wood-fired 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 (BTU) output and is labeled accordingly. Phase 2 outdoor wood-fired boiler models will be identified with a white hang tag.

Responsible official – Person designated by the municipality to be responsible for the administration and enforcement of this ordinance.

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.

SECTION VI Regulations

On or after effective date an outdoor wood-fired boiler may be installed, used or operated in Penn Township only in accordance with the following provisions:

6.1 Zoning Requirements for New Outdoor Hydronic Heaters

No person shall install an outdoor hydronic heater unless situated on a parcel of 2.5 acres or greater.

6.2 Particulate Standard Requirements for New Outdoor Hydronic Heaters

No person shall install an outdoor wood-fired boiler that is not a Phase 2 Outdoor Hydronic Heater or better, the same must meet the minimum requirements of Department of Environmental Protection (DEP) and the Environmental Protection Agency (EPA).

6.3 Setback Requirements for New Outdoor Hydronic Heaters

No person shall install an outdoor hydronic heater unless it is installed at least 150 feet from the nearest

property line.

6.4 Stack Height Requirements for New Outdoor Hydronic Heaters

No person shall install an outdoor hydronic heater unless it has an attached stack with a minimum stack height of 10 feet above the ground.

6.5 Stack Height Requirements for Existing Outdoor Hydronic Heaters

No person shall use or operate an outdoor hydronic heater that was installed before the effective date of this ordinance unless it has a permanent attached stack with a minimum stack height of 10 feet above the ground.

6.6 Fuel Requirements for New and Existing Outdoor Hydronic Heaters

No person that operates a new or existing outdoor hydronic heater shall use a fuel other than the following:

- Clean natural wood
- Corn
- Wood pellets made from clean natural wood
- Home heating oil, natural gas, propane or that complies with all applicable sulfur limits and is used as a starter or supplemental fuel for dual-fired outdoor wood-fired boilers

6.7 Prohibited Fuels for New and Existing Outdoor Hydronic Heaters

No person shall burn any of the following items in an outdoor hydronic heater:

- Any material not listed in Section VI #6
- Treated or painted wood
- Furniture
- Garbage
- Tires and /or other synthetic rubber-like product or material containing rubber
- Lawn clippings or yard waste
- Material containing plastic or plastic material including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, synthetic fabrics, plastic films and plastic containers.
- Waste petroleum products, including used oil
- Paints and paint thinners
- Chemicals
- Any hazardous waste
- Coal (unless an approved and certified coal furnace)
- Glossy colored paper
- Construction and demolition debris
- Plywood
- Particleboard
- Animal carcasses and or manure and pet waste
- Asphalt products

6.8 Regulatory Requirements for New and Existing Outdoor Hydronic Heaters

No person shall use or operate a new or existing outdoor hydronic heater unless it complies with all existing federal, state and local regulations. Some regulations of this Commonwealth that could apply include:

- 25 Pa. Code Section 121.7 – Prohibition of Air Pollution
- 25 Pa. Code Section 123.1 – Fugitive Emissions
- 25 Pa. Code Section 123.31 – Odor Emissions
- 25 Pa. Code Section 123.41 – Visible Emissions

- Section 8 of the APCA, 35 P.S. Section 4008 – Unlawful Conduct
- Section 13 of the APCA, 35 P.S. Section 4013 – Public Nuisance

6.9 Permits for New Outdoor Hydronic Heaters

No person shall use or operate an outdoor hydronic heater unless a zoning permit is obtained from the zoning officer. Permit fee may be established and amended from time to time by resolution. Should any person violate the terms of this ordinance or permit conditions the permit may be revoked.

Section VII *Enforcement and Penalties*

7.1 The Township Zoning Officer or such other person appointed by the Board of Supervisors is authorized to enforce any provisions of this Ordinance.

7.2 In order to enforce this Ordinance, the Zoning Officer or other authorized agent of the Township has the right to enter upon any property to inspect 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 and all costs of obtaining access, including reasonable attorneys' fees, shall be borne by the property owner.

