

HABERSHAM COUNTY BOARD OF COMMISSIONERS

EXECUTIVE SUMMARY

SUBJECT: Second Reading and Vote on Ordinance 2024-02-001 Adopting Amendments to Article II (“Open Burning”) of Chapter 30 (“Fire Prevention and Protection”) of the Habersham County Code of Ordinances.

DATE: 12/27/2023

RECOMMENDATION

BUDGET INFORMATION:

POLICY DISCUSSION

ANNUAL-

STATUS REPORT

CAPITAL-

OTHER

COMMISSION ACTION REQUESTED ON: 02/19/2024

PURPOSE: To hold the second of two required readings for proposed amendments to Article II (“Open Burning”) of Chapter 30 (“Fire Prevention and Protection”) of the Habersham County Code of Ordinances and to request the Habersham County Board of Commissioners approval of ordinance 2024-02-001 adopting the proposed amendments.

BACKGROUND / HISTORY:

- a. The ordinance currently was established in 2005 per the online version of Habersham County, Georgia – Code of Ordinances.
https://library.municode.com/ga/habersham_county/codes/code_of_ordinances?nodeId=PTII_COOR_CH30FIPRPR_ARTIIOPBU
- b. Before the current system in place, burn permits were obtained by calling the Fire Department, and the permits were recorded manually.
- c. In 2021, HCES began using the online portal to record burn permits at 844-844-BURN.
- d. Georgia Forestry issues permits for “Land Clearing”, with the use of an Air Curtain Destructor. Air Curtain Destructors are only required for metropolitan areas where air quality is much more of an issue due to the population.
- e. This is the second of two required readings of this revision to the ordinance, with the first reading having been held on January 16, 2024.

FACTS AND ISSUES:

- a. Much of the ordinance remains the same with the primary changes being, that Georgia Forestry will be responsible for and permit “Agricultural Fires” and “Forest Lands”.
- b. Georgia Forestry remains available to respond to situations at the request of HCES.
- c. Previously, GFC was issuing permits for “Land Clearing” fires, which, according to the ordinance in place, is the responsibility of HCES.

OPTIONS:

- 1) Approve recommendation
 - 2) Deny recommendation
 - 3) Commission-defined alternative
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RECOMMENDED SAMPLE MOTION:

“I motion to approve the adoption of ordinance 2024-02-001 as read amending Article II (“Open Burning”) of Chapter 30 (“Fire Prevention and Protection”) of the Habersham County Code of Ordinances.

DEPARTMENT:

Prepared by:

Jeffrey D. Adams

Director: __

Jeffrey D. Adams _____

ADMINISTRATIVE

COMMENTS: _____

_____ **DATE:** _____

County Manager

FIRST READING DATE: January 16, 2024

APPROVAL DATE: February 19, 2024

**HABERSHAM COUNTY
STATE OF GEORGIA**

AN ORDINANCE NO.: 2024-02-001

AN AMENDMENT TO ARTICLE II (“OPEN BURNING”) OF CHAPTER 30 (“FIRE PREVENTION AND PROTECTION”) OF THE HABERSHAM COUNTY CODE OF ORDINANCES BY REVISING SECTIONS 30-19 (GENERAL REQUIREMENTS”); 30-20 (OPEN BURNING ON PRIVATELY OWNED, RESIDENTIAL PROPERTY”); 30-21 (“CONSTRUCTION SITE BURNING”); 30-22 (“AGRICULTURAL LAND CLEARING OR RIGHT-OF-WAY BURNING”) AND 30-23 (“EMERGENCY BURNING”) FOR THE PURPOSE OF UPDATING BURNING REGULATION IN HBERSHAM COUNTY TO BE CONSISTENT WITH O.C.G.A. SECTION 12-6-90 AND FOR OTHER PURPOSES

WHEREAS, the amendment of O.C.G.A. Section 12-6-90 by the Georgia General Assembly by Senate Bill 119 necessitated a review of the Habersham County code sections regulating open burning in Habersham County; and

WHEREAS, it is the intent of the Board of Commissioners of Habersham County to preserve and exercise where appropriate all powers and authority granted to it under state law in order to protect the health, safety and welfare of the citizens of Habersham County, Georgia.

NOW, THEREFORE, THE HABERSHAM COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE SAME as follows:

1.

Article II (“Open Burning”) of Chapter 30 (“Fire Prevention And Protection”) of the Habersham County Code of Ordinances by revising Sections 30-19 (“General Requirements”); 30-20 (“Open Burning On Privately Owned, Residential Property”); 30-21 (“Construction Site Burning”); 30-22 (“Agricultural Land Clearing Or Right-Of-Way Burning” and 30-23 (“Emergency Burning”) is deleted in its entirety and the following substituted in lieu thereof:

ARTICLE II. - OPEN BURNING¹

Sec. 30-19. General Requirements.

