

**HENRY COUNTY RESIDENTIAL
BURNING ORDINANCE**

Revised May 31, 2005

**AN ORDINANCE AMENDING
CHAPTER 3-4,**

SUBCHAPTER 2,

**ARTICLE I, SECTION 3-4-113 OF THE CODE OF HENRY COUNTY, GEORGIA,
ENTITLED “OPEN BURNING, BONFIRES, ETC.”; AND FOR OTHER PURPOSES**

An Ordinance for the purpose of amending Chapter 3-4, Subchapter 2, Article I, Section 3-4-113 of the Code of Henry County, Georgia, adopted May 1, 1984, as amended, by amending Section 3-4-113 entitled “Open Burning, Bonfires, Etc; and for other purposes.

I.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF HENRY COUNTY, GEORGIA, AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF SAME, that the Code of Henry County, Georgia, adopted May 1, 1984, as amended, is hereby amended by deleting Section 3-4-113 in its entirety and substituting in lieu thereof the following:

Section 3-4-113. Open Burning, Bonfires, Etc.

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

- (1) For recreational purposes, such as cooking food for immediate human consumption;
- (2) Fires set for the purpose of training fire-fighting personnel when authorized by the Henry County Fire Chief or Fire Marshal;
- (3) Operation of devices using open flames, such as tar kettles, blow torches, welding torches, portable heaters, and other flame-making equipment where approved safety measures are used;
- (4) Small warming fires set and maintained by contractors and tradesmen for their workers;
- (5) a. Reduction of trash and leaves on residential or domestic premises on which they fall, set and maintained by the person in contact with the premises, provided the following conditions are met:
 1. No burning of stumps or whole trees;

2. No more than one pile, 6 ft. x 6 ft. and 5 ft. high shall be burned at one time;
 3. All burning shall be carried out between 10:00 am and 6:00 pm;
 4. All fires shall be completely extinguished by 6:00 pm;
 5. No burning on Sunday;
 6. No burning within 100 feet of any type of structure;
 7. All burning shall be located on private property so as not to interfere with any traffic on public streets or sidewalks;
 8. During any open burning, a competent person of at least eighteen (18) years of age shall be constantly present to monitor and control such burning; and
 9. During any open burning, an operational garden hose or fire extinguisher must be present within 50 feet of the fire.
- b. However, at any time the Fire Chief, Fire Marshal or their designee shall have the authority to order that any fire be extinguished if they determine that the fire or smoke produced therefrom presents a danger to public safety, a nuisance or significant environmental harm.
- (b) If, in the opinion of the Fire Chief or Fire Marshal, there are no adequate disposal facilities reasonably available for the particular combustible materials involved, the following open burning may be permitted:
- (1) Carrying out recognized agricultural procedures necessary for production or harvesting of crops with approval of Georgia Forestry Commission;
 - (2) Burning over of any forest land by the owners of such land with approval of the Georgia Forestry Commission;
 - (3) Destruction of combustible demolition or construction materials either on-site or transported to a burning facility through the use of an air curtain destructor or other approved method of burning;
 - (4) Disposal of tree limbs from storm damage;
 - (5) For weed abatement, disease, and pest prevention.
- (c) Open burning, with permit only, is allowed in commercial or other areas that are not predominantly residential districts for the purpose of land clearing, construction or right-of-way maintenance, provided the following conditions are met:

- (1) Prevailing winds at the time of the burning are not excessive and are away from the major portion of the area's population;
- (2) The location of the burning is at least one thousand (1,000) feet from any dwelling located in a predominantly residential area;
- (3) The amount of dirt on or in the material being burned is minimized;
- (4) Heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any material other than plant growth are not being burned;
- (5) The size of the pile of material and quantity to be burned per day meet the specifications as may be required by the Fire Chief or Fire Marshal to ensure public safety, deter nuisance and prevent significant environmental harm;
- (6) During any open burning, a competent person of at least eighteen (18) years of age shall be present constantly to monitor and control such burning;
- (7) All burning shall be carried out between 10:00 am and 6:00 pm;
- (8) All fires shall be completely extinguished by 6:00 PM;
- (9) No burning on Sunday;
- (10) Materials such as heavy oils, gasoline, asphaltic materials, plastic, items containing natural or synthetic rubber, or any other material producing dense smoke and/or obnoxious odors shall not be used for starting or maintaining an open fire; and
- (11) Domestic or commercial burning is permitted between the months of October and April extending from, up to and including, October 1 through April 30, and is prohibited at all other times. During such October 1 through April 30 time period, a "commercial" burning permit shall be issued, upon request, authorizing burning under subsection ____ as set forth herein. A fee of one hundred dollars (\$100.00) shall be assessed for all "commercial" burning permits. A "domestic" burning permit shall not be required to authorize "domestic" burning under subsection ____ as set forth herein.

