

BOROUGH OF TOPTON  
BERKS COUNTY, PENNSYLVANIA

COPY

ORDINANCE # 8-2008

AN ORDINANCE OF THE BOROUGH OF TOPTON, BERKS COUNTY, PENNSYLVANIA, PROMOTING THE HEALTH, SAFETY AND GENERAL WELFARE OF RESIDENTS OF THE BOROUGH OF TOPTON BY REGULATING OPEN BURNING AND/OR OUTDOOR FIRES, AND REGULATING BONFIRES, OUTDOOR FIREPLACES, INDOOR FIREPLACES, INDOOR WOOD BURNING AND COAL STOVES, INCINERATORS, HANDLING OF ASHES AND COMBUSTIBLE RUBBISH AND PROVIDING FOR THE ENFORCEMENT THEREOF.

BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Tipton, Berks County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same, as follows:

ARTICLE I. DEFINITIONS

For the purposes of this Ordinance, the following terms shall be defined as set forth below, unless a different meaning is plainly required by the context.

1.01 "PERSON" shall mean any natural person, partnership, firm, association or corporation.

1.02 "ORGANIC MATERIAL" shall mean material derived from living organisms such as wood, paper and yard scraps.

1.03 "NON-ORGANIC MATERIAL" shall mean material derived or formed from inanimate objects, other than vegetable, such as tin cans, glass crockery, metals, plastic and similar materials.

1.04 "LEAF WASTE" shall mean leaves, garden residue, shrubbery and tree trimmings and similar materials, but not including grass clippings.

1.05 "OPEN BURNING" shall mean burning any material in the open atmosphere, including burning in 55-gallon drums, outdoor fireplaces or other containers.

1.06 "RECYCLABLE" shall mean any material that is required to be recycled in the Borough of Tipton under the Pennsylvania Act 101.

1.07 "AUTHORITY HAVING JURISDICTION" (AHJ) shall mean Fire Code Official, Police Officer or Code Enforcement Officer.

## ARTICLE II. OPEN FIRES AND OUTDOOR FIRES

2.01 It shall be unlawful for any person to open burn any material, including the following at any time within the Borough of Topton:

Household trash, books, magazines, newspapers, cardboard and/or any items that are required to be recycled in the Borough under the Pennsylvania Act 101, including leaf waste and scrap lumber or any vegetation, plywood, drywall plastic products, insulation material, upholstered furniture, garbage, dead animals, human and animal excrement, human and animal hair, rubber products including tires, hydrocarbon products or flammable liquids, asphalt or tar shingles or roofing materials, bedding, foam rubber, nylon, rayon, cotton, wool, polyester or other synthetic material, insulation from copper or other wiring, solid waste and/or construction waste as defined by the Pennsylvania Solid Waste Management Act and 25 PA Code 271.1.

EXCEPT where fire or burning operations result from:

A. Any fire set for the purpose of training and instructing authorized personnel in fire fighting, and training of persons in the use of portable fire extinguishers. (permit required).

B. Any campfire or bon-fire solely for organized recreational or ceremonial purposes. (permit required)

C. Any fire set for the prevention and/or control of disease of pests, rats, snakes, bees, etc. (permit required)

D. The burning of ONLY leaf waste, exclusively for agricultural management and conservation practices & protection, and provided burning is located 100 feet or more from any building or structure. Brush must originate from the same property (first full weekend of the month, permit required)

1. Burning is permitted from 6:00 A.M. to 6:00 P.M. on Saturday and Sunday, weather permitting.

2. No burning or smoldering shall occur outside of the above stated hours or when weather conditions are inappropriate for burning.

2.02 The AHJ may suspend the above regulations at any time when the following conditions exist:

A. When smoke and/or ash emission are or may be objectionable, offensive or deleterious to human or animal health or permeate or crosses neighboring properties, and/or falls on buildings, vehicles or vegetation.

B. When weather conditions, including but not limited to extreme dry conditions or drought warrant a ban on all burning, or where there is a state-wide, regional, or county-wide drought emergency declared.

### ARTICLE III. OUTDOOR FIREPLACES AND CHARCOAL GRILLS

3.01 Outdoor fireplaces and charcoal grills shall be permitted upon private property within the Borough of Tipton solely for the purpose of cooking foods. The following regulations shall apply:

A. No person shall use such fireplaces or grills for burning of materials as outlined in Article II, Section 2.01 of this Ordinance.

B. Outdoor grills shall not be used for such purposes other than cooking food.

C. Outdoor grills shall not be used indoors or in any enclosed areas that are not properly ventilated, i.e. garages, etc.

### ARTICLE IV. OUTDOOR PATIO STOVES, CHIMINEAS, FACTORY BUILT METAL NOVELTY STOVES

4.01 Outdoor Patio stoves, Chimineas™, or factory built metal novelty stoves shall be permitted outside residential private property within all zones of the Borough of Tipton, provided that the following regulations apply.

A. No persons shall use such Patio stoves, Chimineas™, or Factory built novelty stoves, for the burning of any material outlined in Article II, Section 2.01 of this Ordinance.

B. If smoke, ash, or odor omitting from such Patio stoves, Chimineas™, or factory built novelty stoves become(s) objectionable or offensive to neighboring properties, the AHJ may suspend the operation of same.

