



BOARD OF COUNTY COMMISSIONERS

DATE: July 26, 2011
AGENDA ITEM NO. 20

Consent Agenda

Regular Agenda

Public Hearing

County Administrator's Signature: 

ms

Subject:

Authority to Advertise a Public Hearing on a Proposed Ordinance Relating to Open Burning and Enforcement of Such.

Department:

Public Safety Services

Staff Member Responsible:

Richard Williams, Director 

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) APPROVE ADVERTISING A PUBLIC HEARING TO BE HELD ON AUGUST 23, 2011 FOR A PROPOSED ORDINANCE REGULATING OPEN BURNING FOR RECREATIONAL PURPOSES AND THE ENFORCEMENT OF SUCH.

Summary Explanation/Background:

Due to limitations in the current code (Chapter 58, Article V, Pinellas County Code), fire departments having jurisdiction have not been allowed to extinguish nuisance fires associated with trash and rubbish. The proposed ordinance addresses proper and improper fuels or burning in improper areas resulting in possible situations that pose threats to public health and/or safety, while allowing for the use of outdoor fires in ways that are appropriate and safe. It also provides the fire department and/or law enforcement agency having jurisdiction to initiate appropriate action and enforcement.

The Pinellas County Fire Marshals and the Fire Chiefs Association have provided their input and unanimously endorse the final draft.

Fiscal Impact/Cost/Revenue Summary:

There will be no fiscal impact.

Exhibits/Attachments Attached:

Proposed Ordinance
Ordinance Review Form

CATS # 37020

ORDINANCE REVIEW FORM

Type of Resolution or Ordinance: Proposed Ordinance Regulating Open Burning for Recreational Purposes.

Estimated Revenue or Expenditure: N/A

Available Budget: N/A

The attached documentation is submitted for your review and comment. Upon finalization of your review, please complete this Review Form below and forward to the next Review Authority on the list.

<u>REVIEW AUTHORITY</u>	<u>REVIEW DATE</u>	<u>SIGNATURE</u>	<u>COMMENTS</u>	<u>COMMENTS ADDRESSED ORIGINATOR'S INITIALS & DATE</u>
<u>Originating Department</u> Public Safety Services Dick Williams	<u>6/13/11</u>	<u>[Signature]</u>		<u>[Signature] 6/13/11</u>
<u>Asst. County Administrator</u> Maureen Freaney	<u>6/12/11</u>	<u>[Signature]</u>	<u>Edit on Agenda memo Add Comment on approval by Fire Chiefs + Fire marshalls</u>	<u>sub 6/29</u> <u>Changes made</u>
<u>County Attorney</u> Robert Swain	<u>6/15/11</u>	<u>[Signature]</u>	<u>See comments on ordinance in Red</u>	<u>sub 6/29</u> <u>Changes made</u>

Please return to Michael Cooksey by June 8, 2010. All inquiries should be made to Michael Cooksey, at ext. 2-2437. Thank you.

ORDINANCE NO. 11-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA REGULATING OPEN BURNING FOR RECREATIONAL PURPOSES; PROVIDING EXCEPTIONS; PROVIDING DEFINITIONS; PROVIDING PROHIBITIONS; ESTABLISHING GEOGRAPHIC AREA AFFECTED AND THE ABILITY OF LOCAL MUNICIPALITIES TO OPT OUT; PROVIDING FOR PRIORITY OF APPLICATION OF ORDINANCE IN THE EVENT OF A CONFLICT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Pinellas County is a densely populated area where the actions of one resident can have a significant effect on their neighbors; and,

WHEREAS, because of the climate many residents enjoy cooking outdoors or using open fires for recreational purposes; and

WHEREAS, the use of certain fuels or burning in improper areas can result in situations that pose threats to public health and/or safety; and

WHEREAS, the BOARD OF COUNTY COMMISSIONERS, desires to protect the public health and safety while allowing for the use of outdoor fires in ways that are appropriate and safe.

BE IT THEREFORE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS of Pinellas County, Florida

Section 1. A definitional section is created as follows:

Definitions

“Approved” means acceptable to the authority having jurisdiction.

“Approved Solid Fuel” means the solid fuel being of clean dry wood or charcoal.

