

ORDINANCE 090326
0-09-53

An ordinance of the City of Gainesville relating to open and outdoor burning and pyrotechnic display; creating and adding a new Article VI titled Open and Outdoor Burning to Chapter 10 of the City of Gainesville Code of Ordinances, providing for purpose; providing for applicability and exceptions; providing for definitions; providing general prohibitions; providing for permits; providing for voiding permits; providing review process for voided permits; providing requirements to burn for fire suppression training; providing for permit fees; providing for liability; providing for inspections; providing for enforcement and civil penalties; providing a repealing clause and providing an immediate effective date.

WHEREAS, the City Commission of the City of Gainesville finds that open burning and outdoor burning present serious threats to the public health, safety or welfare and that damage caused may be irreparable or irreversible; and

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

WHEREAS, a Public Hearing was held pursuant to the published notice described at which hearing the parties in interest and all others had an opportunity to be and were, in fact, heard;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA;

Section 1. A new Article VI, Open and Outdoor Burning is hereby created and added to Chapter 10 of the Code of Ordinances of the City of Gainesville, to read as follows:

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2 **ARTICLE VI. OPEN AND OUTDOOR BURNING**

3 **Sec. 10-60. Purpose.** This article is intended to promote the public health, safety and
4 welfare and to safeguard the health, comfort, living conditions, safety and welfare of the
5 citizens of Gainesville by regulating the air pollution and fire hazards of open burning
6 and outdoor burning.

7 **Sec. 10-61. Applicability; Exceptions.** This article applies to all outdoor burning and
8 open burning within the City of Gainesville, except the following:

9 (a) Grilling or cooking food using charcoal, wood, propane or natural gas in cooking
10 or grilling appliances.

11 (b) The use of propane, acetylene, natural gas, gasoline or kerosene in a device
12 intended for heating, construction or maintenance activities.

13 **Sec. 10-62 Definitions.**

14 "Campfire" means a small outdoor fire intended for recreation or cooking but not
15 including a fire intended for disposal of waste wood or refuse.

16 "Clean wood" means natural wood which has not been painted, varnished or
17 coated with a similar material; has not been pressure treated with preservatives; and does
18 not contain resins or glues as in plywood or other composite wood products.

19 "Construction and demolition waste" means building waste materials, including
20 but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring,
21 plastics, packaging, and rubble that results from construction, demolition operations on a
22 house, commercial or industrial building, or other structure, remodeling, repair, and

1 "Fire Chief" means the Chief of Gainesville Fire Rescue or other person
2 designated by the Fire Chief.

3 "Municipality" means the City of Gainesville, Florida.

4 "Outdoor burning" means open burning or burning in an outdoor wood-fired
5 boiler or patio wood burning unit.

6 "Open burning" means kindling or maintaining a fire where the products of
7 combustion are emitted directly into the ambient air without passing through a stack or a
8 chimney. This includes burning in a burn barrel.

9 "Outdoor wood-fired boiler" means a wood-fired boiler, stove or furnace that is
10 not located within a building intended for habitation by humans or domestic animals.

11 "Patio wood-burning unit" means a chimney, patio warmer, or other portable
12 wood-burning device used for outdoor recreation and/or heating.

13 "Prescribed burning" means the burning, in compliance with a prescription and to
14 meet planned fire or land management objectives, of a continuous cover of fuels.

15 "Prescription" means a written plan establishing the criteria necessary for
16 starting, controlling, and extinguishing a burn.

17 "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass
18 clippings, and other vegetative matter.

19 **Sec. 10-63. General prohibition on outdoor burning and open burning.** Open
20 burning and outdoor burning are prohibited in the City of Gainesville unless otherwise
21 specifically permitted as provided by this article.

22 (a) Open burning of refuse. Open burning of the following materials is prohibited.

23 (1) Construction and demolition waste.

1 (2) Hazardous substances including but not limited to batteries, household
2 chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents.

3 (3) Furniture and appliances.

4 (4) Tires.

5 (5) Any plastic materials including but not limited to nylon, PVC, ABS,
6 polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic
7 containers.

8 (6) Newspaper.

9 (7) Corrugated cardboard, container board, office paper.

10 (8) Treated or painted wood including but not limited to plywood, composite
11 wood products or other wood products that are painted, varnished or treated with
12 preservatives.

