

ORDINANCE NO. 538-12-07

AN ORDINANCE OF THE BOROUGH OF MANOR, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING REGULATIONS CONCERNING OUTDOOR BURNING AND FIRES; SETTING FORTH DEFINITIONS; PROVIDING FOR CERTAIN PROHIBITIONS REGARDING BURNING; PROVIDING FOR CERTAIN EXEMPTIONS; VIOLATIONS; ENFORCEMENT; PENALTIES FOR VIOLATION THEREOF; AND REPEALS OF ORDINANCES INCONSISTENT HERewith.

WHEREAS, the burning of garbage, refuse, rubbish and debris, and the maintaining of open fires within the corporate limits of the Borough of Manor affects the health, safety and general welfare of the residents thereof; and

WHEREAS, the Council of the Borough of Manor desires to establish rules and regulations for burning and open fires throughout the Borough of Manor; and

WHEREAS, The Borough of Manor is granted authority to regulate the same by the Borough Code of the Commonwealth of Pennsylvania.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Manor and it is hereby ordained and enacted as follows:

SECTION 1: Definitions

As used in this Ordinance, the following terms shall have the meanings indicated unless a different meaning clearly appears from the context:

- **BOROUGH COUNCIL** – The Council of the Borough of Manor
- **BONFIRE** - An outdoor fire utilized for ceremonial purposes.
- **BUILDING MATERIALS** – Shall mean all materials incidental to construction or remodeling of buildings, including, but not limited to, shingles, asbestos, Styrofoam, wire, insulation, treated wood, but not including untreated wood.

- **DEMOLITION PROJECT** – Shall mean the destruction of a dwelling or building on site.
- **FIRE CODE OFFICIAL** – Shall refer to the council appointed Fire Marshall.
- **FURNACE** – Any enclosed device specifically designed for burning any material for the production of heat.
- **GARBAGE** – All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.
- **INCINERATOR** – Any device specifically designed for the destruction by burning of refuse, sewage, sludge, or any other combustible material.
- **LAND DEVELOPMENT** – Shall mean the improvement of one or more lots, tracts or parcels of ground for any of the following:
 - o A group of two or more residential or non-residential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - o The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas leaseholds, condominiums, building groups or other feature.
- **OPEN BURNING** - The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudge pots and similar devices associated with safety or occupational uses typically considered open flames, recreational fires or use of portable outdoor fireplaces. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.
- **PERSON** –Any individual, partnership, association, corporation, department, bureau, agency or other legal entity.

- **PORTABLE OUTDOOR FIREPLACE** - A portable, outdoor solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.
- **RECREATIONAL FIRE** - The burning of clean fire wood where the fuel area is no greater than four (4) feet in diameter and two (2) feet or less in height. Such fires may be for pleasure or religious, ceremonial, cooking or similar purposes.
- **REFUSE** – Garbage, rubbish and trade waste.
- **RUBBISH** – Solids not considered to be highly flammable or explosive including, but not limited to rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry, and other similar materials.
- **SALVAGE OPERATIONS** – Any business, trade or industry engaged in whole or in part salvaging or reclaiming any product or material, including but not limited to, metals, chemicals, shipping containers or drums.
- **TRADE WASTE** – All solid or liquid materials or rubbish resulting from construction building operations or the prosecution of any business, trade or industry including but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials; provided, that “trade waste” shall not include any coal refuse associated with the mining or preparation of coal.
- **YARD WASTE** – Waste from yard maintenance, specifically untreated wood or tree limbs. Leaves that have separated from the tree limb are specifically excluded from this definition.

SECTION II: GENERAL REGULATIONS

- A. All outdoor burning and fires are expressly prohibited except as may be authorized under the terms hereof.

