

CITY OF SANIBEL

ORDINANCE 11-009

AN ORDINANCE AMENDING THE SANIBEL CODE OF ORDINANCES, SUBPART A, FIRE PROTECTION AND PREVENTION, CHAPTER 34 - FIRE CONTROL DISTRICT, ARTICLES II THROUGH V, SECTIONS 34-31 THROUGH 34-111; PROVIDING FOR CONFLICT AND SEVERANCE; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council finds it appropriate and necessary to amend Chapter 34 of the Sanibel Code relating to Fire Protection and Prevention in order to update several outdated provisions therein; and

WHEREAS, the “city fire control district” is now appropriately and legally referred to as the Sanibel Fire and Rescue District; and

WHEREAS, Article III “Standards” has been superseded by the Florida Fire Prevention Code set forth in Sections 633.0215 through 633.025, Florida Statutes; and

WHEREAS, the Florida Legislature has changed the term “Occupational License” to “Business Tax Receipt” as more particularly set forth in Chapter 205, Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED by the City Council for the City of Sanibel, Florida:

SECTION 1. The Code of Ordinances of the City of Sanibel, Subpart A, Fire Protection and Prevention, Chapter 34 - Fire Control District, Articles II through V, Sections 34-31 through 34-111, are hereby amended with underlining indicating added language and ~~strikethroughs~~ indicating deletions, as follows:

Chapter 34

FIRE PROTECTION AND PREVENTION*

Article I. In General

Secs. 34-1--34-30. Reserved.

Article II. Fire Control District

Sec. 34-31. Duty to review development plans, drawings, etc., submitted to city.

Sec. 34-32. On-site inspections--Duty to conduct during construction stages.

Sec. 34-33. Same--Certificate of occupancy.

Sec. 34-34. Same--City to advise when necessary.

Sec. 34-35. Same--Duty to notify city manager of infractions, unsafe conditions, etc.

Sec. 34-36. Enforcement.

Secs. 34-37--34-55. Reserved.

* **Cross References:** Buildings and building regulations, ch. 14; alarm businesses, § 18-71 et seq.; civil emergencies, ch. 22; emergency services, ch. 26.

State Law References: Fire prevention and control, F.S. ch. 633.

~~Article III. Standards~~

- ~~Sec. 34-56. Fire prevention code adopted; exceptions.~~
- ~~Sec. 34-57. Life safety code adopted.~~
- ~~Sec. 34-58. Conflicts.~~
- ~~Sec. 34-59. Decision of fire and building officials.~~
- ~~Sec. 34-60. Violations.~~
- Secs. ~~34-61-34-56~~ -- 34-80. Reserved.

Article ~~IV~~ III. Open Burning

- Sec. 34-81. Open fires prohibited.
- Sec. 34-82. Burning refuse.
- Sec. 34-83. Exceptions.
- Secs. 34-84--34-105. Reserved.

Article ~~V~~ IV. Prohibition of Fireworks

- Sec. 34-106. Title.
- Sec. 34-107. Possession.
- Sec. 34-108. Definition.
- Sec. 34-109. Exceptions.
- Sec. 34-110. Public fireworks displays allowed.
- Sec. 34-111. Penalties for violation.

ARTICLE I. IN GENERAL

Secs. 34-1--34-30. Reserved.

ARTICLE II. ~~FIRE CONTROL DISTRICT~~ SANIBEL FIRE & RESCUE DISTRICT *

Sec. 34-31. Duty to review development plans, drawings, etc., submitted to city.

(a) ~~The city fire control district~~ Sanibel Fire & Rescue District shall review all detail drawings submitted to the city for development of new subdivisions, in addition to all detail drawings submitted to the city for approval of new construction, or alteration of existing structures, classified as commercial development, multifamily development, utility and industrial development.

(b) ~~The city fire control district~~ Sanibel Fire & Rescue District shall, if the application is approved, indicate such approval on the submitted drawings by affixing ~~on each sheet thereto~~ an appropriate permanent mark, stencil or stamp indicating approval. Thereafter, the ~~fire control~~ district shall return two sets of duly approved drawings to the city, and shall retain one complete set for reference and file.