13 **Sec. 10-64. Burning of trees, logs, brush, stumps, leaves, and grass clippings.** Except
14 as may be authorized by chapter 590, Florida Statutes, and Rule 5I-2, Florida
15 Administrative Code, open burning of trees, logs, brush, stumps, leaves, and grass
16 clippings is prohibited, except that commercial land clearing debris burning is permitted
17 with the use of an open pit, air curtain and availability of heavy equipment provided a
18 permit with a site visit is applied for and issued for each incident. A permit may be
19 terminated for non-compliance upon notice to the holder of the permit.

20 **Sec. 10-65. Agricultural burning.** Open burning of weeds, brush, and crop stubble on
21 agricultural lands is allowed if conducted in accordance with other applicable provisions
22 of this article.

1 **Sec. 10-66. Prescribed burning.** Fires set for forest, prairie, and wildlife habitat
2 management are allowed only if conducted in accordance with section 590.125, Florida
3 Statutes and Rule 5I-2, Florida Administrative Code.

4 **Sec. 10-67. Outdoor wood-fired boilers.** An outdoor wood-fired boiler may be
5 installed and used in the City of Gainesville only in accordance with all of the following
6 provisions:

7 (a) The owner of the outdoor wood-fired boiler shall obtain an annual permit from
8 the Fire Chief in accordance with section 10-70(d) of this article provided the boiler is
9 located at least 1000 feet from the property line.

10 (b) The outdoor wood-fired boiler shall be located at least 500 feet from the nearest
11 building which is not on the same property as the outdoor wood-fired boiler.

12 (c) The outdoor wood-fired boiler shall be installed and used only in an area zoned
13 for agricultural use.

14 (d) The outdoor wood-fired boiler shall not be used to burn refuse.

15 (e) The outdoor wood-fired boiler shall have a chimney that extends at least 15 feet
16 above the ground surface. If there are any residences within 500 ft, the chimney shall
17 also extend at least as high above the ground surface as the height of the roofs of all such
18 residences. The Fire Chief may approve a lesser height on a case-by-case basis if
19 necessary to comply with manufacturer's recommendations and if the smoke from the
20 lower chimney height does not create a hazard or other create a nuisance for neighboring
21 property.

1 **Sec. 10-68. Patio wood-burning units.** A patio wood-burning unit may be installed
2 and used in the City of Gainesville only in accordance with all of the following
3 provisions:

4 (a) The patio wood-burning unit shall not be used to burn refuse.

5 (b) The patio wood-burning unit shall burn only clean wood.

6 (c) The patio wood-burning unit shall be located at least 25 feet from the nearest
7 structure which is not on the same property as the patio wood-burning unit.

8 (d) The patio wood-burning unit shall not cause a hazard or otherwise create a
9 nuisance to neighboring property.

10 **Sec. 10-69. Fire suppression training.** Notwithstanding §10-63 of this article,
11 structures and other materials may be burned for fire suppression training only in
12 accordance with all of the following provisions.

13 (a) The burn must be exclusively for fire prevention training. The burning shall not
14 be used as a means to dispose of waste material including tires and other hazardous
15 materials.

16 (b) Any standing structure that will be used in a fire suppression training must be
17 inspected and should be inspected by a licensed asbestos inspector. A notification of this
18 inspection must be submitted to the Florida Department of Environmental Protection, Air
19 Quality Division, at least ten business days prior to burning a standing structure. The
20 notification must be submitted using Form "Notification of Intent to
21 Renovate/Demolish."

22 (c) All asbestos must be removed prior to conducting the fire suppression training. If
23 the structure is a residential dwelling, the owner may remove the asbestos or have it

1 removed by a licensed abatement contractor. If it is a commercial building, all asbestos
2 must be removed by a licensed abatement contractor.

3 (d) All ash shall be disposed of in an approved landfill or at an alternate location
4 approved by the Florida Department of Environmental Protection.

5 (e) Asphalt shingles and asphalt or plastic siding shall be removed prior to the
6 practice burn unless the Fire Chief determines that they are necessary for the fire practice.

7 (f) At least 48 hours before a planned practice burn, residents within 1000 feet of the
8 site of the proposed burn shall be notified.

9 (g) All fire suppression training should conform to the guidelines established by the
10 National Fire Protection Association (NFPA) Standard on Live Fire Training Evolutions
11 (NFPA 1403).

12 **Sec. 10-70. Burning permits.**

13 (a) Except for burns conducted pursuant to valid authorization under chapter 590,
14 Florida Statutes, and Rule 5I-2, Florida Administrative Code, no person shall start or
15 maintain any outdoor burning or open burning regulated under this article without a
16 burning permit issued by the Risk Reduction Bureau of the Gainesville Fire Rescue.

