

BCC Mtg. Date: February 20, 2018

EFFECTIVE DATE: February 27, 2018

ORDINANCE NO. 2018-07

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.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF

ORANGE COUNTY, FLORIDA:

Section 1. Amendments; 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.

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

**ARTICLE I
IN GENERAL**

* * *

Sec. 18-4. Burn Ban

(a) Definitions.

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

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

(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 Statute.

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

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

(5) *Fire Department:* The Orange County Fire Rescue Department.

(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.

(d) 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.

(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.

(e) Exemptions.

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

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

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

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

(f) Applicability.

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

a. All unincorporated areas of the County;

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

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.

(g) Enforcement; Penalties.

(1) **Enforcement.** The Fire Department, Environmental Protection Division, and Code Enforcement Division are hereby empowered to enforce this section pursuant to

the relevant provisions of state and local law.

(2) Penalties.

a. Any violation of an active Burn Ban which causes a fire to which the Fire Department responds is a 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.

b. Violations of this section are Class 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.

c. The provisions of this section are supplemental to any other remedy or enforcement procedure provided for or recognized by ordinance, statutory law, common law, case law, or the Constitution and shall not be construed as an 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.

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 FEB 20 2018, 2018.



ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By:

Teresa Jacobs
Teresa Jacobs
County Mayor

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

By:

Jenica Vampel
for Deputy Clerk