

TOWNSHIP OF SOUTH BEAVER

ORDINANCE NO. 53

AN ORDINANCE OF THE TOWNSHIP OF SOUTH BEAVER, OF BEAVER COUNTY, PENNSYLVANIA, REGULATING OUTDOOR FIRES AND BURNING AS TO MANNER AND TIME, INCLUDING BUT NOT LIMITED TO PROHIBITING LEAVING A FIRE UNATTENDED; PROHIBITING THE BURNING OF FOOD WASTE OR FOOD GARBAGE; EXPLOSIVE SUBSTANCES, AND ANY RESIDENTIAL, COMMERCIAL OR INDUSTRIAL WASTE OR DISCARDED ITEMS THAT PRODUCES TOXIC FUMES OR GASES; DECLARING VIOLATION OF THIS ORDINANCE OR ANY PROVISION HEREOF AS A PUBLIC NUISANCE; AND PROVIDING FOR FINES, ASSESSMENT AND COLLECTION THEREOF FOR VIOLATION.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of South Beaver Township, of Beaver County, Pennsylvania, and it is hereby enacted under the authority of the Second Class Township Code, the following:

Section 1. Within the municipal boundaries of the Township of South Beaver, no person shall ignite or otherwise start a fire, nor burn any item or substance, nor cause, feed or contribute to continuation of a fire involving the burning of any substance outdoors, or assist any other person in doing so, which is in violation of the terms, provisions, conditions and regulations of this Ordinance.

A. No person shall ignite or otherwise start a fire, nor burn any item or substance, nor cause, feed or contribute to continuation of a fire, without first ascertaining, and providing, that the burning of such fire can be undertaken and thereafter continued without fear and/or jeopardy of damage, injury, harm or annoyance to any person or other property by either the fire itself or from the smoke and/or fume emissions from such fire.

B. In no event is a fire to be left unattended, and at all times during the burning of combustible materials, a person or persons physically and mentally capable to control and/or extinguish the fire must be present, in the event same becomes a threat to person or property, whether by flame or emissions of smoke and/or fumes.

C. In the case of burning of papers, cardboard or other combustible materials that are subject to be blown by winds and/or to float into the air due to convection as same burns and/or is being burned to ash, same shall be placed for burning in a container or other restrictive device suitable for containing such material while it is being burned and to prevent same from spreading or leaving the controlled situs of the fire.

D. In the case of burning of other combustible materials, including but not limited to brush piles, wood and/or other items, such items shall be placed at a site for burning that will preclude the spreading of said fire by flame and/or combustion of any nearby substances via heat combustion.

E. No person shall burn or permit to be burned on property within South Beaver Township food waste or food garbage.

F. No person shall burn or permit to be burned on property within South Beaver Township any explosive substances or items.

G. No person shall burn or permit to be burned on property within South Beaver Township any residential, commercial or industrial waste or discarded items that consist of, or contain substances that produce, toxic fumes or gases by burning and/or subjecting same to heat from a fire and/or melting thereof by heat of a fire.

Section 2. No person, with exception of fires for the purpose of cooking of foods outdoors, shall ignite or otherwise start a fire, nor burn any item or substance, nor cause, feed or contribute to continuation of a fire outdoors, during the hours of 2:00 p.m. to 4:00 p.m. daily.

Section 3. During conditions of drought, poor air quality due to atmospheric conditions, or the occurrence of any other event that would cause the burning of fires to be hazardous to property or persons within South Beaver Township, the Fire Chief of the South Beaver Township Volunteer Fire Department, or the Assistance Fire Chief of said Fire Department in the absence of said Fire Chief, may ban any and all outdoor fires within the Township of South Beaver Township, and no person shall during such period of ban ignite or start any outdoor fire within the Township of South Beaver. The act of banning of such outdoor fires by said Fire Chief or Assistant Fire Chief shall be released for announcement and publication to newspapers of general circulation within the Township of South Beaver and to radio and/or television stations that broadcast to the general area of the Township.

Section 4. All fires for outdoor cooking, i.e. for the preparation of foods, shall be accomplished in a safe manner so as not to endanger property or person from the burning of any fuel, or combustion of any material or substance, whether charcoal, propane gas, wood or other fuel, with and by use of a proper cooking device including but not limited to charcoal cooking grills, propane gas grills, wood burning stoves, fire-rings constructed of a noncombustible material, or such other device designed for safe operation and control of any fire, burning of any fuel or combustible material or substance used in the process of cooking of foods. For the purpose of this provision, use of a cooking device in accordance with the directions for use provided by the commercial manufacturer thereof, shall create a presumption of safe use of such cooking implement or device.

