

**BOROUGH OF BIG BEAVER**  
**ORDINANCE NO. 189**

AN ORDINANCE OF THE BOROUGH OF BIG BEAVER, BEAVER COUNTY, PENNSYLVANIA AMENDING THE BOROUGH OF BIG BEAVER CODE MORE SPECIFICALLY CHAPTER 39 "BURNING OUTDOOR".

BE IT ORDAINED AND ENACTED by the Council of the Borough of Big Beaver, Beaver County, Pennsylvania, under and by virtue of the Borough Code as follows:

SECTION 1. The Council of the Borough of Big Beaver has adopted a code which is known as the "Borough of Big Beaver Code".

SECTION 2. The Borough of Big Beaver Code refers to "the Police Department" which items are now also handled by the "Zoning Officer".

THEREFORE, The Borough of Big Beaver Code, specifically Chapter 39, is hereby amended as follows:

"Section 39-7. Burning Ban.

C. - Any person who burns outdoors while the burning ban is in effect shall be given a warning by the Police Department, Zoning Officer and/or the Fire Department of the Borough. Any person who continues to burn after being issued a warning shall be guilty of maintaining a nuisance."

"Section 39-8. Enforcement.

A. - The enforcement of the rules and regulations of this chapter shall be carried out by the Police Department and/or Zoning Officer of the Borough of Big Beaver in conjunction with and in coordination with the Fire Department of the Borough of Big Beaver.

B. - The Police Department, Zoning Officer and/or the Fire Department are empowered to enter upon and inspect public and private property on which a fire has been ignited or is being maintained to determine if such a fire is in compliance with the provisions of this chapter."

"Section 39-9. Abatement of Nuisances.

A. - Any person who has ignited a fire contrary to the rules and regulations of this chapter shall, upon notice by the Police Department, Zoning Officer and/or member of the Fire Department, immediately extinguish the fire.

B. - If, after being brought to the attention of the Police Department and/or Zoning Officer, the Zoning Officer observes that a person has maintained or permitted the maintenance of a nuisance or has violated any provision of this chapter, the Police Department and/or Zoning Officer shall issue a warning notice, except as noted in Section 39-10 of this chapter, to the person or persons who has maintained or permitted the maintenance of such a nuisance or has violated any provisions of this chapter."

"Section 39-10. Repeat Violators.

Persons who have been given a warning notice of one (1) or more than one (1) occasion with respect to violations described in this chapter may, at the discretion of the Police Department and/or Zoning Officer, be issued a citation for violating this chapter rather than first issuing a warning notice if continued violations of this chapter occur."

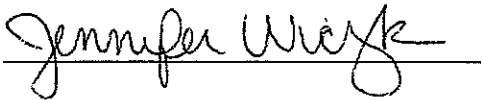
SECTION 3. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

SECTION 4. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 5. Effective Date. This ordinance shall be come effective immediately.

ENACTED by the Council of the Borough of Big Beaver this 14th day of July, 2009.

ATTEST:

  
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BOROUGH OF BIG BEAVER

By:   
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Jason Landsbach, President

  
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Donald Wachter, Mayor

**Chapter 39**  
**BURNING, OUTDOOR**

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|--------------------------------------|-------------------------------------|
| § 39-1. Purpose.                     | § 39-8. Enforcement.                |
| § 39-2. Definitions and word usage.  | § 39-9. Abatement of nuisances.     |
| § 39-3. Compliance required.         | § 39-10. Repeat violators.          |
| § 39-4. Unlawful acts.               | § 39-11. Conflicts with other laws. |
| § 39-5. Conditions for open burning. | § 39-12. Fire training.             |
| § 39-6. Deliberately setting fires.  | § 39-13. Violations and penalties.  |
| § 39-7. Burning ban.                 | § 39-14. Nonexclusive remedies.     |

[HISTORY: Adopted by the Borough Council of the Borough of Big Beaver at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

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**§ 39-1. Purpose.**

The purpose of this chapter is to regulate and prohibit the burning, ignition and combustion of rubbish, garbage and other materials within the Borough of Big Beaver to promote and protect the health, safety and welfare of the citizenry.