17 (b) Any person responsible for residential or commercial burning leaves, brush, clean
18 wood or other vegetative debris under Section 10-64 of this article shall obtain a one-time
19 burning permit before starting the fire. The fee for each one-time burning permit shall be
20 as set out in Appendix A, schedule of Fees, Rates and Charges.

21 (c) An outdoor campfire does not require a permit provided that the fire complies
22 with all other applicable provisions of this article.

1 (d) The owner or occupant of the property shall obtain a burning permit for each burn
2 barrel and/or outdoor wood-fired boiler before using the burn barrel and/or outdoor
3 wood-fired boiler. The fee for each annual burning permit shall be as set out in Appendix
4 A, schedule of Fees, Rates and Charges.

5 (e) When weather conditions warrant, the Fire Chief or his designee may temporarily
6 suspend issuing burning permits and may temporarily suspend previously issued burning
7 permits for open and outdoor burning.

8 (f) A burning permit issued under this section shall require compliance with all
9 applicable provisions of this article and any additional special restrictions deemed
10 necessary to protect public health and safety.

11 (g) Any violation of the conditions of a burning permit shall be deemed a violation of
12 this article. Any violation of this article or the burning permit shall void the permit.

13 (1) Any person who is notified that a burning permit has been voided may
14 within five (5) business days request a review by the Fire Chief, or designee, and present
15 any information which demonstrates that this article or the terms of the permit were not
16 violated.

17 (2) The Fire Chief, or designee, shall send notice of the determination by
18 regular U.S. mail within three (3) business days as to whether the voided permit has been
19 reinstated.

20 **Sec. 10-71. Pyrotechnic displays.** Any person, business or group that engages in any
21 pyrotechnic display shall require a one time permit. The cost of the permit shall be as set
22 out in Appendix A, schedule of Fees, Rates and Charges.

Sec. 10-72. Liability. A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

Sec. 10-73. Right of entry and inspection. The Fire Chief or any authorized officer, agent, employee or representative of the Gainesville Fire Rescue Department who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

Sec. 10-74. Enforcement and penalties.

(a) The Fire Chief and the Bureau Chief of the Risk Reduction Bureau are authorized to enforce the provisions of this article.

(b) It is unlawful for any person, firm, association, partnership, corporation, or governmental entity to engage open and/or outdoor burning without compliance with requirements of this article. Enforcement officers may issue a civil citation for violations of any section of this article.

Section 2. Section 2-339 of the Code of Ordinances of the City of Gainesville, is amended by adding the following new sections to the table of applicable codes and ordinances (the existing sections remain unchanged):

Sec. 2-339. Applicable codes and ordinances.

The following ordinances are enforceable by the procedures described in this division:

<u>Section</u>	<u>Description</u>	<u>Class</u>	<u>Penalty</u>
<u>10-70(b)</u>	<u>Failure to obtain burn permit- Residential</u>	I	\$75.00
<u>10-70(b)</u>	<u>Failure to obtain burn permit- Commercial</u>	II	\$150.00

<u>10-70(d)</u>	<u>Failure to obtain burn permit – burn barrel/boiler</u>	I	\$75.00
<u>10-71</u>	<u>Failure to obtain burn permit- pyrotechnic</u>	I I	150.00

Section 3. New paragraphs (7), (8) and (9) are created and added to Appendix A, Schedule of Fees, Rates and Charges, FIRE/RESCUE, Gainesville Code of Ordinances, to read as follows:

FIRE/RESCUE:

(7) burning leaves, brush, clean wood or other vegetative debris §10-60(2)

Residential.....50.00 per event

Commercial.....100.00 per event

(8) annual burning permit for each burn barrel and/or outdoor

wood-fired boiler §10-60(4)50.00

(9) pyrotechnic display §10-60(8)100.00

Section 4. It is the intention that Sections 1 through 3 of this ordinance shall become and be made a part of the Code of Ordinances, of the City of Gainesville, Florida, and that the Sections and Paragraphs of this ordinance may be renumbered or relettered in order to accomplish such intentions.

Section 5. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given effect without the valid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

1 **Section 6.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
2 such conflict hereby repealed.

3 **Section 7.** This ordinance shall become effective immediately on adoption.

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5 **PASSED AND ADOPTED** this 1st day of October, 2009.

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ATTEST


KURT M. LANNON
CLERK OF THE COMMISSION


PEGEEN HANRAHAN,
MAYOR

APPROVED AS TO FORM AND LEGALITY


MARION J. RADSON
CITY ATTORNEY

OCT - 1 2009

This Ordinance passed on first reading this 17th day of September, 2009.

This Ordinance passed on second reading this 1st day of October, 2009.