

ORDINANCE 2023-05

AN ORDINANCE OF THE CITY OF BUNNELL, FLORIDA AMENDING THE BUNNELL CODE OF ORDINANCE CHAPTER 34 FIRE PREVENTION AND PROTECTION; PROVIDING FOR THE ADOPTION OF REGULATIONS REGARDING OPEN BURNING WITHIN THE CITY LIMITS; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY AND APPLICABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City of Bunnell to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Chapters 166 and 163, Florida Statutes, include authority to enact regulations to protect the health, safety and welfare, and interests of the citizens of the City; and

WHEREAS, the *Bunnell Code of Ordinance* provides for procedures for fire prevention and protection; and

WHEREAS, the City is in need of regulations relating to burning within the City limits; and

WHEREAS, the City Commission of the City of Bunnell finds it is in the best interest and welfare of the citizens of the City to adopt regulations regarding burning within the City limits; and

WHEREAS, the City of Bunnell has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BUNNELL, FLORIDA AS FOLLOWS:

Section 1.

Chapter 34 of the Bunnell Code of Ordinance is hereby amended as follows:

Sec. 34-2. - Local amendments to Fire Prevention Code relating to burning.

The following local amendments to the Fire Prevention Code, are based upon the recitals set forth in the provisions of this section, and shall provide additional fire

prevention standards within the City Limits of the City of Bunnell and shall supplement the Florida Fire Prevention Code requirements. In the event of any conflict between a provision of this local amendment and the Florida Fire Prevention Code, this local amendment shall prevail.

(1) Open burning prohibited.

a. Open burning of commercial waste, residential trash, garbage, lawn debris, clippings, trees or other debris on residential, commercial or industrial property is prohibited within the City limits of the City of Bunnell, but not including commercial land clearing operations which is addressed in subsection b.

b. The following types of open burning are permitted if pre-approved by the Fire Marshal and a permit issued by the Fire Marshal for such activities; permits shall focus on addressing the disbursement of smoke and its adverse effects:

1. Ceremonial fires.

2. Commercial land clearing operations.

3. Prescribed burns conducted by fire control agencies.

4. When an emergency condition exists within the City that warrants burning.

c. Permits for open burning relating to commercial and agricultural land clearing operations shall be issued by the Fire Marshal upon finding that:

1. All conditions precedent to lawful burning have been met, and

2. The Florida Division of Forestry has been notified of the burning, and

3. That the "burn index" of the Florida Division of Forestry will permit burning on the day or days for which an open burning permit is requested.

d. The following types of open burning do not require permitting by the Fire Marshal and are permitted if conducted in a safe manner and without the creation of a nuisance:

1. Outdoor fireplaces, kilns, ovens or other similarly approved devices.

2. Outdoor cooking fires that are engaged in bona fide food provision are constantly attended while cooking food and are no larger than three feet in diameter with flames no higher than three feet.

3. Warming fires conducted at work sites in a metal barrel when the temperature is below 45 degrees Fahrenheit.

4. Campfires built and contained in a fire circle of a licensed camp ground.

(2) Permits for open burning.

a. Applications for open burning permits shall be on forms to be provided by the Flagler County Fire Rescue Department.

b. Flagler County Fire Rescue Department shall be the authority to issue, monitor and enforce open burning permits. Application and permit fees shall be paid to Flagler County Fire Rescue Department.

c. Nothing herein shall relieve any person from complying with any other applicable law, rule, registration and ordinance relating to open burning.

Section 2. Implementing Administrative Actions.

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules.

Section 3. Codification.

The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Bunnell Code of Ordinance* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 2, 3, 4, 5, and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

Section 4. Conflicts.

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 5. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

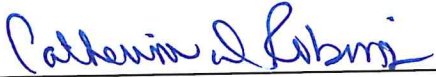
Section 6. Effective Date.

This Ordinance shall take effect immediately upon enactment.

First Reading: approved on this 27th day of February 2023.

Second Reading: approved on this 13th day of March 2023.

CITY COMMISSION, City of Bunnell, Florida.

By: 
Catherine D. Robinson, Mayor

Approved for form and content by:



Vose Law Firm, City Attorney

Attest:



Kristen Bates, CMC, City Clerk

Seal:

