

**ORDINANCE 13-1387**

**AN ORDINANCE OF THE CITY OF CASSELBERRY, FLORIDA, REENACTING SECTION 42-4, OPEN BURNING, CHAPTER 42, FIRE PROTECTION AND PREVENTION TO PROHIBIT ALL OPEN BURNING EXCEPT AS SPECIFICALLY PROVIDED AS REQUIRED BY STATE LAW; PROVIDING FOR SEVERABILITY, CODIFICATION, CONFLICTS AND EFFECTIVE DATE.**

**WHEREAS**, Florida Statute 633.0215(3), grants the City authority to establish restrictions on open burning as long as said local amendments provide a higher degree of life safety than the Florida Fire Prevention Code, as this ordinance does and as long as the amendments are adopted every three years; and

**WHEREAS**, the City Commission deems it in the best interests of the citizens to reenact Section 42-4 and to continue to prohibit all open burning with the City with limited exceptions as set forth below; and

**WHEREAS**, this ordinance is adopted pursuant to the City's home rule authority, and will be reviewed by the State Fire Marshal as a local amendment to the Florida Fire Prevention Code; and

**WHEREAS**, the Florida Department of Agriculture and Consumer Services through the Florida Forest Service and the City have entered into a non-binding Multilateral Operating Agreement to delegate responsibility for governing open burning to the City except for agricultural burning; and

**WHEREAS**, the State recently adopted a new fire prevention code, necessitating this reenactment.

**NOW, THEREFORE, BE IT ENACTED** by the City Commission of the City of Casselberry, Florida:

**SECTION 1** Section 42-4, Open Burning, of Chapter 42, Fire Protection and Prevention, is hereby readopted as follows:

**Sec. 42-4. Open burning.**

The rules of the State Department of Environmental Regulation regarding open burning set forth in Florida Administrative Code are adopted as part of this Code for the purpose of regulating open burning and burning for land clearing, except as set forth in this section.

(a) Open burning of land clearing, commercial waste, residential trash, garbage, lawn debris, clippings, trees or other debris on residential, commercial or industrial property is prohibited.

(b) Exceptions:

(1) The following types of burning are permitted if pre-approved by the Fire Chief:

- a. Fire department training fires.
- b. Prescribed burns conducted by the Fire Department or the State Division of Forestry.

(2) The following types of burning are permitted in nonresidential districts if a permit is obtained and approved by the Fire Chief, open burning within residential districts is prohibited except as allowed in subsection (b)(3):

- a. Ceremonial fires.
- b. Religious fires.
- c. Recreational fires.
- d. Outdoor commercial cooking fires.
- e. Outdoor heating or lighting devices in a nonresidential setting which use a liquid or gaseous fuel as the heat or light source.

(3) The following types of burning do not require pre-approval by the Fire Chief and are permitted if conducted in a safe manner, without complaints, and do not conflict with the Florida Fire Prevention Code:

- a. Burning in kilns, ovens, or other similarly regulated devices.
- b. Burning in commercially available or sold outdoor heating appliances such as chimeneas, fire bowls, outdoor fireplaces, patio heaters or other similar devices. The total fuel area of the materials burned shall not exceed three feet in diameter and two feet in height.
- c. Cooking fires, which are defined as the non-commercial, residential site burning of charcoals, solid wood fuel, propane or natural gas, contained in a device with a grill and/or spit, and constructed solely for the cooking of food.
- d. Warming fires conducted at work sites in a barrel when the temperature is below 45 degrees Fahrenheit.

(4) When the City Manager decides that an emergency condition exists within the City that warrants burning.

(c) Should fire department services be required to evaluate and/or extinguish an open burn due to negligence, failure to obtain or comply with the terms and conditions of a required permit, or other failure on the part of the responsible party, a fine, as specified by the City of Casselberry Fire Prevention fee schedule established by resolution, as amended from time to time, shall be levied against the responsible party.

(d) Penalties. Anyone found guilty of violating this Section shall be punished as provided by law, or a code enforcement action may be instituted, as authorized by State law.

**SECTION 2 - SEVERABILITY.** If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

**SECTION 3 - CODIFICATION.** It is the intention of the City Commission of the City of Casselberry, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Casselberry, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

**SECTION 4 - CONFLICTS.** All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

**SECTION 5 - EFFECTIVE DATE.** This Ordinance shall become effective immediately.

FIRST READING this 14<sup>th</sup> day of January, A.D. 2013.

SECOND READING AND ADOPTION this 11<sup>th</sup> day of March A.D. 2013.

ATTEST:

  
Donna G. Gardner, City Clerk

  
Charlene Glancy/Mayor/Commissioner