

**STATE OF NEW JERSEY
COUNTY OF SALEM
BOROUGH OF PENNS GROVE
MAYOR AND COUNCIL**

ORDINANCE NO. 2018-7

AN ORDINANCE REGULATING OPEN AIR BURING AND INDOOR AND OUTDOOR BURNING

WHEREAS, the Borough of Penns Grove currently has no rules or regulations regarding open air burning and indoor and outdoor burning; and

WHEREAS, the Borough would like to establish rules and regulations to control such activities; and

WHEREAS, the Borough would like to add Chapter 320 to the Code of the Borough of Penns Grove entitled "Open Air Burning; Indoor and Outdoor Burning" in order to regulate these activities.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Penns Grove that Chapter 320 shall be added to the Code of the Borough of Penns Grove as follows:

Chapter 320. Open Air Burning; Indoor and Outdoor Burning

§ 320-1. Title and authority.

Pursuant to authority granted by the State in the Air Pollution Control Act, N.J.S.A. 26:2C-22, as well as through N.J.S.A. 40:48-1 et seq., the New Jersey Home Rule Act of 1917, as amended, this chapter shall be known as the "Borough of Penns Grove Open Air Burning and Indoor and Outdoor Burning Prohibition Ordinance."

§ 320-2. Intent.

Although open air burning provides an additional source of leisure and passive recreation, concerns have been raised regarding the safety and environmental impacts of open air burning activities, particularly the production of offensive odors and the potential health effects of uncontrolled emissions and the burning of materials other than firewood or untreated lumber. Further concerns exist as to indoor and outdoor burning where the materials being burned also produce or have the potential to produce offensive odors, smoke and potential health effects of uncontrolled emissions from the burning of nonapproved materials. This chapter is intended to ensure that open air burning and indoor and outdoor burning through furnaces, stoves, fireplaces and chimneys are regulated to prevent the creation of a nuisance or other situations which may be or become detrimental to the health, safety and general welfare of the residents of the Borough.

§ 320-3. Definitions.

The following terms shall have the following meanings when used in this chapter:

BONFIRE A fire as defined by Section 307 of the Uniform Fire Code, except that Section 307.4.1.1 of the Fire Code concerning the dimensions of a bonfire is amended to also include any fire greater than three feet in diameter.

CAMPFIRE An outdoor fire, not to exceed three feet in diameter, intended for recreation or cooking, but not including a fire intended for disposal of waste wood or refuse.

FIRE PIT, ASSEMBLED Non-pre-made fire pits built according to an individual's wishes, encompassing a wide variety of styles and functions, from a traditional campfire pit to more elaborate constructions of materials such as stone and concrete. The term "assembled fire pit" shall also include outdoor fireplaces, chimineas, patio warmers or other portable wood-burning devices used for outdoor recreation and/or heating.

FIRE PIT, PRE-MADE Pre-manufactured fire pits commercially sold for outdoor burning, often portable, and commonly made of metal and used for either wood or gas burning.

FIREWOOD Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than two inches in diameter.

FURNACE Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated on a property for the purpose of combustion of fuel to produce heat and/or hot water for new or existing structures. A furnace may be a standalone device or a structure that may appear to be a small utility building which serves the same purpose. A furnace shall also include boilers and stoves used for this purpose.

INDOOR Any unit of space not covered by the definition of "outdoor."

OPEN AIR BURNING A fire where any material is burned in the open.

OUTDOOR Any unit of space outside of an existing structure.

REFUSE Any waste material except trees, logs, brush, and untreated lumber.

SUSTAINED SMOKE Any smoke that continues in a visible flow from the source of the fire for more than 20 feet for more than three minutes in duration. Sustained smoke shall not include the presence of any fragrance or odor caused by the burning of firewood or untreated lumber if same is not accompanied by the presence of visible smoke.

UNTREATED LUMBER Dry wood which has been milled and dried out but which has not been treated or combined with any petroleum product, chemical preservative, glue, adhesive, stain, paint or other substance.

