

IN THE SUPERIOR COURT OF TATTNALL COUNTY  
STATE OF GEORGIA

*Paige D. Mulligan*  
Paige D. Mulligan, Clerk  
Tattnall County, Georgia

**THE MAYOR AND COUNCIL** )  
**OF THE CITY OF GLENNVILLE,** )  
 )  
**Plaintiffs,** )  
 )  
**v.** )  
 )  
**JERRY ALAN KNIGHT AND** )  
**LOUIS P. KNIGHT,** )  
 )  
**Defendants.** )  
\_\_\_\_\_ )

**Civil Action No.: SUV2025000063**

**FINAL ORDER**

On April 14, 2025, the Mayor and Council of the City of Glennville (the “Plaintiff”) filed the subject action against property owners Jerry Alan Knight and Louis P. Knight (the “Defendants”) seeking to prohibit the Defendants from engaging in the open burning of vegetative material for the purpose of land clearing without: (1) the authorization from the Glennville Fire Department Chief; and (2) the use of an air curtain destructor (an “ACD”) in violation of a city ordinance designated as Section 22-32 of the Code of Glennville (hereinafter referred to as the “Ordinance”) despite the Defendants’ procurement of a prescribed burn permit from the Georgia Forestry Commission (the “GFC”). A hearing was conducted on May 6, 2025, whereat the parties appeared and were represented by counsel. After careful consideration of the pleadings, the evidence and argument adduced at the hearing, and applicable law, the Court finds as follows:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Defendants own several acres of land located within the city limits of Glennville, Georgia (the subject “Property”). On March 27, 2025, the Defendants engaged in open burning of stumps, limbs and vegetative material on the Property which caused smoke to encompass the

surrounding area including a preschool building and playground, as well as a recreational department building and fields. (Hearing Transcript (hereinafter “HT”), pp. 15-21, Plaintiff’s Exhs. 1-8). Prior to that date, the Defendants obtained a permit for a prescribed burn from the GFC pursuant to O.C.G.A. § 12-6-90(a) which provides in pertinent part that

any person . . . lawfully entitled to burn any woods, lands, marshes, or any other flammable vegetation, whether in cultivated or uncultivated areas, shall prior to such burning obtain a permit therefor from the forest ranger of the county wherein such burning is to be made or from another employee of the forestry unit serving such county who is authorized by the chief forester of such unit to grant such permits. An applicant for a permit shall provide the county forest ranger or other authorized employee of the forestry unit serving the county with the location and the recommended time of the proposed burn. Such information may be provided and the permit may be obtained by a telephone call to the county forest ranger or to another authorized employee of the forestry unit serving the county. The permit shall be given by providing the applicant therefor with a permit number which will grant permission for a controlled burn to take place at the location specified by the applicant at a time approved by the county forest ranger or by the other authorized employee of the forestry unit serving the county.

Also prior to that date, the Plaintiff enacted the subject Ordinance which provides in subpart (c) as follows:

*Land clearing/burning with an air curtain destructor.* Open burning of vegetative material for the purpose of land clearing using an air curtain destructor shall be permitted provided the following conditions are met:

- (1) Authorization for such open burning is received from the Glennville Fire Department Chief or the Chiefs designee and turned into city hall prior to the initiation of any open burning at a location within the city limits of Glennville;
- (2) The location of the air curtain destructor shall be at least 300 feet from any occupied structure or public road;
- (3) No more than one air curtain destructor shall be operated within a ten acre area at one time or there must be at least 1,000 feet between any two air curtain destructors;
- (4) Only wood waste consisting of trees, logs, large brush and stumps which are relatively free of soil shall be burned in the air curtain destructor;
- (5) Tires or other rubber products, plastics, heavy oils, or asphaltic based or impregnated materials shall not be used to start or maintain the operation of the air curtain destructor;
- (6) The air curtain destructor shall be constructed, installed, and operated in a manner consistent with good air pollution control practice for minimizing

- emissions of fly ash and smoke; In accordance with Georgia Open Burning Rules (391-3-1-.02(5)) for air quality;
- (7) The cleaning out of the air curtain destructor pit shall be performed in a manner to prevent fugitive dust; and
- (8) The air curtain destructor shall not be fired before 10:00 a.m. and the fire must be completely extinguished by covering with dirt at least one hour before sunset.

It is uncontroverted that the Defendants did not comply with the Ordinance as they conducted an open burning without the prior authorization of the Glennville Fire Department Chief or the use of an ACD. (HT, pp. 13-22).

The Defendants contend that the Ordinance is invalid since it contains restrictions which prohibit “burning the understory for the health of the forest and wildlife or prohibit the landowner’s ability to reduce fuel loads on the forest floor for the safety of the community” in violation of O.C.G.A. § 12-6-90(d).<sup>1</sup> This Court disagrees. Although the Ordinance contains additional restrictions/requirements concerning the method used to conduct an open burning under O.C.G.A. § 12-6-90, the Court finds that these additional air quality control and fire safety restrictions/requirements fail to constitute a prohibition of the Defendants’ right to proceed under the prescribed burn permit issued by the GFC. Although this Court acknowledges that the use of an ACD will increase the costs associated with conducting a prescribed burn within the Glennville city limits, such result does not prohibit the Defendants from burning the understory for the health of the forest or wildlife, nor does it prohibit the Defendants’ ability to reduce fuel loads on the forest floor for the safety of the community pursuant to O.C.G.A. § 12-6-90-(d).

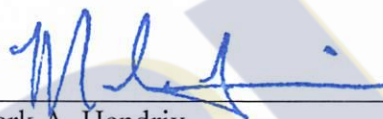
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<sup>1</sup> Although not binding authority, the Court did consider the Georgia Department of Law memorandum, dated October 4, 2024, in reaching its decision. (HT, Defendants’ Exh. 1).

**CONCLUSION**

Based upon the above reasoning, the Plaintiff's Complaint for Interlocutory Injunction is hereby **GRANTED** and the Defendants are ordered to comply with the Ordinance prior to any further burning under the subject prescribed GFC burn permit.

SO ORDERED this 28<sup>th</sup> day of July, 2025.



Mark A. Hendrix  
Judge, Superior Court of Tattnall County  
Atlantic Judicial Circuit

