

ORDINANCE NO. 2011/ 31

AN ORDINANCE TO REGULATE OUTDOOR BURNING WITHIN THE UNINCORPORATED AREAS OF BEAUFORT COUNTY; TO PROVIDE FOR THE ENFORCEMENT THEREOF, AND MATTERS RELATED THERETO.

WHEREAS, smoke from outdoor burning in populated areas can present a serious health hazard to individuals with respiratory ailments, including children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and

WHEREAS, smoke from outdoor burning is a common cause of complaints between neighbors and may become a public nuisance to residents of Beaufort County and the traveling public; and

WHEREAS, smoke from outdoor burning may pose significant visibility problems for individuals driving within Beaufort County resulting in accidents and other public safety issues; and

WHEREAS, Beaufort County Council finds that it is in the interest of the public health, safety, and welfare of the citizens of the County, to strictly regulate outdoor burning.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that the following regulations are hereby adopted with regards to outdoor burning:

Section 1. Compliance With Ordinance. No person shall kindle or maintain any open burning or authorize any open burning to be kindled or maintained within the unincorporated areas of Beaufort County, excepted as stated in this ordinance. "Open burning" is defined as: the outdoor burning of, leaves, tree branches, yard trimmings, clippings and other natural vegetation.

Section 2. Regulation of Open Burning. The open burning of leaves, tree branches, yard trimmings, and other vegetative matter originating on the premises of residential properties located within the unincorporated areas of Beaufort County shall be permitted, provided that any such open burning must be located no less than seventy-five (75) feet from any structure or road. Adequate provisions shall be made to prevent the fire from spreading to any area within seventy-five (75) feet of any structure or road. The open burning as provided for under this section must be started only between the hours of 9:00 a.m. and 3:00 p.m. No combustible material may be added to the fire between 3:00 p.m. of one day and 9:00 a.m. the following day. Any open burning as provided for under this section shall be fully extinguished and shall not

allow any smoke to be produced beyond the time of official sunset as determined by The United States Naval Observatory.

Section 3. Open Burning on Premises of Undeveloped Properties for Purposes of Land Clearing or Right-of-Way Maintenance. Open burning for purposes of land clearing or right-of-way maintenance on the premises of undeveloped properties upon which no residential structure is situated, shall be permitted, provided that such burning is conducted in accordance with the South Carolina Department of Health and Environmental Control (DHEC) Air Quality Regulations 61-62.2 and South Carolina Code of Laws Section 48-35-10, and provided that authorization for the open burning is obtained from the South Carolina Forestry Commission prior to ignition of the fire.

Section 4. Attendance and Fire Extinguishing Equipment Required for Open Burning; notice to State Forester; adherence to State Law. The open burning permitted under section 2 above shall at all times be attended by a competent person from the time that such fire is kindled, until such time as all embers of said fire have been extinguished. Such responsible person shall have a garden hose connected to a constant water supply, or other fire extinguishing equipment readily available for use, in such quantities and amounts as shall prevent the spread of any open burning beyond permitted areas. Proper notification shall be given to the State Forester or his duly authorized representative or other persons designated by the State Forester by calling the South Carolina Forestry Commission at 1-800-895-7062. The notice shall contain all information required by the State Forester. The open burning must be conducted in accordance with related State Laws and regulations including, but not limited to, DHEC Air Quality Regulations 61-62.2 and 61-62.4 and South Carolina Code of Laws Section 48-35-10.

Section 5. Fires Shall Be Prohibited as Follows.

a. The County Designated Fire Code Official, in coordination with the Fire Chief's of the individual Fire Districts in Beaufort County, may prohibit open burning during such times as may be necessary depending upon atmospheric conditions, local weather patterns, or other such circumstances as would exist to make open burning hazardous.

b. The only materials that may be lawfully burned as permitted in Section 2 above, are those vegetative materials which shall have originated on the site in which they are proposed to be included in any open burning. All other materials or items are prohibited from being burned on properties located within the unincorporated areas of Beaufort County, which materials shall include, but not be limited to; asphalt and asphaltic materials, paint, plastics, metals, treated wood, paper, petroleum products, demolition debris, dead animals, construction debris, household chemicals, household garbage, tires, trade waste and cardboard.

