

The following memo is in regard to the memo sent to All Shadowbrook at Town Center Homeowners on the subject of “Fire Hazard in the Community” sent September 18, 2007.

It is with much humility that the Board of Directors write this letter **retracting** the aforementioned memo. The Board has received many passionate responses from concerned homeowners regarding this memo. And we have listened to you. The Board wanted to first make sure that the community understands the situation that led to the original memo, and then explain why it’s being retracted.

One of your fellow residents came to the Board on numerous occasions with a concern about a neighbor who had tiki torches and a turkey fryer on their deck. The resident’s concern was that these items posed a fire hazard and the resident was going to contact the City of Suwanee and the Fire Chief to take care of the situation if the Board did not. In order to respond to the concern, the Board researched applicable laws with regard to flammable materials on townhome decks. The suggestion has been made by some that we have more pressing issues to face, and that may be true, but the BOD had a responsibility to respond to this homeowner’s concern. If it were your concern, you would appreciate the same respect.

Our interpretation of the law, Georgia Law at Code Section 25-2-4, as well as the advice we received from various experts on the subject, was that any open flame within 10 feet of a structure was clearly in violation of the law. Understanding the tremendous implications of this on the homeowners of this neighborhood, the Board diligently sought advice to verify our interpretation. As a result, we checked and re-checked with many sources, including the relevant Georgia codes, International Fire Code, our attorney with Leuder Law Firm; John Leuder himself; the Georgia Fire Marshal's office; John Oxendine (Georgia Insurance and Safety Fire Commissioner); and several other industry experts. Every person we consulted concurred that the law forbids grills on town home decks.

The wording of the letter itself was taken almost verbatim from a template letter that John Leuder wrote, and distributes to other neighborhoods who confront this issue. He will tell you that there are many, many town home communities in the Atlanta area that have taken a similar stance.

Even then, we considered not going to the homeowners with this information due to the negative feelings it certainly would bring about. But the advice we were given by our Law Firm was that this would open the Board up to the possibility of lawsuit. The issue is that of “superior knowledge.” If the BOD, in a position of authority, has access to superior knowledge that the rest of the community is not made privy to (i.e. knowledge that some owners are using flammable materials in violation of the law, and that other homeowners were concerned enough about it to bring it to our attention), and something happens (i.e. a town home building burns down), the HOA could be understandably held liable. Hence, the letter was sent.

Since that time, we have received some conflicting information. We have contacted the Gwinnett County Fire Marshal's office twice (note that our original conversations were with the **State** Fire marshal), and received two different answers. Some homeowners have also gone to Gwinnett County and have been told that our town homes are not restricted by this law. The main points of contention seem to be around the definition of "single-family home" and whether or not the town homes have 2-hour firewalls.

Here is the bottom-line: the point is not to argue interpretation of the law. **Our role as a Board of Directors is not, and never should be, as interpreters or enforcers of Federal, State, or Local laws.** This is where we have unfortunately erred and for that we apologize profusely! We never should have mandated fines for compliance with the laws, nor should we have implied that we would be enforcing the law. By making you aware that the law exists, we feel we have removed any claim of "superior knowledge." The responsibility is yours to understand, interpret, and ultimately comply with the law.

The Board apologizes deeply for any distress caused by the initial memo, and the confusion that ultimately led to this retraction. Please know that it no way was the distribution of this letter a means of discrimination against one part of the community, as some have suggested. We have a unique and wonderful neighborhood here at Shadowbrook, and the BOD is committed to keeping it a nice and friendly place to live.

Sincerely,
The Board