

CITY OF JEANNETTE  
WESTMORELAND COUNTY, PENNSYLVANIA

BILL NO. 18-06

ORDINANCE NO. 18-04

AN ORDINANCE OF THE CITY OF JEANNETTE, WESTMORELAND COUNTY, PENNSYLVANIA, AMENDING ORDINANCE No. 2001-04, KNOWN AS THE CITY OF JEANNETTE BURNING ORDINANCE; DEFINING BONFIRES FOR AMUSEMENT PURPOSES; PERMITTING RESTRICTED FIRES FOR RECREATION AND FOOD PREPARATION PURPOSES; PROVIDING FOR FIRE BANS; PROVIDING FOR THE ASSESSMENT OF ADDITIONAL COSTS FOR VIOLATIONS; DEFINING PUBLIC NUISANCES AND REJECTING MUNICIPAL LIABILITY; AND REPEALING ALL INCONSISTENT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Jeannette has determined that air pollution from open burning may be detrimental to the health, comfort, living conditions, welfare, and safety of the residents of the City of Jeannette; and

WHEREAS, the City Council of the City of Jeannette has determined that there is a substantial risk of public damage to life and property because of public and private nuisances caused by outdoor fires deliberately or carelessly set and maintained; and

WHEREAS, the Third Class City Code, 11 Pa.C.S.A. § 12411, affords the City of Jeannette with the power to “regulate and inspect fireplaces, chimneys and other sources of smoke and fly ash to control the production and emission of unnecessary smoke and fly ash;” and

WHEREAS, the Third Class City Code, 11 Pa.C.S.A. § 12412, affords the City of Jeannette with the power to “impose other safeguards concerning inflammable articles as may be necessary;” and

WHEREAS, the Third Class City Code, 11 Pa.C.S.A. § 12414, affords the City of Jeannette with the power “to prohibit and abate public nuisances;” and

WHEREAS, the Third Class City Code, 11 Pa.C.S.A. § 12435, affords the City of Jeannette with the power “to enact, make, adopt, modify, repeal and enforce, in accordance with this part, ordinances, resolutions, rules and regulations not inconsistent with or restrained by the Constitution of Pennsylvania and laws of this Commonwealth that are either of the following: (1) Expedient or necessary for the proper management, care and control of the city and its finances and the maintenance of the peace, good government, safety and welfare of the city and its trade, commerce and manufactures. (2) Necessary to the exercise of the powers and authority of local self-government in municipal affairs;” and

WHEREAS, the Third Class City Code, 11 Pa.C.S.A. § 12446, affords the City of Jeannette the power to ensure “that fire and emergency medical services are provided within the city by the means and to the extent determined by the city, including the appropriate financial and administrative assistance for these services.”

**BE IT ENACTED AND ORDAINED** by the City Council of the City of Jeannette, Fayette County, Commonwealth of Pennsylvania, and it is hereby enacted and ordained as follows:

**Section 1.** Section III – Certain Burning Permitted. Section III shall be amended to delete Subsection (A)(4) in its entirety and replacing it as follows:

Bonfires for amusement purposes only when approved by the Fire Marshall of the City of Jeannette, Fire Chief of the City of Jeannette, or their designated agent, and conducted under the supervision of the same. For purposes of this subsection a “bonfire for amusement purposes only” shall mean any outdoor fire that either (i) is not contained within a non-combustible ring or container or (ii) has a footprint larger than sixteen (16) square feet.

**Section 2.** Fires for Recreational and Food Preparation Purposes. A new Section IV shall be inserted in the Ordinance and the current Section IV and following sections shall be renumbered accordingly. The new Section IV shall read as follows:

Section IV – Fires for Recreational and Food Preparation Purposes Permitted:

A. Open fires for recreation or food preparation purposes only shall be generally permitted without the need to obtain a permit under the following prohibitions, restrictions, and limitations:

1. The recreation or food preparation fire location must be (i) at least twenty-five (25) feet from any structure, brush, or wood line; (ii) at least fifteen (15) feet from any property or right of way boundary line; and (iii) not beneath any trees, overhangs, or wires.
2. The recreation or food preparation fire must be contained within a non-combustible ring or container that is made of metal, fire brick, or concrete. Sandstone shall not be permitted, and if such ring or container is constructed of bricks or stones, such bricks or stones must be the interlocking type or must be mortared or otherwise bonded so as to prevent it from collapsing or falling during any burning.
3. The size of the non-combustible ring or container must not be more than sixteen (16) square feet and not more than sixteen (16) inches in depth.
4. A garden hose or other sufficient water source must be on-site and readily available to enable emergency extinguishment of the recreation or food preparation fire.