(a) All burning operations shall comply with "Rules for Air Quality Control." See regulations of Chapter 391-3-1 as written and amended by the Environmental Protection Division, Air Protection Branch unless specifically amended by this article.

- (1) All permits are issued through georgiaburnpermits.com or by calling 1-844-844-BURN "2876" unless specified otherwise below.
- (2) When inspections are required, they will be conducted by Habersham County Emergency Services at least 24 hours prior to lighting the pile or by GFC if the burn falls under Subsection (b)(1) or (2) below.

(b) No person shall cause, suffer, allow, or permit open burning in any area of the County except as follows:

- (1) Agricultural Fires (permit/no fee). Carrying out recognized agricultural procedures necessary for production or harvesting of crops. Contact Georgia Forestry prior to burning at 706-754-2354.
- (2) Forest Lands (permit/no fee). The burning of any forestland by the owners of such land or a "Prescribed Burn". Contact Georgia Forestry prior to burning at 706-754-2354.
- (3) Residential Property Maintenance (permit/no fee). Reduction of leaves, trees, downed trees, and parts thereof, pine straw and sticks on the premises on which they fall by the person in control of the premises, hand or machine piled.
- (4) Recreational/Cooking Fire (no permit/no fee). For recreational purposes or cooking food for immediate human consumption, e.g., camping fires in designated camping areas and "BBQ" grills.

¹ State law reference— Open burning, O.C.G.A. § 12-6-90. As of July 1, 2021, changes went into effect regarding the legal responsibilities of Georgia landowners burning outdoor yard debris. Under Senate Bill 119, O.C.G.A. Section 12-6-90 was changed to eliminate the need to notify the Georgia Forestry Commission (GFC) by the person, firm, corporation, or association who intends to burn hand-piled natural vegetation/yard debris.

- Any local burning ordinances are applicable and may be more restrictive than state law.
- The developer/general contractor/landowner in control of the property are responsible for compliance with this article and the rules established by this ordinance
- All Permits are issued through georgiaburnpermits.com or by calling 1-844-844-BURN "2876" unless specified otherwise below.

- (5) Firefighter Training Fires (no permit/no fee). Fires set for the purpose of training firefighting personnel.
- (6) Open Flame Equipment (no permit/no fee). Operation of devices using open flames such as tar kettles, blowtorches, welding torches, portable heaters, and other flame-making equipment where approved safety measures are used.
- (7) Warming Fires (no permit/no fee). Small warming fires at construction sites in clean metal containers or contained on the bare ground within an area bordered by non-combustible materials such as rocks, cement blocks, etc.
- (8) Bonfires (permit/no fee). A permit is required for bonfires. Prior approval of combustibles, site, life safety, etc., will be required by Habersham County Emergency Services. Contact the Office Manager to schedule an inspection Monday through Friday 8:00 am – 4:00 pm at 706-839-0570.
- (9) Land Clearing for Construction (permit/no fee). Burning in residential areas for the purpose of land clearing for construction or road right-of-way construction/maintenance that is hand or machine piled. Prior approval of combustibles, site, life safety, etc., will be required by Habersham County Emergency Services. Contact the Office Manager to schedule an inspection Monday through Friday 8:00 am – 4:00 pm at 706-839-0570.
- (10) Packaging Materials (permit/no fee). Disposal of all packaging materials previously containing explosives in accordance with U.S. Department of Labor Safety Regulation.

(c) Authorized Burning Times: Fires will be authorized between sunrise and one hour before sunset seven days a week as announced by the local news media. All fires are to be completely extinguished by the specified time unless special conditions exist, and prior authorization has been granted. It is the responsibility of the party requesting the permit to notify the issuing agency of the special conditions when the permit is being issued. For special conditions contact the Office Manager at 706-839-0570 Monday through Friday 8:00 am – 4:00 pm.

- (1) No residential or land clearing open burning will be authorized when weather conditions (wind, humidity, temperature, mixing level, overcast, etc.) may jeopardize the safety of life and property as determined by Habersham County Emergency Services and based on the daily weather forecast.
- (2) No open burning will be authorized during an air pollution episode or when restrictions are imposed by a state or federal agency for other reasons.
- (3) All required permits will be issued through georgiaburnpermits.com or by calling 1-844-844-BURN ‘2876’ and all inspections will be conducted by Habersham County Emergency Services.

- (4) Permits may be revoked at any time by Habersham County Emergency Services or by the Georgia Forestry Commission if conditions or restrictions require such.
- (5) Permits are valid for 24 hours but must follow this subsection (c) - "Authorized Burning Times".
- (6) The burning of household garbage is not authorized under this article and is expressly prohibited.

Sec. 30-20. Open Burning on Privately Owned, Residential Property.