Section 5. Words as used in this Ordinance shall be interpreted and applied in accordance to the definition applicable to each as contained in a published Webster's Dictionary relative to the subject matter of this Ordinance, or as hereinafter specifically defined, unless a different meaning clearly appears from the context of this Ordinance.

CIVIL CITATION - The definition of "civil citation" is the form designed and approved by the Board of Supervisors for issuance per Section 7 B of this Ordinance relative to fines for occurrences of violation of this Ordinance or any other Ordinances of South Beaver Township.

OUTDOOR - The definition of "outdoor" is any area not within any structure or building, whether residential, commercial, industrial or recreational and whether such structure is inhabited or uninhabited by persons or occupants.

PERSON - The definition of "person" is to constitute any individual, whether a citizen or not of South Beaver Township, and whether or not an employee of a sole-proprietorship, a partnership, or a public or private corporation, a firm, trust or estate, and if an employee of a sole-proprietorship, a partnership, or a public or private corporation, a firm, trust or estate, shall also include his or her employer whether a sole-proprietorship, a partnership, or a public or private corporation, a firm, trust or estate.

REASONABLE ATTORNEY FEES - The definition of "reasonable attorney fees" in this ordinance is the hourly rate paid by the Township of South Beaver Township as to its retained Solicitor.

Section 6. Any conduct or act by any person contrary to the terms, provisions, regulations or prohibitions of this Ordinance shall constitute a public nuisance and is abatable, and may be required to be abated, in the manner as provided by the laws of the Commonwealth of Pennsylvania for the abatement of a public nuisance.

Section 7. Any person who shall violate any provision of this Ordinance, shall in addition as to any other fine or penalty as provided by law, be subject to a civil fine, and collection/payment of same, as follows:

A. The civil penalty fine set by the Board of Supervisors for violation of this Ordinance by a person or persons, per each person, and which may be cumulative as to each occurrence of violation if one or more Sections of this Ordinance, and/or one or more subparagraphs of Section 1 of this Ordinance, are violated during an occurrence, provided the aggregate of penalty fine per occurrence per person cited for violation shall not exceed the maximum fine amount of One Thousand and No/100 (\$1,000.00) Dollars, as follows:

(1) For the occurrence or occurrences of a violation of Subparagraph A of Section 1 of this Ordinance:

(a) For first occurrence of the violation, a fine of Five Hundred and No/100 (\$500.00) Dollars is set; and

(b) For a second or subsequent occurrence of the violation, a fine of One Thousand and No/100 (\$1,000.00) Dollars is set.

(2) For the occurrence or occurrences of a violation of Subparagraph B of Section 1 of this Ordinance:

(a) For first occurrence of the violation, a fine of Twenty-five and No/100 (\$25.00) Dollars is set;

(b) For a second occurrence of the violation, a fine of Fifty and No/100 (\$50.00) Dollars is set;

(c) For a third occurrence of the violation, a fine of One Hundred and No/100 (\$100.00) Dollars is set; and

(d) For a fourth or subsequent occurrence of the violation, a fine of Five Hundred and No/100 (\$500.00) Dollars is set.

(3) For the occurrence or occurrences of a violation of Subparagraph C of Section 1 of this Ordinance:

(a) For first occurrence of the violation, a fine of Twenty-five and No/100 (\$25.00) Dollars is set;

(b) For a second occurrence of the violation, a fine of Fifty and No/100 (\$50.00) Dollars is set;

(c) For a third occurrence of the violation, a fine of One Hundred and No/100 (\$100.00) Dollars is set; and

(d) For a fourth or subsequent occurrence of the violation, a fine of Five Hundred and No/100 (\$500.00) Dollars is set.

(4) For the occurrence or occurrences of a violation of Subparagraph D of Section 1 of this Ordinance:

(a) For first occurrence of the violation, a fine of Five Hundred and No/100 (\$500.00) Dollars is set; and

(b) For a second or subsequent occurrence of the violation, a fine of One Thousand and No/100 (\$1,000.00) Dollars is set.

