

STATE OF GEORGIA
COUNTY OF GWINNETT

ORDINANCE O-72-08

AN ORDINANCE TO AMEND CHAPTER 26, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF BERKELEY LAKE TO MODIFY SECTION 26-21 TO INCREASE THE MAXIMUM FINE FROM \$500 TO \$1000 AND PROVIDE FOR EACH DAY OF VIOLATION AS A SEPARATE OFFENSE; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR A REPEAL OF CONFLICTING PROVISIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ARTICLE II. AIR QUALITY CONTROL

Sec. 26-19. Open burning.

- (a) *Generally.* Except as hereinafter provided in subsection (b) of this section, no person shall kindle an open fire in any public or private place outside any building. Fires started in violation of this section shall be promptly extinguished by the person responsible for same upon notice by the ordinance enforcement officer, the fire chief or his duly designated agent. During the existence of an air pollution alert, as may be declared by the mayor, all exceptions are void and no open fires shall be kindled.
- (b) *Exceptions.* Open burning may be done under permit as follows:
- (1) Application for burning permits shall be made to and on forms provided by the ordinance enforcement officer.
 - (2) No permit shall be issued unless the issuing officer is satisfied that:
 - a. There is no practical available alternate method for the disposal of the material to be burned;
 - b. No hazardous condition will be created by such burning;
 - c. No salvage operation by open burning will be conducted; and
 - d. No leaves will be burned in those areas where provision is made for public collection.
 - (3) Any permit issued may be limited by the imposition of conditions to:
 - a. Prevent the creation of excessive smoke; or
 - b. Protect property and the health, safety, and comfort of persons from the effects of the burning.

- (4) If it becomes apparent at any time to the ordinance enforcement officer that limitations need to be imposed for any of the reasons stated in subsection (b)(3) of this section, the ordinance enforcement officer or his duly designated agent shall notify the permittee in writing and any limitations so imposed shall be treated as conditions under which the permit is issued.
- (c) *Burning restrictions and limitations.* Open burning may be done without permit as follows:
- (1) Open fires may be set in performance of an official duty of any public officer if the fire is necessary for one or more of the following reasons or purposes:
 - a. For the prevention of a fire hazard which cannot be abated by another means;
 - b. For the instruction of public firefighters or industrial employees under supervision of the fire chief; or
 - c. For the protection of public health.
 - (2) Fires may be used for the cooking of food.
 - (3) Devices that may be used for heating by construction or other workers, provided no smoke violation or other nuisance is created.
 - (4) Fires may be set in the course of agricultural operations in growing crops or raising fowl or animals, provided no nuisance is created.
 - (5) Open fires may be set for recreational purposes, such as campfires, provided no smoke violation or nuisance is created.

(Code 2004, § 13-102)

Sec. 26-20. Enforcement.

The provisions of this article shall be enforced by the ordinance enforcement officer and such subordinate officers as are necessary to effectuate the requirements set forth herein.

(Code 2004, § 13-103)

Sec. 26-21. Penalties.

- (a) Action pursuant to this section shall not be a bar to enforcement of this article by injunction or other appropriate remedy, the ordinance enforcement officer shall have the power to institute and maintain in the name of the municipality any and all such enforcement proceedings.
- (b) Any person who shall violate any of the provisions of the fire prevention code or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, shall for each such failure or violation or noncompliance, where each day such failure, violation or noncompliance continues constitutes a separate offense, be punished by a fine not to exceed \$1000.00 and costs, all of such penalties to be imposed in the discretion of the judge of the municipal court.

Deleted: 500

- (c) Nothing in this article shall be construed to abridge, limit, or otherwise impair the right of any person to maintain any action or other appropriate proceeding for damages or other relief on account of injuries to persons or property.

(Code 2004, § 13-104)