

ORDINANCE NO. 06-15-2021

**JEFFERSON TOWNSHIP
WASHINGTON COUNTY, PENNSYLVANIA**

AN ORDINANCE OF JEFFERSON TOWNSHIP, WASHINGTON COUNTY, PENNSYLVANIA, PROVIDING REGULATIONS RESTRICTING OPEN FIRES AND BURNING WITHIN THE TOWNSHIP, AND ESTABLISHING SPECIFIC REGULATIONS, SPECIFICATIONS AND DEFINITIONS; FURTHER DESIGNATING AN ENFORCEMENT OFFICER AND PRESCRIBING PENALTIES FOR VIOLATIONS.

WHEREAS, Jefferson Township is enacting an Ordinance that shall be known as the “Jefferson Township Burning Ordinance of 2021”, establishing regulations governing outside burning of materials in the Township and prohibiting specified actions and omissions; and

WHEREAS, the Jefferson Township Board of Supervisors are concerned about the detrimental effects that open burning may have on its residents; and

WHEREAS, the Jefferson Township Board of Supervisors had previously adopted ordinances concerning outdoor burning and wish to amend the same; and

WHEREAS, Jefferson Township Board of Supervisors believes it to be in the best interest and welfare of its residents to amend the current Burning Ordinance.

NOW THEREFORE, pursuant to the authority conferred upon it by the Second Class Township Code as amended, the Township Board of Supervisors of Jefferson Township, Washington County, Pennsylvania, does hereby ENACT and ORDAIN the following:

SECTION 1. SHORT TITLE.

This Ordinance shall be known as the “Jefferson Township Outdoor Burning Ordinance of 2021.”

SECTION 2. PURPOSE.

The purpose of this Ordinance is to regulate open burning within the Jefferson Township as set forth herein.

SECTION 3. DEFINITIONS.

For the purposes of this Ordinance, the following words and terms shall have the meanings ascribed to them herein:

CONSTRUCTION/DEMOLITION WASTE – Solid waste resulting from construction or demolition of buildings and other structures, including, but not limited to, wood, plaster, metals asphaltic substances, bricks, block, and unsegregated concrete. The term does not include the following if they are separate from other waste and are used as clean fill:

- A. Uncontaminated soil, rock, stone, gravel, brick and block, concrete and used asphalt.
- B. Waste from land clearing, grubbing and excavation, including trees, brush, stumps and vegetative material.

CONTAINED FIRE – Any fire contained in a fire bowl, chimney or fireplace used for outdoor heat or cooking, or in an outdoor cooking appliance designed for the purpose of preparing foods (gas, electric or charcoal grills or stoves, etc.).

ENFORCEMENT OFFICER – The Jefferson Township Code Enforcement Officer, Jefferson Township Police and/or Pennsylvania State Police shall be designated Enforcement Officers under this Ordinance.

FIRE BOWL – Any device used for burning untreated wood in a copper or metal bowl no larger than sixty six (66”) inches in diameter, which is suspended off the ground by a stand or as part of a table.

GARBAGE – All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

OPEN FIRE – Any fire contained in a burn barrel or other similar container, whether or not flames are visible during burning.

PERSON – An individual, partnership, organization, association, agency, firm, estate, or corporation and any other legal or commercial entity.

RECREATIONAL FIRE –A fire that consists of natural, untreated wood which is confined in some manner intended to prevent the fire from spreading to the surrounding area.

REFUSE – Garbage and rubbish.

RESPONSIBLE ADULT – An individual eighteen (18) years or older who is not under the influence of drugs or alcohol or suffering from any other disability which would impair his or her ability to properly supervise a fire.

RUBBISH –Solids not considered to be highly flammable or explosive, including, but not limited to diapers, animal waste, rags, old clothes, leather, rubber, carpets, excelsior, ashes, furniture, tin cans, glass, crockery, masonry and other similar materials, or any other items or materials defined as “municipal waste” in the Municipal Waste Planning, Recycling & Waste Reduction Act, section 103, as amended.

SALVAGE OPERATION – Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, plastic shipping containers or drums.