- B. Any burning permitted by the terms of this Ordinance shall only be those items or material owned by the property owner or generated on the property by said property owner or resident. No person shall burn any items or material on behalf of any other individual for either a fee or gratuitously, nor shall any person bring upon the property of another, any materials or items allowed to be burned pursuant to the terms of this Ordinance, for the purpose of burning said items on another person's property.
- C. A permit issued by the Fire Marshall of the Borough of Manor, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council, shall be required for all outdoor burning and fires for all categories of this Section except as set forth in this Ordinance. Permits shall not exceed one week in duration except when allowed for farms.
- D. The Council of the Borough of Manor, shall from time to time by Resolution, adopt and authorize a permit form and schedule of fees to be imposed for the issuance of permits hereunder.
- E. No person or persons shall set or maintain any outdoor burning of fires upon the paved portion of any street, alley or public ground in the Borough of Manor.
- F. No person or persons shall deliberately, knowingly, carelessly or negligently set fire to or cause the burning of any material in such manner to endanger the safety of any person or property.
- G. The fire Marshall of the Borough of Manor, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council, shall be authorized to order extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.

SECTION III: OPEN BURNING

The following regulations shall apply to open fires set for the purpose of burning domestic refuse:

- A. All outdoor burning or fires in areas of residential dwellings shall be limited to the burning of paper products, newspaper and yard waste, excluding leaves, grass and building materials as defined herein.
- B. All outdoor burning or fires within fifty (50) feet of residential dwellings shall be controlled in a container or appropriate burning barrel and have an attended water supply or equal extinguishing agent throughout the duration of the burning. Those fires in excess of fifty (50) feet of residential dwellings will still have the extinguishing requirement.
- C. No person or persons shall set or maintain any outdoor burning or fires closer than ten (10) feet to any property line.
- D. No person or persons shall burn or cause to be burned any garbage, rubber, tires, paint, animal waste, plastics, diapers, toxic materials or any other materials that are otherwise prohibited by law.
- E. Outdoor fireplaces and grills used solely for food preparation purposes shall be exempt from these regulations.
- F. Recreational fires for amusement purposes confined to purpose built devices meeting the definition shall be permitted without regard to permitting given:
 - 1. They are not within ten feet of a structure or property line.
 - 2. There is a water extinguishing or equivalent source of extinguishment readily available and attended at all times.
 - 3. Upon completion of the burn period that all fires be completely extinguished.
 - 4. Paragraph D is observed.
- G. Bonfires for amusement purposes shall be permitted only upon the specific approval of the Fire Marshall, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council.
- H. That all fires shall be totally extinguished by 6:00 PM, unless otherwise allowed in this Ordinance, so as to ensure that there is no smoke or smoldering of said fires.
- I. Recreational fires and Bonfires shall be exempt from the preceding paragraph (H), but shall not be burnt or allowed to smolder during the time period of 1:00 AM and 8:00 AM.

SECTION IV: LAND DEVELOPMENT

- A. All outdoor burning or fires at areas of land development containing a minimum of five (5) acres, for the purpose of clearing the property and removal of vegetation and other debris, shall be permitted during the hours of 9:00 AM to 6:00 PM daily, provided a permit is obtained from the Fire Marshall, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council.
- B. That all proposed outdoor burning or fires for land development as defined herein shall only be permitted after having obtained a permit from the Borough of Manor for a fee (as noted in the fee schedule Resolution). Said permit shall be obtained from the Fire Marshall, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council no less than twenty-four (24) hours prior to the commencement of said outdoor burning or fires.
- C. That all outdoor burning or fires at areas of land development shall be controlled and managed in a contained area with an attended water supply or equal extinguishing agent throughout the duration of the burning.
- D. That all outdoor burning or fires permitted hereunder shall be promptly extinguished at 6:00PM and there shall be no smoldering or smoke emitted from said burning after said hour.
- E. No person or persons at a land development site as defined herein, shall burn or cause to be burned any garbage, rubber, tires, paint, animal waste, plastics, diapers, hazardous or toxic materials or any other materials that are otherwise prohibited by law exterior to this Ordinance.

SECTION V: SALVAGE OPERATIONS AND DEMOLITION PROJECTS

- A. All outdoor burning or fires at areas of salvage operations as defined by this Ordinance shall be prohibited.
- B. All outdoor burning or fires at demolition projects as defined herein shall be limited to 9:00 AM to 6:00 PM and as authorized by the Fire Marshall of the Borough of Manor. A permit shall be obtained at the cost defined by the fee Resolution, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council.

- C. All outdoor burning or fires at demolition projects shall be controlled and managed by the use of a properly utilized air current destructor with a fire pit and shall have an attended water supply or equal extinguishing agent throughout the duration of the burning.
- D. No person or persons at a demolition project shall burn or cause to be burned any garbage, rubber, tires, paint, animal waste, plastics, diapers, hazardous or toxic or any other materials that are otherwise prohibited by law exterior to this Ordinance.

