

ORDINANCE NO. 2001-02

An Ordinance of Hernando County, Florida, Providing for Regulation of Fire Hazards and Incendiary Devices During Drought Conditions; Providing for Title; Providing for Jurisdiction; Providing for Implementation; Providing for Publication; Providing for Prohibitions; Providing for Exceptions; Providing for Penalties; Providing for Repeal of Ordinance 2000-03; Providing for Severability; Providing for Inclusion in the Code; and Providing for an Effective Date.

Whereas, during the last several years Hernando County has periodically experienced a significant rainfall deficit leading to drought like conditions in the County; and

Whereas, these drought like conditions have greatly affected vegetation in the County making it very susceptible to fires; and

Whereas, it is likely that these periodic drought conditions will continue in the indefinite future; and

Whereas, although the Commissioner of Agriculture has not officially declared a severe drought emergency in Hernando County, there may exist conditions creating a fire hazard in the County; and

Whereas, during periods of drought conditions there is often an increase in wild fires; and

Whereas, in order to avoid conflagration until drought conditions end, and to lessen extreme fire hazards which exist in the County periodically, the Board of County Commissioners ("Board") finds that it is in the public's best interest, health, safety, and welfare to enact this ordinance regulating fire hazards and incendiary devices in the County during periods of drought; and

Whereas, because drought conditions can change on a daily basis, it is necessary that the Board implement restrictions on hazardous burning and the use of certain incendiary devices by resolution and as conditions improve rescind the restrictions by like resolution.

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DEPARTMENT OF STATE
TALLAHASSEE FLORIDA

Now, therefore, be it ordained by the Board of County Commissioners of Hernando County, Florida, as follows:

Section 1. Title

This ordinance shall be known as Ordinance No. 2001-02, regulation of fire hazards and incendiary devices during drought conditions.

Section 2. Enactment and Authority

This ordinance is enacted in accordance with and pursuant to the authority of Fla. Stat. chs. 125, 252, and 590.

Section 3. Jurisdiction

The areas subject to this ordinance shall be all the unincorporated areas of Hernando County, Florida. Any law enforcement officer with jurisdiction in the County shall have the authority to enforce the terms and provisions of this ordinance.

Section 4. Implementation

This ordinance is adopted with the intent to limit fire hazards in Hernando County during periods and conditions of extreme drought. This ordinance is further adopted to effectuate a mechanism whereby the Board can act relatively quickly to rapidly changing drought conditions. When the Fire Chief, or his or her designee, makes a determination that there exists a drought emergency, the Fire Chief or designee shall send written notification of such condition to the Board. The Fire Chief in making the determination of the existence of a drought emergency shall take into consideration such factors including, but not limited to the following:

- A. The Keetch/Byram Drought Index.
- B. Discussions and consultation with the Division of State Forestry.

- C. Consultation with other fire chiefs in the County.
- D. Study of meteorological conditions and climatological forecasts.
- E. Condition of the vegetation in the County, i.e., whether it is susceptible to ignition.
- F. Any actions taken by surrounding jurisdictions in regard to drought conditions and fire hazards.
- G. Any other condition or factor which could have a bearing on existing fire hazard conditions and which reasonable persons of prudence would normally rely on to determine if a fire hazard condition exists.

In making such written presentation to the Board, the Fire Chief will recommend which prohibitions to impose and under what, if any conditions open burning or the discharge of fireworks or other incendiary devices will be allowed. The Board may impose any or all of the prohibitions as conditions warrant. When outdoor burning is prohibited, such prohibition shall not be construed to apply to outdoor burning or land clearing where the Division of Forestry has issued a permit. Further, it is the intent of the Board not to prohibit the sale of fireworks except under the most exigent of circumstances and where drought conditions are so severe that an actual emergency exists. The use or discharge of fireworks or incendiary devices may be prohibited or regulated even if the drought conditions are at less than an emergency state. After receiving the recommendation from the Fire Chief at a public meeting and considering all of the evidence before it, the Board may adopt a resolution imposing appropriate restrictions or prohibitions on open burning and discharge of fireworks or incendiary devices. The ban shall take effect upon approval of the resolution of the Board and shall remain in effect until a like resolution repealing the burning ban is adopted by the Board and upon adoption of the repeal, the restrictions on burning or discharge of fireworks shall

be immediately lifted. Further, the Board from time to time may amend any resolution by changing, deleting, or modifying the provisions on burning and discharge of fireworks depending on changes in the drought conditions.