§ 320-4. Prohibition against open burning.

- A. Open air burning is prohibited within the Borough of Penns Grove unless in conformance with the standards established herein.
- B. Except as provided herein, it shall be unlawful for any person to permit kindling, igniting or maintaining any bonfire, brush fire or to burn off grass, leaves, debris, branches, wood, refuse, garbage, waste, or rubbish on any lot or field or to authorize any such fire to be kindled or maintained on any street, alley lot, lands or public grounds or upon any private lots or fields unless a written permit to do so shall be first obtained from the Borough Council.

§ 320-5. Exceptions to open burning prohibition; standards.

- A. Outdoor fires utilized for cooking are permitted without a permit either when contained in a manufactured metal grill or other similar device intended for such use or a campfire.
- B. Outdoor fires utilized for any other recreational purpose are permitted when either contained in a manufactured device designed for such purpose and utilized strictly in accordance with the manufacturer's requirements or, alternatively, in a proper noncombustible stone, cement, brick, tile or metal assembled fire pit materials and shall not be more than three feet in diameter.
- C. For all existing pre-made or assembled fire pits within the Borough, should the Fire Chief or his authorized designee determine that a fire pit is unsafe, he may order that said fire pit not be used until he or his designee deems said fire pit safe. Challenges to such an order may be appealed to the Salem County Construction Board according to the time frames permitted by state regulations.
- D. No open air burn may occur on a residential property within 15 feet of any main or accessory structure on the property, including, but not limited to, any dwelling, garage or shed.
- E. A fully functioning fire extinguisher must be available for fire extinguishment purposes whenever any fire is ongoing.
- F. Permitted fuel. Only firewood and untreated lumber are permitted to be burned. Burning of any and all other materials, including but not limited to garbage, rubber, plastics, and yard waste, at any location within the Borough is prohibited. No green wood, leaves or other materials which cause excessive smoke may be burned indoors or outdoors at any time. Any smoke or odor from any indoor or outdoor fire must be kept to a minimum.
- G. Flames may not exceed two feet in height at any time, and should the prevailing winds cause the sustained smoke from said fire to blow into a neighboring dwelling

or property, said fire must be extinguished immediately. The Fire Chief or his designee are authorized to require that any residential outdoor fire be immediately extinguished if he determines that said fire constitutes a hazardous condition. In addition, the Penns Grove Fire Department and/or the Penns Grove Police Department are authorized to require that any residential outdoor fire pit be immediately extinguished if sustained smoke emissions are found to be offensive to occupants of surrounding properties. Failure to comply with Fire or Police Department orders shall constitute a violation of this chapter in addition to any and all criminal and regulatory violations which may be cited against the property owner and those individuals responsible for maintenance of the hazardous or offensive condition.

- H. Indoor and outdoor fires must be attended at all times by a competent adult owner or legal resident of the property from the time said fire is commenced through the time said fire is completely extinguished.
- I. Permitted locations. Open burning shall be permitted only on residential properties and/or properties used for agricultural purposes, except in the event that a school, church, or other nonprofit organization conducts a bonfire which has obtained the necessary permit from the Fire Marshal to conduct said activity.
- J. Setbacks. Permitted open air burning devices shall be set back not less than 10 feet from the nearest lot line.

§ 320-6. Prohibition against indoor and outdoor furnace burning; existing furnaces.

- A. No materials shall be burned in a furnace other than firewood or untreated lumber, except where said furnace is designed and manufactured to burn other fuels such as coal, gas, or oil.
- B. No person shall cause, allow, or maintain the use of an indoor or outdoor wood-burning furnace within the Borough of Penns Grove without first having obtained a permit. Application for a permit shall be made on the forms provided by the Borough.
- C. Any outdoor furnace or furnace in an accessory structure in existence on the effective date of this chapter shall be permitted to remain, provided that the owner applies for and receives a permit within one year of such effective date. Notwithstanding the fact that any furnace in existence on the effective date of this chapter has one year to receive a permit, any existing furnace must comply with this chapter within 60 days of the effective date of this chapter. If the owner of an existing furnace does not receive a permit within one year of the effective date of this chapter, the furnace shall be removed. "Existing" or "in existence" means that the furnace is in place and operational on the site.

