

BOROUGH OF JERMYN
ORDINANCE NO. 3 OF 1996

AN ORDINANCE REPEALING THE JULY 12, 1973
BOROUGH OF JERMYN ORDINANCE REGULATING OUTDOOR BURNING
AND PROHIBITING OUTDOOR BURNING WITHIN THE BOROUGH OF JERMYN

By the powers granted to the Borough of Jermyn by the Pennsylvania Borough Code, 53 P.S. §45101, et seq., be it ENACTED and ORDAINED by the Borough Council of the Borough of Jermyn, Lackawanna County, Pennsylvania, and it is hereby ENACTED and ORDAINED by the authority of the Jermyn Borough Council as follows:

SECTION I. TITLE

This Ordinance shall be known as the "Borough of Jermyn Ordinance Prohibiting Outdoor Burning."

SECTION II. POLICY AND PURPOSE

Pursuant to the authority conferred upon the Borough of Jermyn by the Pennsylvania Borough Code including, but not limited to, the authority to prohibit any nuisance in the Borough, 53 P.S. §46202(4); the authority to make such regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and the beauty, convenience, comfort and safety of the Borough of Jermyn and its residents, 53 P.S. §46202(6); the authority to regulate the emission of smoke from all sources within the Borough of Jermyn, 53 P.S. §46202(16); the authority to make regulations within the Borough of Jermyn relative

to the cause and management of fires and the prevention of fires, 53 P.S. §46202(21); and the authority to make and adopt all ordinances as may be expedient or necessary for the proper management, care and control of the Borough of Jermyrn and its finances and the maintenance of peace, good government, safety and welfare of the Borough of Jermyrn and its trade, commerce and manufactures, 53 P.S. §46202(74) the Jermyrn Borough Council enacts the within Ordinance.

It is the policy, desire and intent of the Jermyrn Borough Council to ensure that the health, safety, morals, general welfare and cleanliness, as well as the beauty, convenience and comfort of the Borough of Jermyrn and its residents is in the best possible condition for both safety and financial reasons. The within Ordinance is enacted in the interest of the health, safety and welfare of the residents of the Borough of Jermyrn for the prevention of fires and to eliminate nuisances caused by fire, smoke, cinders and ashes.

SECTION III. DEFINITIONS

A. BOROUGH OF JERMYRN - Means the Borough of Jermyrn, Lackawanna County, Pennsylvania, the Mayor of the Borough of Jermyrn, the Jermyrn Borough Council and any duly authorized member or agent of any of the above.

B. OPEN FIRE - Means a fire outside any building in which any material is burned in the open or in a receptacle other than in a commercially constructed grill or masonry constructed grill for the purposes of heating, cooking and preparing food for the purposes of consumption.

C. OUTDOOR BURNING - Means the activity, outside of any building, of causing the alteration or destruction of matter by the action of fire or heat in which any material is burned in the open or in a receptacle other than in a grill used for the purposes of outside barbecues.

D. OUTSIDE BARBECUES - Means any fire maintained in a commercially constructed grill or masonry constructed grill for the purposes of heating, cooking and preparing food for the purpose of consumption.

E. PERSON - Means any individual, partnership, association, corporation, department, bureau, agency or other entity.

SECTION IV. CONSTRUCTION OF WORDS AND PHRASES

A. NUMBER; GENDER; TENSE - The singular shall include the plural, and the plural, the singular. Words used in the masculine gender shall include the feminine and neuter. Words used in the past or present tense shall include the future.

B. WORDS AND PHRASES - Words and phrases shall be construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a peculiar and appropriate meaning, or are defined in the within Ordinance, shall be construed according to such peculiar and appropriate meaning or definition.

C. RULES OF INTERPRETATION - Where applicable, the rules of interpretation as set forth in 1 Pa.C.S.A. §1901 et seq., shall apply to the within Ordinance.

SECTION V. REGULATIONS PROHIBITING OUTDOOR BURNING WITHIN THE BOROUGH OF JERMYN WITH LIMITED EXCEPTIONS

A. The Jermyrn Borough Council hereby enacts and ordains that outdoor burning within the limits of the Borough of Jermyrn is prohibited and no person shall, within the limits of the Borough of Jermyrn, ignite, feed, cause, allow, permit or maintain on any property any open fire outside of any building for any purpose other than that specifically allowed for herein.

B. The prohibition against outdoor burning within the limits of the Borough of Jermyrn is subject to the following exceptions:

1. Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for:

(i) The prevention of a fire hazard which cannot be abated by other means; or

(ii) The protection of public health.

2. Open fires may be set with the written approval of a majority of the Jermyn Borough Council provided:

(i) There is no practical available alternative method for disposal of the material to be burned;

(ii) No hazardous or other objectionable condition will be created by such burning; and

(iii) No such burning is allowed on any street or sidewalk within the Borough of Jermyn.

C. Any open fires within the Borough of Jermyn permitted under Section V(B) of this Ordinance shall be permitted only when said fire is conducted during any official act or exercise, preapproved by the Jermyn Borough Council.

D. It shall be lawful at any time to burn charcoal or wood fires kindled for the purpose of outside barbecues, providing the fire is confined to the barbecue structure as defined in Section III(D) of this Ordinance and is used **solely** for the heating, cooking and preparation of food.

E. All outdoor burning within the Borough of Jermyn other than that specifically allowed in Section V(B) of this Ordinance is strictly prohibited.

F. Authority is hereby granted to the Jermyn Borough Fire Chief to immediately extinguish any outdoor burning or open fire being conducted in violation of this Ordinance.

SECTION VI. PENALTIES

Any person who violates any term, provision and/or requirement of this Ordinance shall be guilty of a summary offense and shall, upon conviction, be required to pay a fine of Two Hundred Dollars (\$200.00) and be subject to the applicable period of incarceration for summary offenses if the fine is not timely paid. Each day the violation exists shall constitute a separate offense.

SECTION VII. SEVERABILITY AND AMENDMENT

If any sentence, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance, so long as it remains workable minus the invalid portion.

SECTION VIII. REPEALER

All Ordinances or parts of Ordinances which are inconsistent with the within Ordinance are hereby expressly repealed.

SECTION IX. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days from the date of its enactment herein.

ENACTED AND ORDAINED THIS 10th DAY OF OCTOBER, 1996.

ATTEST:

BOROUGH COUNCIL OF THE
BOROUGH OF JERMYN

Deborah Morcom (SEAL)
DEBORAH MORCOM
Secretary

BY: Phillip Marrara
PHILLIP MARRARA
President

EXAMINED AND APPROVED THIS 10th DAY OF OCTOBER, 1996.

BY: James W. Buckingham
JAMES BUCKINGHAM
Mayor