* **Editors Note:** The Sanibel Island Fire Control District was created by Laws of Fla. ch. 30930 (1955), and that act as amended established the district's powers, etc.

Sec. 34-32. On-site inspections--Duty to conduct during construction stages.

The ~~city fire control district~~ Sanibel Fire & Rescue District shall conduct such on-site inspections during construction stages of development detailed in section 34-31, for the purpose of detecting infractions of, or corrections to, stipulated fire prevention requirements of the applicable ~~approved~~ reviewed drawings. Such inspections shall be made prior to obscuring, enclosing, or otherwise closing from sight or access thereto, any part of a structure that might bear upon the fire integrity of such structure.

Sec. 34-33. Same--Certificate of occupancy.

Issuance of a certificate of occupancy by the city building department, for multifamily and commercial projects, shall be contingent upon prior inspection and approval of the premises by the ~~city fire control district~~ Sanibel Fire & Rescue District.

Sec. 34-34. Same--City to advise when necessary.

In acknowledging that the ~~city fire control district~~ Sanibel Fire & Rescue District conducts periodic inspections of premises to which the general public is provided access, and further acknowledging that a change in ownership, tenancy, occupation or function of a building, structure or part thereof, can necessitate a scrutiny of existing fire egress and protection systems, the city shall advise the ~~fire control~~ district of such changes in ownership, tenancy, occupation or function of a building or structure when brought to the notice of the city by change in ~~occupational licensure~~ a Business Tax Receipt application.

Sec. 34-35. Same--Duty to notify city manager of infractions, unsafe conditions, etc.

The ~~city fire control district~~ Sanibel Fire & Rescue District shall notify the city manager, or his designee, of any irregularity, unsafe practice, or code infraction which constitutes an imminent threat to life safety and which is noted in the course of a fire control district inspection of any building, structure or part thereof, where the general public is provided access, or wherein the district is authorized to inspect and there is conducted any occupation for which a city occupation license Business Tax Receipt is required to be issued.

Sec. 34-36. Enforcement.

(a) The city manager shall enforce this article with regard to matters within the jurisdiction of the City.

(b) The ~~city fire control district~~ Sanibel Fire & Rescue District may enforce this article directly or, if applicable and properly within the jurisdiction of the City to enforce, may refer a violation to the city manager for enforcement.

Secs. 34-37--34-55. Reserved.

~~ARTICLE III. STANDARDS~~

~~Sec. 34-56. Fire prevention code adopted; exceptions.~~

~~(a) The Standard Fire Prevention Code, 1994, as published by the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama, 35213, including appendices A, B, C, and D, is hereby adopted in its entirety by reference and incorporated in this section with the following specific exceptions:~~

~~(1) Chapter 1, section 105, Board of Appeals and Adjustments, of the Standard Fire Prevention Code, and appendix A, sections A105 and A107, are hereby deleted in their entirety. The city council, acting as the board of adjustment and appeals, shall have the jurisdiction conferred by the city fire control district Sanibel Fire & Rescue District rules and regulations, this Code, or general law, including, without limitation, those powers conferred by F.S. § 553.73.~~

~~(2) Chapter 3, relating to recognized standards and publications, shall remain the same, except that the following National Fire Prevention Association (NFPA) standards shall apply:~~

~~NFPA 1 Fire Prevention Code—1992, to the extent that a standard is not covered in the Standard Fire Prevention Code~~

~~NFPA 10 Portable Fire Extinguishers—1994~~

~~NFPA 12A Halon 1301 Fire Extinguishing Systems—1992~~

~~NFPA 13 Installation of Sprinkler Systems—1994~~

~~NFPA 13D Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes—1994~~

~~NFPA 14 Installation of Standpipe and Hose Systems—1993~~

~~NFPA 17 Dry Chemical Extinguishing Systems—1994~~

~~NFPA 17A Wet Chemical Extinguishing Systems—1994~~

~~NFPA 20 Centrifugal Fire Pumps—1993~~

~~NFPA 24 Installation of Private Fire Service Mains and Their Appurtenances—1992~~

~~NFPA 25 Installation, Testing and Maintenance of Water Based Fire Protection Systems—1995~~

