

ORDINANCE NO. 2020-05

AN ORDINANCE OF THE CITY COUNCIL OF MIDWAY, FLORIDA; RELATING TO THE PROVISION OF FIRE SAFETY AND CONTROL; ADOPTING THE FLORIDA FIRE PREVENTION CODE; PROVIDING CERTAIN DEFINITIONS AND LEGISLATIVE FINDINGS; AUTHORIZING THE APPROVAL OF CONTROLLED BURN PERMITS FOR COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL ACTIVITIES; PROVIDING FOR GENERAL PROHIBITIONS; PROVIDING CERTAIN EXEMPTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Midway, Florida desires to provide fire protection and prevention services to protect, preserve and promote the public health, safety, welfare, and convenience of its citizens.

WHEREAS, the City Council has determined that as the City of Midway expands to meet increasing population demands, the City of Midway must meet the challenge of effectively reducing harmful air pollution and fire hazards of open burning, outdoor burning and yard waste burning, that affects the property and personal health interests of the citizens of Midway including the interests of commercial developers, business owners, and neighborhood residents.

WHEREAS, the State of Florida has empowered the City of Midway to adopt such an Ordinance.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF MIDWAY, FLORIDA:

ARTICLE 1

INTRODUCTION

SECTION 1 LEGISLATIVE FINDINGS. It is hereby ascertained determined, and declared that:

(A) Pursuant to Article VIII, section 2 of the Florida Constitution and section 166.021, Florida Statutes, the City of Midway, Florida shall have the governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited and/or preempted by law.

(B) The regulation of noise pollution within the City provides a public purpose and promotes the health, safety, and welfare of the citizens of Midway, Florida.

(C) The City of Midway recognizes that illegal backyard burning is one of the leading causes of fires in Florida, necessitating fire protection and prevention services and regulation of air pollution within Midway, Florida.

SECTION 2 FIRE PREVENTION CODES ADOPTED. The following Codes are hereby adopted by reference as though they were copied herein fully:

(A) The Florida Fire Prevention Code, as published by the Department of Financial Services for the State of Florida, and any amendments thereto as may be adopted.

These codes shall constitute and be known as and may be cited as the “City of Midway Fire Code”

(B) Any of the above adopted Codes shall not be construed to repeal any portion of this Ordinance. In the event of a conflict between the Fire Prevention Code and any Ordinance of the City of Midway, the regulations set forth in the Ordinance of the City of Midway shall apply and shall supersede the provisions of the above adopted Codes.

SECTION 3 DEFINITIONS. As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires.

“Campfire” means a small outdoor fire intended for recreation or cooking not including a fire intended for disposal of yard waste.

“Fire Chief” means the Chief of the Midway Fire Department or other person authorized by the Fire Chief.

“Large Pile Burns” means piles greater than eight feet (8ft) in diameter.

“Natural Wood” means wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives, and does not contain resins or glues as in plywood or other composite wood products.

“Open Burning” means kindling or maintaining a fire relating to agriculture, silviculture, land clearing, and pile burning where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney from an enclosed chimney.

“Outdoor Burning” means open burning or burning in an outdoor cooking fire, campfire, grill, kiln, oven, warming fire or other heat/smoke producing equipment.

“Small Pile Burns” means piles less than eight feet (8ft) in diameter.

“Yard Waste” means tree limbs, scrub trimmings, palm fronds and other bush that is generated and burned on the property where it originates.

SECTION 4 INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “shall” or “will” are mandatory; the term “may” is discretionary; the terms “hereof,” “herein,” “hereto,” “hereunder,” and similar terms refer to this Ordinance; and the term “hereafter” means after, and the term “heretofore” means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

ARTICLE II
PROHIBITIONS

SECTION 1 GENERAL PROHIBITIONS. All burning, shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. No burning shall be conducted upon any street, road, curb, gutter, culvert, or sidewalk. Open burning, outdoor burning and yard waste burning are prohibited in the City of Midway unless the burning is specifically permitted by this Ordinance.

SECTION 2 PROHIBITED MATERIALS. No person or persons shall burn, cause to be burned, or assist in burning any household garbage, paper products, plastics, treated wood, tires, cardboard, packing material, cloth, glass, street sweepings, pesticides, paint, aerosol containers or construction materials among other similar items. The aforementioned materials do not constitute an exclusive list.