§ 320-7. Permit process.

- A. A written permit shall be obtained for all open burning purposes not specifically permitted in this chapter.
- B. Application for said permit shall be made to the Borough Council at least 30 days prior to the date requested and shall include:
1. Applicant's name, address and contact information;
 2. Property address and owner information, if different;
 3. Type of open air burning request, date, time;
 4. Description of materials to be burned;
 5. Description of emergency procedures in place;
 6. Proof of personal injury and property damage insurance with limits of not less than \$2,000,000 per occurrence and \$5,000,000 aggregate;
 7. Proof of notification of the application to all properties within 300 feet of the fire location; and
 8. Submittal of a permit fee to the Borough of Penns Grove in the amount of \$150.00.
- C. Approval of permit. The Borough Council shall review any application for open burning and determine if said application meets the requirements. The Borough Council shall consult with the Fire Chief who, shall in his trained opinion, determine if appropriate firesafety standards are being met. The Borough Council shall have the discretion to approve or deny the application. The Borough Council is also empowered to approve a conditional permit establishing additional conditions on a case-by-case basis to ensure that firesafety standards are met.
- D. Revocation or suspension of permit. A permit issued by this chapter may be suspended or revoked as the Borough Council or Fire Chief may determine to be necessary to protect the public health, safety and welfare of the residents of the Borough. A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such conditions will not recur. Recurrence of a condition which has previously resulted in suspension of a permit shall be considered a violation of this chapter subject to the penalties provided herein.

§ 320-8. Enforcement.

Enforcement of this chapter may be accomplished through the Borough Police Department, or the Borough Fire Chief, or their designees.

§ 320-9. Violations and penalties; distribution of fines to fire district.

Each and every person failing to comply with any of the provisions in this chapter shall, upon conviction thereof, be punished by a fine of up to \$2,500 per offense, a term of imprisonment of up to 90 days and/or be required to perform community service for up to 90 days. Each day a violation exists shall constitute a new and separate offense subject to prosecution.

§ 320-10. Effect of other regulations.

Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New Jersey State Department of Environmental Protection, or other federal, state, regional or local agencies. Indoor and outdoor burning devices shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, state and federal codes, law, rules and regulations. In case of any conflict between any provision of this chapter and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

Attest: Sharon R. Williams
Sharon R. Williams, Municipal Clerk

John A. Washington, Sr.
John A. Washington, Sr., Mayor

INTRO: JUNE 6, 2018

Council	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
Johnson		X	X			
Oliver						X
Pasquale			X			
Poindexter			X			
Scott	X		X			
Washington, Jr.						X

Notice: The above ordinance was introduced and passed on the first reading at the meeting of the Mayor and Council of the Borough of Penns Grove in the County of Salem held on June 6, 2018 and will be considered for final passage at a meeting to be held by the Mayor and Council at Borough Hall, Broad Street and State Street, Penns Grove, New Jersey at 7:00 p.m. on June 19, 2018 at which time any interested person will be given an opportunity to be heard.

FINAL: JUNE 17, 2018

Council	MOVED	SECONDED	Y	N	ABSTAIN	ABSENT
Johnson						X
Oliver		X	X			
Pasquale			X			
Poindexter						X
Scott			X			
Washington, Jr.	X		X			

Notice: The above ordinance was introduced and passed on the first reading at the meeting of the Mayor and Council of the Borough of Penns Grove in the County of Salem held on the 6TH, day of June, 2018 and was considered for final passage and adopted, after a public hearing was held by the Mayor and Council at Borough Hall, 1 State Street, Penns Grove, New Jersey at 7:00 p.m. on June 17th, 2018.

Sharon R. Williams

Sharon R. Williams, Municipal Clerk

