Ordinance No. 1 of 2025

AN ORDINANCE OF THE TOWNSHIP OF JEFFERSON, LACKAWANNA COUNTY, PENNSYLVANIA RESTRICTING OPEN FIRES AND BURNING BY THE ESTABLISHMENT OF SPECIFIC REGULATIONS, EXCEPTIONS AND DEFINITIONS, DESIGNATING AN ENFORCEMENT OFFICER, AND PRESCRIBING PENALTIES FOR VIOLATION.

BE IT ORDAINED AND ENACTED by the Supervisors of the Township of Jefferson, Lackawanna County, Pennsylvania and it be ordained and enacted as follows:

Section 1. Purpose:

This Ordinance is enacted in the interest of the health, safety, and welfare of the residents of the Township of Jefferson in compliance with the laws of the Commonwealth of Pennsylvania and the regulations of the Department of Environmental Protection.

Section 2. Definitions:

As used in this ordinance, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

BONFIRE – Any outdoor fire with a base between 3 feet by 3 feet and 6 feet by 6 feet and a flame height up to 6 feet with a fuel of untreated wood and brush. A twenty-foot clear area shall be maintained around any bonfire, free of any brush, tree or other combustible material.

BURNING CONTAINER – The following shall all be known here within as a burning container.

BURNING BARREL – A container with metal sides, often a metal drum.

BURNING PIT - A pit with masonry walls and earth or masonry floor or a block or masonry structure with a block, masonry or earth floor.

INCINERATOR – A well-ventilated container that burns at high temperatures to quickly turn contents into ash.

All burning containers shall be no larger than 4 feet by 4 feet. All burning containers shall be covered with a metal screen with holes no larger than 5/8 inch or other non-combustible cover or which is enclosed by a door when in use. A ten-foot clear area shall be maintained around any burning container, free of any brush, tree or other combustible material.

CONTAINED FIRE - Any fire contained in a burning container, fireplace or cooking grill, or other contained enclosure designed for outdoor cooking, or a fireproof container.

CONTROLLED FIRE - A fire with Responsible Adult supervision that is surrounded by a noncombustible barrier.

DAWN – The first appearance of light in the sky before sunrise.

DUSK – The end of daylight on any given day.

ENFORCEMENT OFFICER - The Jefferson Township Zoning Officer, Jefferson Township Chief of Police or patrolman on duty, or the Jefferson Township Volunteer Fire Company Chief or line officer.

OUTDOOR FIRE - Any fire set or maintained outside of a building.

PERSON - Any individual, partnership, organization, association, agency, firm, estate, corporation or any other legally recognized entity.

RED FLAG WARNING - A weather warning issued by the National Weather Service for a select area. This warning forecasts warm temperatures, low humidity in dried fuel moistures, and strong winds expected. The combination of these increased risks results in an increased risk for a wildland fire or rapid-fire growth if an incident were to occur.

RECREATIONAL FIRE - A fire contained within a container or other noncombustible enclosure for the purpose of pleasure, religious, ceremonial, or other similar purposes using only untreated wood and not exceeding eight cubic feet of fuel.

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

SALVAGE OPERATION - Any business, trade, or industry engaged in whole or in part in salvaging or reclaiming any products or materials, including but not limited to, metals, chemicals, shipping containers, or drums.

TOWNSHIP - The Township of Jefferson, Lackawanna County, Pennsylvania.

TRADE WASTE - All solid or liquid material or rubbish resulting from construction, building operations, or the prosecution of any business, trade or industry outside of Jefferson Township, including but not limited to, plastic products, cartons, paint, grease, oil, and other petroleum products, chemicals, cinders and other forms of solid liquid materials provided that trade waste shall not include any coal refuse associated with the mining or preparation of coal.

UNCONTAINED FIRE - Any fire not included in the definition of a "contained fire."

Section 3. Fires on public property unlawful; exception.

It shall be unlawful for any person or persons, either directly or indirectly, to kindle or maintain any fire or authorize or permit any fire to be kindled or maintained on any public road, street, alley, or sidewalk within the Township. Fires for cooking may be maintained upon park or recreation land owned by the Township if supervised by a Responsible Adult and if all other requirements of this section are met.

Section 4. General regulations on outdoor fires.

A. Outdoor fires shall be permitted upon private property in accordance with the following regulations:

1. No person, either directly or indirectly, shall kindle or maintain an outdoor fire except in an appropriate receptacle or burning container at least 25 feet from any structure, building or property line. Any such contained fire shall be kept under constant supervision during incineration and at the end of said period shall be completely extinguished.

2. In those instances where it is impractical or impossible to confine an outdoor fire to a receptacle or burning container, an outdoor fire, hereby known as a Bonfire, may be kindled or maintained only if such a bonfire is a controlled fire and is maintained at a distance of 50 feet from any structure, building or property line. All outdoor fires, whether maintained in a receptacle or burning container or in the open as controlled bonfires, shall be kept under constant supervision by a Responsible Adult during incineration and at the end of said period shall be completely extinguished.

