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May 10, 2017

M E M O R A N D U M

TO: Scott Knox, County Attorney Attn: Shannon Wilson

RE: Item IV.I., Ordinance Revising the Burn Ban Ordinance No. 2000-23

The Board of County Commissioners, in regular session on May 9, 2017, adopted Ordinance No. 17-12, revising Ordinance No. 2000-23, Burn Ban. Enclosed is a certified copy of the Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

Encl. (1)

cc: Emergency Management Director
Fire Rescue Director



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

May 11, 2017

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Ms. Deborah Thomas, Administrative Assistant

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2017-12, which was filed in this office on May 10, 2017.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE 2017- 12

AN ORDINANCE AMENDING ORDINANCE 2000-23 PROHIBITING OPEN BURNING, IF CERTAIN CONDITIONS ARE PRESENT; AMENDING SECTION 1(a) TO IMPLEMENT PROHIBITED CONDUCT WHEN THE KEETCH BYRAM DROUGHT INDEX COUNTY AVERAGES MAP, AS PUBLISHED BY THE FLORIDA FOREST SERVICE, FOR BREVARD COUNTY MEETS OR EXCEEDS 500; RENUMBERING SECTION 5(1) AND 5(2) TO SECTION 5(a) AND 5(b); AMENDING THE WORDING OF 5(a) TO ALLOW SUSPENDING THE PROHIBITION ON CONDUCT WHEN THE KEETCH BYRAM DROUGHT INDEX COUNTY AVERAGES MAP, AS PUBLISHED BY THE FLORIDA FOREST SERVICE, FOR BREVARD COUNTY FALLS BELOW 450; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Brevard County, its residents and visitors have experienced loss and damage to real and personal property due to dry weather and drought conditions which have resulted in wildfires and continuing danger of wildfires;

WHEREAS, the risk of further forest and brush fires is high when certain dry/drought conditions exist;

WHEREAS, the Emergency Management Director and the County Fire Chief further recommend a prohibition against any open burning including campfires, bonfires, trash burning and other open incineration, in certain conditions are met; and

WHEREAS, the current ordinance/code should be amended to provide the proper reference to the "Drought Index" is the "Keetch Byram Drought Index";

WHEREAS, the Florida Forest Service provides an Keetch Byram Drought Index (KBDI) County Averages Map for each county in the State of Florida;

WHEREAS, the code should be amended to reflect the name change of "Division of Forestry" to the "Florida Forest Service (or future state office or agency which provides drought index information)";

WHEREAS, for the purpose of instituting prohibitions on open burning, the Emergency Management Director and the County Fire Chief recommend the threshold number of the average Keetch Byram Drought Index County Averages Map for the County be reduced from 700 to 500 given the lower number is a more accurate number at which the threat of fire becomes imminent and the current ordinance/code should be amended to reflect this change.

WHEREAS, the sale and use of fireworks will no longer be prohibited conduct under Section 1 as directed by the Board and such language has been deleted.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida as follows:

Section 1. Prohibitions. Open burning (to include campfires, bonfires, trash-burning and other similar open incineration) is hereby prohibited when the following conditions are present:

Officially filed with the Secretary of State on 5/10/17.

(a) The Keetch Byram Drought Index County Averages Map, as published by the Florida Forest Service (or future state office or agency which provides drought information), calculation for Brevard County meets or exceeds 500; or

(b) The Chair or (where the Chair is unavailable) the Acting Chair, in consultation with the Brevard County Policy Group (if activated) or (where the Policy Group is not activated) the County Manager or designee, orders open burnings and the sale and use of fireworks (as defined in Section 791.01, Florida Statutes) prohibited.

Such prohibitions do not include state-permitted burns, use of barbeque grills, authorized public fireworks displays and fireworks sales which are authorized by state law, including where the wholesale seller directly ships such fireworks outside of Brevard County, without the purchaser participating in any such shipment, except the purchaser may pay for the costs of shipping.

Such prohibition shall remain in effect until suspended as provided Section 5.

Section 2. Enforcement. The Sheriff and other law enforcement officers, fire prevention and emergency personnel, and code enforcement officers shall in conjunction with their duties imposed by state law or local ordinance, enforce the provisions of this ordinance.

Section 3. Violations. Any person, firm or corporation in violation of the terms of this ordinance shall, upon each conviction, be punishable as provided for in Brevard County Code Section 1-7 or Section 125.69(1), Florida Statutes: i.e. be subject to a fine not exceeding \$500.00, or imprisonment in the county jail for a period of up to sixty (60) days, or both such fine and imprisonment. Any law enforcement officer issuing a Notice to Appear or making an arrest pursuant to a violation of this ordinance shall seize any fireworks being used in violation of this ordinance for the purpose of preserving evidence of the violation.

Section 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held to be invalid, it is the intent of the Brevard County Board of County Commissioners that such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this ordinance are declared severable.

Section 5. Suspension of Prohibitions. The prohibitions set forth above in Section 1 shall be suspended by the Chair or (when the Chair is unavailable) Acting Chair upon satisfaction of the following conditions:

(a) The Keetch Byram Drought Index County Averages Map, as published by the Florida Forest Service, calculation for Brevard County, falls below 450; or

(b) The Brevard County Policy Group (if activated) or (where the Policy Group is not activated), the County Manager or designee in consultation with the Chair or Acting Chair recommends suspension of such prohibitions.

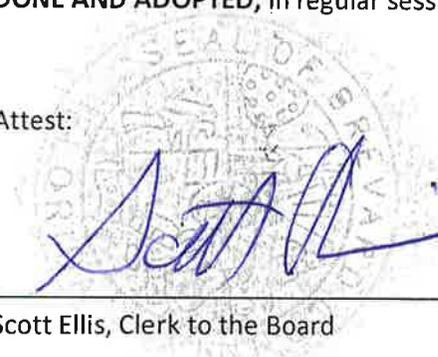
However, should either of the conditions (contained in Section 1 above) which initially triggered such prohibitions once again be present, then such prohibitions would again be in effect, consistent with Section 1 above.

Section 6. Effect Date. This Ordinance shall take effect upon adoption and filing as provided for by law. A certified copy of the Ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment.

Section 7. Area Embraced. This Ordinance shall be effective countywide.

DONE AND ADOPTED, in regular session this 9th day of May, 2017.

Attest:





Scott Ellis, Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Curt Smith, Chairman

As approved by the Board on:
May 9, 2017