**§ 39-2. Definitions and word usage.**

- A. As used in this chapter, the following terms have the meanings indicated, unless otherwise expressly stated:

**BOROUGH** — The Borough of Big Beaver, Beaver County, Pennsylvania.

**BOROUGH COUNCIL** — The members of the Borough Council of the Borough of Big Beaver, Beaver County, Pennsylvania.

**BOROUGH SECRETARY** — The duly appointed Secretary to the Borough Council of the Borough of Big Beaver, Beaver County, Pennsylvania.

**BUILDING** — A man-made structure, whether it is permanent or temporary, utilized for sheltering people, animals, property or business activity. The term "building" and the term "structure" are used interchangeably in this chapter.

**BURN** — To ignite or set on fire any material for the purposes of disposing/reducing such material, creating heat or creating light.

**BURN BARREL** — A cylindrical vessel composed of steel or tin (or some other fire-resistant material) which is utilized for maintaining a fire.

**BURNING BAN** — The prohibition of igniting or setting an outdoor fire. Such prohibition is the result of weather or other conditions which increase the danger of igniting such a fire.

**FARMER** — A person who is gainfully employed and is making a living as an operator of a farm or as a cultivator of the land. A person who farms as a hobby shall not be considered a "farmer," as defined within this chapter.

**FIRE DEPARTMENT** — Any chartered Volunteer Fire Department of the Borough of Big Beaver, Beaver County, Pennsylvania.

**GARBAGE** — Any discarded part of vegetables, fruit, meat or other food substances, both liquid and solid, which are subject to decay, which result from the handling, preparation, cooking, serving or consumption of food and food containers.

**NAUSEOUS OR NOXIOUS FUMES** — Gases, smoke or fumes resulting from burning which are harmful or injurious to the health or physical well-being of persons or that cause sickness of persons.

**NONRESIDENTIAL BUSINESS OR OPERATION** — Any business, operation or establishment which is nonresidential by nature, including commercial, institutional or industrial operations. A commercial establishment is any business or operation which is engaged in nonmanufacturing or nonprocessing business, including but not limited to stores, markets, office buildings, restaurants, shopping centers and theaters. An industrial establishment is any business or operation which is engaged in manufacturing and industrial processes, including but not limited to factories, mills and refineries. An institutional establishment is any organization devoted to the promotion of a public, educational or charitable character, including but not limited to public buildings, hospitals, nursing homes, orphanages, schools and universities.

**NUISANCE** — The igniting, setting or maintenance of a fire in a manner which is not in compliance with the rules and regulations of this chapter.

**PERSON** — Any natural person, partnership, firm, company or corporation.

**POLICE DEPARTMENT** — The Police Department and its officers and employees of the Borough of Big Beaver, Beaver County, Pennsylvania.

**RESPONSIBLE ADULT** — Any individual person over the age of eighteen (18) years of age who is mentally competent.

**RUBBISH** — Any discarded waste materials, including but not limited to scrap metal, furniture, windows, boxes, crockery or paper, but not including garbage or dead animals.

**STONE ENCLOSURE** — An enclosure constructed of rocks, bricks, concrete blocks or other minerals which are fire-resistant, which is utilized for maintaining a fire.

**WIRE BASKET** — A container constructed of wire or other fire-resistant materials, which is utilized for maintaining a fire.

- B. In this chapter, words used in the present tense shall include the future, words used in the singular shall include the plural, words used in the plural shall include the singular, the

word "shall" is always mandatory, the word "may" is permissive, and the masculine shall include the feminine.

**§ 39-3. Compliance required.**

- A. It shall be unlawful for any person to burn, ignite or cause to be burned any material that is not in conformance with the rules and regulations of this chapter.
- B. Any person who shall violate any of the rules and regulations of this chapter shall be guilty of creating and/or maintaining a nuisance.

