

ORDINANCE NO. 2019-____

**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.**

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

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

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

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

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

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

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

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.

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 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 (***) indicating portions of code which have not changed.

Section 2. Amendment of 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, ~~2018~~ 2019. These rules are:

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

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

("Prohibitions") is amended to read as follows:

Sec. 15-96. Prohibitions.

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

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

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

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

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

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

Section 4. Amendment of Section 15-104. Section 15-104 ("Recreational open burning.") is amended to read as follows:

Sec. 15-104. Recreational open burning.

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

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

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

(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

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

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

(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-extinguishing equipment readily available for use; and

(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 circumstances make such fires hazardous; and

(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 on any balcony or under any overhanging portion or within ten (10) feet of any structure. Listed electric ranges, grills, or similar electrical apparatus shall be permitted; and

(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 authority having jurisdiction and may require fees and additional services.

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

142 \\ocnas\\legaldept\\gholmes\\ordinances\\air quality control (ch. 15 - art. iii)\\2019 - ordinance update\\2019-03-27 air ordinance - article iii - 2019
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