



FIRE RESCUE DEPARTMENT

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**Public Hearing
Agenda Item**

TO: Mayor Teresa Jacobs
and
County Commissioners

FROM: Otto Drozd III, Fire Chief
Fire Rescue Department

THROUGH: George Ralls, M.D.
Deputy County Administrator

DATE: February 20, 2018

RE: Public Hearing for Board Meeting on February 20, 2018
Approval of 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.

I. EXPLANATION & SUMMARY:

The proposed ordinance relates to fire safety within Orange County, and modifies Chapter 18 of County code, Fire Prevention and Protection. Included therein is:

1. The County's adoption of the Florida Fire Prevention Code, Sixth Edition which was adopted by the State Fire Marshal on December 31st, 2017. The language herein includes the adoption of the Florida Fire Prevention Code by the County government upon the triennial state adoption going forward. The indicated modifications relate to changes in the Florida Fire Prevention Code and referenced standards.
2. A new section proposes a "burn ban" designed to reduce the risk of wildfires

during periods of severe drought conditions. Wildfires are a serious threat to the life, safety, and wellbeing of the County's residents. This burn ban is a tool in assisting the Fire Rescue Department in educating the County's residents in the severe hazards caused by drought conditions and empowers the Fire Rescue Department to protect the life, safety, and wellbeing of the County's residents – and their property – through enforcement of the burn ban. This burn ban is consistent to that of Brevard, Lake, Osceola, and Seminole counties and brings Orange County into line with the wildfire prevention efforts of our neighboring counties.

This item came before the Board on February 6, 2018 with the following concerns:

1. The inclusion of the "60 day imprisonment, \$500 fine, or both" penalty; and
2. The question of how the Communications Division would communicate the "burn ban" to the County's residents.

To resolve these concerns, the "60 day imprisonment, \$500 fine, or both" penalty was removed from the proposed ordinance and the Communications Division's "standard emergency notification practices" was defined.

Please contact Bruce Faust, Fire Marshal, at (407) 836-8301 with any questions.

II. BOARD ACTION REQUESTED:

APPROVAL OF 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.

Attachment

c: Ajit Lalchandani, County Administrator

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
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
those expressly permitted, or exempted, by this section or Florida
66 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 Department: The Orange County Fire
Rescue Department.

74 (6) Fire Hazard Conditions: Those certain
drought conditions that automatically activate a Burn Ban, more

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.

(7) *Open Fires:* Any and all types of unpermitted and/or non-exempted open incineration where the burning of any matter results in the products of combustion being emitted directly into the outdoor atmosphere without passing through a stack or chimney. This includes, but is 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.

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

(b) Required Notification.

(1) The Fire Chief, or his/her designee, shall immediately communicate the activation, or deactivation, of a Burn Ban to the Communications Division Manager or his/her designee, which shall promptly provide notification to the public of the activation of the Burn Ban.

(2) The Communications Division Manager, or his/her designee, shall issue press releases through broadcast media, local television news networks, and post notice on the County's website. Additionally, notice of the activation, or deactivation, of a Burn Ban will be streamlined on all official Orange County social media websites, with the exception of the websites maintained by elected officials.

(c) Activation of Burn Ban.

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

(2) *Enforcement of Burn Ban.* Enforcement of a Burn Ban shall begin once the Required Notification of the public of the active Burn Ban has been completed and shall continue until the Burn Ban automatically enters inactive status in accordance with this section.

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(3) Deactivation of Burn Ban.

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

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(2) Enforcement of Burn Ban. Enforcement of a Burn Ban shall cease once the Burn Ban automatically enters into inactive status in accordance with this section.

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(4) Exemptions.

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

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

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

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

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(5) Applicability.

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(1) This section shall apply to, and be effective within:

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a. All unincorporated areas of the County;

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

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c. The corporate limits of any municipality to the extent that the article does not conflict with any municipal ordinance covering the subject matter, activity, or conduct regulated herein.

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(6) Enforcement; Penalties.

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(1) Enforcement. The Fire Department,

144 Environmental Protection Division, and Code Enforcement
146 Division are hereby empowered to enforce this section pursuant to
the relevant provisions of state and local law.

146 (2) Penalties.