5. A competent adult must be present to monitor and supervise the recreation or food preparation fire at all times and until such fire is completely extinguished. The Fire Department of the City of Jeannette shall have the ability to extinguish any unattended, unmonitored, or unsupervised fires at the discretion of the Fire Department.
6. Only clean, natural wood shall be permitted to be burned in recreation or food preparation fires. Papers and cardboard may be used in limited quantities for fire starting purposes, but must be so limited as to not create flying embers or ashes from such fire. The burning of treated, painted, or inorganic wood or lumbars is strictly prohibited. The burning of Class B (flammable or combustible liquids) and Class D (combustible metals) materials is strictly prohibited, as such terms are defined in National Fire Protection Association (NFPA) standards and guidelines.
7. In the event that a recreation or food preparation fire becomes a nuisance to the public or persons on neighboring property, including, without limitation, smoke or health issues, the Fire Department of the City of Jeannette, Police Department of the City of Jeannette, code enforcement officer of the City of Jeannette, or any other person authorized by ordinance or resolution to enforce this ordinance, may order and require such fire to be immediately extinguished.

**Section 3.** Fire Bans. A new Section VII shall be inserted in the Ordinance and the renumbered Section VII and following sections shall be renumbered accordingly. The new Section VII shall read as follows:

Section VII - Emergency Fire Ban:

A. No fire shall be permitted to burn whenever drought or extreme weather conditions exist or when a ban on burning has been placed into effect by the Commonwealth of Pennsylvania or other competent governmental body.

B. The City Council may declare a fire ban emergency in the City of Jeannette during any period of drought or other periods of high fire risk to property within the City of Jeannette.

C. Upon the City Council's declaring a fire ban emergency, all outdoor burning or fires shall be prohibited until the ban is lifted by the City Council.

D. The City of Jeannette shall publish a notice of the fire ban emergency at least once in a local newspaper of general circulation. In addition, the City of Jeannette may issue news releases to all communication media, including radio, television, and newspapers.

**Section 4.** Additional Costs. A new Section VIII shall be inserted in the Ordinance and the renumbered Section VIII and the following sections shall be renumbered accordingly. The new Section VIII shall read as follows:

Section VIII - Additional Costs:

A. In the case of a fire requiring fire fighters and/or equipment and upon conviction of any violation of this ordinance, the violator shall also pay charges in order to cover the fire fighting costs. Charges shall be assessed for use of the following firefighting equipment:

1. Pumpers and tankers.
2. Brush busters. Brush busters are all-wheel-drive vehicles equipped for off-road or wooded area use with a water tank of at least five hundred (500) gallons capacity and an appropriate size pump.
3. Chain saws and demolition equipment.

B. Additional labor charges shall be assessed under this ordinance based upon an hourly rate for all paid firemen engaged in the firefighting activities.

C. The City Council shall determine by resolution a reasonable schedule of costs based upon mileage, operating costs, and firefighting equipment and man hours rate. These charges shall be in addition to and not in lieu of any criminal or other penalties provided elsewhere in this ordinance.

**Section 5.** Public Nuisance and Municipal Liability. A new Section IX shall be inserted into the Ordinance and the renumbered Section IX and the following subsections shall be renumbered accordingly. The new Section IX shall read as follows:

Section IX - Public Nuisance and Municipal Liability:

A. A violation of this ordinance or of any order issued by the City of Jeannette under this ordinance shall constitute a public nuisance. The City of Jeannette shall have the authority to order any person causing a public nuisance to abate the public nuisance. In addition, when abating a public nuisance, the City of Jeannette may recover the expenses of abatement. Whenever the nuisance is maintained or continued contrary to this ordinance or any order issued pursuant to this ordinance, the nuisance may be abatable in the manner provided by this ordinance. Any person who causes the public nuisance shall be liable for the cost of abatement.

B. The City of Jeannette, City Council, and their employees, 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 conduct of any burning activity in compliance or noncompliance with the terms and provisions hereof. The person or persons responsible for any such fire shall bear sole liability for any damages caused as a result thereof.

**Section 3.** Severability. It is herein declared that the provisions of this Ordinance are severable, and if any provisions, portions, or sections of this Ordinance are declared to be illegal, invalid, or unconstitutional, the decisions of any Court, which makes declarations, shall not impair or affect any of the remaining portions of this Ordinance.

**Section 4.** Repealer. Any ordinance or part of any ordinance that conflicts with the provisions of this ordinance is hereby repealed to the extent of any such conflict on the effective date of this ordinance.

**Section 5.** Effective Date. This Ordinance shall become effective ten (10) days after its enactment.

This Ordinance is duly ORDAINED AND ENACTED by a majority of the members of the City Council of the City of Jeannette at a duly advertised public meeting held on the 20th day of March, 2018.

CITY OF JEANNETTE

By: Curtis J. Antoniak  
Curtis J. Antoniak  
Mayor and President of Council

ATTEST: (SEAL)

Michelle Langdon  
Michelle A. Langdon  
City Clerk