~~NFPA 30 Flammable and Combustible Liquids Code—1993~~

~~*NFPA 30A* Automotive and Marine Service Station Code—1993~~

~~*NFPA 37* Stationary Combustion Engines and Gas Turbines—1994~~

~~*NFPA 43D* Storage of Pesticides—1994~~

~~*NFPA 51B* Cutting and Welding Processes—1994~~

~~*NFPA 54* National Fuel Gas Code—1992~~

~~*NFPA 58* Storage and Handling of Liquefied Petroleum Gases—
1995~~

~~*NFPA 70* National Electrical Code—1996~~

~~*NFPA 70B* Electrical Equipment Maintenance—1994~~

~~*NFPA 70E* Electrical Safety Requirements for Employee
Workplaces—1995~~

~~*NFPA 72* National Fire Alarm Code—1993~~

~~*NFPA 75* Protection of Electronic Computer/Data Processing
Equipment—1992~~

~~*NFPA 77* Static Electricity—1993~~

~~*NFPA 80* Fire Doors and Windows—1995~~

~~*NFPA 90A* Installation of Air Conditioning and Ventilating
Systems—1993~~

~~*NFPA 90B* Installation of Warm Air Heating and Air Conditioning
Systems—1993~~

~~*NFPA 96* Ventilation Control and Fire Protection of Commercial
Cooking Operations—1994~~

~~*NFPA 110* Emergency and Standby Power Systems—1993~~

~~*NFPA 303* Marinas and Boatyards—1995~~

~~*NFPA 490* Storage of Ammonium Nitrate—1993~~

~~*NFPA 1123* Fireworks Display—1995~~

——(b)—— It is the intent of this section that where there is no applicable adopted or referenced codes or standards to provide for life safety or property protection, the most recent edition of the applicable National Fire Code, as published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269 shall be used. (Code 1981, § 8-1(a))

~~Sec. 34-57. Life safety code adopted.~~

~~The Life Safety Code, 101, 1994 edition, as published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, is hereby adopted in its entirety by reference and incorporated in this section.
(Code 1981, § 8-1(b))~~

~~Sec. 34-58. Conflicts.~~

~~In the event of a conflict between the applicable minimum building code and the applicable minimum fire safety code or life safety code, the conflict shall be resolved by agreement between the local building code official and the local fire code enforcement official in favor of the requirement of the code which offers the greatest degree of life safety or alternatives which would provide an equivalent degree of life safety and an equivalent method of construction.~~

~~(Code 1981, § 8-1(c))~~

~~—————**State Law References:** Procedure for resolution of conflict between codes, F.S. § 553.73(8).~~

~~Sec. 34-59. Decision of fire and building officials.~~

~~Any decision made by the local fire official and local building official may be appealed to the city council, acting as the city board of adjustment and appeals, which shall render a decision in accordance with the requirements established in F.S. § 553.73(8).~~

~~(Code 1981, § 8-1(d))~~

~~Sec. 34-60. Violations.~~

~~A violation of any standard or requirement set forth in this article shall constitute an offense against the city and shall subject the offender to the penalties and remedies contained in section 1-15. Each day of violation shall constitute a separate offense.~~

~~(Code 1981, § 8-2)~~

~~Secs. 34-61-34-56 -- 34-80. Reserved.~~

ARTICLE IV III. OPEN BURNING*

Sec. 34-81. Open fires prohibited.

It shall be unlawful to light or maintain any open fire anywhere in the city. The term "fire" as used in this section shall not be construed to mean or include a fire in a furnace, stove, boiler, or fireplace inside or on the outside premises of a building, a fire in a lantern or gaslight, or a fire used to light a cigarette, cigar or tobacco pipe.

* **State Law References:** Controlled open burning of lands, F.S. § ~~590.025~~ 590.125.

Sec. 34-82. Burning refuse.

It shall be unlawful to burn rubbish, refuse or vegetative debris of any kind anywhere in the city, except as permitted in subsection 34-83(8).

Cross References: Solid waste, ch. 54.

Sec. 34-83. Exceptions.