“Authority Having Jurisdiction” (AHJ) - means an organization, office, or individual responsible for enforcing the requirements of a code or ordinance, or for approving equipment, materials, an installation, or a procedure.

“Campfire” means a small outdoor fire consisting of approved solid fuel and intended for recreation or cooking but not including a fire intended or used for the disposal of waste, construction material, yard debris and rubbish.

“Clean Wood” means natural wood which has not been painted, varnished or coated with similar material; is not pressure treated with preservatives; and does not contain resins or glues as in plywood or composite wood products.

“Construction and demolition waste” means building waste material, including but not limited to roofing material, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubbish that results from construction, renovation, remodeling, repair and demolition operations.

“Cooking Fire” means the noncommercial, residential burning of materials not exceeding 3 ft (0.9 m) in diameter and 2 ft (0.6 m) in height, other than rubbish in which the fuel burned is contained in an outdoor cooker, a barbecue grill, or a barbecue pit for the purpose of preparing food.

“Extinguished” means the absence of any visible flames, smoke or emissions.

“Fire Ring” means a cleared area on the ground a minimum of 15 feet from a structure, no less than five feet in diameter outside of the burn area where a fire is made of untreated wood, charcoal or other fuels as defined herein. For purposes of this Article, a Fire Ring includes a chimenea or other elevated fireplace used for containing a recreational fire.

“Garbage” means all kitchen and table food waste, animal or vegetative waste that is attendant or which results from the storage, packaging, preparation, cooking or handling of food materials.

“Grill” means a device used for cooking where a combustion source is elevated off of the ground and food cooked over open flame.

“Listed” means equipment, materials, or services included in a list published by an organization that is acceptable to the authority having jurisdiction and concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

“Land clearing debris” means uprooted or cleared vegetation resulting from a land clearing operation, including any untreated wood generated by the land clearing operation (e.g., untreated fence posts).

“Open burning” means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney.

“Recreational fire” means a fire outside an enclosed structure used for cooking or as a source of heat or light. A recreational fire is one which is located inside a container such as a grill; a portable fire place or a designated fire ring, and the total fuel area does not exceed 3 ft (0.9 92 m) in diameter and 2 ft (0.6 m) in height.

“Treated wood” means wood coated or infused with paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, chromated copper arsenate (CCA), or other wood preservatives or treatments.

“Yard waste” means vegetative matter resulting from landscaping and yard maintenance operations and other such routine property clean-up activities. It includes materials such as leaves, shrub trimmings, grass clippings, palm fronds, and brush. It does not include land clearing debris or tree cutting debris.

Section 2. Prohibitions

All recreational fires are limited to using clean burning charcoal, coal, manufactured fire logs or untreated dry wood as fuels. The burning of treated wood, yard waste, paper, garbage or other waste material is prohibited.

Section 3. Exclusions

This ordinance does not prohibit the use of grills, camp stoves or similar devices designed for cooking, fueled by LP gas, butane, naphthalene or other liquid fuel and which are not used to burn yard waste or other material.

Section 4. Enforcement

Law enforcement and the Fire Departments having jurisdiction, either by ordinance, special act or agreement, shall have authority to enter upon the premises where such burning is taking place and enforce this ordinance. Further the Fire Department having jurisdiction shall have the authority to either require the extinguishment of any fire not in compliance with this ordinance or which, in the opinion of the Fire Personnel present creates a threat to public health or safety or may extinguish the fire themselves. Penalties shall be as provided in Sec. 1-8 of the Pinellas County Code.

Section 5. Inclusion in the Pinellas County Code

The provisions of this ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

Section 7. Territory Embraced

The provisions of this ordinance shall be effective in the unincorporated portions and incorporated municipalities of Pinellas County subject to the ability of the municipalities to choose not to have these provisions apply. In the event of any conflict between these provisions and ordinances of any municipality or Independent Fire District, the provisions of those ordinances shall prevail over these provisions.

Section 8. Filing of Ordinance, Effective Date

Pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after the enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By

A handwritten signature in black ink, consisting of a stylized, cursive letter 'M' followed by a horizontal line extending to the right.

Attorney