SECTION VI: CONSTRUCTION SITES – RESIDENTIAL AND COMMERCIAL

No person shall set or maintain any outdoor burning or fires during the construction or remodeling of any structure within the Borough of Manor. Provided, however, that during the months of November through April of each year a heating barrel no greater than fifty-five (55) gallons may be used solely for the purpose of heating water for the construction project, when burning is allowed, no building materials, as defined herein, nor garbage, rubber, tires, paint, animal waste, plastics, diapers, hazardous or toxic materials or any other materials that are otherwise prohibited by law shall be allowed to be burned.

SECTION VII: EXEMPTIONS

- A. Open fires may be set in the performance of an official duty of any public officer or employment duties of any employee of the Borough if the fire is necessary for:
 - 1. The prevention of a fire hazard which cannot be abated by any other means; or
 - 2. The protection of public health.
- B. That upon obtaining a permit at no cost from the Fire Marshall, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council, the volunteer fire department of the Borough of Manor may burn a structure, objects or material for the purpose of practice provided that said burning activity is a controlled burning activity and supervised by the volunteer fire department as otherwise permitted by Law.

C. Farms

1. A farm is defined as a tract of land ten (10) acres or more in area.
2. The owner of a farm may obtain a burning permit at no cost from the Fire Marshall of the Borough of Manor, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council. Said permit may be issued for an extended period or until revoked by said Fire Marshall; and
- 3 All other restrictions contained herein with respect to hours of burning and materials, which may be burned, shall be applicable.

SECTION VIII: VIOLATIONS AND ENFORCEMENT

- A. Any person who shall violate any provision of this Ordinance shall be, upon conviction, guilty of a summary offense. Any violation of this Ordinance shall be enforced by an action brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. A separate offense and violation shall arise for each day or portion of a day in which a violation is found to exist or for each provision of this Ordinance which is found to have been violated.
- B. The initial determination of whether any provision of this Ordinance has been violated, as well as service of notice of such violation, shall be made by the Fire Marshall, his designated agent or any other official or employee of the Borough of Manor designated by Borough Council.

SECTION IX: PENALTIES, COSTS AND EXPENSES

- A. Any person who shall violate any provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than Two Hundred Fifty (\$250.00) Dollars and not more than One Thousand (\$1,000.00) Dollars, and/or imprisonment to the extent allowed by Law for the punishment of summary offenses.
- B. Any person found guilty of violating any provision of this Ordinance shall be assessed any and all court costs in the prosecution of the same together with reasonable attorney fees incurred by the Borough in any and all enforcement proceedings.

SECTION X: SEVERABILITY

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.

SECTION XI. REPEALER

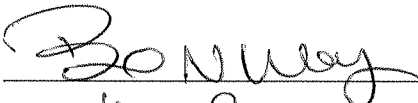
All ordinances or parts of ordinances, which are inconsistent herewith, are hereby repealed.

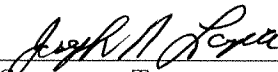
ORDAINED AND ENACTED this 3rd day of October, 2012.

THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY.

BOROUGH OF MANOR

ATTEST:

By: 
Vice-President


Secretary-Treasurer

Approved this 3rd day of October, 2012.

BY: 
Mayor

ATTEST:


Secretary-Treasurer

CERTIFICATION

I, JOSEPH LAPIA, duly qualified Secretary-Treasurer of the Borough Council of the Borough of Manor, Westmoreland County, Pennsylvania, do hereby certify that the foregoing Ordinance No. 538-12-07 is a true and correct copy of the original Ordinance No. 538-12-07 duly passed and adopted by a majority vote of the Borough Council of the Borough of Manor at a duly advertised and convened Regular Meeting held on the 3rd day of October, 2012, and that the minutes of said meeting showing how each member voted have been duly recorded in the official minutes of said Borough Council and said Ordinance remains in effect as of this date.

IN WITNESS WHEREOF, I affix my hand and attach the seal of the Borough of Manor, this 3RD day of OCTOBER, 2012.

Certified to by:



JOSEPH LAPIA, Secretary-Treasurer