The provisions of this article are subject to the following exceptions and under the following conditions:

- (1) A campfire or other fire used solely for recreational purposes if a permit is secured from the ~~city fire control district~~ Sanibel Fire & Rescue District authorizing such campfire or other fire used solely for recreational purposes.
- (2) A fire for noncommercial preparation of food, so long as excessive visible pollutants are not emitted and so long as such fire is in a cookstove, grill, or other device designed for such purpose.
- (3) A fire for commercial preparation of food, so long as all applicable city permits are first secured, and so long as a permit is secured from the ~~city fire control district~~ Sanibel Fire & Rescue District.
- (4) A fire used for instruction or training of organized fire fighters under the supervision of a public fire control official.
- (5) A fire for the destruction of obsolete explosives, ineffective materials or other substances dangerous to the public health, for which other means of destruction are not suitable or practicable, and then only on specific permission in writing from the state department of environmental protection.
- (6) A fire set in the performance of official duty by a public officer as necessary to prevent or contain a fire hazard.
- (7) Prescribed burning of federal, state, county, municipal or wildlife conservation lands if a permit is secured from the ~~city fire control district~~ Sanibel Fire & Rescue District, the state division of forestry and the city council, authorizing such burning, or other prescribed burning authorized by the Florida Prescribed Burning Act, F.S. § ~~590.026~~ 590.125.
- (8) A fire to burn vegetative debris resulting from land clearing, providing all the following conditions are met:
 - a. A permit is secured from the ~~city fire control district~~ Sanibel Fire & Rescue District, the state division of forestry, and the city, authorizing such fire.

b. The provisions of F.A.C. ch. 62-256 are met. In addition, all open burning shall use an air curtain incinerator, regardless of setback distance to an occupied structure unless the burn is to facilitate habitat restoration on lands owned or managed for conservation purposes by the city, a legally authorized conservation organization, the state or federal government, or to burn debris collected by the city after a bona fide islandwide emergency.

Secs. 34-84--34-105. Reserved.

ARTICLE V IV. PROHIBITION OF FIREWORKS*

Sec. 34-106. Title.

This article may be cited as the "Sanibel Prohibition of Fireworks Ordinance."

Sec. 34-107. Possession.

It shall be unlawful for any person to transport, possess, set off, or otherwise cause to explode or discharge or burn any firecracker, torpedo, rocket, or any other fireworks or explosives within the city limits, except as otherwise allowed in this article.

Sec. 34-108. Definition.

Fireworks shall mean any article, device or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation which meets the description of pyrotechnic substances as set forth in the United States Department of Transportation Hazardous Materials Regulations, 49 CFR § 173.52.

Sec. 34-109. Exceptions.

Fireworks shall not include:

- (1) Highway flares, ship distress signals, smoke candles, and other emergency signal devices.
- (2) Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means.

* **Editors Note:** Ord. No. 01-10, § 1, adopted June 19, 2001, enacted provisions intended for use as §§ 34-84--34-89. To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as §§ 34-106--34-111.

- (3) Fireworks which are used in testing or research by a licensed explosives laboratory.

Sec. 34-110. Public fireworks displays allowed.

Public fireworks displays shall be allowed under the following conditions: any display of fireworks conducted by a qualified pyrotechnic operator who may only conduct such a display from public property approved by the City and upon the approval of the police department and the ~~city fire control district~~ Sanibel Fire & Rescue District.

~~Sec. 34-111. Penalties for violation.~~

~~Any person or person who violates any provision of this article shall be subject to the penalties and remedies contained in section 1-15 of this Code. Each day of violation shall constitute a separate offense.~~

~~(Ord. No. 01-10, § 1, 6-19-2001)~~

SECTION 2. Codification.

This ordinance shall be an amendment to the Code of Ordinances of the City of Sanibel, Subpart A, Fire Protection and Prevention, Chapter 34 - Fire Control District, Articles II through V.

SECTION 3. Conflict.

All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 4. Severance.

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 portion or application hereof.

SECTION 5. Effective date.

This ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida,
this _____ day of _____, 2011.

AUTHENTICATION:

Kevin Ruane, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: _____
Kenneth B. Cuyler, City Attorney

Date

Publication and Hearing Dates:

Date of First Reading: _____

Ordinance Publication Date: _____

Date of Second Reading and Public Hearing: _____

Vote of Council Members:

Ruane _____

Denham _____

Congress _____

Harrity _____

Jennings _____

Date filed with the City Clerk: _____