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Darlington County, SC  
Scott B. Suggs Clerk of Court

File **2011-15**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DARLINGTON )

**ORDINANCE NO. 11-15**

**AN ORDINANCE TO AMEND THE DARLINGTON COUNTY CODE OF ORDINANCES BY ADDING SECTIONS TO CHAPTER 26 (FIRE PREVENTION AND PROTECTION) TO REGULATE OPEN BURNING OF LEAVES, TREE BRANCHES, AND YARD TRIMMINGS ORIGINATING ON THE PREMISES OF PRIVATE RESIDENCES AND BURNED ON THOSE PREMISES**

**NOW, THEREFORE, BE IT ORDAINED** by the governing body of Darlington County, South Carolina, the Darlington County Council, that:

**Section 1. Compliance with chapter provisions.**

No person shall kindle or maintain any open burning or authorize any such fire to be kindled or maintained within the unincorporated areas of the county, except as stated in this article.

**Section 2. Definitions.**

- a. Dwellings. Any structure designed for human occupancy that includes sleeping accommodations.
- b. Business. Any business conducting operations within Darlington County.
- c. Competent Person. An individual 18 years or older who is not under the influence of drugs or alcohol or suffering from any other disability which would impair his or her ability to properly supervise a fire.
- d. Prescribed Fire (as it relates to forestry, wildlife, and agriculture burns). The controlled application of fire to vegetative fuels in either their natural or modified state (i.e. bush hogged, herbicide treated, piled, or chopped), under planned weather and fuel moisture conditions, and confined to a predetermined area to accomplish certain objectives as related to forestry, wildlife and agricultural purposes. These burns shall be in compliance with Smoke Management Guidelines, the Notifications/Precautions law (SC Code 48-35-10) and DHEC regulation 61-62.2.

- e. Ceremonial or religious fire. A fire associated with a religious ceremony or ritual.
- f. Recreational fire. A fire contained within a pit, barrel, or other non-combustible enclosure for the purpose of pleasure, religious, ceremonial or other similar purposes.
- g. Warming Fire. A fire contained within a pit, barrel, or other non-combustible enclosure for the purpose of warming or other similar purposes.

**Section 3. Open burning on the premises of private residences and businesses.**

Open burning of leaves, tree branches and yard trimmings originating on the premises of private residences or businesses and burned on those premises shall be permitted, provided that any fire must be located not less than 25 feet from any structure or road and adequate provision has been made to prevent the fire from spreading to within 25 feet of any such structure or road. Provided, however, if the structure is a dwelling or business any fire must be located not less than 50 feet from the dwelling or business and adequate provision has been made to prevent the fire from spreading to within 50 feet of the structure.

**Section 4. Open burning on the premises of undeveloped properties for the purpose of land clearing or right-of-way maintenance.**

Open burning on the premises of undeveloped properties upon which no private residence is situated for the purpose of land-clearing or right-of-way maintenance shall be permitted, provided that such burning is conducted in accordance with applicable SC Department of Health and Environmental Control (DHEC) Air Quality Regulations and South Carolina law including S.C. Code 1976, §48-35-10 *et seq.*

**Section 5. Attendant and fire extinguishing equipment required; notice to state forester; adherence to state law.**

The burning must be constantly attended by a competent person until such fire is extinguished. Such person shall have a garden hose connected to a water supply, or other fire extinguishing equipment readily available for use. Proper notification shall be given to the state forester or his duly authorized representative or other persons designated by the state forester. The notice shall contain all information required by the state forester or his representative. The burning must be conducted in accordance with related state laws and regulations including, but not limited to, DHEC Air Quality Regulations and South Carolina law including S.C. Code 1976, §48-35-10 *et seq.*

**Section 6. Fires shall be prohibited as follows:**

- a. The County Fire Chief may prohibit open burning when atmospheric conditions, local circumstances or other conditions exist that would make such fires hazardous.
- b. The County Fire Chief may prohibit the sale, use, possession or display of fireworks and ignitable aerial devices in conjunction with an organized event in the County attended by more than five thousand persons. This ban may be enforced from one week prior to said event, the duration of the event and one week after the same and shall extend for three miles in all directions. This section will not apply to licensed pyrotechnic displays as regulated by the SC State Fire Marshal.
- c. All burning governed by this regulation shall be prohibited when a red flag alert or burning ban is issued by the SC Forestry Commission.
- d. The following materials shall not be burned in an open fire: asphalt and asphaltic materials, paint, plastics, metals, treated wood, paper, petroleum products, demolition debris, dead animals, construction debris, household chemicals, household garbage, tires, trade waste and cardboard.

**Section 7. Criteria for determining hazards.**

Reasonable criteria shall be established by the county council to assist in determining when outdoor fires may be hazardous. These criteria may include air quality standards as well as various fire danger indexes.

**Section 8. Prohibited on county roads, drainage rights-of-way and adjacent areas.**

Open burning shall be prohibited on all county roads and drainage rights-of-way, or within an area that may cause damage to such areas.

**Section 9. Exemptions.**

- a. This article does not apply to prescribed fires including vegetative debris burning related to forestry, wildlife and agricultural burns, as authorized by the state forestry commission.
- b. This article is not meant to restrict open burning in the connection with the preparation of food for immediate consumption, or campfires and fires used

solely for recreational purposes, ceremonial occasions or human warmth that are done in a safe manner.

**Section 10. Restrictions; exceptions.**

Smoke production must be ended and no combustible material may be added to the fire between official sunset of one day and official sunrise of the following day with the exception of fires in the connection with the preparation of food for immediate consumption, or campfires and fires used solely for recreational purposes, ceremonial occasions, or human warmth and fires where time parameters are already regulated by the Department of Environmental Control Regulations.

The Darlington County Administrator and Darlington County Fire Chief may prohibit open burning of debris following a significant disaster.

The Darlington County Administrator and Darlington County Fire Chief may also designate specific disposal sites for debris and allow these sites to burn said debris under the direction of county employees following a significant disaster. Such disposal sites shall be determined in conjunction with the SC Department of Health and Environmental Control and the SC Forestry Commission.

**Section 11. Hazardous or toxic materials.**

Hazardous or toxic materials shall not be burned.

**Section 12. Civil and criminal liability.**

The authorization to conduct an open burn does not relieve the individual responsible from civil or criminal liabilities resulting from the burning.

**Section 13. Conflicts of article with state law.**

The provision of this chapter shall prevail and be controlling over provisions of state law if such is allowed by state law. Otherwise, if any conflict arises between the provisions of this chapter and any state law, the provisions of state law shall prevail and be controlling.

**Section 14. Enforcement.**

The provisions of this ordinance shall be enforced by the Darlington County Fire Chief or his designee, Darlington County Sheriff's Office, and Darlington County Codes Enforcement.

**Section 15. Penalty for violation of article.**

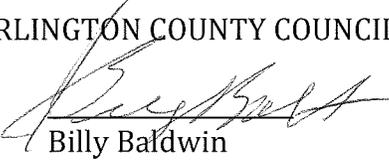
Any person who violates any of the provisions of this article shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment.

Done, ratified and adopted in regular meeting this **3rd** day of **October**, 2011.

ATTEST.

  
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Dale Surrett  
County Administrator

DARLINGTON COUNTY COUNCIL

By:   
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Billy Baldwin  
County Chairman

First Reading: August 15, 2011  
Second Reading: September 6, 2011  
Public Hearing: October 3, 2011  
Third Reading: October 3, 2011