Section 6. Criteria for Determining When Open Burning Deemed Hazardous. When a Red Flag Alert has been declared in Beaufort County by the South Carolina

Forestry Commission, it shall automatically constitute a hazardous condition. Thereafter, no open burning of any material, vegetative or otherwise, will be permitted within the unincorporated areas of the County for so long as the alert may remain active. Beaufort County Council may also from time to time establish by resolution, reasonable criteria to assist in determining what conditions are present that may pose a hazardous situation for the burning of outdoor fires. These criteria may include, but are not limited to, air quality standards, fire danger indexes, atmospheric conditions, or local weather patterns. Additionally, should any Fire Chief of any Individual Fire District, or the County Designated Fire Official, certify in writing to the County Administrator that any current condition or set of conditions pose a present or imminent hazardous situation for purposes of banning open burning, then a ban shall take immediate effect and may last for a period of no more than thirty (30) days or until such time as County Council may have had an opportunity to hear and render a decision on the necessity of an open burning ban, whichever is shorter.

Section 7. Prohibition on Open Burning in County Maintained Drainage Ditches and on County Maintained Roads and Right-of-Way. Open burning of any material, vegetative or otherwise, shall be prohibited on all County maintained roads and right-of-ways, and within County maintained drainage ditches. At no time shall the ash or remnants of open burning be allowed to enter into County maintained drainage ditches or upon County maintained roads and right-of-ways.

Section 8. Exemptions.

a. Nothing in this Ordinance shall apply to regulate the burning of vegetative material as related to the management of forestry, wildlife, or agriculture areas, as expressly authorized by the State Forestry Commission.

b. Nothing in this Ordinance shall be meant to restrict open burning in connection with the preparation of food for consumption, campfires or other like fires intended solely for recreational purposes, or those fires necessary for religious or ceremonial occasions, or for providing human warmth, so long as said fires are maintained in a safe manner.

c. Nothing in this Ordinance shall apply to the open burning of storm debris that shall result from major storms such as severe thunderstorms, tornadoes, or hurricanes. Any fire that is contemplated under the exemption contained in this section shall require the review and approval of the County Designated Fire Code Official and the Fire Chiefs of the individual Fire Districts in which the fire is intended to occur.

d. Nothing in this Ordinance shall apply to limit the training of fire-fighting personnel so long as the kindling of any such fire has been authorized by an appropriate governmental entity, has been done in consultation with the South Carolina Department of Health and Environmental Control, is solely for the purposes of fire-fighter training, and is immediately extinguished upon the completion of all training activities.

Section 9. Hazardous or Toxic Materials. At no time shall hazardous or toxic materials be burned within the unincorporated areas of Beaufort County.

Section 10. Penalties.

Enforcement of this Ordinance shall fall under the jurisdiction of both the Beaufort County Sheriff's Office and Beaufort County Codes Enforcement. Officers of the Beaufort County Sheriff's Office and Beaufort County Codes Enforcement shall have the authority to exercise full discretion in deciding whether to issue a warning or a citation when investigating complaints that arise under this Ordinance. Any violation of this Ordinance may be punishable by a fine of up to \$110.00, or up to 30 days imprisonment.

DONE THIS 26th DAY OF SEPTEMBER, 2011, AT A MEETING DULY ASSEMBLED OF BEAUFORT COUNTY COUNCIL.



Weston J. Newton, Chairman
Beaufort County Council



Gary Kubic
Beaufort County Administrator

As to Form:



Joshua A. Gruber
Staff Attorney

ATTEST:



Suzanne M. Rainey
Clerk to Council