

STATE OF GEORGIA
COUNTY OF GWINNETT

ORDINANCE O-76-08

AN ORDINANCE TO AMEND CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF BERKELEY LAKE TO MODIFY SECTION 30-6 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.

Chapter 30 FIRE PREVENTION AND PROTECTION*

***Charter references:** Incorporation and powers, article 1: powers and construction, § 1.12; judicial branch, article 4: jurisdiction, § 4.13.

State law references: Fire protection is a home rule power of municipalities, Ga. Const. art. IX, § 2, ¶ III(a)(1).

- Sec. 30-1. Adoption of county fire prevention code.
- Sec. 30-2. Definitions.
- Sec. 30-3. Exceptions to fire prevention code.
- Sec. 30-4. Enforcement.
- Sec. 30-5. Power to make modifications.
- Sec. 30-6. Penalties.

Sec. 30-1. Adoption of county fire prevention code.

There is hereby adopted by the mayor and city council, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Gwinnett County Fire Prevention Code, recommended by the county commissioners, being particularly the most recent edition thereof and the whole thereof, except for such portions as may be hereinafter deleted, modified or amended, of which code not less than one copy has been and now is filed in the office of the city clerk; and the same is adopted and incorporated as fully as if set out at length herein, and from the date on which this section shall take effect, the provisions thereof shall be controlling within the corporate limits of the city.

(Code 2004, § 10-101)

Sec. 30-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bureau of fire prevention means the fire department of the county.

Chief of the bureau of fire prevention means the chief of the fire department of the county.

Corporate counsel means the city attorney.

Municipality means this city.

(Code 2004, § 10-102)

Sec. 30-3. Exceptions to fire prevention code.

- (a) Notwithstanding anything in the fire prevention code of the county to the contrary, and except as hereinafter provided in subsection (c) of this section, the open and outdoor burning of garbage, debris, leaves, limbs, or other yard waste materials shall not be permitted within the municipal limits of the city. This provision shall not apply to land clearing activities under permit from the state environmental protection division.
- (b) Except as hereinafter provided in subsection (c) 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 the 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.
- (c) 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 itself.
 - (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 (c)(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.

- (d) 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) Recreational campfires or bonfires shall be allowed using wood or coal as a fuel provided they do not create excessive smoke. In no case shall such fire be fueled by trash or leaves.

(Code 2004, § 10-102.1)

Sec. 30-4. Enforcement.

- (a) The fire prevention code adopted herein shall be enforced by the county fire chief and such subordinate officers and firefighters of the fire department as are required to effectuate the provisions of said code.
- (b) The ordinance enforcement officer shall have the authority to enforce the provisions of this article.

(Code 2004, § 10-103)

Sec. 30-5. Power to make modifications.

The chief of the county fire department shall be authorized to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee of any property, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the Code; provided that the spirit of the Code shall be observed and the public safety secured. The particulars of such modification when granted or allowed, and the decision of the fire chief thereon shall be entered upon the records of the department, and a signed copy shall be forwarded to the applicant.

(Code 2004, § 10-104)

Sec. 30-6. Penalties.

- (a) 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, or by imprisonment not to exceed 60 days, or both, any and all of such penalties to be imposed in the discretion of the judge of the municipal court.
- (b) Any person found to be in violation of this chapter will be issued a citation and, if found guilty of such violation, shall be punished as provided for in this Code.

(Code 2004, § 10-105)

Comment [LGT1]: Not sure it makes much sense to add the "each day of violations constitutes a separate offense" here.

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