

ORDINANCE NO. 2929

AN ORDINANCE OF THE CITY OF HOLLY HILL, FLORIDA, AMENDING SECTION 34-10 (OPEN BURNING REGULATIONS) OF THE CODE OF ORDINANCE TO AMEND THE CITY OPEN BURNING REGULATIONS TO COMPLY WITH NEW STATE LAW; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, State law regulates open burning and the State law was recently amended; and

WHEREAS, due to the changes in the State law, the City's open burning regulations must be amended; and

WHEREAS, words which are underlined (underlined) are additions to the text and words with strike through the characters (~~strike through~~) are deletions from the text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. The City Commission of the City of Holly Hill hereby amends Section 34-104 (Open Burning Regulations) of the City of Holly Hill Code of Ordinances to read as follows:

Sec. 34-101. - Open burning regulations.

- (a) Open burning of commercial waste, construction materials (except natural wood), residential trash, garbage, lawn debris, clippings, trees or other debris on residential, commercial or industrial property is prohibited within the city.
- (b) The following types of open burning are allowed if pre-approved by the Fire Chief, or designee, and a permit has been issued by the city:

- (1) Ceremonial fires, such as flag ceremonies conducted by veteran's organizations.
- (2) Commercial land clearing operations, under the following conditions:
 - a. ~~Permission for the open burning must be obtained from the Florida Division of Forestry and the authorization number issued by the division is provided to the city.~~ In all open burn permits for land clearing or yard waste debris, the applicant shall contact the Florida Forest Service every morning prior to starting the burn. If the Florida Forest Service is suspending land clearing burns because of fire danger conditions, the City open burn permittees will be precluded from burning that day.
 - b. All burning must be conducted at least 100 feet away from any public road or highway and the wind must direct the smoke away from the road.
 - c. Burning shall be allowed between 9:00 a.m. and one hour before sunset.
 - d. The burning must be supervised at all times the material is ignited.
 - e. Piles to be burned must be of reasonable size and contain only clean, dry vegetation. Wet or green vegetation cannot be burned.
 - f. If weather conditions create a potential fire safety or air pollution problem, the fire department may order that burning be suspended, or deferred until such time as the weather conditions are acceptable to the fire department, as determined in their sole discretion.

g. Open burning on residential zoned property or property with a residential use shall be conducted a minimum of 300 feet from any occupied structure, unless a greater setback is required by the ~~division of forestry~~ Florida Forest Service.

h. Open burning on property other than residential property with an air curtain incinerator shall be conducted a minimum of 300 feet from any occupied structure. The open burning shall be conducted a minimum of 1,000 feet from any occupied structure if there is no air curtain incinerator.

(3) ~~Prescribed burns conducted by fire control agencies.~~

(4 ~~3~~) When an emergency condition exists within the City that warrants burning as determined in the sole discretion of the Fire Chief, or designee.

(c) The following types of open burning do not require a permit or pre-approval by the Fire Chief and are allowed if conducted without creating a public nuisance fire:

(1) Residential type outdoor fireplaces, metal firepits, chimneys, kilns, ovens, charcoal/propane gas grills or other similar devices.

(2) Small recreational campfires or outdoor cooking fires that are constantly attended and are no larger than three feet in diameter with flames no higher than three feet. However, recreational fires shall not be located within 15 feet of a structure or combustible material.

(d) *Permits.*

(1) Permits for open burning, where required, shall be issued by the City, after approval by the Fire Chief or his designee. After it has been determined that all conditions precedent to lawful burning have been met; the applicant has ~~notified~~ contacted the Florida Division of Forestry Forest Service and obtained a permit from said agency, if required and determined that if the "burn index" of the Florida Forest Service Division of Forestry will permit has suspended land clearing burns because of fire danger concerns on that day. Applications for open burning permits shall be on forms to be provided by the city. A fee for the permit shall be set by the City Commission.

(2) Nothing herein shall relieve any person from complying with any other applicable laws, rules and ordinances relating to open burning.

(e) Public nuisance fire is hereby defined as a fire that threatens the public health, safety and welfare as determined in the sole discretion of the Fire Chief, or designee, which may include a fire that impacts the ability of neighboring properties to enjoy the usual and customary use of their property due to excessive smoke, odor or ash.

(f) In the case of a fire that is prohibited or a fire that is determined to be a public nuisance fire, the person(s) responsible for the fire will be ordered to extinguish the fire by any firefighter or police officer. Failure to extinguish the fire as ordered shall constitute a misdemeanor and the responsible person(s) shall be subject to arrest. The Fire Department shall extinguish the fire with all costs incurred by the city paid by the person(s) responsible for the fire.

SECTION 2. 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, 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 or application hereof.

SECTION 3. That all ordinances made in conflict with this Ordinance are hereby repealed.

SECTION 4. That this Ordinance shall become effective immediately upon its adoption.

SECTION 5. That this Ordinance shall be posted at City Hall as required by law.

The within and foregoing Ordinance was introduced and read on first reading before the City Commission of the City of Holly Hill, Florida, at its regular meeting held in Commission Chambers at City Hall on the 12th day of February, 2013.

It was moved by Commissioner Moore and seconded by Commissioner Currie that said Ordinance be approved on first reading. A roll call vote of the Commission held on said motion for approval of the Ordinance resulted as follows:

ROLL CALL VOTE AS FOLLOWS:

Mayor Roy Johnson	Yes
Commissioner John Penny	Yes
Commissioner Penny Currie	Yes
Commissioner Donnie Moore	Yes
Commissioner Elizabeth Albert	Yes

The within and foregoing Ordinance was introduced and read on the second reading before the City Commission of the City of Holly Hill, Florida, at its regular meeting held in Commission Chambers at City Hall on the 26th day of February, 2013.

It was moved by Commissioner Albert and seconded by Commissioner Moore that said Ordinance be adopted. A roll call vote of the Commission held on said motion to adopt the Ordinance resulted as follows:

ROLL CALL VOTE AS FOLLOWS:

Mayor Roy Johnson	Yes
Commissioner John Penny	Yes
Commissioner Penny Currie	Yes
Commissioner Donnie Moore	Yes
Commissioner Elizabeth Albert	Yes

Whereupon, the Mayor of the City of Holly Hill, Florida, has hereunto set his official signature, duly attested by the City Clerk, and has caused the official seal of said City to be affixed, all at City Hall in the City of Holly Hill, this 26th day of February, 2013, for the purpose of authenticity as is required by law.

City of Holly Hill, Florida

Roy Johnson, Mayor

James A. McCroskey City Manager

Attest:

Valerie Manning, City Clerk