SALEM TOWNSHIP
ORDINANCE NO. 2 OF 2016

AN ORDINANCE OF SALEM TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA, REGULATING AND RESTRICTING OUTDOOR FIRES AND OPEN BURNING, AND REPEALING ORDINANCE NO. 3 OF 2010 AND ANY OTHER ORDINANCES INCONSISTENT HEREWITH.

BE IT RESOLVED AND ENACTED by Salem Township, Luzerne County, Pennsylvania and it is hereby ordained and enacted by the authority of same follows:

Section 1. Title. This Ordinance shall be known and may be cited as the Salem Township Opening Burning Ordinance.

Section 2. Authority. This Ordinance is enacted pursuant to Section 12 of the Air Pollution Control Act and Article XVI of the Second Class Township Code.

Section 3. Declaration of Policy. It is hereby declared to be the policy of Salem Township as a matter of public health and safety to regulate fires and opening burning in Salem Township for the purposes of controlling air pollution and protecting buildings, housing, property and the well-being of its citizens.

Section 4. Definitions. The following words, terms and phrases, when used in this Ordinance, unless the context clearly states otherwise, shall have the following meanings described to them:

(A) **OPENING BURNING OR OPEN FIRE**: Any fire which is burned outside of an enclosed structure or building.

(B) **CONTAINED FIRE**: Any fire contained in an incinerator, fireplace or cooking grill or other contained enclosure designed for outdoor cooking, or fireproof container.

(C) **PERSON**: Any individual, partnership, organization, association, agency, firm, estate company, trust, corporation, department, bureau of other legal or commercial entity.

(D) **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.

(E) **UNCONTAINED FIRE**: Any fire not included in the definition of a contained fire.

(F) **VEGETATIVE MATTER**: Tree leaves, grass clippings, cutting of plants and limbs of trees up to four (4") inches in diameters except for wood and wood projects.

(G) **WOOD AND WOOD PRODUCTS**: Trunks of trees and limbs of trees exceeding four (4") inches in diameter, and all products of, or made from, wood.

Section 5. Permission. Any person desiring to burn anything too large for a container, or wishing to burn shall first contact the Salem Township Police Department to obtain permission to burn outside of an approved container. Anyone starting such a fire without the permission of the Salem Township Police Department shall be deemed in violation of this Ordinance and subject to penalties thereof. Upon approval of the Salem Township Police Department, Luzerne County 911 Center shall be notified of the controlled burn.

Section 6. General Restrictions. It shall be unlawful to burn, ignite, incinerate, maintain or permit to burn any materials whatsoever, or whatever nature, without complying with this Ordinance.

(A) No fire shall be set or maintained within fifty (50) feet of any building or property line.

(B) No fire shall be set or maintained on any public road right-of-way or on any public property.

(C) No fire shall be set or maintained that may endanger any building or property, except in the instance in which the Fire Department, of training purposes, has caused a fire to be set in any building or property under the supervisors of the officers of the Fire Department.

(D) The importing of materials from another property for the purpose of burning is strictly prohibited.

Section 7. Control of Burning and Unattended Fires.

(A) No fire shall be allowed to burn unattended, without a responsible adult being present at all times and without readily-available fire extinguishing apparatus.

(B) 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, Luzerne County, or Salem Township. The Board of Supervisors may prohibit any and all outdoor fires when atmospheric conditions or local circumstances make such fires hazardous.

(C) No fire shall be set that results in uncontrolled burning of vegetation (field fire).

(D) Out-of-doors fires shall be confined in a non-combustible container, except for fires of leaves, brush and/or natural, untreated wood which need not be confined to or covered by a non-combustible container.

Section 8. Hours.

(A) No person shall burn or cause to be burned any paper, boxes, rubbish, leaves or any other kind of substance, nor shall any persons set or maintain any contained or uncontained fire, or burn or cause to be burned an uncontained fire of any substance or material of any kind, out of doors, anywhere in the Township between the hours of 7:00 p.m. and 6:00 a.m.

(B) Fires shall be completely extinguished by 7:00 p.m. and shall not be permitted to smolder past same time.

Section 9. Oven Fires Exempted. The following types of fires, [provided that such fires are wood and wood products only, are exempted from the regulations set forth in this Ordinance:

(A) Fires solely for the cooking of food for immediate consumption.

(B) Camp fires for warmth, fellowship, food preparation or ceremonial purposes by bonafide groups or individuals such as hunting camps or public organizations (i.e. Girl Scouts and Boy Scouts).

(C) Recreational fires using natural, untreated wood and containing a fuel source of no more than eight (8) cubic feet are exempt from the time restraints of Section 8, but must be extinguished by 12:00 A.M. Additionally, all recreational fires shall comply with all other provisions of this Ordinance.

Section 10. Unlawful Substances.

(A) Burning of plastics, rubber products and by products, by products of manufacturing and processing operations, toxic construction debris and wastes from commercial operations is strictly prohibited.

(B) 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 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.

(C) No garbage or refuse shall be burned at any time either indoors or out-of-doors.

(D) Fires shall be used only to burn readily combustible materials.

Section 11. Enforcement. Enforcement shall be by action before a District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person who violates any provision of this Ordinance shall upon conviction in summary proceedings before the District Judge, be sentenced to pay a fine of not less than Twenty-Five Dollars ($25.00) nor more than Three Hundred Dollars ($300.00) and costs of prosecution. In default of the payment of the fine and costs, the defendant may be sentenced to the county jail for a period of not exceeding thirty (30) days. Each violation shall constitute a separate offense, for which a summary conviction may be sought.

Section 12. Severability. The provisions of this Ordinance shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent of the Township that this Ordinance would have been amended as if such unconstitutional, illegal or invalid provision or provisions had not been included herein.

Section 13. Repeal. All Ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance hereby adopted are hereby repealed.

ORDAINED AND ENACTING into an Ordinance at a regular meeting of the Board of Supervisors of Salem Township, Luzerne County, Pennsylvania, this 13th date of September, 2016.

Attest:

Township Manager

Salem Township Board of Supervisors

Chairman

Vice-Chairman

SEAL

Supervisor