

ORDINANCE NO. 779

AN ORDINANCE PROVIDING FOR PERMITS TO BE REQUIRED FOR PUBLIC BURNING AND FIREWORKS DISPLAYS; ESTABLISHING PENALTIES AND FINES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Brooksville is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances;

WHEREAS, pursuant to Section 1.03 and Section 2.13 of the Charter of the City of Brooksville, the City has the power to enable it to conduct municipal functions and to adopt ordinances; and,

WHEREAS, the City has an interest in the health, safety and welfare of its citizens; and,

WHEREAS, certain public events engage in open burns or fireworks displays in public venues; and,

WHEREAS, fireworks and other types of public burnings could endanger the public if not properly managed or operated; and,

WHEREAS, permitting is an effective means of minimizing the danger to the public from such burnings; and,

WHEREAS, trained fire personnel on-site at such an event is the optimal way to protect public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Brooksville, Florida as follows:

SECTION 1. DEFINITIONS.

- (a.) Burn: to light, enflame, incinerate, or otherwise cause a fire to start on or in conjunction with any material. This includes burnings caused through chemical reaction or the lighting of fireworks. This should not be construed as a ban on cigarettes or any other legal form of personal smoking allowable under the laws of the State of Florida.
- (b.) Fireworks: any material that has as its primary purpose when lit or not, to cause an explosion, burning or other substantial risk or fire hazard.
- (c.) Public Event: any event open to the public on any property, whether public or private, for any purpose.

SECTION 2. PERMITS REQUIRED. It shall be unlawful for any person to burn any material or undertake a fireworks display in the open at a public event within the City limits without having first obtained a permit to burn such material or conduct such a display from the Fire Chief, or designee.

SECTION 3. ON-SITE FIRE PERSONNEL REQUIRED. For purposes of public safety, health, and welfare, as a prerequisite to the approval of any permit under this Ordinance, the applicant must provide for the presence of trained fire personnel and proper equipment for the extinguishing of fires, as approved by the Fire Chief, at any such burning or display, the full cost of which is to be covered by the applicant.

SECTION 4. EXCEPTIONS. This Ordinance shall not apply to residential indoor fireplaces, residential outdoor cook areas, and other governmental fire departments.

SECTION 5. SUPPLEMENT TO FLA. STAT. CHAPTER 590. This Ordinance shall be supplemental to Chapter 590 of Florida Statutes.

SECTION 6. ADMINISTRATIVE CIVIL PENALTIES AND FINES. Violators of this Ordinance shall be subject to the fines and penalties as set forth in this Code or as otherwise provided by applicable law.

SECTION 7. APPEAL AND ENFORCEMENT. Any penalties or fines issued under this Ordinance may be appealed through the City's Code enforcement hearing process as set forth in Sec. 2-191, *et. seq.* Any penalty or fine lawfully issued under this Ordinance may be collected by any means provided by this Code or as otherwise provided by applicable law.

SECTION 8. SEVERABILITY. 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 portions thereof.

SECTION 9. CONFLICTS AND REPEALER. This Ordinance shall be cumulative of all provisions of the ordinances of the City of Brooksville, Florida, except where provisions of this Ordinance are in direct conflict with the provisions of such ordinance(s), in which event all ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 10. AMENDMENT TO CODE. This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 46.

SECTION 11. CODIFICATION. The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Brooksville, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article",

or other appropriate word; provided, however, that Sections 8, 9, 10 and 11 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.


SECTION 12. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption.

CITY OF BROOKSVILLE, FLORIDA

Attest:


Janice Peters, CMC, City Clerk

By:


Joe Bernardini, Mayor

PASSED on First Reading October 19, 2009

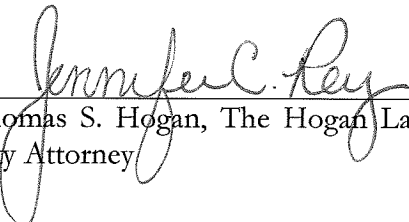
NOTICE Published on October 23, 2009

PASSED on Second & Final Reading November 2, 2009

Approved as to form for the reliance of the City of Brooksville only:

VOTE OF COUNCIL:

Bernardini Aye
Bradburn Aye
Johnston Abs
Lewis Aye
Pugh Aye


Thomas S. Hogan, The Hogan Law Firm, LLC,
City Attorney