

FILE OF COUNCIL 1 OF 2008

ORDINANCE 1 OF 2008

**AN ORDINANCE OF THE BOROUGH OF DUNMORE,
LACKAWANNA COUNTY, PENNSYLVANIA REGULATING
OUTDOOR SOLID FUEL BURNING FURNACES OR APPLIANCES
WITHIN THE BOROUGH.**

SECTION 1: APPLICABILITY

This Ordinance applies to all outdoor burning furnaces, boilers and appliances within the Borough of Dunmore.

1.1 This Ordinance does not apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances.

1.2 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.

1.3 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.

SECTION 2: SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected. It is hereby declared that the intent of Dunmore Borough is that this Ordinance would have been adopted at such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 3: DEFINITIONS

3.1 "Outdoor Solid Fuel Burning Appliance" means any equipment, device or apparatus which is installed, affixed or situated outdoors, and not situate 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.

3.2 "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 4: MATERIALS THAT MAY NOT BE BURNED

4.1 Unless specific written approval has been obtained from the PA Department of Environmental Protection (DEP), the following, materials may not be burned in the Borough under any circumstances:

a. Rubbish or garbage including but not limited to food wastes, food wraps,

- packaging, animal carcasses, paint or painted materials, furniture, composite shingles, demolition debris or other household or business wastes.
- b. Waste oil or other oily wastes except used oil burned in a heating device for energy recovery subject to applicable PA DEP regulations.
 - c. Asphalt and products containing asphalt.
 - d. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
 - e. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, films and containers.
 - f. Rubber including tires and synthetic rubber-like products.
 - g. Any material that is not recommended for burning by the manufacturer of the appliance.

SECTION 5: REGULATIONS FOR EXISTING OUTDOOR SOLID FUEL BURNING FURNACES OR APPLIANCES

- 5.1** 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 Section 7.1, 7.2 and 7.5, hereof within sixty (60) days of the adoption of this Ordinance.
- 5.2** Any and all existing outdoor solid fuel burning appliances shall be brought into full compliance with Section 6.3 of this Ordinance within ninety (90) days from the effective date of this Ordinance and Section 6.9 upon the effective date of this Ordinance.
- 5.3** Any and all existing outdoor solid fuel burning appliances that do not comply with any provision of this Ordinance other than Section 6.3, Section 6.4 and Section 6.9 shall be registered as a nonconforming appliance.

SECTION 6: OUTDOOR SOLID FUEL BURNING FURNACES OR APPLIANCE

An outdoor solid fuel may be used in the Borough of Dunmore only in accordance with the following provisions:

- 6.1** An appliance shall not be used to burn any of the prohibited materials listed in Section 4 of this Ordinance.
- 6.2** Any outdoor solid fuel burning appliance located within the Conservation or Agricultural Zoning Districts shall be located on a lot of not less than five (5) acres and shall be not less than two hundred (200') feet from any lot line. Any outdoor solid fuel burning appliance located within all other Zoning Districts shall be located on a lot of not less than three (3) acres and shall be not less than two hundred (200') feet from any lot line.
- 6.3** Any appliance shall have a minimum chimney height of twenty (20') feet or the maximum height allowable by the manufacturer. If less than twenty (20'), you must provide the Borough with documentation from the manufacturer confirming the restriction.
- 6.4** 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.

6.5 All appliances shall be installed, operated and maintained in strict compliance with the manufacturers' 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.

6.6 All ashes or waste may be disbursed on the property where the appliance is located. Any large accumulation of ashes or waste must be disposed of in a manner approved by the Borough of Dunmore and/or the Pennsylvania Department of Environmental Protection.

6.7 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, on the site parcel.

6.8 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 Borough of Dunmore. In such event, all provisions of this Ordinance, including but not limited to permitting procedures shall be complied with.

6.9 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 through out the calendar year.

SECTION 7: PERMITS

7.1 No person shall install, start or maintain any outdoor solid fuel burning appliance without first obtaining a permit issued by the Borough of Dunmore.

7.2 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 Borough before a permit can be issued.

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

7.4 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.

7.5 The fee for a permit shall be determined by resolution of the Board of Supervisors from time to time pursuant to the Borough Fee Schedule.

SECTION 8: LIABILITY

A person utilizing or maintaining an outdoor solid fuel burning appliance shall be responsible for all fire suppression costs, clean up costs, repair and remediation costs and any other liability resulting from damage caused by a fire or emissions from the unit.

SECTION 9: RIGHT OF ENTRY AND INSPECTION

Any authorized officer, agent, employee or representative of the Dunmore Borough Zoning and Codes Office, who presents credentials 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 10: ENFORCEMENT AND PENALTIES

10.1 The Zoning and Codes Officer of the Borough of Dunmore is authorized to enforce any provisions of this Ordinance.

10.2 Any person, firm, or corporation who violates any of the provision of this Ordinance, shall upon conviction thereof, be sentenced to pay a fine of not more than Five Hundred (\$500.00) Dollars, 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.


10.3 This Ordinance shall be governed by the laws of the Commonwealth of Pennsylvania.

SECTION 11: EFFECTIVE DATE

This Ordinance shall be placed into effect immediately.

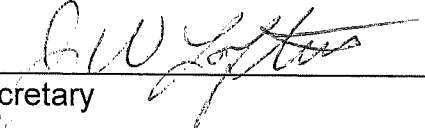
ENACTED AND ORDAINED THIS 28, DAY OF January 2008.

Borough of Dunmore

By: 

President of Council

ATTEST:


Secretary