**§ 39-4. Unlawful acts.**

- A. No person shall burn, ignite or cause to be burned any rubbish, garbage or any other material within the right-of-way of any public street, alley, road or public way.
- B. No person shall burn, ignite or cause to be burned any garbage on any private land or public land within the Borough of Big Beaver, whether or not such burning of such garbage occurs within the confines of a building or outside the confines of a building.
- C. No nonresidential business or operation, including but not limited to commercial, institutional or industrial establishment, shall burn, ignite, or cause to be burned any materials, whether the materials are garbage or rubbish or whether it is inside or outside the confines of a building, unless such an establishment has a permit from the Pennsylvania Department of Environmental Resources to burn such materials.
- D. No person shall burn, ignite or cause to be burned any vegetable waste, rubber, plastic, furniture, paint, glass, metals, car products or any other material which creates nauseous or noxious fumes, smoke, chemicals or excessive fly ash on the property where the fire is maintained or any surrounding properties, whether or not such burning of such above-mentioned items occurs within the confines of a building or outside the confines of a building.
- E. No person shall burn, ignite or cause to be burned any aerosol cans, paint cans or other types of cans or cylinders which may be under pressure and therefore may explode if burned or heated.
- F. No person shall be permitted to burn or ignite any material on his property unless such material was generated or consumed on that property.
  - (1) No person shall accept any materials from any other person outside of the Borough of Big Beaver or from other places within the Borough of Big Beaver for the purposes of burning or igniting such materials.
  - (2) No person shall transport materials into the Borough of Big Beaver for the purpose of burning or igniting such materials within the Borough of Big Beaver.
  - (3) No person who owns land within the Borough of Big Beaver shall burn or ignite any material on such property unless the materials to be burned were generated or consumed on such property.

## § 39-5. Conditions for open burning.

- A. No person shall burn any permitted material outside the confines of a building within the borough unless such a fire is kindled within a burn barrel, wire basket or stone enclosure, except as specified in Subsections G, H, I and J of this section.
- (1) The burn barrel, wire basket or stone enclosure shall have no openings on the side or bottom of the burn barrel, wire basket or stone enclosure in excess of one-half ( $\frac{1}{2}$ ) inch in size.
  - (2) The burn barrel, wire basket or stone enclosure shall be of such height and size to fully envelop the materials which are to be burned or ignited. No materials which are to be burned or ignited shall protrude or overflow from the confines of the burn barrel, wire basket or stone enclosure.
  - (3) The burn barrel, wire basket or stone enclosure shall be equipped with a top which prevents fly ash from escaping into the atmosphere.
- B. No fire shall be ignited within twenty (20) feet of any building or structure. Further, no fire shall be ignited within ten (10) feet of any property line, street or alley cartway edge, forest edge line or overgrown field line.
- C. No fire shall be ignited or maintained on Sunday, but shall be permitted on any other day of the week.
- D. A fire may be ignited and/or maintained between the hours of 7:00 a.m. until 9:00 p.m. No fire shall be ignited and/or maintained between the hours of 9:01 p.m. to 6:59 a.m.
- E. No fire which is permitted to be ignited or maintained as specified above shall be left unattended at any time while the fire is maintained or burning. At all times a fire is maintained or is burning, it shall be maintained by a responsible adult.
- F. No fire shall be maintained in excess of seventy-two (72) consecutive hours on any one (1) property. On any one (1) property, no more than one (1) fire shall be ignited and/or maintained per week.
- X G. The burning of brush, dry grass or leaves is permitted in accordance with all of the above-specified regulations of this chapter. The burning of large brush piles or grass areas in excess of one-fifth ( $\frac{1}{5}$ ) of an acre in size or which will burn for more than twelve (12) consecutive hours for the purpose of clearing land shall be permitted, provided that the Fire Department of the Borough of Big Beaver is contacted twenty-four (24) hours in advance of the lighting of such a fire in order for the Fire Department to be alert in case of an emergency. If the person who is proposing to light a fire as described in this subsection cannot make contact with the Fire Department, the person shall contact the Borough Secretary of the Borough of Big Beaver Borough within the time limit prescribed above.
- H. Charcoal or wood fires kindled for the sole purpose for outside barbecues shall not be bound by the time limitations prescribed in Subsection D of this section.
- I. Fireplaces within a private residence are permitted for the purpose of providing heat and/or cooking purposes. Interior fireplaces shall not be utilized for the burning of garbage and shall abide by § 39-4B, D and E of this chapter.

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- J. Any person gainfully employed as a farmer, who desires to set a fire which is related to the farming business, shall not be bound by the time limitations prescribed in Subsection D of this section.