TRADE WASTE – All solid or liquid material or rubbish resulting from the prosecution of any business, trade or industry, including but not limited to plastic products, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials; provided that “trade waste” shall not include any coal for the use associated with mining or preparation of coal or untreated wood products.

UNCONTAINED FIRE – A fire in which any material not prohibited to be burned by this Ordinance is burned in the open without being confined in any manner. This includes, but is not limited to, bonfires, brush fires and open-field burning.

SECTION 4. PROHIBITED ACTIVATES.

- A. It shall be unlawful to burn, ignite, maintain or permit to burn any materials whatsoever, of whatever nature, without complying with this Ordinance.
- B. It shall be unlawful to burn any of the following materials in any zoning district within Jefferson Township:
 - 1. construction/demolition waste;
 - 2. garbage;
 - 3. refuse;
 - 4. rubbish;
 - 5. trade waste;
 - 6. by-products of salvage operations;
 - 7. any plastic material, other than plastic grocery, shopping and/or trash bags, including but not limited to, nylon, PVC, polystyrene, urethane foam and synthetic fabrics, plastic films, plastic containers and plastic bottles; and
 - 8. any other material not specified above which is not permitted to be burned according to the Pennsylvania Air Pollution Control Act, 35 P.S. Section 4001 et seq., its implementing regulations, including but not limited to 25 Pa. Code Section 129.14, and the Solid Waste Management Act and its implementing regulations, including but not limited to 25 Pa. Code Section 271.
- C. No person shall set, start, feed, permit to burn or maintain any fire upon any of the streets, sidewalks, alleys or public grounds in Jefferson Township, except where a designated area has been set aside or reserved for this purpose and an appropriate container has been provided to contain such fire.

- D. No **uncontained fire** shall be set, started, fed, permitted to burn or maintained where such fire may endanger any building or property, except where such building or property is used by the fire department for training purposes.
- E. No **open fire, recreational fire** or **uncontained fire** shall be permitted to burn during a fire ban emergency as proclaimed by the Washington County Emergency Management, Washington County Commissioners, the Commonwealth of Pennsylvania or the Jefferson Township Board of Supervisors.

SECTION 5. PERMITTED ACTIVITIES.

- A. **Uncontained fires** may be set in the performance of an official duty of any public officer, if the fire is necessary for:
 - 1. The prevention of a fire hazard which cannot be abated by other means;
 - 2. The protection of public health; and/or
 - 3. The purpose of fire-fighting training by the Township designated firefighting organization, if such training is commenced in accordance with Pennsylvania state law.
- B. All zoning districts of Jefferson Township may have controlled outdoor burning (**open fires, recreational fires** and/or **uncontained fires**) subject to the following regulations:
 - 1. **Open fires** and/or **uncontained fires** are permitted between sunrise and sunset.
 - 2. No **open fire** or **uncontained fire** shall be permitted to burn or smolder anywhere within Jefferson Township between sunset and sunrise.
 - 3. **Recreational fires** are permitted at any time so long as they comply with all other provisions of this Ordinance.

4. It shall be unlawful to allow an **open fire**, recreational fire and/or an **uncontained fire** to burn within twenty-five (25') feet of any building or structure.
5. It shall be unlawful to allow an **open fire**, recreational fire and/or an **uncontained fire** to burn within five (5') feet of any property line.
6. All **open fires**, **recreational fires**, and **uncontained fires** must be maintained and supervised by a responsible adult with a readily-available fire extinguishing apparatus within close proximity to the fire.
7. A written permit shall not be required for **contained fires**, **open fires** and **recreational fires** that are in compliance with all provisions of this Ordinance.
8. All **open fires** shall be confined in a non-combustible container.
9. All **open fires** confined in a burn barrel shall be covered with a non-combustible wire screen of one-half (1/2) inch or smaller mesh.
10. No recreational fire shall contain a fuel source of more than eight (8) cubic feet.
11. Prior to burning of any **uncontained fire**, the fire department shall be contacted by the resident who will be burning the fire to provide notice of the burn. This includes, but is not limited to all bonfires, brush fires and open-field burning.

C. **Contained fires** shall be permitted in any zoning district within Jefferson Township, subject to the following restrictions:

1. Outdoor fireplaces, chimneys and fire bowls must be used at a safe distance from all buildings and property lines.
2. Fire bowls must be covered by a non-combustible protective screen when in use.
3. **Contained fires** must be supervised by a responsible adult.

