

ORDINANCE NO. O-18-02

AN ORDINANCE OF THE CITY OF SEBASTIAN, FLORIDA, AMENDING, REVISING AND UPDATING CHAPTER 42 OF THE CODE OF ORDINANCES RELATING TO FIRE PREVENTION AND PROTECTION; PROVIDING FOR SEVERABILITY, CONFLICTS, AND EFFECTIVE DATE.

WHEREAS, applicants for new construction within the City are currently required to deliver their proposed construction plans to the City of Sebastian Building Department and to the Indian River County Fire Marshal's office in Vero Beach, Florida; and

WHEREAS, such a divided construction plan review process is time consuming, costly and adverse to the economic development of the City; and

WHEREAS, the City wants to establish a "One-Stop" procedure where construction plans can be reviewed by the City for compliance with the Florida Building Code as well as the Florida Fire Prevention Code and Life Safety Code in a timely manner; and

WHEREAS, historically municipalities have provided fire protection and rendered fire prevention services as a long recognized public purpose; and

WHEREAS, Chapter 42 of the Code of Ordinances of the City of Sebastian, Florida authorizes the City Council to provide for the appointment of a fire chief and such other officers as it may deem necessary; and

WHEREAS, pursuant to Chapter 633 Florida Statutes, personnel designated by a local government having no organized fire department such as the City of Sebastian, are authorized to enforce Chapter 633 Florida Statutes and all rules prescribed by the State Fire Marshal within their respective jurisdictions; and

WHEREAS, the City of Sebastian desires to conduct its own fire safety construction plan reviews and inspections; and

WHEREAS, the City Council desires to create a Fire Marshal's Office which shall be responsible for the enforcement of the City's fire prevention and

protection regulations and the laws and rules of the State Fire Marshal as provided in this Ordinance; and

WHEREAS, the creation of a Fire Marshal's Office to review construction plans for compliance with the Florida Fire Prevention Code and Life Safety Code is in the best interest of the health, safety and welfare of the residents; and

WHEREAS, the Sebastian Construction Board has reviewed the proposed amendments and modifications at its January 23, 2018 meeting, and recommend adoption of the same;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEBASTIAN, INDIAN RIVER COUNTY, FLORIDA, AS FOLLOWS:

ARTICLE I. IN GENERAL

Sec. 42-1. Authority of city council to enter into contracts for fire protection.

The City Council is hereby authorized to enter into contracts with other governmental bodies or approved agencies for the purpose of securing, offering or providing mutual fire protection services.

Sec. 42-2. False alarms of fire

It shall be unlawful for any person without reasonable cause, by outcry or the ringing of bells, or otherwise, makes or circulates, or causes to be made or circulated, a false alarm of fire, with intention to deceive and shall be punishable as set forth in FS 806.101.

Secs. 42-3 – 42-25. Reserved

ARTICLE II. FIRE DEPARTMENT

Sec. 42-26. Authority of city council to provide for fire department, fire chief, fire marshal, firefighters.

The City Council is hereby authorized to provide for a regular or volunteer fire department and the appointment of a fire chief, fire marshal and such other officers as it may deem necessary.

Sec. 42-27. Fire marshal's office established; responsibility, authority; enforcement of rules and laws of the state fire marshal.

(a) The City of Sebastian Fire Marshal's Office ("fire marshal") is hereby established.

(b) The fire marshal (or designee) shall be responsible for the enforcement of this ordinance and the laws and rules of the State Fire Marshal, as specified in F.S. §633.118 and other applicable provisions of Chapter 633 F.S., as amended.

(c) The fire marshal (or designee) shall be responsible for the issuance of permits, certificates, notices, approvals and/or orders pertaining to life safety, fire control and fire hazards, as provided for in the Code of Ordinances of the City of Sebastian, Florida, Chapter 633 F.S. and Chapter 69A-60, Florida Administrative Code. The fire marshal for the city shall be designated by the city manager and approved by city council. The fire marshal for the city shall have all the power and authority granted by Part II of Chapter 162, F.S. and Code of Ordinances of the City of Sebastian, Florida.

Sec. 42-28. Fire safety inspections, plan review.

(a) Unless otherwise provided by law, annual fire safety inspections shall be conducted by certified fire inspectors of all buildings specified in the Florida Fire Prevention Code within the city limits. A written report of the inspection shall be provided to the owner or person in charge. The city shall conduct a follow up inspection within forty-five (45) days to verify compliance with violations cited in the annual inspection. If the follow up inspection reveals the building is not in compliance and it becomes necessary for the city to conduct additional inspection(s) to verify compliance, the occupant or owner of the building shall pay the actual costs of each additional re-inspection. The cost of a re-inspection shall be set by resolution.

(b) As specified in the Code of Ordinances of the City of Sebastian, Florida, the Florida Fire Prevention Code or the Florida Building Code, the City shall review all plans and specifications and conduct fire safety inspections for all new occupancies, building renovations or additions, installation of fire protection

or detection systems, fire and life safety related installations and site plans. Plan review and inspections shall be performed by a certified fire safety inspector as required by law. The City may charge a reasonable fee to be set by resolution to recover its costs incurred for plan review and inspections. No building or development permit may be issued until the plans for the new occupancies, building renovations or additions, and subdivisions comply with said codes and all fees have been paid.

