

BCC Mtg. Date: June 5, 2018

EFFECTIVE DATE: June 13, 2018

ORDINANCE NO. 2018-10

AN ORDINANCE AMENDING THE “ORANGE COUNTY AIR QUALITY RULES” REGULATING AIR QUALITY AND AIR POLLUTION CONTROL; AMENDING SECTION 15-70 REGARDING DEFINITIONS; AMENDING SECTION 15-71 REGARDING VIOLATIONS, PENALTIES AND REMEDIES; AMENDING SECTION 15-89 REGARDING PERMITS REQUIRED, PERMITTING GENERALLY, EXCEPTIONS FROM PERMITTING, PERMIT APPLICATION PROCESSING, VARIANCES AND WAIVERS, EXEMPTIONS, FINAL AGENCY ACTION FOR PERMITS, TEMPORARY NONCOMPLIANCE; AMENDING SECTION 15-89.1 REGARDING AIR POLLUTION PROHIBITED; AMENDING SECTION 15-90 REGARDING ADOPTION OF STATE AND FEDERAL RULES BY REFERENCE; AMENDING SECTION 15-96 REGARDING PROHIBITIONS; AMENDING SECTION 15-98 REGARDING OPEN BURNING OF LAND CLEARING DEBRIS; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Amendments; In General. Chapter 15 of the Orange County Code is amended as set forth in Section 2 through Section 8 herein with new additions being shown as underlined, deletions being shown by strike-throughs, and asterisks (***) indicating portions of code text which have not changed.

Section 2. Amendment to Section 15-70. The definitions of “open burning,” and “yard waste” in Section 15-70 (“Definitions.”) are hereby amended to read as follows:

Open burning means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney. This definition does not include the burning of tobacco products in the form of cigarettes, cigars, and pipe tobacco when ignited for personal consumption.

Yard waste means vegetative matter resulting from landscaping and yard maintenance operations and other such routine property clean-up activities. It includes materials such as leaves, shrub trimmings, grass clippings, palm fronds, and brush. This term does not include land clearing debris or tree cutting debris.

In all other respects, Section 15-70 shall remain unchanged.

Section 3. Amendment to Section 15-71. Subsection (c) of Section 15-71 (“Violations; penalties and remedies.”) is amended to read as follows:

Sec. 15-71. Violations; penalties and remedies.

(c) *DEP enforcement remedies.* The county may avail itself of the enforcement provisions available to DEP under chapter 403, F.S., including section 403.121, F.S. (~~2011~~2015), and the rules adopted by reference in this ordinance.

Section 4. Amendment to Section 15-89. Subsection (c) of Section 15-89 (“Permits required; permitting generally; exceptions from permitting; permit application processing; variances and waivers; exemptions; final agency action for permits; temporary noncompliance.”) is amended to read as follows:

Sec. 15-89. Permits required; permitting generally; exceptions from permitting; permit application processing; variances and waivers; exemptions; final agency action for permits; temporary noncompliance.

(c) *Exceptions from permitting.* The county shall not administer the following permits or categories of air sources:

(1) Electrical power plants and waste-to-energy facilities.

(2) Permits for which local air pollution programs are precluded from taking final agency action under F.S. § 403.0872

(e.g., pulp and paper mills, sugar mills, and chemical manufacturing plants).

(3) County-owned or operated facilities.

(4) New source preconstruction review (NSR) ~~and conducted for the prevention of significant deterioration (PSD) construction permits of air quality and Non-Attainment Area air construction permits.~~

(5) Construction permits subject to processing under “expedited permitting” provisions set forth in Florida Statutes.

(6) Landfills, as designated by Florida Department of Environmental Protection Guidance, Reedy Creek Improvement District, Walt Disney World, and Stanton Energy Center.

(7) General permit facilities operating under the authority of an air general permit in accordance with Rule 62-210.310, F.A.C.

Section 5. Amendment to Section 15-89.1. Subsection (a) of Section 15-89.1 (“Air pollution prohibited.”) is amended to read as follows:

Sec. 15-89.1. Air pollution prohibited.

(a) *Emissions prohibited.*

(1) No person shall cause, let, suffer, allow, or permit the discharge of air pollutants that cause or contribute to an objectionable odor.

(2) No person shall cause, let, suffer, allow, or permit to be discharged into the atmosphere the emissions of air pollutants from any activity, the density of which is equal to or greater than ~~that designated as Number 1 on the Ringlemann Chart~~ (twenty (20) percent opacity) per EPA Method 9.

(3) No person shall store, pump, handle, process, load, unload or use in any process or installation, volatile organic compounds or organic solvents without applying known and existing vapor emission control devices or systems deemed necessary and ordered by EPD.

Section 6. Amendment to Section 15-90. Section 15-90 ("Adoption of state and federal rules by reference.") is amended to read as follows:

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

(a) The board of county commissioners hereby adopts by specific reference thereto the rules of the DEP relating to air quality standards and criteria, design, construction, permitting, performance, operation, maintenance, monitoring, and reporting requirements for air pollution sources, as they exist as of January 31, 2017~~8~~. These rules are:

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

(b) The board of county commissioners hereby adopts by specific reference the regulations of the EPA as set forth in 40 CFR, Subpart M, for asbestos ("NESHAP") as they exist as of January 31, 2017~~8~~.

Section 7. Amendment to Section 15-96. Subsection (c) of Section 15-96 ("Prohibitions.") is amended to read as follows:

Sec. 15-96. Prohibitions.

(c) *Prohibition on open burning during adverse conditions.* No open burning, including the use of any air curtain incinerator exempted from permitting pursuant to ~~F.A.C.~~ Rule 62-210.300, F.A.C. shall be conducted during a National Weather Service Air Stagnation Advisory or Air Pollution Episode, or if the Florida Department of Agriculture and Consumer Services, Division of Forestry, has determined that the weather conditions are unfavorable for safe burning, or the Orange County Fire Rescue Department issues a Burn Ban Activation per section 18-4 under Ordinance 2018-07.

Section 8. Amendment to Section 15-98. Section 15-98 ("Open burning of land clearing debris.") is amended to read as follows:

Sec. 15-98. Open burning of land clearing debris.

(a) Open burning of land clearing debris is allowed provided:

(1) The open burning is restricted to the site where the land clearing debris is generated; and

(2) The fire is ignited after 9:00 a.m.; and

(3) The fire is completely extinguished one (1) hour before sunset; and

(4) The fire is attended by qualified personnel, and adequate fire extinguishing equipment is available at all times; and

(5) The moisture content and composition of material to be burned is favorable to good burning which will minimize smoke; and

(6) Prior to conducting the open burning, the person responsible for the burning activity contacts the division of forestry and the local firefighting authority having jurisdiction regarding the planned burning activity.

(b) If the open burning resulting from the land clearing operation is creating a nuisance, as determined by the environmental protection officer or the local firefighting authority having jurisdiction, then the environmental protection officer and the chief of the local firefighting authority having jurisdiction have the authority to suspend or defer open burning or require the use of an air curtain incinerator.

(c) Except as provided above in this section, open burning of any other land clearing debris shall be conducted using an air curtain incinerator operated in compliance with ~~F.A.C. Rule 62-210.300, F.A.C. or F.A.C. Rule 62-292.401, 62-296.401,~~ F.A.C. and all applicable terms of the incinerator's air permit.

Section 9. Effective Date. This ordinance shall take effect pursuant to general law.

ADOPTED this _____ day of JUN 05 2018, 2018.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

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

By: *Craig A. Stopera*
fol Deputy Clerk