

**DESOTO COUNTY, FLORIDA
ORDINANCE NO. 2017 - 07**

AN ORDINANCE OF DESOTO COUNTY, FLORIDA, BOARD OF COUNTY COMMISSIONERS, CONCERNING FIRE HAZARDS DURING EMERGENCY DROUGHT CONDITIONS; SPECIFYING THE AREAS TO BE COVERED BY THIS ORDINANCE, AND IT'S PURPOSE, INTENT, METHOD OF IMPLEMENTATION, PROHIBITONS, EXCEPTIONS AND PENALTIES; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, grants the County the authority to control and protect the public health, safety and welfare; and

WHEREAS, the DeSoto County Board of County Commissioners ("the Board") finds that during emergency fire conditions, the likelihood of uncontrolled fires that can do great damage to property and endanger the lives of residents of the County increases dramatically; and

WHEREAS, the Board finds that measures must be implemented in times of extreme drought emergencies to limit open burning and prevent the spread of uncontrolled fires in the County; and

WHEREAS, the Board finds that this Ordinance provides for reasonable regulation of open burning and serves the public interest by limiting the potential for hazardous fires in the County; and

WHEREAS, the Arcadia City Council has agreed to allow this Ordinance apply within the corporate limits of the City of Arcadia until such time as the Arcadia City Council adopts an ordinance in conflict herewith.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA:

SECTION 1. Title - This Ordinance shall be known as "The Emergency Drought Conditions Fire Hazard Ordinance."

SECTION 2. Enactment and Authority – This Ordinance is adopted in accordance with and pursuant to the authority of Chapter 125, Florida Statutes, and is based on the findings set forth in the whereas clauses above.

SECTION 3. Jurisdiction – The areas subject to this Ordinance shall be all the incorporated and unincorporated areas of DeSoto County, Florida. The City of Arcadia reserves the right to adopt an ordinance in conflict herewith, at which time the areas subject to this Ordinance shall be only the unincorporated areas of Desoto 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. Purpose, Intent and Implementation –

(a) This Ordinance is adopted with the intent to limit fire hazards in the County during periods and conditions of extreme drought. This Ordinance shall be implemented by a Resolution of the Board of County Commissioners.

(b) If a quorum of the Board of County Commissioners is unable to meet, and the Chairman or the Vice Chairman, in the absence of the Chairman, or the County Administrator in the absence of the Chairman and Vice Chairman, determines that there is an imminent threat that requires immediate and expeditious action, then in that case the Chairman, Vice Chairman or County Administrator may declare a drought emergency which shall remain in effect until the next Board meeting. At said Board meeting, a Resolution shall be adopted either continuing or rescinding said declaration. Nothing in this article shall be construed to limit the authority of the Board of County Commissioners to declare or terminate a drought emergency and take any action authorized by law.

(c) A declaration pursuant to this Ordinance may be rescinded by the declaring official, as outlined above, whenever a quorum of the Board is unable to meet. The provisions of this Ordinance shall be enforced as required until the Board of County Commissioners declares the drought emergency no longer exists.

SECTION 5. Prohibition – During a declared drought emergency, it is unlawful for any person to set fire to, or cause fire to be set to, any forest, grassland, wild lands, marshes, vegetation, or land in an urban or rural area, including agriculture, silvaculture, and pile burning, or to build a campfire, bonfire, burn yard trash, household garbage, refuse, or other debris within the unincorporated areas of DeSoto County, unless authorization is obtained for the Department of Agriculture, Division of Forestry.

SECTION 6. Other Prohibitions – Besides the prohibition on open burning specified in section 5 above, no person or entity may discharge or cause to be discharged during a drought emergency:

- (a) Fireworks (as defined in F.S. § 791.01);
- (b) Sparklers approved by the division of state fire marshal of the department of insurance pursuant to F.S. § 791.013;
- (c) Trick noisemakers and novelties as listed in F.S. § 91.01(4)(c) or
- (d) Flares.

SECTION 7. Exceptions:

(a) Nothing herein contained in this Ordinance 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 environment such as to make it unlikely that such incendiary, flame, or heat generating device will cause any type of wildfire or be a danger outside of the premises where the activity 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) Outdoor cooking may also be done in any public place 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) Any other procedure or process generating heat, flame, or fire that would normally be hazard but for the fact that a local, state, or federal government has issued a permit for such activity.

(e) The provisions of this Ordinance shall not apply to any duly existing or constituted 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 \$500.00, or by imprisonment in the county jail not to exceed 60 days, or by both such fine and imprisonment.

SECTION 9. Codification - The provisions of this ordinance shall become and be made a part of the Code of Ordinances, DeSoto County, Florida, and the sections of this Ordinance may be renumbered to accomplish such intention.

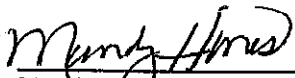
SECTION 10. Severability - If any section, sentence, clause or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

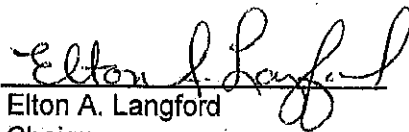
SECTION 11. Effective Date – A certified copy of this Ordinance shall be filed with the Department of State within 10 days after enactment of the Board, and shall take effect upon filing with the Department of State.

PASSED AND DULY ADOPTED in regular session, by the BOARD OF COUNTY COMMISSIONERS OF DESOTO COUNTY, FLORIDA, this 23rd day of May, 2017.

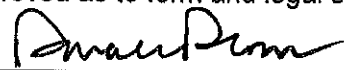
ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF DESOTO COUNTY, FLORIDA


Mandy Hines

By: 
Elton A. Langford
Chairman

Approved as to form and legal sufficiency:


Donald D. Conn