Secs. 42-29 – 42-45. Reserved

ARTICLE III. FIRE PREVENTION CODE

Sec. 42-46. Adoption of fire prevention codes

(a) The City does hereby adopt as fire prevention codes for the City the below-listed editions, copies of which are on file in the office of the building department and which shall be accessible to the public upon request during the normal business hours of the building department. Such codes, which shall be referred to as the standard codes, are hereby made a part of the Code of Ordinances of the City subject only to specific additions, deletions or amendments set out in the Code of Ordinances, provided, however, the latest editions set forth in the Florida Statutes, as the same may be amended from time to time for the purpose of prescribing rules and regulations governing conditions that could be hazardous to life and property, shall apply:

(1) Florida Fire Prevention Code:

(a) National Fire Protection Agency; NFPA 1 Fire Code, Florida Edition

(b) National Fire Protection Agency; NFPA 101 Life Safety Code, Florida Edition

Sec. 42-47. Resolution of conflicts between fire prevention codes and other ordinances.

(a) In the event of any conflict between the provisions of the codes adopted by this Ordinance and applicable provisions of the Code of Ordinances of the City of

Sebastian, Florida, state law, or city ordinances, rules or regulations, then in that event the more stringent provisions shall prevail and be controlling.

(b) The provisions of this ordinance shall supersede Chapter 208 of the Code of Indian River County but only to the extent as stated herein. Any provision of Chapter 208 of the Code of Indian River County that does not conflict with the provisions of this ordinance shall be controlling in the City.

Sec. 42-48. Penalty for violation of fire prevention codes.

Any person who shall violate any provision of the codes adopted by this article shall be deemed guilty of a civil infraction, and shall be punished as provided in section 1-10 of this Code. Each day such violation continues shall be deemed a separate offense. The provisions of this ordinance may be enforced by injunctive relief or any other remedies provided by law. Fire safety code violations shall be enforced through the city code enforcement special magistrate.

Sec. 42-49. Control of open burning.

(a) *Open burning restrictions.* No person shall cause, suffer, allow or permit open burning except as provided herein. No person shall fail or refuse to take all reasonable and necessary steps and precautions to prevent open burning upon any premises owned, occupied or under control of such person. No person shall fail or refuse to take all reasonable and necessary steps and precautions to prevent open burning upon any premises owned, occupied or under control of such person. No person shall fail or refuse to take all reasonable and necessary steps and precautions to extinguish or otherwise terminate and abate any open burning which has originated through any cause whatsoever upon any premises owned, occupied or under the control of such person or upon premises upon which such person is carrying out any operation or activity.

(b) *[Exceptions.]* The following are exceptions and restrictions against open burning:

- (1) Campfires used solely for recreational purposes, warming fires for outdoor workers, fires for noncommercial cooking, and small fires for ceremonial purposes are allowed anywhere within the city without any permit from any governmental body provided that the fire does not create excessive smoke or cause a nuisance in any manner. Small household trash and household paper product fires are prohibited.

(2) Open burning of vegetation and wood materials resulting from land clearing. Open burning of wood and vegetation piled up during a land clearing operation may be permitted provided all of the following conditions are complied with:

- a. The burning shall first be approved by the division of forestry, the fire chief and city council; in order to approve a request to allow open burning under this subsection, the city council must find that it is in the public interest;
- b. All of the requirements of chapter 17-5 of the Florida Administrative Code must be met;
- c. An air curtain incinerator permitted by the state and county must be utilized in connection with burning of materials;
- d. The fire shall be at least 1,500 feet from the nearest occupied building and at least 150 feet from the nearest public road, unless the council finds that a lesser distance is both reasonably necessary and safe;
- e. The piles of materials to be burned shall burn out completely one hour before sunset;
- f. Burning shall be conducted only on days of low pollution potential, when the drought index is below 500, and only between the hours of 9:00 a.m. and 4:00 p.m. on such days;
- g. Smoke shall not blow over a road to obstruct vehicular traffic;
- h. Air traffic shall not be obstructed;
- i. Prior authorization shall be obtained from the division of forestry, the chief of the fire department and the city building official;
- j. Only clean fuel not containing garbage, rubber, plastics or other refuse shall be allowed for the start-up of fires; and
- k. The burning of tires, other rubber materials, roofing materials, plastics and creosoted wood are prohibited.

(3) Open burning shall be allowed by governmental agencies when necessary to accomplish a police-power purpose, upon notice to the city.

(c) *Cancellation of fires.* Any police officer, fire department officer or code enforcement officer of the city may order the immediate termination of any outdoor fire within the city limits if weather conditions change, whereby a fire may constitute a danger of wildfire, air pollution or other nuisance.

Section 2. SEVERABILITY. In the event a court of competent jurisdiction shall determine that any part of this Ordinance is invalid, the remainder of the Ordinance shall not be affected and it shall be presumed that the City Council of the City of Sebastian did not intend to enact such invalid provision. It shall further be assumed that the City Council would have enacted the remainder of this Ordinance without said invalid provision, thereby causing said remainder to remain in full force and effect.

Section 3. CONFLICT. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. EFFECTIVE DATE. This Ordinance shall take effect upon its adoption by the City Council.

The foregoing Ordinance was moved for adoption by Councilmember McPartlan. The motion was seconded by Councilmember Dodd and, upon being put to a vote, the vote was as follows:

Mayor Jim Hill	<u>aye</u>
Vice-mayor Linda Kinchen	<u>aye</u>
Councilmember Bob McPartlan	<u>aye</u>
Councilmember Ed Dodd	<u>aye</u>
Councilmember Albert Iovino	<u>aye</u>

The Mayor thereupon declared this Ordinance duly passed and adopted this
14th day of March, 2018.

CITY OF SEBASTIAN, FLORIDA



Mayor Jim Hill


City Clerk

ATTEST:

Approved as to form and legality for
Reliance by the city of Sebastian only:



Jeanette Williams, MMC
City Clerk



James Stokes
City Attorney

