

STATE OF GEORGIA

EFFINGHAM COUNTY

**PROPOSED AMENDMENT TO PART II, CHAPTER 36, ARTICLE IV**  
**OF THE EFFINGHAM COUNTY CODE OF ORDINANCES**

AN ORDINANCE TO AMEND PART II, CHAPTER 36, ARTICLE IV. THE EFFINGHAM COUNTY CODE OF ORDINANCES AND TO REPEAL ALL OTHER ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED by the Effingham County Board of Commissioners in regular meeting assembled and pursuant to lawful authority thereof:

**Section 36-4-1. Purpose.**

This Ordinance protects life, safety, health, property, and welfare of the public by regulating open burning, minimizing smoke and air-quality impacts, and reducing wildfire risk, while maintaining coordination with the Georgia Forestry Commission (GFC) and the Georgia Environmental Protection Division (EPD).

**Section 36-4-2. Definitions.**

For purposes of this Ordinance, the following words and phrases shall have the meanings set forth below:

- ***Agricultural Burning*** - Burning of vegetation resulting from agricultural operations, including crop residue such as stalks, leaves, or stubble following harvest.
- ***Air Curtain Destructor (ACD)*** - An engineered combustion device that uses a high-velocity curtain of air to reduce smoke during land-clearing or right-of-way burning operations and is regulated under EPD Rule 391-3-1-.02(5).
- ***Authority Having Jurisdiction (AHJ)*** - Effingham County Fire Chief, or designee.
- ***Bonfire*** - A fire greater than five (5) feet in diameter or greater than three (3) feet in height.
- ***Burn Ban*** - Temporary or seasonal suspension of open burning due to fire danger or air-quality conditions.
- ***Campfire or Recreational Fire*** - A small fire not exceeding three (3) feet in diameter and two (2) feet in height.
- ***Development Activity*** - Any land-clearing, grading, earthmoving, timber removal, right-of-way clearing, or site preparation associated with construction, subdivision development, utilities installation, roadway or infrastructure improvements, or any other land disturbance. Does not include agricultural operations or forestry practices unless designated by the County.
- ***Household Garbage/Trash*** – All solid waste materials normally generated in or about households, including animal, vegetable, and fruit refuse and other refuse matter ordinarily generated as by-products of residential activities, such as tin cans, bottles, paper, cardboard, plastics, wrapping or packaging materials, food scraps, ashes, and similar items.

Household garbage/trash does not include yard debris, vegetative waste, or industrial, construction, or hazardous waste.

- **Notification** - Notice provided to the Georgia Forestry Commission (GFC) under circumstances where a formal permit is not required (e.g., agricultural or prescribed burns).
- **Nuisance** - Smoke, odor, or particulate matter that unreasonably interferes with the use and enjoyment of property or public health, as determined by the AHJ.
- **Open Burning** – Any open fire or combustion of materials in the outdoor environment from which the products of combustion are emitted directly into the open air without passing through a stack, chimney, or duct, including but not limited to yard debris burning, land-clearing fires, and vegetative pile burning.
- **Outdoor Fire Containment Device** - Any stationary or portable device or structure designed to contain an outdoor fire for cooking, heating, disposal, recreation, or aesthetic purposes, including but not limited to an open pit, masonry pit, incinerator device, smoker, barrel, drum, fire pit, chiminea, or gas-fueled or decorative flame feature.

Such devices shall not be used to burn prohibited materials and are subject to all applicable setback requirements, subdivision or development restrictions, and nuisance standards established by this Ordinance and enforced by the Authority Having Jurisdiction (AHJ).

- **Permit** – An authorization issued by the Georgia Forestry Commission for a specified burning operation under **O.C.G.A. §12-6-90**
- **Prescribed Burn** - A planned and controlled fire for forestry or agricultural management conducted under authorization of the Georgia Forestry Commission.
- **Prohibited Materials** – Materials that are unlawful to burn under this Ordinance or applicable State law, including but not limited to household garbage/trash, plastics, tires, rubber, treated or painted wood, construction or demolition debris, any non-vegetative debris, petroleum-based products, or hazardous substances.
- **Residential Subdivision** - A platted neighborhood or multi-family development with three (3) or more residences.
- **Sensitive Receptors** – Schools or academies, preschools, day-care facilities, hospitals, health care facilities, nursing homes, assisted-living facilities, and landmark buildings.
- **Vegetative Debris** - Organic plant material generated from natural growth, maintenance, or clearing.
- **Yard Debris** - Organic plant material generated from routine residential or non-commercial maintenance.

