

FIRST READING: June 13, 2017

PASSED: _____

AN ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF BLUE RIDGE TO REGULATE OPEN BURNING WITHIN THE CITY LIMITS OF THE CITY OF BLUE RIDGE, GEORGIA; TO PROVIDE FOR DEFINITIONS; TO PROHIBIT OPEN BURNING WITHIN THE CITY LIMITS WITHOUT OBTAINING A BURN PERMIT FROM THE GEORGIA FORESTRY COMMISSION; TO PROVIDE THAT ANY PERSON ENGAGED IN OPEN BURNING WITHIN THE CITY LIMITS OF THE CITY OF BLUE RIDGE, GEORGIA, SHALL DISPLAY UPON REQUEST TO ANY CERTIFIED LAW ENFORCEMENT OFFICER OR CERTIFIED FIREMAN, OR BOTH, THE BURN PERMIT ISSUED BY THE GEORGIA FORESTRY COMMISSION; TO PROVIDE FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR SEVERABILITY OF PROVISIONS; TO REPEAL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Blue Ridge, Georgia, pursuant to its City Charter, as amended, general law, and Georgia Administrative Code Section 391-3-1-.02(5), is authorized to regulate open burning within the City limits of the City of Blue Ridge, Georgia;

WHEREAS, the City Council finds that it is appropriate that the City allow open burning within the City limits of the City of Blue Ridge, Georgia upon condition that the person performing the act of open burning secures a burn permit from the Georgia Forestry Commission, and complies with the terms and conditions of this ordinance;

WHEREAS, the City Council finds that it is in the interest of the safety and welfare of the City that any duly certified law enforcement officer, or certified fireman, or both, can request to see and review the burn permit of any person conducting open burning within the City limits of the City of Blue Ridge, Georgia;

NOW, THEREFORE, BE IT ORDAINED and it is so ordained by the above-referenced authority, as follows:

SECTION 1. AMENDMENT TO THE CODE OF THE CITY OF BLUE RIDGE, BEING SECTIONS 92.02, 92.03, AND 92.99, AND WHICH ARE STRICKEN IN THEIR ENTIRETY, AND THE FOLLOWING SHALL BE SUBSTITUTED IN LIEU THEREOF.

The Code of the City of Blue Ridge is hereby amended by striking in their entirety Sections 92.02, 92.03 and 92.99, and substituting in lieu thereof the following new sections which shall read as follows:

SECTION 92.02 BURN PERMIT ORDINANCE.

The title of this ordinance shall be designated at the “Burn Permit Ordinance” of the City of Blue Ridge, Georgia.

SECTION 92.03 DEFINITIONS.

Unless a different meaning is required by the context, the following terms as used in this ordinance shall have the meaning hereinafter respectively ascribed, except that to the extent terms are not defined in this ordinance the Georgia Air Quality Act’s definitions control; and provided, that definitions within any subsequent State of Georgia rule, or subdivision thereof, which are expressly made applicable to the rule or subdivision within which they appear, shall apply for purposes of such specific rule or subdivision thereof; and provided the definitions appearing in Federal regulations adopted by reference shall control in the application of the related Federal regulations to which they apply under the Federal Act; and provided further, that in officially designated non-attainment areas the definitions contained in 40 CFR 51.165(a)(1)(i) through (xix) shall apply. 40 CFR 51.165(a)(1)(i) through (xix), as amended, is hereby incorporated and adopted by reference.

- (a) **“Acquired structure burn”** is the burning of a house, building or structure for the exclusive purpose of providing training to fire-fighting personnel or arson investigators.
- (b) **“Act”** means Part I of Chapter 9 of Title 12 of the Official Code of Georgia Annotated (O.C.G.A. Section 12-9-1, et seq.) **“The Georgia Air Quality Act.”**
- (c) **“CRR”** means the **“Code of Federal Regulations.”**
- (d) **“Conditions beyond control of”** shall mean only those conditions which, though ordinary diligence be employed, remain unforeseeable, or unpredictable, such as, strikes, walkouts, or other industrial disturbances, acts of God, civil disturbances, embargos, or other causes of like character provided, however, that this term shall not include conditions solely because they are dependent upon contingencies, that is, conditions such as but not limited to, the variable cost or availability of maintenance, equipment, labor, raw materials, fuel or energy.
- (e) **“Day”** means a 24-hour period beginning at midnight or such other 24-hour period as agreed by the Director.
- (f) **“Department”** means the Department of Natural Resources of the State of Georgia.
- (g) **“Director”** means the Director of the Environmental Protection Division of the Department of Natural Resources, State of Georgia.
- (h) **“EPA”** means the United States Environmental Protection Agency.
- (i) **“Opacity”** means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background and is expressed in terms of percent opacity. As used in this ordinance, the measurement of percent opacity does not include the measurement of the obscuration of view due to uncombined water