### ARTICLE V. INDOOR FIREPLACES, WOOD BURNING, COAL STOVES OR SOLID FUEL HEATERS

5.01 Fireplaces, wood burning and coal stoves shall be permitted inside residential private property within all zones of the Borough of Tipton solely for the purpose of heating the dwelling unit. The following regulations shall apply:

A. Only seasoned fire wood, coal or solid fuels recommended by the manufacturer may be burned in such fireplaces, wood burning, coal stoves or solid fuel heaters.

B. No person may use such fireplaces, wood burning, coal stoves or solid fuel heaters for the burning of any material as outlined in Article II, Section 2.01 of this Ordinance.

C. Such fireplaces, wood burning, coal stoves or solid fuel heaters shall not be used for such purpose when, in the judgment of AHJ, a fire hazard is created by such use and operation and/or any danger is posed to the occupants therein or the neighboring buildings and/or occupants.

D. If the smoke, ashes and/or smell emitting to the outside atmosphere from the chimney, stove pipe or flue are, objectionable or offensive to the general public, the operation of such fireplace, wood burning, coal stove or solid fuel heater shall be suspended by the AHJ.

#### ARTICLE VI. INCINERATORS

6.01 It shall be lawful to burn combustible rubbish and materials within the Borough of Topton by means of an enclosed outdoor or indoor incinerator operated by chemical or thermal means, provided the incinerator is attached to a proper stack or chimney and complies with the current Borough of Topton ICC Codes, and provided the following regulations are adhered to:

A. The incinerator shall be the type approved by an authorized representative of the Pennsylvania Department of Health AND the Pennsylvania Department of Environmental Protection. Both, of the above departments, shall give evidence of approval in written certification of inspection, and approval.

B. All owners of property within the Borough of Topton on or in which there exists an incinerator shall, advise the Borough Manager of such incinerator and the location of the same.

C. The AHJ may terminate the use of any incinerator when found to be faulty or for the reasons stated in Article II, Section 2.02, Subsections A and B of this Ordinance.

#### ARTICLE VII. HANDLING OF ASHES AND COMBUSTIBLE RUBBISH

7.01 Ashes, smoldering coals, wood and embers or other material liable to spontaneously ignite, shall not be deposited or allowed to remain within ten (10) feet of any combustible materials, but shall be deposited in non-combustible containers. Rubbish of any kind shall not be allowed to accumulate.

## ARTICLE VIII. PERMITS

8.01 All permits required under any provisions of this Ordinance, shall be issued in accordance with Section 105 of the International Fire Code adopted by the Borough of Tipton with the following provisions.

- A. A Fire Prevention "Operational" Permit shall be obtained from the Borough Manager a minimum of 48 hours prior to burning. The applicant shall provide name, address, phone number, the purpose for the permit and attach a drawing of the proposed burning site.
- B. Permits to burn the first full weekend of the month may be obtained for a single month or for an entire calendar year. Other Operational permits must be obtained for each Special Event (ie: bonfires, campfires and cookouts).
- C. Before the permit is issued, an inspection may be made by the AHJ to assure that the use of the permit complies with the provisions of the Ordinance and the International Fire Code.
- D. Any permit issued may be revoked for the protection of life or property or to prevent or abate the nuisances caused by such burning. (A nuisance would be defined as ash fallout or smoke accumulation in the area of residential occupancies, or uncontrolled or unsupervised burning.)
- E. If a person starts a fire without a permit or if a permit holder fails to comply with any term or condition of the permit, and as a result of that failure the fire department is required to suppress a fire, the person or permit holder is liable for the cost of fire suppression and subject to fines and costs upon conviction in District Court.
- F. Permit Fees will be set from time to time by a duly adopted resolution of the Borough Council.

## ARTICLE IX. PENALTIES

9.01 Any person violating any of the provisions of this Ordinance or neglecting to comply with any order or notice issued pursuant hereto for violation of any section hereto, shall upon conviction before any District Justice, be subject to the payment of a fine of not less than three hundred dollars (\$300.00) or more than one thousand dollars (\$1,000.00) and the payment of costs of prosecution for each offense, or shall be subject to imprisonment for a period not exceeding thirty days (30) days. Each day's continuance of any violation of this Ordinance shall constitute a separate offense, punishable by a like fine and imprisonment in default of payment thereof.

ARTICLE X. SEVERANCE CLAUSE

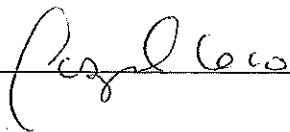
10.01 Should a court of competent jurisdiction declare any section, paragraph, clause or phrase of this Ordinance unconstitutional or invalid, the remainder of said Ordinance shall not be affected thereby, and shall remain in full force and effect.

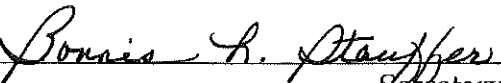
ARTICLE XI. REPEALER CLAUSE

11.01 All Ordinances or parts of Ordinances or Resolutions conflicting with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

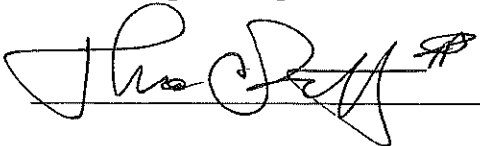
ENACTED AND ORDAINED into an Ordinance this 12<sup>th</sup> day of May 2008.

BOROUGH COUNCIL OF THE  
BOROUGH OF TOPTON

By: , President

Attest:  (SEAL)  
Secretary

Approved as an Ordinance of the Borough Council of  
the Borough of Topton

, Mayor