

HABERSHAM COUNTY BOARD OF COMMISSIONERS

EXECUTIVE SUMMARY

SUBJECT: Revision of Chapter 30 – Fire Prevention and Protection, Article II. Section 19-23. The ordinance pertaining to Open Burning.

DATE: 12/03/2024

RECOMMENDATION

POLICY DISCUSSION

BUDGET INFORMATION:

STATUS REPORT

ANNUAL-

OTHER

CAPITAL-

COMMISSION ACTION REQUESTED ON: 12/16/2024

PURPOSE:

To obtain approval from the Habersham County Board of Commissioners to revise the Outdoor Burn Ordinance.

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. After approval of the revision of the ordinance earlier in 2024, the Georgia Forestry Commission administration requested additional modifications, as highlighted in the updated document.
 - e. 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.
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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. GFC requires issuing the permits for “Land Clearing” fires and “Agricultural Fires”.
 - d. An evaluation of the air quality and current environmental conditions was also requested by GFC when considering the issuing of permits.
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OPTIONS:

- 1) Approve recommendation: Approve the revision to Chapter 30 – Fire Prevention and Protections, Article II. Section 19-23.
 - 2) Deny recommendation: Deny the revision of Chapter 30, Article II, section 19-23.
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3) Commission-defined alternative: As determined by the commission.

RECOMMENDED SAMPLE MOTION:

Motion to accept the revision as read to Chapter 30 – Fire Prevention and Protections, Article II. Section 19-23 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: December 16, 2024

APPROVAL DATE:

**HABERSHAM COUNTY
STATE OF GEORGIA**

AN ORDINANCE NO.: _____

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 HABERSHAM 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 (“Enforcement”).

ARTICLE II. - OPEN BURNING

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 hand piled natural vegetation permits are issued through **georgiaburnpermits.com** unless specified otherwise below.
- (2) **All machine piled natural vegetation permits are issued through the Georgia Forestry Commission (GFC) at 706-754-2354.**

(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 piled and **following the 5 STAR safety standards. Contact georgiaburnpermits.com to obtain a burn permit.**
- (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.
- (5) **Firefighter Training Fires** (no permit/no fee). Fires set for the purpose of training firefighting personnel. **(Acquired Structures Only)**
- (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). Warming fires are allowed in clean metal containers or contained on the bare ground within an area bordered by non-combustible materials such as rocks, cement blocks, etc. **Only natural vegetation can be burned.**

- (8) **Bonfires** (permit/no fee). A permit is required for bonfires. Only Natural Vegetation can be burned. Hand piled only. **Contact georgiaburnpermits.com to obtain a burn permit.**
- (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 machine piled. **Contact Georgia Forestry prior to burning at 706-754-2354.**
- (10) **Packaging Materials** (permit/no fee). Disposal of all packaging materials previously containing explosives in accordance with U.S. Department of Labor Safety Regulation. OSHA Standards (29 CFR 1910.109(e)(2)(i) and 1926.900(l)) require that packing materials which were used for packaging explosives must be burned. **Contact georgiaburnpermits.com to obtain a burn permit.**

(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 from the issuing agency. 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. **Example: A large brush pile that may burn longer than the allowable times listed above would be a special condition burn and a new permit would be required daily until it is out.**

- (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 the issuing agency either Habersham County Emergency Services or GFC and it is based on the daily weather forecast. **The landowner is responsible for their fire and smoke travel direction.**
- (2) No open burning will be authorized when restrictions are imposed by local, state, or federal agencies. **Example: Code Orange Air Quality Index (AQI).**
- (3) All required permits will be issued through **georgiaburnpermits.com** or by contacting **Georgia Forestry prior to burning at 706-754-2354 as stated in this ordinance.**
- (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 subsection (c) - **“Authorized Burning Times”**. **Authorized between sunrise and one hour before sunset seven days a week.**

- (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 Maintenance.

Homeowners or residents of single-family residential property are authorized to have open fires provided all the following requirements are met. All permits are required through georgiaburnpermits.com for this section. The 5 STAR safety standards must be followed.

- (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. Hand piled only. 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 a nearby property owner or resident that requires the response of Habersham County Emergency Services, GFC or one of the City Fire Departments will result in the fire being extinguished immediately and may result in a fine being issued to the responsible party.

Sec. 30-21. Construction Site Burning:

- (a) Only small warming fires using natural vegetation 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 required by contacting **Georgia Forestry prior to burning at 706-754-2354.**

(b) Land Clearing and Right-of-way Burning: Permits required by contacting **Georgia Forestry prior to burning at 706-754-2354.**

- (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. 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.

CHANGES TO GEORGIA'S OUTDOOR BURN NOTIFICATION SYSTEM

(SENATE BILL 119 – O.C.G.A. 12-6-90) - EFFECTIVE JULY 1, 2021

How has the burn notification law changed?

GA code section 12-6-90 eliminates the need to notify the Georgia Forestry Commission when a person, firm, corporation or association intends to burn hand-piled vegetation/yard debris. Important fire prevention precautions for burners, however, were added.

If I don't have to call for permission, can I simply light the match?

NO! The new law mandates the person burning take full responsibility for keeping their fire contained and is required to ensure FIVE SAFETY STANDARDS are followed.



What are the five safety standards and how will I remember them?

Before you burn, "Take Five," and remember the acronym, "S-S-T-A-R." Each of the star's five points represents a burning safety standard:

Space – Burn location must be no less than 25 feet from any woodlands, forestland or field that contains brush, grass or other flammable material.

Space – Burn location must be no less than 50 feet from structures, which includes homes, outbuildings, sheds and barns.

Time – Burning must take place between sunrise and sunset.

Attendance – Person responsible must attend burning at all times until fire is completely extinguished and there is no risk for burning to escape control.

Reasonable Precautions – Person responsible must take reasonable and necessary precautions to prevent fire escape or spread from the original location.

What constitutes “reasonable precautions?”

Some examples include:

- Continuous pressurized water source on site, such as water hose. Buckets of water or hand-held sprayers do not meet legal requirements.
- Man-made or natural barrier to contain your fire such as bare soil, rocks, bricks or burn barrel.
- Hand tools or fire-containing equipment on site, such as rake, shovel, garden hoe, etc.
- Weather awareness to NWS red flag warnings, High Fire Danger designation of Class 4 or Class 5 days and other hazardous conditions, such as prolonged drought, low relative humidity or high winds, etc.

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, unconstitutionality 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 December 2024.

**HABERSHAM COUNTY BOARD
OF COMMISSIONERS**

Chairman

Attest:

Brandalin Carnes, County Clerk