### **Section 36-4-3. Applicability; Compliance with State and Federal Law.**

This Ordinance shall apply to all open burning activities conducted within Effingham County. Compliance with this Ordinance does not relieve any person of obligations imposed by State or Federal law.

### **Section 36-4-4. Prohibited Burning Conditions (Weather and Safety).**

Open burning may be prohibited during any Red Flag Warning, Fire Danger Advisory, burn ban, or suspension issued by the County, GFC, or EPD; during the EPD Summer Open Burning Ban where applicable; when sustained wind speeds exceed ten (10) miles per hour; when relative humidity falls below thirty percent (30%); during fog, atmospheric inversions, or other conditions preventing adequate

smoke dispersion; within twenty-four (24) hours following the passage of a cold front; or during any wind, drought, or atmospheric condition deemed hazardous by the AHJ.

#### **Section 36-4-5. Setbacks and Location Requirements.**

All open burning shall comply with the following minimum setback requirements unless a greater distance is required by the Authority Having Jurisdiction (AHJ):

- (a) Structures:** fifty (50) feet;
- (b) Property line boundaries:** fifty (50) feet;
- (c) Public roads:** one hundred fifty (50) feet;
- (d) Woodlands, brush, or flammable vegetation:** twenty-five (25) feet;
- (e) Wetlands or streams:** two hundred fifty (25) feet;
- (f) Above-ground utilities or power lines:** one hundred (50) feet;
- (g) Sensitive Receptors:** five hundred (500) feet.

All open burning shall comply with minimum setback distances established by this Ordinance from structures, property lines, public roads, utilities, woodlands, wetlands, and Sensitive Receptors. The AHJ may require increased setbacks based on-site specific hazards.

#### **Section 36-4-6. Prohibited Acts.**

Except as otherwise expressly authorized by State law, it shall be unlawful to:

- (a)** Burn Prohibited Materials;
- (b)** Burn transported, collected, or off-site materials not generated on the premises;
- (c)** Conduct burning without required State authorization or notification;
- (d)** Conduct burning that reduces visibility on any public roadway to less than three hundred (300) feet. *Compliance with setback requirements shall not relieve any person of the obligation to prevent smoke or visibility hazards on public roadways;*
- (e)** Conduct burning within a Residential Subdivision except as expressly permitted under Section 36-4-11(a);
- (f)** Conduct burning during any weather or safety condition prohibited under Section 36-4-4;
- (g)** Conduct burning as a substitute for lawful solid waste disposal.

#### **Section 36-4-7. Smoke; Visible Emissions; Nuisance.**

All burning shall be conducted so as to prevent nuisance smoke, odor, or particulate matter. Burning that unreasonably interferes with the use and enjoyment of property, public health, or roadway safety constitutes a public nuisance as determined by the Authority Having Jurisdiction (AHJ) or their designee, regardless of whether the burning activity is otherwise authorized.

Visible emissions from Air Curtain Destructor (ACD) operations shall not exceed forty percent (40%) opacity, except during initial start-up or necessary adjustment for the minimum time reasonably required. The operator shall take immediate corrective action upon observation of excess opacity. All applicable provisions of the Georgia Basic Smoke Management Plan shall be followed.

#### **Section 36-4-8. Operating Requirements; Supervision; Extinguishment.**

**(a) Hours of Operation.** Open burning shall be permitted only between sunrise and sunset.

**(b) Supervision Requirements.** No person shall conduct outdoor burning unless the fire is continuously supervised and attended by a responsible adult or other qualified person from ignition through extinguishment, except as otherwise determined by the AHJ.

**(c) Extinguishment.** The Authority Having Jurisdiction (AHJ) or their designee may order immediate extinguishment of any fire deemed unsafe, noncompliant, or a nuisance.