3. Nothing herein shall be construed to prevent fire-fighting training by township-designated fire-fighting organizations.

B. Burning as part of or incidental to any commercial or industrial use is prohibited. On sites which are utilized for both commercial and residential uses, burning shall not be permitted regardless of the source of the material burned.

C. Outdoor woodfire boilers regulations are not regulated by this Ordinance, but are regulated by the Jefferson Township Zoning Ordinance.

Section 5. Safe distances.

A. It shall be unlawful to allow any outdoor fire, including cooking fires, within an unsafe distance from any structure, building or property line.

B. No outdoor fire shall be set, started, fed, permitted to burn or maintained where such outdoor fire may endanger any building or property, except where such building or property is used by a Fire Department for training purposes or for any other purpose to further public health, safety and welfare.

C. Outdoor fires shall be permitted only upon private property and shall take place at least 25 feet from any building, structure, property line or road line.

D. Bonfires shall be permitted upon private property and shall take place at least 50 feet from any building, structure, property line or road line.

E. Nothing herein shall be deemed to prohibit indoor cooking activities, provided that reasonable safeguards are maintained.

F. Cooking grills may be less than 25 feet from a building, provided that reasonable safeguards are maintained.

G. No outdoor fire shall be set, started, fed, permitted to burn, or maintained within 25 feet of any pond, lake, stream, river, or waterway, with the exception of recreational fires as defined in this ordinance.

Section 6. Control of outdoor fires and unattended outdoor fires.

A. No outdoor fire shall be allowed to burn without a Responsible Adult present at all times and without a readily available fire-extinguishing equipment, such as a water hose. Sand or dirt may also be considered, provided that an ample supply is available, and shovels and rakes are on hand.

B. No outdoor fire shall be permitted to burn whenever drought, Red Flag Warning conditions or other extreme weather conditions exist or when a ban on burning has been placed into effect by the Commonwealth of Pennsylvania, County of Lackawanna or other competent governmental body. The Board of Supervisors may, by Proclamation, prohibit any and all outdoor fires when atmospheric conditions or local circumstances make such fires hazardous.

C. No outdoor fire shall be set that results in the uncontrolled burning of vegetation or property.

D. In agricultural zones and in agricultural uses regardless of zone, burning consistent with normal agricultural operation (see Pennsylvania Act 133, "Right to Farm") shall be excluded from regulation. This includes but is not limited to fires set in conjunction with the production of agricultural commodities in their unmanufactured state at the premises of the farm operation or to prevent and control the spread of disease or pests.

Section 7. Extinguishing unsafe fires.

A. It is a violation of this Ordinance for any person to allow any fire to burn under adverse weather conditions, including but not limited to Red Flag Warning, drought, low humidity, or high winds, or unsupervised or otherwise in an unsafe manner or as an uncontrolled fire. Any such outdoor fire may be extinguished by an official of the township-designated fire company or extinguished immediately upon request of such official.

B. Contained and uncontained fires shall not be permitted to burn or smolder while unsupervised.

Section 8. Hours.

A. No outdoor fire shall be permitted between Dusk and Dawn with the exception of recreational fires.

Section 9. Unlawful substances.

A. Burning of by-products of manufacturing and processing operations and wastes from commercial operations is strictly prohibited.

B. Burning of wood and wood products such as cardboard and paper shall be permitted.

C. Burning of treated wood shall not be permitted.

D. Burning of materials that create noxious or objectionable emissions shall be prohibited. Such prohibited materials shall include, but not be limited to:

1. Tires and other rubber products
2. Roof shingles
3. Wire insulation
4. Plastic and vinyl products
5. Fiberglass
6. Dirt-laden roots and tree stumps
7. Diapers
8. Human or animal waste
9. Animal hides, furs or skins
10. Asbestos-containing materials
11. Paint, oil, or petroleum products

E. Burning of any trade waste from businesses operating inside or outside of the Township is strictly prohibited.

a. This section shall not be construed to prohibit the burning of brush or wood by a business operating within the township so long as such burning conforms to all

other sections of this ordinance and all other state or federal burning regulations; however, it shall be unlawful to transport tree limbs, branches or brush from outside of the Township boundaries in order to be burned within the Township.

F. Burning for commercial purposes is permitted only where the business is authorized by and possesses a valid Pennsylvania Department of Environmental Protection permit for said burning.

G. Igniting or feeding an open fire for the destruction of refuse or in the conduct of a salvage operation in any private or public place shall be strictly prohibited.

H. Nothing herein shall be construed to permit or encourage the burning of any substance determined by the Commonwealth of Pennsylvania or the United States Environmental Protection Agency to be a hazardous substance; nor shall any outdoor fire be permitted to burn by any person if such burning is in violation of the Air Pollution Control Act or other legislation of the Commonwealth of Pennsylvania or the United States of America or any other competent body.