4. **Contained fires** are permitted at any time, so long as they comply with all other provisions of this Ordinance.

SECTION 6. FIRE DEPARTMENT AUTHORITY.

The Township Fire Department, or other fire department if the situation necessitates, whether called upon by the Code Enforcement Officer, Jefferson Township Police, Pennsylvania State Police, or a citizen of the Township, shall have the authority to enter the property of any person who burns a fire in violation of this Ordinance for the purpose of extinguishing the fire.

SECTION 7. PERMITS.

A written permit shall be procured from the Secretary/Treasurer of Jefferson Township by any person for any and all **uncontained fires**, with the exception of those permitted activities which are more specifically set forth in Section 5(1) (i.e. fires set by a public official for fire-fighter training, prevention of fire hazard and protection of public health).

SECTION 8. ENFORCEMENT AGENCIES.

The Jefferson Township Code Enforcement Officer, the Jefferson Township Police and/or the Pennsylvania State Police shall be designated to have all power necessary to enforce the provisions of this Ordinance on behalf of the Township.

SECTION 9. CRIMINAL ENFORCEMENT PENALTIES.

This Ordinance shall be enforced by an action brought before a district justice in the same manner provided for enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Township Solicitor may assume charge of the prosecution without the consent of the district attorney as required under Pa. R. Crim. No. 83 (c) (relating to trial in summary cases). Any person, firm or corporation convicted of violating or permitting a violation of this Ordinance shall pay a fine not exceeding One Thousand (\$1,000.00) Dollars per violation and may be imprisoned to the extent allowed by law for the punishment of summary offenses. If the violation requires attendance of a Fire Company,

the District Justice shall take the account of the costs incurred by the Fire Company in responding to the violation in determining the amount the fine to be levied. Each day's violation of this Ordinance shall constitute a separate offense. All fines and penalties collected for the violation of this Ordinance shall be paid to the Jefferson Township Treasurer. The Board may delegate the initial determination of Ordinance violation and service of notice of violation to such officers or agents as the Township shall deem qualified for that purpose.

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 an appropriate legal action.

SECTION 10. EQUITABLE AND OTHER REMEDIES.

No penalty herein shall prevent the Township from enforcing this Ordinance by equitable, injunctive and other remedies through the Court of Common Pleas of Washington County.

SECTION 11. LIABILITY.

Jefferson Township and its agents, officials, and representatives, shall not, under any circumstances, be liable or responsible for damages caused to any person or property by reason of the provisions of this Ordinance, or by reason of the conduct of any burning activity in compliance with the terms and provisions of the Ordinance. The individual person or party responsible of any such fire shall bear sole liability for any damages caused as a result thereof.

SECTION 12. SEVERABILITY.

In the event that any provision, section, sentence or portion of this Ordinance shall be held invalid, such invalidity shall not effect or impair any of the remaining provisions of this Ordinance, as the provision are severable and would have been enacted had not such invalid provisions been included herein.

SECTION 13. REPEALER.

All Ordinances or parts of Ordinances that are inconsistent herewith are hereby repealed.

SECTION 14. EFFECTIVE DATE.

This Ordinance shall take effect and be enforced from and after its approval as provided by law.

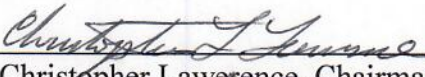
ORDAINED AND ENACTED into law by the Board of Supervisors of Jefferson Township in lawful session assembled this 15 day of June 2021.

ATTEST:

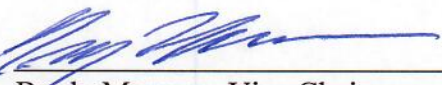


Paige A. Gagan, Secretary/Treasurer

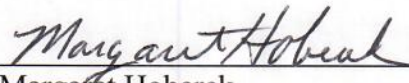
**JEFFERSON TOWNSHIP
BOARD OF SUPERVISORS**

By: 

Christopher Lawrence, Chairman

By: 

Brady Mermon, Vice Chairman

By: 

Margaret Hoberek