(d) Variances:

- (1) Any person desiring a variance from these regulations for open burning or desiring one of the exceptions described in subsection ____ above shall make an application therefore to the Fire Chief or Fire Marshal.
- (2) The Fire Chief or Fire Marshal may grant specific or general classes of exceptions to or variances of the particular requirements of any rule, regulation or general order upon such conditions as he may deem necessary to protect the public health, safety, and general welfare, if,

upon petition, he finds that strict compliance with such rule, regulation, or general order is inappropriate for one (1) of the following reasons:

a. Because of conditions beyond the control of the petitioner, i.e., those conditions which, though ordinary diligence is employed, remain unforeseeable or unpredictable, e.g., strikes, walkouts, or other industrial disturbances, acts of God, civil disturbances, embargoes, or other causes of like character; provided, however, that this shall not include conditions solely because they are dependent upon contingencies, i.e., including but not limited to, the variable cost or availability of maintenance, equipment, labor, raw materials, fuel or energy; or,

b. Because of special circumstances which would render strict compliance unreasonable, unduly burdensome, or impracticable due to special physical conditions or causes; or,

c. Because strict compliance would result in substantial curtailment or closing of the business operation; or,

d. Because no alternative method of handling is available.

(e) General Restrictions and Appeals:

(1) If the Fire Chief or Fire Marshal determines that certain open burning, otherwise permitted, imposes a threat to the public health, safety and general welfare, he shall have the authority to impose additional safety precautions or restrict the burning, including the issuance of a complete ban on the open burning in the particular location.

(2) Any person aggrieved by a decision of the Fire Chief or Fire Marshal may appeal in writing to the Board of Commissioners, via the County Administrator, within ten (10) days from the date of such decision. The decision of the Board of Commissioners shall be deemed final.

(3) Except for a reasonable period to get a fire started, no smoke of a shade darker than a No. 2 of the Ringlemann chart, or equivalent opacity, shall be emitted by a source of open burning listed in subsections ____ and ____ above.

(4) During an air pollution emergency declared by the Board of Commissioners or other proper county or state authorities, no open burning of any kind shall be permitted unless open burning is required in the performance of an official duty or any public office, or a fire is necessary to thwart or prevent a hazard which cannot be properly managed by any other means or is necessary for the protection of public health.

(f) Penalties:

(1) A written notification to a person/representative/entity of a violation shall be considered adequate notice of these regulations.

(2) A subsequently violation, by the same person/representative/entity, at the same or different site will result in immediately appropriate legal action.

(3) Persons violating this section shall be subject to a fine of up to one thousand dollars (\$1,000.00) per day, per violation, or sixty (60) days in jail, or any combination thereof.

(4) No provision of this ordinance will restrict or prohibit Henry County from using legal remedies to recover costs associated with containing fires or extinguishing burn piles, regardless of the possession of a permit authorized under this ordinance.

II.

Other than the specific sections of the Code of Henry County, Georgia referenced herein, the remaining sections contained within any article, chapter or section of the Code of Henry County shall remain unaltered by this ordinance.

III.

All ordinances, parts of ordinances or regulations in conflict herewith are hereby repealed.

IV.

Should any section or provision of this ordinance, as amended, be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

V.

It is the intention of the board of commissioners and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Henry County and any sections of such ordinance or Code of Ordinances may be renumbered to accomplish such intention.

VI.

This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

If you have questions pertaining to open burning, please call 770-288-6600.