I. No garbage or offal may be burned at any time either indoors or outdoors.

J. Outdoor fires shall be used only to burn readily combustible materials.

Section 10. Special circumstances.

A. In the event that it is necessary to have any fire exceeding that of the definition of Bonfire, a permit must be obtained in advance from the Township, which will require review by the Township Chief of Police and the Fire Chief.

B. Burning incidental to the development of land.

1. Burning of trees and brush incidental to the development of land or the construction of a home is permitted. A permit is required for burning of this type and will be issued by Jefferson Township.
2. The burn area shall be located on a site giving maximum distance from occupied premises and shall be located no closer than 300 feet to an occupied dwelling.
3. A fifty-foot clear area shall be maintained around any fire exceeding that of the definition of bonfire, free of any brush, tree or other combustible material.
4. The burn shall be extinguished no later than dusk each burning day.
5. Fires shall be started only with clean fuels, such as kerosene; grubbing and clearing wastes to be burned in the burn area shall be limited to brush and trees (no building material). Dirt-laden stumps and roots must be cleared of

dirt prior to discharge into the burn area. No other materials shall be burning at any time.

6. Materials shall be added to the burn area in regular increments so that the burn area does not become overcrowded.
7. Should the Township receive and verify citizen complaints of excessive smoke, the permit may be revoked or penalties assessed.
8. The burn area must be tended by a responsible adult at all times during its operation.
9. Should adverse weather conditions result in excessive smoke build-up or impact adjacent occupied properties, the operator shall immediately suspend operations for the duration of the conditions.
10. No more than one burn area shall be used at any time on a single site.

C. Proper notice must be given to Lackawanna County Communication Center (9-1-1) at least one (1) hour in advance of any such burn occurring and at the conclusion, once the burn has been fully extinguished.
D. A garden hose or a portable fire extinguisher with a minimum 4-A rating shall be available for immediate use.
E. Permitted fire must be constantly attended by a Responsible Adult until the fire is completely extinguished.

Section 11. Burning Ban.

The Board of Supervisors, Lackawanna County Emergency Management and/or Commonwealth regulatory official may declare a fire ban emergency in Jefferson Township with or without consultation with the Fire Chief of the local volunteer fire company operating within the Township during a period of drought or other periods of high fire risk to woodlands or property within Jefferson Township. Notice of the ban shall be posted on the Township's website and social media pages but may also be published via other media such as television news outlets or radio.

Upon the declaration of a fire ban emergency, all outdoor burning and fires shall be prohibited until the ban is lifted by the authority that imposed the ban.

Section 12. Violations, Penalties & Service Fees.

The Enforcement Officer may issue such orders as are necessary to aid in the enforcement of the provisions of this Ordinance. These orders shall include, but shall not be limited to: orders requiring persons to cease unlawful open burning which, in the course of its occurrence, is in violation of any provision of this ordinance; orders to take corrective action or to abate a public nuisance; orders

requiring the testing, sampling, or monitoring of any open burning; or orders requiring production of information. Such an order may be issued if the Enforcement Officer finds that any condition existing in or on the facility or source involved is causing or contributing to open burning or if the Enforcement Officer finds that any person is in violation of any provision of this ordinance.

Any person who violates any provisions of this Ordinance as charged by the Enforcement Officer shall, upon conviction thereof by summary proceedings, be sentenced to pay a fine of not less than $500 and not more than $1,000 and costs associated. Each day a violation exists shall constitute a separate offense.

Any fire that is contrary to the Ordinance prompting a dispatch for said fire may be extinguished by the responding Fire Company and the responding Fire Company shall be held harmless and indemnified by the Township Supervisors to the extent provided by Law. A service fee shall be levied by the responding fire company for all costs associated with their response.

Section 13. Liability.

The 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 this Ordinance. The individual person responsible for any such fire shall bear sole liability for any damage caused as a result thereof.

Section 14. Repealer.

All ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed including but not limited to Ordinance 1 of 1974.

Section 15. Severability.

The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid by a court of competent jurisdiction, such a declaration or decision shall not affect the validity of any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the Jefferson Township Board of Supervisors that this Ordinance would have been enacted had any such unconstitutional, illegal or invalid provision not been included therein.

Section 16. Effective Date.

This ordinance shall become effective the 14th day of April 2025.

ENACTED AND ORDAINED this 14th day of April 2025 a regular public meeting of the Board of Supervisors of the Township of Jefferson.

Jason B. Hollister, Chairman

Adeline Rocco

Adeline Rocco, Vice-Chairwoman

John L. Peters, Sr., Supervisor

ATTEST:

Patricia Evanchyk

Patricia Evanchyk
Township Secretary/Treasurer