### **Section 36-4-9. Post-Burn Responsibilities; Disposal.**

The responsible party shall conduct adequate mop-up and monitoring to prevent rekindle or smoke impacts. Ash and debris shall be disposed of at a County-approved facility unless otherwise authorized by law.

### **Section 36-4-10. State Authorization and Notification.**

All burning shall comply with applicable notification and authorization requirements of the Georgia Forestry Commission, the Georgia Environmental Protection Division, and other applicable State or Federal authorities. Proof of required authorization shall be made available upon request.

### **Section 36-4-11. Burn Types; Special Provisions.**

**(a) Residential and Yard Debris Burning.** Residential burning is limited to hand-piled yard debris generated on-site. Burning shall comply with Sections 36-4-4 through 36-4-10.

**(b) Development Activity and Land-Clearing Burning.** Open burning of vegetative debris generated from Development Activity is permitted only when located one-half (1/2) mile or more from any occupied structure. Burn sites located less than one-half (1/2) mile from any occupied structure **shall be required** to utilize an Air Curtain Destructor (ACD). All such burning shall comply with Sections 36-4-4 through 36-4-10 and applicable State authorizations.

#### **(c) Air Curtain Destructor (ACD) Operations.**

1. **Purpose and Operating Guide.** An Air Curtain Destructor (ACD) is a forced-air pit incinerator designed for the disposal of authorized vegetative debris by directing a high-velocity curtain of air across the combustion zone to improve combustion efficiency and reduce visible smoke. ACDs shall be operated only in accordance with manufacturer specifications, this Ordinance, and applicable Georgia Environmental Protection Division (EPD) and Georgia Forestry Commission (GFC) requirements.
2. **Hours of Operation.** Operation of an ACD shall be permitted only during the period commencing thirty (30) minutes prior to sunrise and concluding thirty (30) minutes prior to sunset.
3. **Prohibited Operating Periods.** Operation of an ACD is prohibited during any condition listed in Section 36-4-4, and during any additional condition deemed hazardous by the Authority Having Jurisdiction (AHJ).
4. **Safety Barriers.** A fence, barricade, or other barriers shall be installed and maintained around the operational area of the ACD to restrict unauthorized access and protect public safety.

**(d) Industrial and Commercial Burning.** Industrial and commercial burning is permitted only when expressly authorized by applicable State agencies and shall comply with Sections 36-4-4 through 36-4-10.

**(e) Agricultural and Prescribed Burns.** Agricultural and prescribed burns shall comply with authorization of the Georgia Forestry Commission, the Georgia Basic Smoke Management Plan, and Sections 36-4-4 through 36-4-10.

#### **Section 36-4-12. Burn Bans; Suspension Authority.**

The County may declare burn bans or suspensions when conditions warrant. During such periods, all open burning shall cease until lifted. The AHJ or their designee may extinguish fires immediately when required for public safety.

#### **Section 36-4-13. Enforcement; Penalties; Cost Recovery.**

This Ordinance shall be enforced by the Fire Chief, Code Enforcement, the Sheriff's Office, or their respective designees.

**(a) Civil Penalties.** Any person violating this Ordinance shall be subject to a civil fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000.00) per violation.

**(b) Continuing Violations.** Each day a violation continues shall constitute a separate offense.

**(c) Cost Recovery.** The County may recover suppression costs, emergency response costs, and property damage caused by unlawful burning. The minimum charges and cost recovery rates for hazardous materials emergency response shall be assessed in **accordance with Article V – Hazardous Materials, Section 36-57(e)** of the Effingham County Code of Ordinances, as amended, which is hereby incorporated by reference.

**(d) Liability.** Authorization to burn does not relieve any person of civil or criminal liability for negligence, reckless, or unlawful burning.

#### **Section 36-4-14. Appeals.**

Any appeal shall be filed within ten (10) days with the County Manager or the County Manager's designee, whose decision shall constitute the final administrative decision.

#### **Section 36-4-15. Severability; Repealer.**

If any provision of this Ordinance is held invalid, such invalidity shall not affect the remaining provisions. All ordinances or parts thereof in conflict are repealed to the extent of such conflict.

#### **Section 36-4-16. Effective Date.**

This Ordinance shall become effective upon adoption by the Board of Commissioners of Effingham County, Georgia.