148 a. Any violation of an active Burn Ban
which causes a fire to which the Fire Department responds is a
150 violation that is irreparable and irreversible in nature and shall be
treated as such by the Special Magistrate pursuant to section 11-34,
Orange County Code, as amended.

152 b. Violations of this section are Class
154 III violations as provided in chapter 11, article III, of this Code, as
amended, and may be enforced by a civil citation not to exceed five
hundred dollars (\$500.00) per violation.

156 c. The provisions of this section are
158 supplemental to any other remedy or enforcement procedure
provided for or recognized by ordinance, statutory law, common
160 law, case law, or the Constitution and shall not be construed as an
162 exclusive remedy or procedure available for enforcement of the
codes and ordinances of the County. Nothing contained in this
section shall prohibit the Board from enforcing its codes by any
other means.

164 ***Section 3. Amendment to Article II, Section 18-32, "Florida Fire Prevention***

166 ***Code."*** Article II, Section 18-32, "Florida Fire Prevention Code" of the Orange County Code is
amended to read as follows:

168 **ARTICLE II**
170 **FIRE PREVENTION CODE**

172 * * *

174 **Sec. 18-32. Florida Fire Prevention Code**

176 (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
178 Florida Fire Prevention Code 2010, ~~which includes for reference~~

180 purposes; ~~Florida Versions of NFPA 101 the Life Safety Code~~
182 ~~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~~
184 ~~NFPA 1, 2009 edition and its Annex I, as the governing law~~
~~relative to the regulation and prevention of fire hazards in the~~
186 ~~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~~
188 ~~permits that shall be required within unincorporated Orange~~
~~County. Copies of such codes are on file in the office of the county~~
~~fire marshal.~~

190
192 (b) *Amendments.* The Florida Fire Prevention Code
194 adopted in subsection (a) above is amended in the following
196 respects:

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

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

206 13.7.1.4.11.4 Alarm Verification: No later than June
208 1, 2015, or as soon thereafter as approved by the Board of County
210 Commissioners, Supervising Stations shall not retransmit alarm signals to the
212 Public Safety Answering Point (PSAP) until an attempt is made to verify the
214 accuracy of the alarm signal at the protected premises. Verification attempts
216 shall be made within ninety (90) seconds of receipt of alarm signal. If the
218 protected premises is contacted and confirms that no fire or emergency condition
220 exists, then the alarm signal shall not be retransmitted. In all other situations, the
222 alarm signal shall be immediately retransmitted. This section modifies the
224 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.

268 (c) *Eligibility requirements.* All members of the board
270 appointed hereunder shall comply with the qualification and
272 eligibility requirements set forth in section 2-206, ~~of the advisory~~
274 ~~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.

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

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

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

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

292 (4) & (5) Two (2) members shall be selected from
citizens at large or from the listed disciplines;

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

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

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

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

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

316 (h) *Secretary; duties, etc.* The secretary of the board
shall be a person designated by the chief fire marshal. The
318 secretary shall be responsible for keeping written minutes at each
meeting, making an audiocassette tape of each meeting, recording
320 the vote of each member, the absence of any member, and any
failure of a member to vote, and filing and retaining the decisions
322 of the board.

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

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

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

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

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

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

350 (2) In order to meet special situations arising
from historic, geographic or unusual conditions, with respect to a
352 building or structure which is subject to the uniform fire safety
standards mandated by F.S. § 633.022, to authorize equivalent
354 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

400 designate evidence as irrelevant, immaterial or unduly repetitious
401 and exclude such evidence accordingly. However, all other
402 evidence of a type commonly relied upon by reasonably prudent
403 persons in the conduct of their affairs shall be admissible,
404 regardless of whether such evidence would be admissible in a trial
405 in the courts of Florida. Any part of the evidence may be received
406 in written form. The board may request certain evidence to be
407 provided by an architect or engineer registered in the state, in
408 which case it shall be signed and sealed.

* * *

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

412 **APPROVED THIS ____ DAY OF _____, 2018.**

414 **ORANGE COUNTY, FLORIDA**

416 By: Board of County Commissioners

418 By:

420 _____
Teresa Jacobs
County Mayor

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

426 By: _____
428 Deputy Clerk