**§ 39-6. Deliberately setting fires.**

No person shall deliberately set a fire for the purposes of removing, razing or tearing down an existing building or structure. If any person desires to set a fire for the purpose specified in this section, the person shall contact the Fire Department of the Borough of Big Beaver who, at its option, may burn the building or structure at the request of the landowner or building owner.

**§ 39-7. Burning ban.**

The Fire Chief of the Fire Department of the Borough of Big Beaver may declare a ban on all outdoor burning within the Borough of Big Beaver when weather conditions cause potentially hazardous conditions for outdoor burning.

- A. If the Fire Chief declares a burning ban, he shall inform the Borough Secretary of the Borough of Big Beaver and the Police Department of the Borough of Big Beaver.
- B. The burning ban shall stay in effect until the Fire Chief or a majority of the voting members of the Fire Department of the Borough of Big Beaver declare that the burning ban has been lifted.
- C. Any person who burns outdoors while the burning ban is in effect shall be given a warning by a member of the Police Department of the borough. Any person who continues to burn after being issued a warning shall be guilty of maintaining a nuisance.

**§ 39-8. Enforcement.**

- A. The enforcement of the rules and regulations of this chapter shall be carried out by the Police Department of the Borough of Big Beaver in conjunction with and in coordination with the Fire Department of the Borough of Big Beaver.
- B. The officers of the Police Department and the Fire Department are empowered to enter upon and inspect public and private property on which a fire has been ignited or is being maintained to determine if such a fire is in compliance with the provisions of this chapter.

**§ 39-9. Abatement of nuisances.**

- A. Any person who has ignited a fire contrary to the rules and regulations of this chapter shall, upon notice by an officer of the Police Department or member of the Fire Department, immediately extinguish the fire.
- B. If, after being brought to the attention of the Police Department, an officer of the Police Department observes that a person has maintained or permitted the maintenance of a nuisance or has violated any provision of this chapter, an officer of the Police Department shall issue a warning notice, except as noted in § 39-10 of this chapter, to the person or

- persons who has maintained or permitted the maintenance of such a nuisance or has violated any provision of this chapter.
- C. The warning notice shall state, at a minimum, the date of the violation, the location of the violation, the person who is being issued the violation notice, the nature of the violation and the sections which define the violation.
- D. The warning notice shall be delivered in at least one (1) of the following manners:
- (1) Hand-delivered to the person who has maintained or permitted the violation to occur;
  - (2) Mailed via United States mail service to the person who has maintained or permitted the violation to occur; or
  - (3) By posting the warning notice conspicuously on the offending property if the whereabouts of the responsible person is unknown.
- E. Persons who do not immediately discontinue the violation of this chapter or who are repeat offenders, as defined in § 39-10 of this chapter, shall be issued a citation by an officer of the Police Department.

#### **§ 39-10. Repeat violators.**

Persons who have been given a warning notice on one (1) or more than one (1) occasion with respect to violations described in this chapter may, at the discretion of the officers of the Police Department, be issued a citation for violating this chapter rather than first issuing a warning notice if continued violations of this chapter occur.

#### **§ 39-11. Conflicts with other laws.**

Any regulations promulgated by the Commonwealth of Pennsylvania or the government of the United States of America pertaining to burning of any materials shall supersede the rules and regulations of this chapter where such rules and regulations are more stringent than the rules and regulations of this chapter. Where the rules and regulations of this chapter are more stringent than the rules and regulations of either the Commonwealth of Pennsylvania or the government of the United States of America, the rules and regulations of this chapter shall control.

#### **§ 39-12. Fire training.**

Any fire training conducted by the Borough Fire Department or another recognized public fire-fighting organization shall not be bound by the rules and regulations of this chapter when such organization is conducting fire-fighting training.

#### **§ 39-13. Violations and penalties.**

Any person who violates any provision of this chapter shall, upon conviction thereof, pay a fine of not more than six hundred dollars (\$600.) and/or be sentenced to imprisonment for a term

not to exceed thirty (30) days. Every day that a violation continues shall constitute a separate violation.

**§ 39-14. Nonexclusive remedies.**

The remedies provided herein for the enforcement of this chapter or any other remedy provided by law shall not be mutually exclusive. Rather, any and all remedies may be applied simultaneously or consecutively at the option of the Borough Council.