

ORDINANCE NO. 2018-_____

AN ORDINANCE AFFECTING FIRE PREVENTION AND PROTECTION IN ORANGE COUNTY; AMENDING CHAPTER 18, ORANGE COUNTY CODE BY CREATING SECTION 18-4 ESTABLISHING A BURN BAN; PROVIDING FOR BURN BAN ACTIVATION, DEACTIVATION, APPLICABILITY, ENFORCEMENT, AND PENALTIES; AMENDING SECTION 18-32 ("FLORIDA FIRE PREVENTION CODE") BY REMOVING LOCAL AMENDMENTS; AMENDING SECTION 18-34 ("BOARD OF ADJUSTMENTS AND APPEALS") BY REMOVING THE REFERENCE TO THE ADVISORY BOARD ORDINANCE FROM THE BOARD OF ADJUSTMENTS AND APPEALS ELIGIBILITY REQUIREMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 633.208(1), Florida Statutes, provides that the Florida Fire Prevention Code adopted by the State Fire Marshal shall be deemed adopted by a municipality, county, and special district with fire safety responsibilities; and

WHEREAS, the State Fire Marshal adopts triennial revisions of the Florida Fire Prevention Code for municipalities, counties, and special districts with fire safety responsibilities; and

WHEREAS, Section 633.208(2), Florida Statutes, states that each municipality, county and special district with fire safety responsibilities shall enforce the Florida Fire Prevention Code as the minimum fire safety code; and

WHEREAS, Orange County, Florida (the "County") is a county with fire safety responsibilities and, through the Orange County Fire Rescue Department, enforces the Florida Fire Prevention Code in the unincorporated areas the County; and

WHEREAS, the County's Board of County Commissioners (the "Board") finds that open fires during certain periods of the year pose an elevated risk to public safety and welfare and therefore believes that a Burn Ban ordinance is in the best interest of the public; and

WHEREAS, the Board is committed to protecting property and life through the provision and enforcement of fire safety code standards for the County.

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

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

Section 2. Creation of Section 18-4, "Burn Ban" in Article I. Section 18-4, "Burn
50 Ban" of Article I, Orange County Code is created to read as follows:

52 **ARTICLE I**
 IN GENERAL

54 * * *

56 **Sec. 18-4. Burn Ban**

58 **(a) Definitions.**

60 The following words, terms, and phrases, when used in this article,
shall have the meanings ascribed to them in this section:

62 (1) *Board:* The Board of County
Commissioners of Orange County, Florida.

64 (2) *Burn Ban:* The automatic prohibition of any
and all open fires during certain drought conditions except for
66 those expressly permitted, or exempted, by this section or Florida
Statute.

(3) *County:* Orange County, Florida.

68 (4) *Fire Chief:* The individual designated by the
County Mayor as the Orange County Fire Chief authorized to
70 enforce the Florida Fire Prevention Code.

72 (5) *Fire Chief's Designee:* An individual
designated by the Fire Chief to alert the Communications Division
of an active Burn Ban and who is authorized to enforce the Florida
74 Fire Prevention Code.

76 (6) Fire Department: The Orange County Fire
Rescue Department.

78 (7) Fire Hazard Conditions: Those certain
80 drought conditions that automatically activate a Burn Ban, more
82 specifically when Orange County's Keetch Byram Drought Index
 County Averages map calculation, as published by the Florida
 Forest Service (or future state office or agency which provides
 drought information), meets or exceeds 500.

84 (8) Open Fires: Any and all types of
86 unpermitted and/or non-exempted open incineration, including, but
 not limited to: campfires, bonfires, unpermitted controlled burns,
 burning of yard and household trash, burning of construction
 debris, burning of organic debris, and igniting of fireworks.

88 (9) Violator(s): Any individual that causes, or is
90 responsible for the ignition of, an Open Fire in violation of an
 active Burn Ban.

(b) Activation of Burn Ban.

92 (1) A Burn Ban will automatically activate
 when Fire Hazard Conditions exist.

