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**Public Hearing
Agenda Item**

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TO: Mayor Teresa Jacobs
and
County Commissioners

FROM: Jeffrey J. Newton, County Attorney *JJN*
Cristina T. Berrios, Assistant County Attorney *CB*
Contact: (407) 836-7320

DATE: May 23, 2018

RE: Public Hearing for Board Meeting on June 5, 2018
Approval of an Ordinance Pertaining to the Code Enforcement Citation Program in Orange County

I. EXPLANATION AND SUMMARY:

Section 11-62, Orange County Code, limits which ordinances the County may enforce by civil citation to those designated in "Schedule A" of that section. Currently, neither Chapter 15 ("Environmental Control") nor Chapter 18 ("Fire Prevention and Protection") are designated in "Schedule A." Therefore, pursuant to Section 11-62, Orange County Code, neither of those two chapters may be enforced by civil citation.

The exclusion of these two chapters from "Schedule A" creates a conflict between the penalty provisions in those chapters and Chapter 11's civil citation enforcement limitation because both chapters contain civil penalty provisions that the Board has approved and codified. Examples of these types of provisions are Section 15-821 of the Fertilizer Management Ordinance and the Burn Ban found in Section 18-4(g), Orange County Code.

The proposed ordinance amendment is a housekeeping measure intended to rectify the conflict by designating Chapter 15 and Chapter 18 as enforceable through civil citation and adding them to "Schedule A." Adding both chapters to "Schedule A" will empower the Environmental Protection Division and the Fire Rescue Division to enforce their respective chapters by civil citation without coming into conflict with Chapter 11.

II. ACTION REQUESTED:

APPROVAL OF AN ORDINANCE PERTAINING TO THE CODE ENFORCEMENT CITATION PROGRAM IN ORANGE COUNTY; AMENDING CHAPTER 11, ARTICLE III, ORANGE COUNTY CODE, SECTION 11-62, SCHEDULE "A" BY ADDING CHAPTER 15 ("ENVIRONMENTAL CONTROL") AND CHAPTER 18 ("FIRE PREVENTION AND PROTECTION"); AND PROVIDING FOR AN EFFECTIVE DATE.

Attachment

- c: Ajit Lalchandani, County Administrator
David Kilbury, Interim Fire Marshal, Fire Rescue
David Jones, Manager, Environmental Protection Division
Robert Spivey, Manager, Code Enforcement Division

ORDINANCE NO. 2018-_____

AN ORDINANCE PERTAINING TO THE CODE ENFORCEMENT CITATION PROGRAM IN ORANGE COUNTY; AMENDING CHAPTER 11, ARTICLE III, ORANGE COUNTY CODE, SECTION 11-62, SCHEDULE "A" BY ADDING CHAPTER 15 ("ENVIRONMENTAL CONTROL") AND CHAPTER 18 ("FIRE PREVENTION AND PROTECTION"); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 162.21(3)(a), Florida Statutes, grants Orange County, Florida (the "County") the authority to issue civil citations when, based upon personal investigation, a code enforcement officer has reasonable cause to believe that the alleged violator has committed a civil infraction in violation of a duly enacted provision of the Orange County Code (the "Code"); and

WHEREAS, the County's Board of County Commissioners (the "Board") has designated certain chapters, sections, and provisions of the Code as specifically enforceable through civil citations and has codified those stated designations in Section 11-62, Schedule "A," of the Code; and

WHEREAS, the Board seeks to grant the County's Environmental Protection Division and Fire Rescue Division the authority to, through civil citation, enforce Chapter 15 ("Environmental Control") and Chapter 18 ("Fire Prevention and Protection") of the Code respectively; and

WHEREAS, the Board finds that designating Chapters 15 and 18 of the Code as enforceable through civil citations and amending Section 11-62, Schedule "A," of the Code to reflect that designation conforms with the Board's goals of preserving the County's environment and protecting its natural resources as well as the health, safety, and public welfare of the County's residents.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Amendment; In General. Throughout this ordinance, additions are shown by underlines, deletions are shown by strikethroughs, and asterisks (***) indicate portions of text which have not changed.

42 **Section 2. Amendment to Section 11-62.** Section 11-62 ("Applicable codes and
ordinances") is amended as follows:

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ARTICLE III

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CODE ENFORCEMENT CITATION PROGRAM

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Sec. 11-62. Applicable codes and ordinances.

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A schedule of codes and ordinances, which may be enforced pursuant to the supplemental code enforcement citation procedures contained herein, is set out directly below as Schedule "A". Where a chapter or part of a chapter is referenced, all sections within that chapter or part are subject to enforcement by citation. If a section within a referenced chapter has a specific penalty identified therein, that more-specific penalty shall prevail so long as it does not exceed the maximum penalty permitted by chapter 162, Florida Statutes, as amended. The schedule of codes and ordinances shall include such codes and ordinances as they may be from time to time amended, renumbered, codified, or recodified including codes and ordinances enacted subsequent to the adoption of this article.

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SCHEDULE "A"

Code Provision	Description	Class
Section 3-101	Adult entertainment establishment general operational rules	II
Section 9-277	Property maintenance	I
<u>Chapter 15</u>	<u>Environmental Control</u>	<u>III</u>
Section 15-184	Noise and vibration control	Punishable as set forth in Section 15-187
<u>Chapter 18</u>	<u>Fire Prevention and Protection</u>	<u>III</u>
Section 21-3	Uniform numbering system	I
Section 21-239	Vending operation on public right-of-way or unpermitted vending operation on property abutting a public right-of-way	II
Chapter 24	Landscaping, buffering and open space	I

Chapter 25, Article II	Garage Sales	I
Chapter 25, Article III	Local business taxes	II
Chapter 28, Article II	Lot Cleaning	I
Chapter 28, Article III	Parking of motor vehicles on residentially and agriculturally zoned property	II
Chapter 31.5	Signs	III
Chapter 32	Solid Waste	II

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Section 4. Effective date. This ordinance shall take effect pursuant to general law.

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ADOPTED THIS ___ DAY OF _____, 2018.

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ORANGE COUNTY, FLORIDA

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By: Board of County Commissioners

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By: _____

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Teresa Jacobs

Orange County Mayor

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ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

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By: _____

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Deputy Clerk

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