Section 5. Prohibition

The resolution imposing the ban on open burning or discharge of fireworks may prohibit any or all of the following, depending on the recommendation of the Fire Chief and the severity of the drought conditions. A resolution may make it unlawful for any person to set fire or cause fire to be set to any forest, grassland, wild land, marshes, vegetation, or land in an urban or rural area including those associated with agriculture, silva culture, pile burning, or the building of campfires, bonfires, the burning of yard trash, household garbage, refuse, or other debris in the unincorporated areas of Hernando County, unless otherwise provided herein. In addition, the resolution may prohibit any person or entity from discharging, causing to be discharged, or the sale of any fireworks or incendiary devices as defined in Fla. Stat. ch. 791, as it may be amended from time to time, that may cause or have a tendency to cause wild fires as defined in § 590.015, Fla. Stat. Further, the resolution may prohibit the holding of any event including, but not limited to events involving motorcycles, automobiles, or any other vehicles or equipment that may cause hot exhaust gases or high temperatures that may be generated by catalytic converters or other devices on such vehicles in an open or uncontrolled area that is susceptible to wild fires. Bans on the sale of fireworks shall only be done in the most exigent of circumstances and when drought conditions are so severe as to constitute an actual emergency.

Section 6. Publication

Within a reasonable time after adopting such resolution, the Board shall cause to be published

in a newspaper of general circulation a 1/4 page advertisement, not to be placed in the section reserved for legal advertisements, a summary of the resolution imposing a burning and fireworks ban or repealing such ban. The advertisement shall be published twice with the second advertisement appearing no more than five (5) days after the first advertisement.

Section 7. Exceptions

A. Nothing herein contained in any resolution shall be construed to prohibit lawful activities involving incendiary devices, fire, or flame in controlled industrial or commercial processes for which permits have been issued or if no permit is issued take place in a controlled industrial or commercial environment and are part of the manufacturing or some type of assembly process such as to make it unlikely that such incendiary flame or heat generating device will cause any type of wild fire or be a danger outside of the premises where the procedure or process is being used.

B. Nothing herein shall prohibit residential outdoor cooking provided the same is done on a suitable piece of equipment designed to contain the fire, flame, and heat generated thereby.

C. Further, outdoor cooking may also be done in any public or private place where there are facilities designed for outdoor cooking which would contain the heat, flames, or fire otherwise generated by outdoor cooking.

D. The provisions of this ordinance shall not apply to any duly existing or constituted fire department, fire district, or volunteer fire department conducting training exercises involving open fire or flame solely for training purposes under controlled conditions.

Section 8. Penalties

Any violation by any person of any requirement or provision of this ordinance shall be

prosecuted in the same manner as misdemeanors are prosecuted. Upon conviction, any person violating any requirement or provision of this ordinance shall be punished by a fine not to exceed five hundred (\$500.00) dollars or by imprisonment in the County jail not to exceed sixty (60) days or by both such fine and imprisonment. Each day any violation subject to the provisions of the duly enacted ordinance continue shall be considered a separate violation subjecting the violator to the fines and imprisonment specified herein.

Section 9. Repeal

Ordinance No. 2000-03 is hereby repealed.

Section 10. Severability

It is declared to be the intent of the Board that the provisions of this ordinance are severable, and if any sentence, section, or other part of this ordinance should be found to be invalid, such invalidity shall not affect the remaining provisions and the remaining provisions shall remain in full force and effect.

Section 11. Inclusion in the Code

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the work "ordinance" may be changed to "section", "article", or other appropriate designation.

Section 12. Effective Date

This ordinance shall become effective on February 14, 2001.

Adopted by the Board of County Commissioners in Regular Session this 6th day of

February 2001 A.D.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA.**

Attest:

Jenine E. Nimer, Deputy Clerk
Karen Nicolai
Clerk

By:

Christopher A. Kingsley
Christopher A. Kingsley
Chairman