94 (2) Required Notification. The Fire Chief, or the
96 Fire Chief's Designee, shall immediately communicate the
98 activation of a Burn Ban to the Communications Division, which
 shall promptly provide notification to the public of the activation
 of the Burn Ban.

100 (3) Enforcement of Burn Ban. Enforcement of a
102 Burn Ban shall begin once the first publication notifying the public
 of the active Burn Ban has been released and shall continue until
 the Burn Ban automatically enters inactive status in accordance
 with this section.

104 **(c) Deactivation of Burn Ban.**

106 (1) An active Burn Ban is automatically
 rendered inactive once Fire Hazard Conditions have ceased for at
 least seven (7) consecutive days.

108 (2) Required Notification. The Fire Chief, or the
110 Fire Chief's Designee, shall immediately communicate the
 deactivation of a Burn Ban to the Communications Division, which

112 shall promptly provide notification to the public of the deactivation
113 of the Burn Ban.

114 (3) *Enforcement of Burn Ban.* Enforcement of a
115 Burn Ban shall cease once the Burn Ban automatically enters into
116 inactive status in accordance with this section.

117 (d) **Exemptions.**

118 (1) The following activities are exempted from
119 Burn Bans:

120 a. Public or private fireworks displays
121 done by licensed contractors who have obtained permits under the
122 Orange County Code;

123 b. Use of barbecue grills or barbeque
124 pits where the total fuel area does not exceed three (3) feet in
125 diameter and two (2) feet in height; and

126 c. Any other activity for which a valid
127 State or County permit has been issued.

128 (e) **Applicability.**

129 (1) This section shall apply in:

130 a. All unincorporated areas of the
131 County;

132 b. Within the corporate limits of all
133 municipalities that receive fire services through a contractual
134 service agreement with the Fire Department; and

135 c. Within the corporate limits of any
136 municipality in which the governing body certifies, by
137 resolution, that the municipality has no charter or ordinance
138 provisions which are on the subject of this section, or are
139 otherwise in conflict with this section.

140 (f) **Enforcement; Penalties.**

141 (1) In accordance with Section 125.69, Florida
142 Statutes, as amended from time to time, violations of this section
143 may be prosecuted in the same manner that misdemeanors are
144 prosecuted – either by imprisonment for a term not to exceed 60

days, a fine not to exceed \$500.00, or both.

(2) Should the County pursue the Violator(s) before the Special Magistrate pursuant to section 11-34 of County Code, any violation of a Burn Ban that resulted in a fire to which the Fire Department responded is irreparable and irreversible in nature.

(3) Any and all violations of this section are to be classified as Class III violations should the County cite Violator(s) pursuant to Section 11-64.

(4) The imposition of one penalty does not prevent the imposition of any other, nor does it prevent the County from pursuing any other available legal remedies that it might have against Violator(s).

Section 3. Amendment to Article II, Section 18-32, “Florida Fire Prevention Code.” Article II, Section 18-32, “Florida Fire Prevention Code” of the Orange County Code is amended to read as follows:

ARTICLE II FIRE PREVENTION CODE

* * *

Sec. 18-32. Florida Fire Prevention Code

(a) *Adopted.* Subject to the amendments set forth herein, the board of county commissioners does hereby adopt, pursuant to F.S. ch. 633, as adopted by the state fire marshal, the Florida Fire Prevention Code ~~2010, which includes for reference purposes; Florida Versions of NFPA 101 the Life Safety Code 2009 edition, and Florida Versions of NFPA 1, 2009 edition, as these were adopted by F.A.C. ch. 69A-60, and Florida Versions of NFPA 1, 2009 edition and its Annex I,~~ as the governing law relative to the regulation and prevention of fire hazards in the county. The county fire marshal shall be vested with the authority to establish reasonable policies and procedures regarding the enforcement of the code and shall determine the appropriate permits that shall be required within unincorporated Orange

County. Copies of such codes are on file in the office of the county fire marshal.

(b) *Amendments*. The Florida Fire Prevention Code adopted in subsection (a) above is amended in the following respects:

(1) ~~Section 1-10~~ ("Board of Appeals"). The references in the Florida Fire Prevention Code to "board of appeals" shall be amended to read "Fire and Life Safety Code Board of Adjustments and Appeals."