Homeowners or residents of single-family residential property are authorized to have open fires provided all the following requirements are met:

- (a) The fire must be on the property occupied by the person receiving the permit.
- (b) Only natural vegetation can be destroyed by burning. The term "natural vegetation" includes sticks, tree parts six inches and less in diameter, grass, pine straw, hedge trimmings, etc. Burning of poison oak, poison ivy and any other vegetation, which produces severe respiratory damage, is not allowed. Burning of cardboard, treated wood, materials containing petroleum products, i.e., tires, plastics, wire insulation, roofing shingles, etc., is not allowed.
- (c) No vegetation pile shall be larger than six feet in diameter by four feet in height.
- (d) There shall be a minimum of ten feet between vegetation piles.
- (e) No burning is allowed within 50 feet of a structure.
- (f) No burning is allowed within 25 feet of a wooded area, pine island, or other lightweight Class A fuel.
- (g) No fire shall be within 25 feet of the adjacent property line.
- (h) All open fires shall be constantly attended by a competent person 18 years of age or older to monitor and control such burning. A rake, shovel, or similar hand tool or land clearing machinery should be on-site to help control the fire if it were to get out of control. If possible or where available a charged water hose that will reach the most remote point of the burn should be used.
- (i) No more than two burning piles are allowed at any one time.
- (j) Failure to comply with these rules which results in an uncontrolled fire or a valid complaint by nearby property owner or resident that requires the response of Habersham County Emergency Services or one of the city fire departments will result in the fire being extinguished immediately.

Sec. 30-21. Construction Site Burning:

- (a) Only small warming fires using untreated wood or lumber are allowed. These fires are to be in a metal container such as a clean 55-gallon metal drum or on bare ground with a noncombustible boarder to contain the fire.
- (b) Fires incidental to the construction operation, i.e., tar kettle, welding torch, etc., are allowed.

(c) The developer/general contractor/landowner in control of the property is responsible for compliance with this article and the rules established by EPA/EPD.

Sec. 30-22. Land Clearing or Right-of-way Burning.

Permits for agricultural, land clearing or right-of-way burning in other than predominately residential areas will be issued if all the following conditions are met:

(a) Agriculture:

Permits may be issued for open burning of agricultural land such as the burning of pastureland or hay fields and will be issued by Georgia Forestry Commission.

(b) Land Clearing and Right-of-way Burning:

- (1) Prevailing winds at the time of the burning are away from the major portion of the area's population.
- (2) The location of the burning is not within 1,000 feet from any structure or not within 300 feet of any street, road, or highway open to the public.
- (3) The amount of dirt on or in the material being burned is minimal.
- (4) Petroleum oils, asphaltic materials, items containing natural or synthetic rubber, or any material other than plant growth are not being burned.
- (5) The company/contractor/landowner in control of the property is responsible for compliance with the requirements of this article and the rules established by EPA/EPD.
- (6) All open fires shall be constantly attended by a competent person 18 years of age or older to monitor and control such burning. A rake, shovel, similar hand tool, or land clearing machinery should be on-site to help control the fire if it were to get out of control. If possible or where available a charged water hose that will reach the most remote point of the burn should be used.

Sec. 30-23. Emergency burning.

(a) Burning of storm debris on-site may be authorized by the Habersham County Emergency Services when there is no adequate disposal facility reasonably available or other arrangements cannot be made in a reasonable time frame.

(b) Weather conditions and population density in the affected area will apply.

(c) All open fires shall be constantly attended by a competent person 18 years of age or older to monitor and control such burning. A rake, shovel, or similar hand tool, or land clearing machinery should be on-site to help control the fire if it were to get out of control. If possible or where available a charged water hose that will reach the most remote point of the burn should be used.

Sec. 30-24. Enforcement.

(a) All fire certified employees of Habersham County Emergency Services shall be responsible for the enforcement of this article.

(b) The chief officers shall be authorized to issue a citation returnable to Magistrate Court for violation of this or any other fire safety ordinance adopted by the Board of Commissioners.

(c) The sheriff's department, DNR and/or GFC may also be contacted for further enforcement or violations as Habersham County Emergency Services Chief Officers determine the severity of the offense.

2.

This ordinance shall be codified under the laws of the State of Georgia.

3.

(a) It is hereby declared to be the intention of the Habersham Board of Commissioners that all sections, paragraphs, sentences, clauses and phrases of this ordinance are upon their enactment, believed by the board of commissioners to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Habersham Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this ordinance is severable from every other section, paragraph, sentence, clause or phrase of this ordinance. It is further declared to be the intention of the board of commissioners that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this ordinance.

(c) In the event that any section, paragraph, sentence, clause or phrase of this ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the board of commissioners that such invalidity, unconstitutionally or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance and that, to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses, or phrases of the ordinance shall remain valid, constitutional, enforceable, and of full force and effect

4.

Except as otherwise provided herein, all ordinance or parts of ordinances in conflict with this ordinance are hereby repealed.

5.

This ordinance shall become effective upon its adoption.

DULY ORDAINED AND ADOPTED this _____ day of February, 2024.

**HABERSHAM COUNTY BOARD
OF COMMISSIONERS**

Chairman

Attest:

Brandalin Carnes, County Clerk