droplets. Any determination of the percent opacity shall be made by the arithmetic average of six minutes of data. With respect to the determination of percent opacity, the six minute average shall be based on either an average of 24 or more opacity data points equally spaced over a six minute period or an integrated average of continuous opacity data over a six minute period. The six minute period for continuous opacity monitors shall be considered to be any one of ten equal parts of a one hour period commencing on the hour. Any visual observation or determination of opacity taken for the purpose of determining compliance with any requirement of this ordinance shall be made by personnel certified according to procedures established for such certification by the Division or by EPA to make such observation or determination.

- (j) **“Open-burning”** means any outdoor fire from which the products of combustion are emitted directly into the open air without passing through a stack, chimney or duct.
- (k) **“Prescribed burning”** means the controlled application to fire to existing vegetative fuels under specified environmental conditions and following appropriate precautionary measures, which causes the fire to be confined to a predetermined area and accomplishes one or more planned land management objectives as specified in paragraphs of O.C.G.A. Sections 12-6-146(3), (4), and (7) of the Georgia Prescribed Burning Act or to mitigate catastrophic wildfires. Burning to facilitate land use changes (such as a change from forest land to residential, commercial, or industrial development or a different agricultural use) is not considered prescribed burning, and should therefore be considered a land-clearing operation subject to the provisions of subparagraph 391-3-1(5)(a)11 of the Georgia Administrative Code. (Note: This

definition includes what was previously defined as prescribed burning and as slash burning.)

- (l) **“Smoke”** means small gas-borne particles resulting from incomplete combustion, consisting predominately of carbon, ash and other combustible materials, that form a visible plume.
- (m) **“Source” or “facility”** means any property, source, facility, building, structure, location, or installation at, from, or by reason of which emissions or air contaminants are or may reasonably be expected to be emitted into the atmosphere. Such terms included both real and personal property, stationary and mobile sources or facilities, and direct and indirect sources or facilities, without regard to ownership, and both public or private property. An “indirect” source or facility is a source or facility which attracts or tends to attract activity that results in emissions of any air pollutant for which there is an ambient air standard.
- (n) **“Standard conditions”** means a temperature of 20°C (68°F) and pressure of 760 millimeters of mercury (29.92 inches of mercury).
- (o) **“Visible emissions”** means any emission which is capable of being perceived visually.

SECTION 92.04 BURN PERMIT REQUIRED.

- (A) Except as hereinafter provided in subsection (B) of this section, no person shall conduct open burning within the City limits of the City of Blue Ridge, Georgia. During the existence of an air pollution alert, or a no burn ban, or both, as may be determined by the Department, the Division, or the Georgia Forestry Commission, or

any combination thereof, all exceptions are void and no open burning shall be conducted.

(B) Upon receipt of a burn permit from the Georgia Forestry Commission, a person may cause, suffer, allow, or permit open burning within the City limits of the City of Blue Ridge, Georgia, as to the following materials or activities, or both, but subject to the terms and conditions of the burn permit issued by the Georgia Forestry Commission, and the terms and conditions of this ordinance as provided herein:

1. Reduction of leaves on the premises on which they fall by the person in control of the premises, unless prohibited by City ordinance and/or State regulation.
2. Carrying out recognized agricultural procedures necessary for production or harvesting of crops.
3. The “prescribed burning” of any land by the owners or the owner’s designee.
4. For recreational purposes or cooking food for immediate human consumption.
5. Fires set for purposes of training fire-fighting personnel when authorized by the City and other appropriate governmental entities.
6. Acquired structure burns provided that an Authorization to Burn certificate has been issued by the Division.
7. Disposal of vegetative debris from storm damage.
8. For weed abatement, disease, and pest prevention.
9. Operation of devices using open flames such as tar kettles, blow torches, welding torches, portable heaters and other flame-making equipment.
10. Open burning for the purpose of land clearing or construction or right-of-way

maintenance provided the following conditions are met:

- a. Prevailing winds at the time of the burning are away from the major portion of the area's population;
- b. The location of the burning is at least 1,000 feet from any occupied structure, or less distance if approved by the Division;
- c. The amount of dirt on or in the material being burned is minimized;
- d. Heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant growth are not being burned; and
- e. No more than one pile 60 feet by 60 feet, or equivalent, is being burned within a 9-acre area at one time.

11. Disposal of all packaging materials previously containing explosives, in accordance with U.S. Department of Labor Safety Regulations.

