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ORDINANCE NO. 2019-____

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**AN ORDINANCE IN ORANGE COUNTY, FLORIDA,
PERTAINING TO AIR QUALITY AND AIR POLLUTION
CONTROL; AMENDING SECTION 15-90, ADOPTION OF
STATE AND FEDERAL RULES BY REFERENCE;
AMENDING SECTION 15-96, PROHIBITIONS;
AMENDING SECTION 15-104, RECREATIONAL OPEN
BURNING; AND PROVIDING AN EFFECTIVE DATE.**

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WHEREAS, the Environmental Protection Commission (“EPC”) was created by the Orange County Air and Water Pollution Control Act, Chapter 67-1830 (the “Special Act”), and exists under the Orange County Charter; and

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WHEREAS, the EPC is authorized, subject to the County’s approval, to establish an air pollution control program in Orange County, pursuant to chapter 67-1830, Laws of Florida (1967); and

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WHEREAS, in 1971, the EPC, pursuant to its authority conferred by Special Act, adopted pollution control rules approved by the Board of County Commissioners and which were subsequently incorporated into Division 2 of Chapter 15, Article III of the Orange County Code; and

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WHEREAS, on April 3, 1989, the Florida Department of Environmental Regulation, now Department of Environmental Protection (hereinafter “DEP”), and the County entered into a general operating agreement relating to air pollution control; and

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WHEREAS, DEP administers several U. S. Environmental Protection Agency (“EPA”) approved or EPA-delegated air pollution control programs; and

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WHEREAS, in 2018, DEP and the County entered into a Specific Operating Agreement (“SOA”) authorizing the County to act on behalf of DEP in matters relating to air pollution control; and

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WHEREAS, the SOA sets forth the terms and conditions under which the County will implement air program management, permitting, compliance, and enforcement responsibilities, ambient air monitoring, and data management; and

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WHEREAS, the SOA contemplates from time to time, the County will consider measures to keep its air quality and air pollution control programs and standards consistent with DEP’s programs and standards.

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BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF

36 **ORANGE COUNTY:**

Section 1. Amendments; In General. Chapter 15 of the Orange County Code is
38 hereby amended as set forth in Section 2 through Section 4 of this ordinance, with additions
being shown as underlined and deletions being shown by strike-throughs, and asterisks (***)
40 indicating portions of code which have not changed.

Section 2. Amendment of Section 15-90. Section 15-90 (“Adoption of state and
42 federal rules by reference.”) is amended to read as follows:

Sec. 15-90. Adoption of state and federal rules by reference.

44 (a) The board of county commissioners hereby adopts by
specific reference thereto the rules of the DEP relating to air
46 quality standards and criteria, design, construction, permitting,
performance, operation, maintenance, monitoring, and reporting
48 requirements for air pollution sources, as they exist as of January
31, ~~2018~~ 2019. These rules are:

- 50 (1) Chapter 62-4, F.A.C.
(2) Chapter 62-204, F.A.C.
52 (3) Chapter 62-210, F.A.C.
(4) Chapter 62-212, F.A.C.
54 (5) Chapter 62-213, F.A.C.
(6) Chapter 62-243, F.A.C.
56 (7) Chapter 62-252, F.A.C.
(8) Rule 62-257.400, F.A.C.
58 (9) Rule 62-257.900, F.A.C.
(10) Chapter 62-296, F.A.C.
60 (11) Chapter 62-297, F.A.C.

62 (b) The board of county commissioners hereby adopts by
specific reference the regulations of the EPA as set forth in 40 CFR

64 Part 61, Subpart M, for asbestos (“NESHAP”) as they exist as of
January 31, ~~2018~~ 2019.

Section 3. Amendment of Section 15-96. Subsection (b) of Section 15-96

66 (“Prohibitions”) is amended to read as follows:

Sec. 15-96. Prohibitions.

68 (a) *General prohibitions.* No person shall ignite, cause to
be ignited, or allow to be ignited, any material that will result in
70 any prohibited open burning as regulated by this article; nor shall
any person allow, conduct or maintain any prohibited open
72 burning.

(b) *Prohibition of the open burning of certain materials.*

74 (1) Open burning to reduce yard waste and tree
cutting debris generated on residential properties is prohibited,
76 except as allowed under section 15-97.

78 (2) Open burning of biological waste, hazardous
waste, asbestos-containing materials or devices, mercury-
containing materials or devices, pharmaceuticals, tires and rubber
80 material, residual oil, used oil, asphalt, roofing material, treated
wood, tar, plastics, waste pesticide containers, garbage, trash or
82 household paper products is prohibited.

84 (3) Open burning of waste matter generated by
demolition of a structure is prohibited.

86 (4) Open burning of ~~vegetative~~ land clearing
debris, tree cutting debris, and untreated wood is prohibited, except
88 as provided in sections 15-97, 15-98, 15-99, 15-101, 15-102, 15-
103 and 15-104.

90 **Section 4. Amendment of Section 15-104.** Section 15-104 (“Recreational open

burning.”) is amended to read as follows:

92 **Sec. 15-104. Recreational open burning.**

94 Open burning of ~~vegetative~~ tree-cutting debris and
untreated wood in a campfire, ceremonial bonfire, outdoor

96 fireplace, or other contained outdoor heating or cooking device, or
on cold days for warming of outdoor workers, is allowed provided:

98 (a) The fire does not violate subsection 15-89.1(a)(1) and
(2); and

100 (b) The total fuel area does not exceed three (3) feet in
diameter and two (2) feet in height, unless the fire is contained in
an outdoor fireplace, a barbecue grill or a barbecue pit; and

102 (c) The fire is located at least twenty-five (25) feet from
any building or combustible structure; and

104 (d) Conditions that could cause the fire to spread to within
twenty-five (25) feet of a structure shall be eliminated prior to
106 ignition; and

108 (e) The fire shall be constantly attended by a competent
person until such fire is extinguished. This person shall have a
garden hose connected to the water supply or other fire-
110 extinguishing equipment readily available for use; and

112 (f) The environmental protection officer and the local
firefighting authority having jurisdiction shall have the authority to
prohibit any or all open fires when atmospheric conditions or local
114 circumstances make such fires hazardous; and

116 (g) For other than one-family and two-family dwellings, no
hibachi, gas-fired grill, charcoal grill, or other similar devices used
for cooking, heating, or any other purpose, shall be used or kindled
118 on any balcony or under any overhanging portion or within ten
(10) feet of any structure. Listed electric ranges, grills, or similar
120 electrical apparatus shall be permitted; and

122 (h) Notwithstanding the requirements set forth in this
section, ceremonial bonfires exceeding these provisions may be
required to be permitted and approved by the local firefighting
124 authority having jurisdiction and may require fees and additional
services.

126 **Section 5. Effective Date.** This ordinance shall take effect pursuant to general law.

128 ADOPTED this _____ day of _____, 2019.

130 ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

132 By: _____
134 Jerry L. Demings
Orange County Mayor

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

138 By: _____
140 Deputy Clerk

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