(2) The following language (in addition to the above adopted language ~~as stated in the National Fire Protection Association (NFPA 1) Florida Version~~) is adopted as local augmentations to the Florida Fire Prevention Code.

~~13.7.1.4.11.4 Alarm Verification: No later than June 1, 2015, or as soon thereafter as approved by the Board of County Commissioners, Supervising Stations shall not retransmit alarm signals to the Public Safety Answering Point (PSAP) until an attempt is made to verify the accuracy of the alarm signal at the protected premises. Verification attempts shall be made within ninety (90) seconds of receipt of alarm signal. If the protected premises is contacted and confirms that no fire or emergency condition exists, then the alarm signal shall not be retransmitted. In all other situations, the alarm signal shall be immediately retransmitted. This section modifies the retransmission requirements of NFPA 72, (2007 Edition). Nothing in this section is intended to permit delay of notification devices and evacuation of the protected premises.~~

~~Exceptions : Waterflow alarms and manual pull station alarms shall be immediately retransmitted without verification where they can be distinguished by the supervising station from other alarm initiating devices at the protected premises.~~

~~18.4.1.2 This section does not apply to structures other than buildings unless the county fire marshal determines that a life safety or protection hazard exists. The county fire marshal shall be vested with the authority to establish reasonable policies and procedures regarding the enforcement of this subsection as it relates to alternate methods of protection when adequate water supplies do not exist within unincorporated Orange County.~~

~~18.4.5.1.1.4 Fire Flow Requirements for Buildings One and Two Family Dwellings: One and two family dwellings shall comply with the Orange County Subdivision rules and regulations, other applicable county codes, or this chapter as approved by the county fire marshal.~~

~~20.1.5.2.4(6) Cylinders having a maximum water capacity of 12 lb. (5.4 kg) [nominal 5 lb. (2 kg) LP-Gas] shall be permitted to be used temporarily inside buildings for public exhibitions or demonstrations, including use in classroom demonstrations as approved by the county fire marshal. If more than one such cylinder is located in a room, the cylinders shall be separated by at least 20 ft. Additional safeguards may be imposed by the county fire marshal.~~

Section 4. Amendment to Article II, Section 18-34, “Board of adjustments and appeals.” Article II, Section 18-34, “Board of adjustments and appeals,” of the Orange County

Code is amended to read as follows:

Sec. 18-34. Board of adjustments and appeals.

(a) *Authority; purpose.* This section is enacted under the home rule authority of the county for the purpose of adopting a code to regulate and prevent fire hazards in the county and, further, to establish professional qualifications for members of a board of adjustments and appeals which shall be known as the Orange County Fire and Life Safety Code Board of Adjustments and Appeals as established by this chapter.

(b) *Creation; qualifications of members.* There is hereby created the County Fire and Life Safety Code Board of Adjustments and Appeals. In addition to the powers and duties given to the Fire and Life Safety Code Board of Adjustments and Appeals in the Fire Prevention Code, the board shall have those powers and duties as set forth in this section.

(c) *Eligibility requirements.* All members of the board appointed hereunder shall comply with the qualification and eligibility requirements set forth in section 2-206, ~~of the advisory boards ordinance~~ [chapter 2, article VI of this Code}. Pursuant to section 2-204(a) (1) of the advisory boards ordinance, all members shall be nominated by the membership and mission review board. The board of county commissioners shall review the nominations and appoint the members.

(d) *Composition of membership.* The board shall consist of seven (7) members. The members shall be actively engaged in their respective disciplines or professions during their tenure as members. The composition of the membership shall be as follows:

(1) One (1) member shall be a state certified general contractor unlimited;

(2) One (1) member shall be a state registered architect;

(3) One (1) member shall be a state registered engineer;

(4) & (5) Two (2) members shall be selected from citizens at large or from the listed disciplines;

(6) One (1) member shall be a professional fire and casualty insurance executive who is experienced in risk management, fire and casualty underwriting or loss adjustment or related fields; and

(7) One (1) member shall be an individual who is experienced in Florida Fire Alarm Contracting or related fields.