(5) For the occurrence or occurrences of a violation of Subparagraph E of Section 1 of this Ordinance:

(a) For first occurrence of the violation, a fine of Twenty-five and No/100 (\$25.00) Dollars is set;

(b) For a second occurrence of the violation, a fine of Fifty and No/100 (\$50.00) Dollars is set;

(c) For a third occurrence of the violation, a fine of One Hundred and No/100 (\$100.00) Dollars is set; and

(d) For a fourth or subsequent occurrence of the violation, a fine of Five Hundred and No/100 (\$500.00) Dollars is set.

(6) For the occurrence or occurrences of a violation of Subparagraph F of Section 1 of this Ordinance:

(a) For first occurrence of the violation, a fine of Five Hundred and No/100 (\$500.00) Dollars is set; and

(b) For a second or subsequent occurrence of the violation, a fine of One Thousand and No/100 (\$1,000.00) Dollars is set.

(7) For the occurrence or occurrences of a violation of Subparagraph G of Section 1 of this Ordinance:

(a) For first occurrence of the violation, a fine of Two Hundred Fifty and No/100 (\$250.00) Dollars is set;

(b) For a second occurrence of the violation, a fine of Five Hundred and No/100 (\$500.00) Dollars is set;

(c) For a third or subsequent occurrence of the violation, a fine of One Thousand and No/100 (\$1,000.00) Dollars is set.

(8) For the occurrence or occurrences of the violation of Section 2 of this Ordinance:

(a) For a first occurrence of the violation, a fine of Twenty-five and No/100 (\$25.00) Dollars is set;

(b) For a second occurrence of the violation, a fine of Fifty and No/100 (\$50.00) Dollars is set; and

(c) For a third or subsequent occurrence of the violation, a fine of Two Hundred and No/100 (\$200.00) Dollars is set.

(9) For the occurrence or occurrence of violation of Section 3 of this Ordinance:

(a) For the first occurrence of the violation, a fine of Two Hundred and No/100 (\$200.00) Dollars is set;

(b) For the second occurrence of the violation, a fine of Four Hundred and No/100 (\$400.00) Dollars is set; and

(c) For the third or subsequent occurrence of the violation, a fine of Six Hundred and No/100 (\$600.00) Dollars is set.

B. Upon the occurrence of any violation of this Ordinance, any police officer of the Township of South Beaver, the Secretary of the Township of South Beaver, or such other person as designated by Resolution of the Board of Supervisors, may and shall issue a civil citation to the person or persons violating this Ordinance, which civil citation will identify the person by name, address if known, the date of the violation occurrence or occurrences, the place of the occurrence of the violation, a description of the violation or violations for which the civil citation is issued, and the amount of the civil fine per Subparagraph A of this Section 6, and payment/collection information as detailed in subparagraph (2) hereafter.

(1) Said civil citation may be hand delivered to the person being cited for violation of this Ordinance; or hand delivered and served upon an adult member of his or her residential household, or if a business, upon an adult person at said place of business; or same may be served by certified mail unto such person's residence and/or place of business, with return receipt requested.

(2) The person or persons cited for violation of this Ordinance as aforesaid shall be granted ten (10) days, unless further time is granted by the Board of Supervisors, to pay the civil fine in full unto the Township of South Beaver, and upon failure to do so, a civil enforcement proceeding shall be filed before the district magistrate of appropriate jurisdiction, to

collect said civil fine as heretofore set by the Board of Supervisors, plus all court costs and reasonable attorney fees incurred by the Township of South Beaver in filing and processing such civil enforcement proceeding and collection of the civil fine as aforesaid.

Section 8. To the extent that any other ordinance of South Beaver Township now in effect shall be inconsistent herewith, the inconsistent provisions thereof are hereby repealed.

Section 9. The provisions of this Ordinance are severable and if any section, clause, sentence, word, part of provision shall be deemed illegal, invalid or unconstitutional, the decision of the Court shall not affect or impair any of the remaining sections, clauses, sentences, words or parts of this Ordinance. It is hereby declared the intent of the Board of Supervisors of South Beaver Township that this Ordinance would have been adopted if such illegal, invalid or unconstitutional portion had not been included herein.

ENACTED this 9th day of July, 1996.

ATTEST:

SOUTH BEAVER TOWNSHIP

Carol Miller
Secretary

Robert S. Long
Supervisor

David Shaver
Supervisor

Supervisor