

ORDINANCE #11-20

AN ORDINANCE OF THE BOROUGH OF JAMESBURG AMENDING AND SUPPLEMENTING CHAPTER XII, ENTITLED “FIRE PREVENTION,” OF THE “CODE OF THE BOROUGH OF JAMESBURG,” IN ORDER TO ESTABLISH A NEW SECTION THEREOF, TO BE KNOWN AS SECTION 12-5, ENTITLED “BURNING, OUTDOOR”

WHEREAS, the Mayor and Council of the Borough of Jamesburg recognize that many residents enjoy relaxing by a recreational fire that is contained within a chiminea, outdoor fireplace or outdoor fire pit (as defined in this Ordinance) that is located upon residential property; however, the Mayor and Council also find that recreational fires and burning of combustible materials in a residential setting may pose a serious hazard to the public health, safety, and comfort, and the general welfare and quality of life of the residents of the Borough of Jamesburg; and

WHEREAS, the public has a right to and should be ensured of an environment free from noxious fumes and the threat of fire; and

WHEREAS, it is the policy of the Borough of Jamesburg to prevent the danger of fire from open burning which is a detriment to the public health, safety, comfort, general welfare and quality of life; and

WHEREAS, this Ordinance seeks to balance the respective interests of quiet enjoyment of recreational fire activities on private property with that of securing and promoting public health, safety, and comfort, and the general welfare and quality of life of the residents of the Borough of Jamesburg; and

WHEREAS, the Mayor and Council of the Borough believe that the within Ordinance will further the health, safety and welfare of the Borough and its residents, and is consistent with the authority granted to enact Ordinances in furtherance of the general welfare pursuant to N.J.S.A. 40:48-2.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Jamesburg, County of Middlesex, State of New Jersey, that the “Code of the Borough of Jamesburg” is hereby amended and supplemented in order to establish a new Section thereof to be known as Section 12-5, entitled “Burning, Outdoor,” as follows:

CHAPTER XII FIRE PREVENTION

12-5 BURNING, OUTDOOR.

a. *Purpose.*

1. The Mayor and Council of the Borough of Jamesburg recognize that many residents enjoy relaxing by a recreational fire that is contained within a chiminea, outdoor

fireplace or outdoor fire pit (as defined in this Ordinance) that is located upon residential property; however, the Mayor and Council also find that recreational fires and burning of combustible materials in a residential setting may pose a serious hazard to the public health, safety, and comfort, and the general welfare and quality of life of the residents of the Borough of Jamesburg. The public has a right to and should be ensured of an environment free from noxious fumes and the threat of fire. It is the policy of the Borough of Jamesburg to prevent the danger of fire from open burning which is a detriment to the public health, safety, comfort, general welfare and quality of life.

2. This Ordinance seeks to balance the respective interests of quiet enjoyment of recreational fire activities on private property with that of securing and promoting public health, safety, and comfort, and the general welfare and quality of life of the residents of the Borough of Jamesburg.

b. *Applicability.*

1. This section applies to all outdoor burning and open burning within the Borough of Jamesburg.
2. This section shall not apply to grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.
3. This section does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
3. This section does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

c. *Definitions.* For the purpose of this section, the following definitions shall apply:

1. *Chiminea; outdoor fireplace; outdoor fire pit* shall mean either of the following:
 - (a) a non-pre-made outdoor structure built according to an individual's wishes, encompassing a wide variety of styles and functions, from a traditional campfire pit to more elaborate constructions of materials such as stone and concrete, intended to contain an open fire. These terms shall also include patio warmers or other portable wood-burning devices used for outdoor recreation and/or heating; or
 - (b) a pre-manufactured structure commercially sold for outdoor burning, often portable, and commonly made of metal and used for wood burning.