12. Open burning of vegetative material for the purpose of land clearing using an air curtain destructor provided the following conditions are met:

- a. Authorization for such open burning is received from the fire department, if required, having local jurisdiction over the open burning location prior to initiation to any open burning at such location;
- b. The location of the air curtain destructor is at least 300 feet from any occupied structure or public road. Air curtain destructors used solely for utility line clearing or road clearing may be located at a lesser distance upon approval by the Division;

- c. No more than one air curtain destructor is operated within a ten (10) acre area at one time or there must be at least 1000 feet between any two air curtain destructors;
- d. Only wood waste consisting of trees, logs, large brush and stumps which are relatively free of soil are burned in the air curtain destructor;
- e. Tires or other rubber products, plastics, heavy oils or asphaltic based or impregnated materials are not used to start or maintain the operation of the air curtain destructor;
- f. The air curtain destructor is constructed, installed and operated in a manner consistent with good air pollution control practice for minimizing emissions of fly ash and smoke;
- g. The cleaning out of the air curtain destructor pit is performed in a manner to prevent fugitive dust; and
- h. The air curtain destructor cannot be fired before 10:00 a.m. and the fire must be completely extinguished, using water or by covering with dirt, at least one hour before sunset.

13. Except for a reasonable period to get the fire started, no smoke the opacity of which is equal to or greater than 40 percent, shall be emitted from any source of open burning listed in subsection (B) above except as follows. Prescribed burning, slash burning, agricultural burning and acquired structure burning are not subject to the 40 percent opacity standard in this paragraph.

14. The Director may allow open burning prohibited under paragraph (B), upon a determination that such open burning is necessary to protect the public health,

safety or welfare of the people of the State of Georgia, or there are no reasonable alternatives to the open burning.

15. Prescribed burning conducted under subparagraph (B)3. is subject to authorization by the Georgia Forestry Commission to include burning restrictions during periods that are conducive to the formation of ozone. Federal facilities which conduct prescribed burning in accordance with subparagraph (B)3. that are not required to obtain authorization from the Georgia Forestry Commission for such burning shall institute measures to ensure that prescribed burning is not conducted during periods conducive to the formation of ozone.

SECTION 92.05 ENFORCEMENT.

These Code provisions may be enforced by any duly certified law enforcement officer or any certified fireman, authorized to act within the City limits of the City of Blue Ridge, Georgia, and who may issue citations for violation of these provisions regarding open burning. Any duly certified law enforcement officer, or duly certified fireman, or both, shall have the right to request that a person conducting an open burning within the City limits of the City of Blue Ridge, display and provide to said officials, the person's burn permit issued by the Georgia Forestry Commission, and the failure to display the burn permit or have a burn permit, or both, shall be a violation of this ordinance.

SECTION 92.06 PENALTIES.

Any person found by a court of competent jurisdiction, which shall include but is not limited to the Municipal Court of the City of Blue Ridge, to have violated this ordinance of the City of Blue Ridge, shall be subject up to the maximum fine or incarceration, or both, allowed by

the City Charter or by general Georgia law, and as determined by said Court. The Municipal Court of the City of Blue Ridge, by and through an administrative order or rule of the judge, may adopt an appropriate fine schedule for such ordinance violation as the judge deems appropriate, and which will allow violators to enter a plea and pay the fine and costs without the necessity of court appearance.

SECTION 2. **REPEAL OF CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT.**

All parts of previously ordained ordinances in conflict with the terms of this Ordinance are hereby repealed to the extent of the conflict; but it is hereby provided that any ordinance or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof and shall be legally construed to be in favor of upholding this ordinance on behalf of the City of Blue Ridge, Georgia.

SECTION 3. **SEVERABILITY.**

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this ordinance should be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances should be declared invalid or unconstitutional, such invalidity shall not be construed to effect the provisions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Blue Ridge to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION 4. **REPEAL OF PRIOR ORDINANCE.**

The prior burn permit ordinance, as amended, being Code Sections 92.02, 92.03 and 92.99, and adopted by the City Council of the City of Blue Ridge, Georgia are hereby repealed in

their entirety. Any other ordinance or a part of an ordinance in conflict with this ordinance, is hereby repealed to the extent of the conflict.

SECTION 5. EFFECTIVE DATE.

The effective date of this ordinance will be upon its passage by the City Council of the City of Blue Ridge, Georgia.

SO ORDAINED this _____ day of _____, 2017.

BLUE RIDGE CITY COUNCIL

By: _____
Mayor

Councilperson

Councilperson

Councilperson

Councilperson

Councilperson

Attest:

Kelsey Ledford, City Clerk