7.3 In the event the Zoning Officer or such other enforcement officer determines that there has been a violation of this Ordinance, notice of such violation shall be sent to the owner of the property upon which the outdoor furnace is located. The property owner shall correct the violation and bring the furnace into compliance within fourteen (14) days of receipt of the notice. If the violation is not corrected within fourteen (14) days or a subsequent violation occurs, the property owner shall be required to remove the furnace from the property or render it permanently inoperable within sixty (60) days of the date that the notice is received from the Township.

7.4 Any person who violates any provision of this Ordinance or any order of Penn Township issued pursuant to this Ordinance commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$100.00 nor more than \$2,500.00 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. Any person who violates this Ordinance shall also be required to pay to the Township costs of prosecution including reasonable attorneys' fees. Each day that a violation of this Ordinance continues, shall be deemed to be, and shall constitute a separate offense hereunder. The Township solicitor may assume charge of the prosecution without the consent of the District Attorney as required under the Pennsylvania Rules of Criminal Procedure, relating to trial and summary cases. There is no accelerated rehabilitative disposition authorized for a summary offense.

7.5 Nothing in this Ordinance shall prevent Penn Township in its sole discretion from seeking any other remedy, legal or equitable, or abate any violation of this Ordinance. The persons violating this Ordinance shall be responsible for paying Penn Township any and all costs, including reasonable attorneys' fees, the Township incurs in seeking any other remedy, legal or equitable, or abating any violation of this Ordinance.

Section VIII *Public Nuisance*

A violation of this Ordinance or of any order issued by Penn Township under this Ordinance shall constitute a public nuisance. Penn Township shall have the authority to order any person causing a public nuisance to abate the public nuisance, and the Township shall be entitled to an injunction requiring any person violating this Ordinance to abate the public nuisance. In addition, Penn Township may recover all costs including reasonable attorneys' fees that it incurs in enforcing this Ordinance against any person in violation.

Section IX *Validity*

The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of Penn Township that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

Section X Request for Variance

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a landowner, the Board of Supervisors may, upon request, grant relief from the strict application of the requirements.

10.1 Variance Procedures and Conditions

Requests for variances shall be considered by the Township in accordance with the following standards:

- a. Any landowner requesting a variance shall submit a written request to the Township on a form prescribed by the Township and pay the fee established by Resolution.
- b. A written request may request more than one variance(s).
- c. The written application shall be forwarded to the Penn Township Planning Commission for recommendations and comments.
- d. The Board of Supervisors shall hold a hearing within sixty (60) days of the completed submission by the landowner unless the landowner agrees to an extension in writing.
- e. No variance shall be granted for burning any prohibited fuels that are set forth in Section 6.7;
- f. If granted, the variance shall involve only the least modification necessary to provide relief.
- g. In granting any variance, the Township shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety and welfare of the community, and to achieve the objectives of this ordinance.
- h. In reviewing any requests for a variance, the Board of Supervisors shall consider, at a minimum, the following:
 - 1. That there is good and sufficient cause;
 - 2. That failure to grant the variance would result in exceptional hardship to the applicants
 - 3. That the granting of the variance will not create nuisances, cause fraud on or victimize the public, or conflict with any other applicable Federal, state or local ordinances, rules, and regulations.
 - 4. A complete record of all variance requests and related actions shall be maintained by the Township.
- i. Any person aggrieved by a decision of the Board of Supervisors (regarding this section relating to variances) may file an appeal to the Court of Common Pleas of Snyder County within thirty (30) days of the rendering of the written decision by the Board of Supervisors.

Effective date

This Ordinance shall be effective 5 days after enactment.

DULY ENACTED AND ORDAINED this 4th day of February, 2015, by the Board of Supervisors of Penn Township, Snyder County, Pennsylvania, in public session duly assembled.

ATTEST:

Hymne Renn



PENN TOWNSHIP BOARD OF SUPERVISORS

Jon Payne

Jon Payne – Chairman

Fred Ulrich

Fred Ulrich – Supervisor

Brenda Moyer

Brenda Moyer – Supervisor