2. *Firewood* shall mean trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than two inches in diameter.
3. *Nuisance* shall mean any odor, emission, or event that prevents the reasonable use and enjoyment of one's property.
4. The terms *Open burning* and *open fire* shall mean any fire from which the products of combustion are emitted directly into the open air, and are not by design directed through a stack, chimney or other container designed for recreational fires.
5. *Recreational fire* shall mean an outdoor fire where seasoned wood of approved dimensions is burned for entertainment.
6. *Treated lumber* shall mean dry wood which has been milled and dried and has been treated or combined with any petroleum product, glue, chemical, preservative, adhesive stain, paint or other substance.
7. *Untreated lumber* shall mean dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, glue, chemical, preservative, adhesive stain, pain or other substance.

d. *Recreational Fire Regulations.*

1. Recreational fires in approved containers (as set forth herein) shall be allowed without a permit at one- and two-family owner-occupied homes, duplexes and townhomes, subject to the regulations contained herein.
2. Fires shall be limited to a maximum three feet (3') in diameter and two feet (2') in height, and must be contained in a noncombustible chiminea, outdoor fireplace, fire pit or other method approved by the Fire Official or his/her designee.
3. Fires must be kept in the rear yard at least fifteen feet (15') from any structure or combustible exterior wall.
4. Fires must be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating or other approved on-site fire extinguishing equipment, such as dirt, sand, water barrel, or garden hose, shall be available for immediate utilization.
5. The burning of yard waste, leaves, brush, vines, evergreen needles, branches smaller than two inches in diameter, treated or untreated lumber, garbage, paper products or anything other than firewood as set forth herein is prohibited, except that kindling may be used to start a fire.

6. All recreational fires as set forth herein shall be prohibited between the hours of 2:00 a.m. and 7:00 a.m.
7. The Borough's Fire Official or his/her designee, a Borough police officer, or the Borough Code Enforcement Officer may order any open fire, or use of a chiminea, outdoor fireplace or outdoor fire pit which creates a nuisance, to be extinguished.

e. *Enforcement; violations and penalties.*

1. This section shall be administered by the Borough's Fire Official, the Borough's Police Department, and the Borough's Code Enforcement Office.
2. Any person, firm or corporation, violating any of the provisions of this section shall be liable to a fine not exceeding the sum of One Thousand Dollars (\$1,000.00) per violation.
 - (a) A fine of no more than One Hundred Dollars (\$100.00) shall be levied for a first offense;
 - (b) A fine of no more than Five Hundred Dollars (\$500.00) shall be levied for a second offense; and
 - (c) A fine of no more than One Thousand Dollars (\$1,000.00) shall be levied for any subsequent offenses.

BE IT FUTHER ORDAINED, that if any section, subsection or part of this Ordinance is adjudged by a Court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not impair or invalidate the remainder of this Ordinance.

BE IT FUTHER ORDAINED, that the remaining portions of Chapter XII, entitled "Fire Prevention," shall remain in full force and effect except as modified hereunder. All parts and provisions of any Ordinance which are inconsistent with the provisions of this Ordinance shall be repealed to the extent of such inconsistency.

BE IT FUTHER ORDAINED, that this Ordinance shall take effect upon final adoption and publication as provided by law.

RECORD OF VOTE

FIRST READING DATE: September 16, 2020

COUNCIL MEMBER	MOTION TO INTRODUCE	2nd	VOTE
Council Member Ludas	X		X
Council Member Rampacek			
Council Member Rutsky			X
Council Member Shaughnessy		X	X
Council Member Sussman			
Council President Czarneski			X
Mayor Lowande			

DATE PUBLISHED: September 25, 2020

DATE PUBLIC HEARING HELD: October 21, 2020

DATE SECOND READING HELD: October 21, 2020

COUNCIL MEMBER	MOTION TO OPEN	2nd	VOTE	MOTION TO CLOSE	2nd	VOTE	MOTION TO ADOPT	2nd	VOTE
Council Member Ludas									
Council Member Rampacek									
Council Member Rutsky									
Council Member Shaughnessy									
Council Member Sussman									
Council President Czarneski									
Mayor Lowande									

Y = YES N = OPPOSED A = ABSTAINED AB = ABSENT

APPROVED:

ATTEST:

Marlene Lowande, Mayor

Susan Boulogne, Registered Municipal Clerk