SECTION 3 OPEN BURNING, OUTDOOR BURNING & YARD WASTE BURNING. Open burning, outdoor burning and the burning of yard waste is allowed only in accordance with the following provisions:

(A) Open Burning. All allowed open burning shall be conducted in a safe nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on roadways, railroads, or airfields. Upon request, a copy of any authorization granted by the Florida Forest Service (FFS) for open burning shall be provided to the Fire Chief. Open burning shall be conducted in conformance with all fire protection regulations prescribed by the Florida Forest Service including but not limited to the following:

1. Authorizations must be obtained from FFS for burns relating to agriculture, silviculture and large pile burning.
3. FFS will set special requirements for all types of authorizations, (certified or non-certified), in order to protect life, public safety or property.
4. Any authorized burn that goes out of compliance, but has not escaped the authorized area will be allowed a maximum of two hours to be brought into compliance by the person responsible.
5. In the event that the Fire Chief or FFS determines that there is a threat to life, public safety or property, immediate suppression action will be taken.
6. The City of Midway may charge any responsible party for fire suppression operations. The amount of the charge may depend upon the size of the fire and the amount of resources needed to extinguish it.
7. Additional allowed open burning may include the following:
 - a) Ceremonial fires
 - b) Fire Department training fires.
 - c) Prescribed burns conducted by the Fire Department or FFS
 - d) When an emergency condition exists with the City that warrants burning.

(B) Outdoor Burning. All allowed outdoor burning shall be conducted in a safe nuisance free manner and will not require a permit or pre-approval by the Fire Chief or FFS.

The following types of outdoor burning are permitted:

1. Grills, kilns, ovens or other similarly regulated devices. The use of said devices shall be prohibited within any structure or on/in any balcony, garage or porch of any multifamily dwelling unit.
2. Campfires or outdoor cooking fires.

3. A burn barrel may be used only in accordance with the following provisions:

- a) The burn barrel shall not be used to burn any of the prohibited materials listed in Section 2 above.
- b) The burn barrel shall be made of a non-combustible metal.
- b) Proper setback distances shall be at least:
 - twenty-five feet (25ft) from a your home and other structures, located on your property, and
 - twenty-five feet (25ft) from any forests and brush, and
 - fifty feet (50ft) from any road or street, and
 - one-hundred fifty feet (150ft) from any neighboring structure.
- c) The burn barrel shall be covered with a wire screen.
- d) The burn barrel shall not serve a business.
- d) A burn barrel may be used as a warming fire conducted at a work site when the temperature is below forty-five (45) degrees Fahrenheit.

(C) Yard Waste Burning. All yard waste burning shall be conducted in a safe nuisance free manner and will not require a permit pre-approval by the Fire Chief or FFS. Yard waste burning shall be conducted in burn barrels or small pile burns. Natural wood may be burned as yard waste. The following setbacks are required for yard waste burning:

1. twenty-five feet (25ft) from a your home and other structures, located on your property, and
2. twenty-five feet (25ft) from any forests and brush, and
3. fifty feet (50ft) from any road or street, and
4. one-hundred fifty feet (150ft) from any neighboring structure.

ARTICLE III

CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE

SECTION 1 CONFLICTS: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with a City of Midway comprehensive plan, and its amendments, which

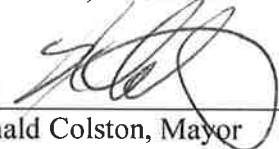
shall prevail over any part of this ordinance which is inconsistent, either in whole or in part, with the said comprehensive plan.

SECTION 2 SEVERABILITY: If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3 EFFECTIVE DATE: A certified copy of this Ordinance shall be filed with the Department of State within ten (10) days after enactment by the City Council and the Ordinance shall take effect as provided by law.

PASSED AND DULY ADOPTED ON THIS 2nd DAY OF June, 2020.

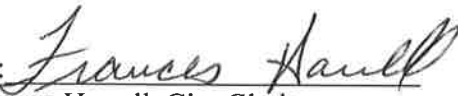
CITY COUNCIL OF THE CITY OF
MIDWAY, FLORIDA

By: 
Ronald Colston, Mayor

CERTIFICATION

The undersigned, Clerk of the City of MIDWAY, FLORIDA, do hereby certify that the above and foregoing AN ORDINANCE OF THE CITY COUNCIL OF MIDWAY, FLORIDA; DECLARING LOCAL STATE OF EMERGENCY. PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE., was duly enacted on the date set forth above at a regular meeting of the City Council of the City of MIDWA, FLORIDA.

(SEAL)

By: 
Frances Harrell, City Clerk