(e) *Terms.* Except as provided at subsection (f), all members shall serve three-year terms beginning on January first, and they shall serve not more than two (2) consecutive terms. After a member completes his second consecutive term, he shall not be eligible to serve as a member.

(f) *Initial terms.* Each member shall serve a term of three (3) years.

(g) *Meetings; quorum.* The board shall meet regularly at least once a month if there are agenda items to be heard by the Board, or it shall meet specially as may be called by the chief fire marshal. A quorum shall consist of four (4) members.

(h) *Secretary; duties, etc.* The secretary of the board shall be a person designated by the chief fire marshal. The secretary shall be responsible for keeping written minutes at each meeting, making an audiocassette tape of each meeting, recording

the vote of each member, the absence of any member, and any failure of a member to vote, and filing and retaining the decisions of the board.

(i) *Chairperson, vice- chairperson.* At its first meeting each year, the board shall elect a chairperson and vice-chairperson. They shall each serve two, one-year terms and no more.

(j) *Absence from meetings.* Any member who is absent from three (3) consecutive regular meetings or twenty-five (25) percent of the regularly scheduled meetings in any calendar year shall be automatically suspended and replaced.

(k) *Removal.* All members of the board serve at the pleasure of the board of county commissioners and may be removed without cause and without entitlement to a hearing upon a vote of five (5) members of the board of county commissioners.

(l) *Chief fire marshal to attend.* The chief fire marshal or his designee shall attend all meetings of the board.

(m) *Powers and duties of board.* The board shall have the following powers and duties, subject to the procedures as may be set forth in this article II of chapter 18:

(1) To hear any appeal from a decision of the chief fire marshal as to the application or interpretation of any state fire safety statute, rule or regulation;

(2) In order to meet special situations arising from historic, geographic or unusual conditions, with respect to a building or structure which is subject to the uniform fire safety standards mandated by F.S. § 633.022, to authorize equivalent alternative standards for such building or structure, provided the alternative requirements shall not result in a level of protection to life, safety or property less stringent than the applicable uniform fire safety standards;

(3) To establish alternative requirements to those requirements which are required under the minimum fire safety standards mandated by F.S. § 633.025, on a case-by-case basis, in order to meet special situations arising from historic, geographic or unusual conditions, provided the alternative

requirements result in a level of protection to life, safety or property equal to or greater than the applicable minimum fire safety standards. (The term "historic" means that the building or structure is listed on the National Register of Historic Places of the United States Department of the Interior);

(4) To review and propose amendments to the fire prevention code in effect in or applicable to the unincorporated area of the county and any other laws, ordinances and regulations in the Orange County Code pertaining to fire prevention and protection;

(5) To act as a liaison between the county government and the fire and casualty insurance industry;

(6) To establish rules and regulations for the conduct of its business.

(n) *Appeals from final decisions by chief fire marshal.* The time and procedure for filing a notice of appeal from a final decision by the chief fire marshal shall be the same as may be set forth in the Florida Fire Prevention Code.

(o) *Quasi-judicial hearing procedures.*

(1) *Notice.* A quasi-judicial hearing before the Fire and Life Safety Board of Adjustments and Appeals may be held at any time after not less than ten (10) days' notice by mail to the address given to the fire rescue department by the appellant or applicant.

(2) *Hearing, rules of evidence.* The formal rules of evidence shall not apply during quasi-judicial hearings, but fundamental due process shall be observed and govern the proceedings. The chairperson of the Fire and Life Safety Code Board of Adjustments and Appeals shall have the authority to designate evidence as irrelevant, immaterial or unduly repetitious and exclude such evidence accordingly. However, all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, regardless of whether such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form. The board may request certain evidence to be provided by an architect or engineer registered in the state, in which case it shall be signed and sealed.

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

APPROVED THIS ____DAY OF _____, 2018.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By:

Teresa Jacobs
County Mayor

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

By: _____
Deputy Clerk